



TOWN of HALFMOON

111 Route 236
Halfmoon, NY 12065
County of Saratoga

Zoning Board of Appeals Meeting Minutes August 6, 2007

Chairman Hansen opened the August 6, 2007 Town of Halfmoon Zoning Board of Appeals meeting at 7:00pm. Those present were as follows:

Members: Mrs. Jordan, Mr. Brennan

Alternates: Mr. Burdyl, Mrs. Smith-Law

Planner: Lindsay Zepko

Mr. Rose and Mr. Tedrow were absent. Mr. Burdyl and Mrs. Smith-Law filled their vacancies. Chairman Hansen asked if the Board reviewed the July 2, 2007 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mrs. Jordan made a motion to approve the July 2, 2007 Town of Halfmoon Zoning Board of Appeals meeting minutes with minor changes. Mr. Brennan seconded. Motion carried.

New Country, 205 Route 146- Area Variance

Dan Tompkins of Environmental Design Partnership represented the applicant who is seeking an area variance for a freestanding sign that is to be placed at the front of the site. They have modified the previous request and are now proposing to place a 23 ft high sign that is conforming in area. Mr. Hansen asked if the applicant had a rendering of the new proposal. Mr. Tompkins stated they did not have time to create one. The new sign will fit in well around the foliage, the wires, and the transformer. The reason for the request of the 23 ft height is to compensate for the lower elevation of 3 ft on the west side of Route 146.

Mrs. Smith-Law made a motion to re-open the public hearing. Mr. Brennan seconded. Motion carried.

Mr. Brennan asked what other options the applicant reviewed to alleviate this concern of the lower elevation. Mr. Tompkins stated that the applicant did look at some monument signage and did not feel that this option was comparable to reach the objective of better visibility. Also, if a monument sign were needed, the face would need to be completed after market, thus lowering the quality of the sign. Mrs. Smith-Law asked if the applicant had considered moving the proposed sign to the north end of the site. Mr. Tompkins stated that in reviewing the site, there is a definite need to place the sign in the proposed location in order to avoid the storm drain and the utilities. Mrs. Jordan asked how the location of the sign was going to make it visible around the utility poles and wires.

Mr. Tompkins stated that the dynamic of the placement and the new size of the sign are such that it avoids most of the utility poles and wires.

Mrs. Jordan made a motion to close the public hearing. Mrs. Smith-Law seconded. Motion carried.

Mr. Hansen referred to the tests in Article XIV, section 1403, part B, number 2 of the Local Laws relating to Zoning of the Town of Halfmoon. Mrs. Jordan stated that the shorter sign would be an improvement from the 37 ft high sign that the applicant is currently utilizing across the street and that a 3 ft variance would not make the change undesirable. Mr. Burdyl stated that the applicant did not appear to have any other options to reach this goal that would be comparable. Mrs. Smith-Law stated that she did not feel that the variance request was substantial. Mr. Brennan stated that the variance would not have any adverse effects to the environment. Mr. Hansen stated that the hardship is self-created, but that the topography makes it necessary for visibility with the lower elevation. Mrs. Jordan made a motion to grant the request for an area variance for the proposed sign for a 23 ft high freestanding sign. Mr. Brennan seconded. All-aye. Motion carried.

Susan Webster, 920 Hudson River Road-Special Extension

John Breen, the applicant's husband, stated that the applicant wishes to receive a Special Extension for a non-conforming use for a single-family home in the Light Industrial/ Commercial zone. The lot was previously occupied by a mobile home that was removed this year. They are selling the property to someone who wishes to construct a single-family home on the lot. Ernie Lefner, of 323 Hudson River Road asked if there was an issue with granting variances in this area. Chairman Hansen stated yes. The area is zoned Light Industrial/ Commercial and residential uses are not permitted in that area. Mr. Hansen asked if there were any other concerns with this use. No one responded.

Mrs. Smith-Law made a motion to close the public hearing. Mrs. Jordan seconded. Motion carried.

Mr. Brennan asked if this request was for an extension of the non-conforming use or area. Mr. Hansen stated that the special extension request is for the enlargement of the use and that the area was pre-existing non-conforming. Mrs. Jordan made a motion to grant the Special Extension of a residential use in the Light Industrial/ Commercial Zone. Mrs. Smith-Law seconded. All-aye. Motion carried.

Halfmoon Family Dental, 1456 Crescent Vischer Ferry Road-Area Variance

Dr. Gary Swalsky, the applicant, stated that he is seeking to place a 2 ½ ft x 4 ft double-sided sign in the Professional Office/ Residential zone. The sign exceeds the maximum allowed in that district by 10 SF. The reason for the request for the area variance is to make the sign more visible to passersby. Mr. Swalsky stated that he did not feel that the additional square footage of the sign would be a detriment to the neighborhood with the Country Drive-In across the street. Chairman Hansen asked if the wooden board that was placed at the site was the approximate size of the proposed sign. Mr. Swalsky stated that it was slightly larger. Mrs. Jordan stated that the board was difficult to see from the road as she drove by and she had to turn around and drive by again as there were some

bushes in the way. Mr. Swalsky stated that he would have to remove some bushes. Mrs. Jordan stated that the tree trunks looked like they were blocking the sign as well. Mr. Swalsky stated that he has to review this to see which trees can be saved and which may need to be removed. Mrs. Jordan asked if he had tried to place the sign on the other side of the driveway. Mr. Swalsky stated that the dumpster was in the way, but it would be possible if he was asked to do so. Mr. Burdyl asked if the applicant had thought about adding address numbers to the sign. Mr. Swalsky stated yes, and if it was an issue of having to add them at the bottom and cut back on the size of the rest of the sign, then that is what he would do. Mrs. Zepko stated that the address numbers would not count against the square footage allowed.

Mrs. Smith-Law made a motion to close the public hearing. Mrs. Jordan seconded. Motion carried.

Mr. Hansen referred to the tests in Article XIV, section 1403, part B, number 2 of the Local Laws relating to Zoning of the Town of Halfmoon. Mrs. Jordan stated that there would be no undesirable change produced in the neighborhood considering the commercial business across the street with a large sign. Mrs. Smith-Law stated that the only other option would be to remove trees, which would be less desirable. Mrs. Jordan stated that the only difference is that they are proposing that the sign be double sided. Mr. Hansen stated that the variance request is substantial because it is double the allowed square footage but he feels that there is justification for this. Mrs. Jordan stated that the only adversity that she can see is the need to remove some trees; this would not change with the size of the sign. Mr. Hansen stated that the vegetation that exists on the site was not self-created.

Mrs. Jordan made a motion to grant the area variance for a 2½ ft by 4 ft, double sided sign in the PO-R zone. The Planning Board will discuss and decide the placement of the sign. Mr. Brennan seconded. All-aye. Motion carried.

Harvest Bend, 3,5,7,9,11,13,15,17,19,21,23,25,27 Hidden Farm Way and 29,31,33 Misty Meadow Way-Area Variance

Mr. Gil VanGuilder, of VanGuilder Associates, stated that the applicant is seeking an area variance for 16 homes to decrease the required front yard setback from 50 ft to 30 ft. The reason for the request is a need to mitigate an issue with NYSDEC that arose after the approval of the subdivision and the placement of the roads. A freshwater wetland permit is needed to place the homes on the included lots within the 100 ft Wetland Buffer that DEC requires around their regulated wetlands. Mr. VanGuilder stated that he wanted the Board to be aware that lots 13,15, and 19 were not noted on the agenda for tonight's meeting. The Board discussed this and concluded that applications were submitted for all of the included lots and the public hearing could continue. Mrs. Jordan stated that she would first like to look at each lot and briefly discuss the impact on the wetland buffer. Mrs. Jordan stated that she understands the intent to make all the lots at the same setback. Mr. Peter Belmonte, of Belmonte Builders, stated that the reason for this is to avoid compromising neighbor's privacy. Mr. Belmonte and Mr. VanGuilder reviewed the map at the counter to discuss the mitigation that each lot would offer with the placement at 30 ft setback. The size

of the homes will range from 2,700 SF to 4,100 SF and they do encourage smaller homes on the tighter lots. The discussion went as follows:

For the homes on Hidden Farm Way, the building envelopes would be placed approximately -

Lot #3- 5 ft outside of the buffer

Lot #5- 15 ft outside of the buffer

Lot #7- 5 ft outside of the buffer

Lot #9- 2 ft outside of the buffer

Lot #11- 2 ft outside of the buffer

Lot #13- 10 ft outside of the buffer

Lot #15- 20 ft outside of the buffer

Lot #17- on the boundary of the buffer

Lot #19- on the boundary of the buffer

Lot #21- in the buffer

Lot #23- in the buffer

Lot #25- in the buffer

Lot #27- in the buffer

For the homes on Misty Meadow Way, the building envelopes would be placed approximately-

Lot #29- in the buffer

Lot #31- in the buffer

Lot #33- in the buffer

Mr. Belmonte stated that the individual landowners would have deed restrictions on the use of pesticides and other impacts on the wetland. The landowners would have to seek permits from NYSDEC to place swimming pools, swing sets, fill, etc. in the buffer or the wetlands. This would be made known in the contract that the landowner signs at the time of purchase. Mr. Belmonte stated that in the event that the Board does not grant this variance, they will have to return to DEC for more mitigation, which could result in the loss of some lots.

Mrs. Jordan made a motion to close the public hearing. Mrs. Smith-Law seconded. Motion carried.

Mrs. Smith-Law made a motion to consider the applications collectively. Mr. Burdyl seconded. All-aye. Motion carried.

Mr. Hansen referred to the tests in Article XIV, section 1403, part B, number 2 of the Local Laws relating to Zoning of the Town of Halfmoon.

Mrs. Jordan stated that the neighborhood was new and therefore, no undesirable change would be made. Mrs. Smith-Law stated that the applicant is trying to mitigate the problem while keeping uniformity along the new street. Mrs. Jordan stated that the request is substantial, but necessary to protect the environment. Also, there have been other PDDs in Town that have been approved with 30 ft setbacks. Mr. Hansen stated that this shows that the Town is willing to accept lesser setbacks. Mr. Burdyl stated that it is positive for the environment that the applicant has worked with NYSDEC for mitigation. Mr. Brennan stated that the deed restrictions and contracts that will be placed on the lots also shows good ecological intentions. Mr. Brennan stated that this was not self-created, as the subdivision had been approved with DEC signoff.

Mr. Brennan made a motion to grant the area variance for lots

3,5,7,9,11,13,15,17,19,21,23,25,27 Hidden Farm Way and 29,31,33 Misty Meadow

Way for a front yard setback of 30 ft. Mrs. Smith-Law seconded. All-aye. Motion carried.

Kenneth Decerce, 21 Birchwood Drive-Area Variance

Mr. Ken Decerce stated that he is seeking an area variance to add a two-car garage with living space over it. Because the lot is a corner lot, the addition would not meet the setback requirements for front yard setback on Birchwood Drive.

Mrs. Jordan made a motion to set the public hearing for September 4th. Mrs. Smith-Law seconded. All-aye. Motion carried.

Mrs. Jordan made a motion to close the August 6, 2007 Zoning Board of Appeals meeting. Mr. Brennan seconded. All-aye. Motion carried.