



TOWN of HALFMOON
111 Route 236
Halfmoon, NY 12065
County of Saratoga

**Zoning Board of Appeals
Meeting Minutes
July 2, 2007**

Chairman Hansen opened the July 2, 2007 Town of Halfmoon Zoning Board of Appeals meeting at 7:00pm. Those present were as follows:

Members: Mr. Rose, Mrs. Jordan, Mr. Brennan, Mr. Tedrow

Alternates: Mr. Burdyl, Mrs. Smith-Law

Town Attorney: Lyn Murphy

Planner: Lindsay Zepko

Chairman Hansen asked if the Board reviewed the June 4, 2007 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mrs. Smith-Law made a motion to approve the June 4, 2007 Town of Halfmoon Zoning Board of Appeals meeting minutes. Mrs. Jordan seconded. Motion carried.

New Country Pontiac/Buick/GMC, Route 146 - Area Variance, Front Yard

Dan Tompkins, of Environmental Design Partnership, represented the applicant who is seeking a variance to add a canopy to the front of the building to extend 48" over the sidewalk. This request would change the front yard setback from 71 ft to 67 ft, which is 3 ft shy of the required area. Mr. Rose asked Mr. Tompkins to clarify the need for the dealership to add the canopy. Mr. Tompkins responded that the applicant feels that the canopy would refresh the showroom to reflect the new occupant as well as add some protection over the sidewalk. Mr. Rose asked if there was an economic benefit and if there were any other Pontiac dealerships in the area with this similar feature. Mr. Tompkins stated yes there would be an economic benefit but that he was unable to quantify that and he was unaware if the other dealerships in the area had this canopy. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Tedrow made a motion to close the public hearing. Mr. Brennan seconded. Motion carried.

Mr. Hansen stated that the action was a Type II Action pursuant to SEQRA; therefore, no further SEQRA review is necessary from this Board for the granting of this variance.

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. Mr. Rose stated that he did not believe that there would be an undesirable change to the neighborhood. Mr. Brennan stated that he did not believe that there was another practical method by which to receive the same goal other than a variance. Mrs. Jordan stated that the request of 3 ft is not a substantial request. Mr. Brennan agreed. Mr. Rose stated that he did not believe that there would be any adverse effects on the neighborhood. Mr. Tedrow stated that the hardship was self-created. Mr. Rose agreed and added that the addition would make the dealership more attractive to customers.

Mr. Tedrow made a motion to grant the area variance request for a 3 ft encroachment into the front yard setback. Mrs. Jordan seconded. All-aye. Motion carried.

New Country Pontiac/Buick/GMC, Route 146 - Area Variance, Sign

Dan Tompkins, of Environmental Design Partnership, representing the applicant, provided the Board with views of the proposed relocation of the sign. The reason for the request is due to the lower elevation on this side of the road of approximately 8.5 ft. The sign is non-conforming in area at 487 SF and stands 37 ft high. The sign has been in its present location since 1974. The other sign that exists at their present location that advertises pre-owned vehicles will be removed. The intent of the applicant is to utilize this sign therefore leaving no other means by which this benefit can be achieved other than to pursue a variance. Mr. Burdyl asked if Pontiac/Buick/GMC leased the signs and if so, could the smaller of the two signs, the pre-owned vehicle sign, be leased for use on this site. Mrs. Jordan asked if the goal of visibility could be achieved with a new conforming sign. Mr. Tompkins stated that the applicant does lease the sign from Pontiac/Buick/GMC and wished to utilize the existing sign. Mr. Rose asked if the sign was pre-existing non-conforming? Mrs. Murphy stated no, the sign did not pre-date zoning. Mr. Rose stated that he did drive through the area and it is very "sign congested". Mr. Tedrow stated that he noticed that the Toyota sign next door is significantly smaller and asked why Pontiac couldn't achieve the same visibility with a smaller sign as well. Mr. Tompkins stated that Pontiac wishes to utilize the existing sign and that they feel that they need the height advantage due to the elevation difference. Mrs. Jordan stated that she does not feel that a tall sign would serve them in the new location with the number of power poles that would block a tall sign, but rather a smaller and shorter sign would be better. Mr. Brennan asked if this would be the same situation if the applicant was asking to move a house across a street. Mrs. Murphy stated yes, it would be more significant but the self-created hardship would be the same. Mrs. Smith-Law asked if the sign needed to be placed in the exact proposed location. Mr. Tompkins stated yes, so that it does not disrupt a storm drain and so that it does not compete with the Getty sign next door. Mr. Hansen stated that the photo renderings do not show the sign to be more visible in the new location as there are poles and vegetation blocking it. Mr. Tompkins stated that the poles

were actually 60-70 feet from the sign location. Mr. Hansen stated that a lower sign that was placed between the two entrances would be more visible. Mr. Rose agreed and added that passersby would need to look up to see the proposed sign but that a lower sign would be more visible and safer. Mr. Tompkins stated that he would like to have this item tabled to discuss possible alternatives with the applicant.

Mrs. Jordan made a motion to table the item until the applicant was able to present additional information. Mr. Brennan seconded. All-aye. Motion carried.

Jennifer Pipino, 34 Ushers Road- Use Variance

Peter Reilly, the attorney representing Mrs. Pipino, stated that the applicant owns a 1.36-acre parcel on the south side of Usher's Road that is zoned Light Industrial/Commercial. The applicant proposes to construct a residential structure on this lot. The area surrounding this parcel is predominately used as residential. The parcel itself, while conforming in area, would be a small parcel to utilize for Light Industrial/Commercial use. Mrs. Murphy stated that one of the Town Board's reasons for disapproving the recent proposal for a zoning change in the area was so that owners wishing to construct residences would be forced to come before the ZBA for a variance so that they would be made aware that the area around them is used for or could be used for Light Industrial/Commercial uses.

Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Rose made a motion to close the public hearing. Mrs. Jordan seconded. All-aye. Motion carried.

Mr. Hansen stated that this board has considered previous applicants from this area on Ushers Road with similar requests. Mr. Tedrow stated that the Town Board should reconsider making changes to the zoning in this area with the number of requests that have been before this board. They may wish to include residential uses as well as Light Industrial/Commercial on Ushers Road. Mrs. Jordan agreed and added that the four tests that need to be met to grant a use variance make it difficult for the ZBA to grant. Mrs. Murphy asked when the applicant purchased the parcel. Mrs. Pipino stated that they purchased the parcel from family in 2004. Her family owned the property prior to it being zoned Light Industrial/Commercial. Mr. Tedrow stated that the property also borders the Reilly Farm, which cannot be developed as they sold the development rights to Saratoga PLAN. Mrs. Jordan asked if the property was sloped. Mr. Reilly stated yes, it slopes to the rear. Mr. Rose stated that in reviewing the permitted uses in this zone he could not see how land could be used for any of those allowed due to the low volume of traffic. Mrs. Jordan referred to the tests in Article XIV, section 1403, part B, number 1 for use variances. Mr. Rose stated that he does not believe that anyone challenging the granting of this variance could prove that the applicant could have realized a reasonable return on this property through a conforming use. Mr. Rose stated that the hardship is unique due to the neighboring property and the fact that family owned the lot prior to current zoning. Mr. Rose stated that the request would not alter the character of

the neighborhood. Mr. Rose stated that the hardship was self-created but again the family owned the property prior to it being zoned Light Industrial/Commercial. Mr. Rose made a motion to grant the use variance. Mr. Tedrow seconded. All-aye. Motion carried.

Mrs. Murphy excused herself from the meeting.

Susan Webster, 920 Hudson River Road- Use Variance

Mrs. Webster stated that she is requesting a use variance for residential use in a Light Industrial/Commercial zone. The lot is 20,000 SF and is pre-existing non-conforming in size. It had a mobile home on it that was removed in April that had been occupied until then. Mr. Rose stated that a house would fit on a lot this size. Mr. Hansen asked what the uses were on the neighboring properties. Mrs. Webster stated residential houses. The Board discussed whether the applicant should be applying for a use variance or an extension of a pre-existing non-conforming use. The board decided that they would need to consult the Town Attorney.

Mr. Rose made a motion to place the item on the agenda for a public hearing for the next meeting August 6, 2007. Mr. Brennan seconded. All-aye. Motion carried.

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

The applicant was not present for this item. Mr. Hansen stated that while it would be to the applicant's advantage to be present, the Board could review the application for completeness and if deemed sufficient, they could set a public hearing for the next meeting.

Mr. Tedrow made a motion to place the item on the agenda for a public hearing for the next meeting August 6, 2007. Mr. Rose seconded. All-aye. Motion carried.

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

Mr. VanGuilder of VanGuilder Associates, stated that the applicant was seeking an area variance for 15 lots to decrease the required front yard setback from 50ft to 30 ft. Terresa Bakner, of Whiteman, Osterman & Hanna, the law firm representing the applicant, stated that the applicant received approval from the Planning Board in 2004 for this subdivision. After the roadways and stormwater basins were constructed, the applicant received notification from NYSDEC that a freshwater wetland permit was needed to place the homes on the included lots within the 100 ft Wetland Buffer that DEC requires around their regulated wetlands. Belmonte and DEC have held several meetings on possible mitigation for this issue. One possibility that was discussed was the applicant could try to seek variances from the Town to move the front yard setback forward to decrease the impact on the wetland buffer. Mr. Rose asked how the 30 ft setback was arrived at. Mr. VanGuilder stated that there was a similar request for homes in another subdivision, Halve Maen Manor, for an ACOE wetland

issue. The Board chose to grant that variance. Mr. Rose asked if there were any other engineering studies submitted other than the letter from Lansing Engineering dated June 20, 2007. Mr. VanGuilder stated no, that the request was generated from a number of conversations regarding mitigation of this situation with DEC, the Town, Lansing, and Belmonte Builders. Mr. Brennan stated that he would like to see the difference that these variances would make on the impact to the buffer. Mr. VanGuilder stated that they could provide that for the Board. Mr. Tedrow asked if there would be restrictions placed on the use of chemicals in this area. Mrs. Bakner stated yes.

Mrs. Jordan made a motion to place the item on the agenda for a public hearing for the next meeting August 6, 2007. Mr. Rose seconded. All-aye. Motion carried.

Mr. Rose made a motion to close the July 2, 2007 Zoning Board of Appeals meeting. Mrs. Jordan seconded. All-aye. Motion carried.