

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
February 4, 2008

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning of Appeals at 7:00 p.m. on Monday February 4, 2008 at the Halfmoon Town Hall with the following members present:

Members: Chairman Hansen, Mr. Brennan, Mrs. Jordan
Absent: Mr. Rose, Vice-Chairman Tedrow
Alternates: Mrs. Smith-Law, Mr. Burdyl
Planner: Mrs. Zepko

Mrs. Jordan made a motion to approve the minutes from January 7, 2008 with a second made by Mr. Brennan. Motion carried.

R.J. Valente, 118 Button Road

Chairman Hansen commented that R.J. Valente has a request before the Board for an extension or enlargement of a non-conforming use from a 3-bay garage to a 4-bay garage in an R-1 Residential District. Chairman Hansen commented that the applicant received site plan approval from the Planning Board last year to build a new garage that includes 3-bays and somewhere between that approval and final construction a 4-bay garage was built and the square footage is approximately the same there may a 100 sq. ft. difference. The site plan approval was for 7952 sq. ft. and what was built was 8092 sq. ft. with a 140 sq. ft. difference. When the applicant went back to the Planning Board for final site plan approval (the minutes are not clear as to how this came about) it appears that when the Building Department was doing their inspections when they noticed the difference in the building size. It was then referred back to the Planning Board for site plan modification. The Town Attorney stated that an extension or enlargement of a non-conforming use would have to be applied for. Chairman Hansen commented that a public hearing could be set for the next meeting of March 3, 2008 if the Board felt that all the information required was in hand.

Mrs. Jordan asked how this happened. Mr. Marotta commented that when they appeared before the planning board it was a conceptual drawing and had no specific bays on the building plans. But in words, Mr. Marotta said it would be a 3-bay garage and that was what we anticipated. After that meeting Mr. Valente went before DEC because of the mining permit. Under DEC regulations it was told to Mr. Valente that an approval from the planning board was not required. However, a building permit was needed from the Town for inspections. The Town Attorney, Mrs. Murphy then discovered that site plan approval is required even under DEC regulations. The drawing shown to the planning board at that point was a 4-bay garage but Mr. Marotta said it would be a 3-bay garage. A complaint was then filed with the building department by a neighbor that said he read the minutes on-line and that it was supposed to be a 3-bay garage not a 4-bay.

At that point, Mr. Marotta was advised to go to the Zoning Board of Appeals for an extension of enlargement of an existing non-conforming use.

Mrs. Jordan asked does the planning board have on file a plan showing a 4-bay garage on a site plan? Mr. Marotta replied no, the building department has 4 sets of the plans showing the 4-bay garage, which is stamped, approved.

Mr. Burdyl asked, as it's shown now, is the plan showing a 4-bay garage?

Mrs. Jordan asked that when the plan was presented to the planning board what was the sq. ft. being proposed. Mr. Marotta replied it was the drawing that was approved. The building department would have the original plan showing the sq. ft. and the 4-bays. Mr. Marotta commented that there was a grey area whereby the Town or DEC had jurisdiction over the approval process. It's a temporary building. Once Valente's are done mining in that area the building comes down. It is designed to last 15-20 years. It's just a pole barn. All buildings on the property have to be removed when mining is complete.

Mr. Burdyl asked what is the term of the mine permit? DEC gives you a limit that you can mine to. Once you reach that limit you are done mining at that site. DEC comes to the site to check on slopes and storm water management. Recommendations are made by DEC; geo maps are created and are submitted to DEC. The Mining Permit is regulated by DEC at all times. Once the floor of the mine has been reached all work will cease and the buildings have to be removed.

Mr. Burdyl asked Chairman Hansen if the plans submitted to the building permit would be available to them to see at the public hearing.

A resident spoke to the members however; it was not on the microphone and could not be heard to transcribe.

Chairman Hansen commented that the board has enough information to set the public hearing for the next meeting.

Chairman commented that there was a smaller building located on the parcel used as a repair facility for the trucks.

Mrs. Smith-Law has a question on what will be discussed at the public hearing. Chairman Hansen commented that the Town's Zoning Ordinance has provisions for extensions of non-conforming uses under Article 12. No nonconforming use shall hereafter be extended or enlarged except following authorization by the Board of Appeals as a Special Extension and subject to the site plan review and approval provisions of Article VI.

Chairman Hansen commented that as a result of the last planning board meeting the Town Attorney said Valente would need to go the ZBA for an extension or enlargement of a non-conforming use. Chairman Hansen commented that the mine at one time had belonged to Van Patten's.

Mrs. Smith-Law asked Mr. Marotta if the trucks are used for something else during the off hours of the mining business? Mr. Marotta replied yes. Chairman asked that these questions be put off until the public hearing so everyone present at the public hearing will hear the same information that we hear. Tonight we are here to determine if there is enough information available to us to set a public hearing.

Motion made by Mrs. Jordan to set a public hearing for Monday March 3, 2008 at 7:00 p.m. to hear a variance request for an extension of a non-conforming use for R.J. Valente on Button Road. Seconded by Mr. Brennan. Motion carried.

A Motion was made by Mr. Brennan and seconded by Mrs. Smith-Law to adjourn the meeting. Motion carried.

Respectively submitted by Denise Mikol, Secretary
Town of Halfmoon Zoning Board of Appeals

