

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
March 3, 2008

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:00 p.m. On Monday, March 3, 2008 at the Halfmoon Town Hall with the following members present:

Members: Chairman Hansen, Mr. Brennan, Mr. Rose,
Absent: Vice-Chairman Tedrow, Mrs. Jordan, Mr. Burdyl
Alternates: Mrs. Smith-Law was present
Attorney: Mr. R. Chauvin, Mr. M. Chauvin
Planner: Mrs. Zepko

Mr. Brennan made a motion to approve the minutes from February 4, 2008 and was seconded by Mrs. Law-Smith. Motion was carried.

Elliott and Bonnie Hughes, 117 Dunsbach Road

The public hearing opened at 7:10 p.m.

Chairman Hansen commented that the first item on the agenda is a public hearing for Elliott and Bonnie Hughes of 117 Dunsbach Road. Chairman further explained that he received a letter from Mr. and Mrs. Hughes' Attorney. The letter is attached for the record.

The letter stated, " as you are aware, a fire recently occurred at my clients' three-unit apartment building. In light of this very unforeseen circumstance, we kindly request that the hearing which is on for this evening at 7:00 p.m. be adjourned to the next hearing date of your Zoning Board, and that our personal appearance this evening be dispensed with."

Chairman Hansen asked the Board to propose a motion to adjourn the public hearing to the meeting of April 7, 2008 at 7:00 p.m.

Mrs. Irene Brown asked if the public can speak tonight and Chairman Hansen commented that it would not be fair to the applicant to do that tonight. The Board will open the public hearing next month for the public to speak at.

Attorney Mr. R. Chauvin commented that based on the damage from the fire the application maybe pulled completely. Chairman Hansen commented that an insurance adjuster would come to the site and based on that information would determine what the applicant decides to do.

Motion made by Mr. Rose and seconded by Mr. Brennan to adjourn the Hughes public hearing until Monday, April 7, 2008. Motion was carried.

RJ Valente, 118 Button Road

Chairman Hansen commented that this is the second public hearing the Board will review tonight which is for RJ Valente at 118 Button Road. The application is for an extension or enlargement of a non-conforming use to occupy a recently constructed 4-bay truck repair facility and office in an R-1 District next to the RJ Valente Mine.

The hearing opened at 7:20p.m. The Chairman asked that if anyone who wishes to speak to please state his or her name and address for the record.

Mr. Tom Koval, 97 Button Road made the following comments: Mr. Koval commented that he lives across the street from the truck repair facility on Button Road. Mr. Koval commented that he has a large problem with this facility for several reasons. First, a commercial truck repair facility was allowed to be built in an R-1 Zoned area without any zoning approvals put forth, without any public review, without planning review and was just shoved down the neighbor's throats. Mr. Koval said he called the Town several times before the building was built and inquired why they were allowed to build this building. Mr. Koval said he was repeatedly told that it was part of RJ Valente's mining permit application. Mr. Koval found out later that it wasn't after construction had already begun. The only way Mr. Koval found this out was because he called the Department of Environmental Conservation Division of Mineral Resources and had them send letters to Mr. Koval under the Freedom of Information Act to find out the specifics of his Mining Permit.

NYS DEC sent, at Mr. Koval's request, several letters and was also told that they conveyed to the Town of Halfmoon that the 4-bay garage was not part of his mine permit previous to this approval being given. Mr. Koval said that if the Zoning Board has a copy of the Planning Board Minutes from the evening when the Planning Board approved the site plan the Board would see that the Planning Board clearly stated that they realized that it's not part of Valente's mine permit and the Town had jurisdiction over the approval of the building and that the Board approved it anyway without following the Law of the Town. This is one of Mr. Koval's main contentions.

Secondly, Mr. Koval said, there is no public benefit to any of the surrounding properties for this building being there. Mr. Koval said that the neighbors have put up with dust and dirt for years knowing that the mine was already there and they all kind of ignored it and built their homes knowing the mine was there. This new truck repair facility encompasses a better part of 5 acres now, which was completely stripped of all vegetation closer to the neighboring properties directly west of Mr. Koval's property. Mr. Koval said that it seems that every time the wind blows from the west, which is every day; we get a nice dust shower over our houses. Mr. Koval commented that we also have the added benefit of listening to tractor trailers coming and going all hours of the evening not just their normal operating hours. The dirt on the road is phenomenal it is constantly covered with mud and dirt and rocks on a hairpin corner. In the summer cars come flying through the hairpin turn, there is also the concern of kids on motorcycles. There has been 3 roll over accidents on that bend since Mr. Koval has lived there, the loose gravel is dangerous and this is an exacerbated situation. RJ Valente doesn't do anything to correct the situation on his own with respect to the road. Stone is not installed until the Town gets a phone call complaining about it. When the neighbors complain the Town comes down with their own equipment to clean the road. When RJ Valente does clean the road he doesn't bring down a wet sweep he brings down a tractor with a broom on it, the dirt and dust on the broom blows all over the neighboring houses. If you were to look out the window you can't even see the road. RJ Valente has plugged up the culverts on both sides of the road and the drainage ditches. If any of the Board Members were to drive down Button Road tonight they would have the perfect view of the drainage on the side of the road which is higher than the road is which is due to all the debris and the water that crosses the road on the hill which freezes up at night and creates a skating rink. There has been more than one accident on the hill just from this past winter.

The hours of operation have gotten better since complaining to the Town several times. RJ Valente was operating at 5:00 am. It appears that the business has cut back on their hours and is now operating at 6:00 am. The business was operating until 11:00 pm in the mechanic shop until this past week when Mr. Koval called to complain to the Town. At the last meeting of the Zoning Board RJ Valente's representative admitted on public record that the crew worked until 11:00 at night. (Mr. Koval had informed Code Enforcement that it was on public record that RJ Valente's representative stated that they worked until 11:00 pm.) The long and short of it is that the neighbors are being subjected to a lot of problems from this truck repair facility and building which should not be a burden on the neighbors. The neighbors should not have to deal with it. If the Town followed its own Laws the neighbors wouldn't have to go through this.

Mr. Koval owns several properties throughout the Town of Clifton Park, and owns one commercial property on Jones Road. Mr. Koval commented that the Town made him jump through hoops when a new tenant came in. Mr. Koval said he had to put up trees, a berm, blacktop the driveway to a tune of about \$12,000.00 later just to change tenants. RJ Valente's building is lower than the road; there is no berm, no trees and nothing blocking the view. Mr. Koval looks out his back window and sees a butler steel building with 35 old dump trucks parked around it, a bare ground, a retention pond that he didn't get a permit for, he didn't file for a S.W.P.P.P. (Storm Water Pollution Prevention Plan) permit, there is nothing to prevent the soil run off into the stream which is a classified stream with DEC. DEC is investigating this and Mr. Koval was told by DEC that there might be charges against RJ Valente for the way it was handled. Mr. Koval has complained to DEC several times about the way the operation is being run and Mr. Koval has copies of letters from DEC stating that and also has responses from DEC with regard to the complaints. DEC gave RJ Valente warnings and RJ Valente does what ever he wants to do. One of Mr. Koval's neighbors, Joseph and Michelle Decicco of 99 Button Road could not be at the meeting tonight. Mr. and Mrs. Decicco sent in a letter with Mr. Koval stating some of the same concerns that Mr. Koval expressed tonight. Mr. Koval commented that Mr. Decicco's main complaint is with the Town for allowing the project to move forward without any public review and for basically breaking the Town Law.

Chairman Hansen asked if the letter was going to be submitted to the Town for the record? Mr. Koval commented that the letter is written to the Town Zoning Board and will be part of the Town record. Mr. Koval commented that all the neighbors have a common driveway and all the properties run out to Button Road directly across the street from the project.

Chairman Hansen asked if anyone else would like to speak.

Elizabeth Stewart of 101 Button Road commented that her home is directly across the street from the project and is on the hairpin turn that Mr. Koval has been referring to. Mrs. Stewart lived on Button Road for 15 years and the property was bought knowing that the mine was there, which was fine. Through the years if there were ever any problems with the road, the dust, etc the homeowners would have to call to complain about it. When they began building the trucks were going in and out, the road was so bad. Mrs. Stewart called RJ Valente and told him that he had to do something about the mess. At the time, Mrs. Stewart's house was for sale. If prospective buyers would come to see the house Monday through Saturday the Stewart's were doomed because the trucks were running in and out of the mine and the dirt was so bad. RJ Valente said he would take care of the road immediately and he put rock down on his driveway and would send a truck out to clean the road. Mr. Valente would send a truck with no water and all it would do is create so much dust. The dust was so bad that you couldn't see out the door. When the wind blows the neighbors get all the dust you just can't see, replied Mrs. Stewart. There is no grass and this spring it will be bad.

Mrs. Stewart commented that RJ Valente has taken bucket loaders and pushed the dirt off the road because it was so heavy. RJ Valente can't clean the road he doesn't have the equipment to handle it. Mrs. Stewart is constantly calling them about the dirt. They wait until its pouring rain and send a truck out to attempt to clean the road. When Mrs. Stewart called RJ he promised her, Elizabeth don't worry we will have the place all blacktopped and will add some landscaping. RJ Valente only paved a parking lot. Mrs. Stewart said that she didn't realize that when they bought their house they would have to put up with so much. The trucks are constantly in and out of the garages. The night the neighbors left the February 4th Zoning Board Meeting the trucks were running 2:00 and 2:30 in the morning. RJ Valente runs the trucks when he wants to and does what he wants to. The only time RJ Valente does anything with the road and dust is when he receives phone calls and gets complaints. Mrs. Stewart commented that RJ Valente should be taking care of this so no one has to make any phone calls. Mrs. Stewart will not be putting her house back on the market for a long time.

Chairman Hansen thanked Mrs. Stewart for her comments.

Robert Schramek of 89 Button Road lives at the bottom of the hill from RJ Valente. This spring Mr. Schramek is in fear that all of Valente's dirt will be going toward his property. Mr. Schramek has about 4 acres of land in the area where the stream runs through his property and at the converge of the two streams one point comes from Valente's direction and the other comes from Harris Road direction. You can actually see how dirty the water is coming from the Valente direction. Mr. Schramek commented that he just paid a lot of money fixing up the bed of the stream making it more viewable and usable again.

Chairman Hansen commented that the Town has no jurisdiction over water quality down there.

Mr. Schramek commented that it all has to do with Valente building a building on the property. RJ Valente stripped the property without putting up a single silt fence and all the dirt runs into the road and the stream. That is where all the dirt and runoff was going this fall is down to the stream toward Mr. Schrameks' property. Mr. Schramek commented that he agrees with everything that Mr. Koval and Mrs. Stewart have said. RJ Valente has a building permit to build a 3-bay garage. They built a 4-bay garage. If Mr. Schramek went to the Town and said he was going to build a 2,000 sq. ft. house and built a 3,000 sq. ft. house without the Town knowing it, its not fair to the community. This is an R-1 District how do you put a commercial building in a residential neighborhood?

Chairman asked if anyone else from the public wanted to make a comment?

Mr. Dean Marotta works for RJ Valente. Mr. Marotta commented that he was in charge of operations. Mr. Marotta was hired 4 years ago and started in Albany and then went to the Rensselaer site. After those sites were cleaned up they were sold and some stuff was moved to Halfmoon. Mr. Marotta wants the Zoning Board to be aware of what happened. The reality of what really happened not what "they" (the neighbors) are saying to the Board. Mr. Marotta commented that they went before the Planning Board and asked for this building to be built. Mr. Marotta said that they talked to DEC and DEC told RJ Valente that they have jurisdiction, not to say they are right or wrong, we were told they had jurisdiction. At that point, RJ Valente asked DEC if we could proceed with the building and DEC said yes. The Planning Board asked RJ Valente to submit drawings. RJ Valente submitted drawings for a 4-bay garage, and we hold a permit for a 4-bay garage. In the preliminary meeting at the Planning Board it was going to be a 3-bay garage. Over the course of a couple of meetings it had been changed to a 4-bay garage. There was room on the plan to get another door in there so we decided to add a door. The plans submitted to the Planning Board had 4 doors on each side of the garage and the permit is for a 4-bay garage. As far as the landscaping goes, RJ Valente received a temporary C.O. at the end of November. It was impossible to grow any grass in November, the Town said they could give RJ Valente a temporary C.O. if Valente gave the Town a cash escrow or bond in the amount of the receipt from the landscaper doing the job. As far as DEC goes, Valente has not received one violation from DEC. And, because of the complaints from the neighbors, Mr. Stan Koenig from DEC said he would send RJ Valente a letter of what needs to be repaired or adjusted.

As of this date, there are no fines, no charges, and no violations that Valente is aware of. As far as the working hours, RJ Valente was working until 10:00 p.m. at night and at 6:00 in the morning. Workers were coming in at 5:00 in the morning to start their trucks. We deliver salt. After meeting with the Planning Board RJ Valente was told that it could not happen again and it stopped not last week but a while ago. If the Town would like to see the payroll report showing the employees are working from 6:00 am to 6:00 pm. this is basically it. As far as the road goes, DEC is implementing a plan for RJ Valente to stone from the edge of Button Road all the way back to the gate line. That is a requirement that DEC has put on us to stop the dirt from getting onto the road. To the best of our ability, with the frozen ground, that has been done. Stan from DEC will be back at the end of May to do a full inspection on all the corrections that he wants done and all punch list items will be done. The pond was put in as shown on the drawings as submitted to the Planning Board. DEC has some issues with the sides of the detention pond and Beth McGee is sending Mr. Marotta corrections on how that needs to be done when spring allows for it.

That is where RJ Valente's site is at right now. RJ Valente is sorry that the neighbors don't like them. RJ Valente has spent a lot of money on the building to make it look nice. If there is some landscaping that the Zoning Board wants us to add to the site RJ Valente will certainly talk about it.

Chairman Hansen had some questions: Mr. Marotta indicated at the last meeting that there was some trucks being stored at the site that didn't have anything to do with the gravel pit business isn't that correct? Mr. Marotta replied that they have 2 walking floors that carry construction demolition and when we met with the planning board they asked us to remove them. They have been removed and are parked at the Clifton Park facility next to Sysco. If you drive by the site on Route 9 in Halfmoon you will see two 100-yard trucks sitting there. They may come in during the day for an oil change or a grease job but they do not operate out of the Button Road site anymore.

Chairman Hansen asked Mr. Marotta if they were servicing vehicles that don't haul out the mine there? Mr. Marotta commented that their tractors are interchangeable. Are the trailers what you are talking about? If the job needs a dump trailer that tractor will pull a dump trailer and pull gravel. If it's the construction debris trailer (the complaint was about) it does leave between 3-4am to go out to a landfill out west to dump the debris. So in order to appease the complaint we removed the construction debris trailer from the site so they no longer operate out of there.

Mr. Watts, Planning Board Chairman sent us a letter, there were 4-5 parameters that needed to be addressed and that was done.

Chairman Hansen if anyone else had any questions?

Mr. Rose asked Mr. Marotta at what date did you start operating business from 6am – 6pm was there an official start date? Mr. Marotta replied that the letter was dated February 5, 2008 from Mr. Watts and it was implemented within a few days of that date. Mr. Marotta said he believes the official date was February 14, 2008.

Mrs. Law-Smith asked if the 4-bay garage was originally built to be a repair shop? Mr. Marotta said yes it was a service bay shop. RJ Valente always had a service bay shop on top of the hill, which still exists. The workers were working outside on their trucks so RJ Valente decided to build a building so the workers could work on the inside of the building.

Mrs. Law-Smith asked what the original intended use for that building was and what was what it was approved for? Mr. Marotta replied a service bay shop and it is also being used as an office in the front where managerial things are done.

Chairman Hansen if the Board had any other questions? No one replied.

Chairman Hansen commented to Mr. Chauvin that he had received a letter from him with some comments regarding this application.

Mr. Chauvin replied to Chairman Hansen that the letter included several items that he did not feel the Board had significant information about. Mr. Chauvin suggested that the Board refer the item to Clough, Harbour and Associates (Town Engineer) for review and inspection of the site. Mr. Chauvin further suggested that the item be tabled until such review is completed and all pertinent information is provided to the Board.

Chairman Hansen commented that the hearing was still open and anyone from the audience could step up to the microphone to speak.

Mr. Koval from 97 Button Road commented that in relationship to the new building and being part of the mining permit, Mr. Koval was told that when the mine goes away this beautiful building will be torn down and reclaimed. Mr. Koval received a letter from NYS DEC on February 14, 2008 regarding the mine. RJ Valente is renewing his permit, which has expired and is taking the entire area around the truck repair facility out of the Life of Mine Permit. So basically Valente is pulling a fast one taking this out of the Life of Mine so when the mine goes away this building will remain and the neighbors will be stuck with the building for the rest of their lives. Mr. Koval did FOIL the building permit and did go to the Building Department and took a look at the site plan because Mr. Koval had concerns with the septic system because he said he never witnessed it being installed; since that time, Mr. Koval found out it was installed and inspected. Mr. Koval commented that there is no retention pond on the site plan.

Mr. Koval said that he is in construction and reads blueprints everyday of the week there was no plans for a retention pond on the site; this must have been an oversight. Mr. Koval stated that at the meeting of the planning board when the project was approved Mr. Marotta also stated that the old building was coming down, the old building hasn't come down and RJ Valente is still using it.

The temporary certificate of occupancy was issued and Valente was told that he could not use the 4th-bay in the garage. Today when Mr. Koval went home the 4th bay garage door was open; the service truck was backed in and there were people working on the truck in the 4th bay. Mr. Koval has no problem with RJ Valente; Mr. Koval doesn't like the operation and how this whole thing is going down. Mr. Koval doesn't dislike the pit, and doesn't dislike RJ Valente. It has never bothered me having the pit over there with the small amount of dust. Mr. Koval built his house there. The neighbors were never asked what they thought about this gigantic building going in or had any input to lessen the impact on our surrounding properties, it has however, lessened the value of their properties.

Mr. Koval commented that whoever looks to sell their property on Button Road the buyer would look out the door and would see 35-40 dump trucks when 26 was approved for the site, they would also see a giant building and at night would have the pleasure of the metal lighting and the construction field. The lights should not infiltrate into surrounding neighbors. Mr. Koval did not think the neighboring homes were taken into effect when the lights were designed for the building. Mr. Koval never saw an engineering review on this project. At all other meetings he has seen engineering review going on for the site plan review, etc. Mr. Koval has copies of all the DEC letters if anyone wants to see them. Mr. Koval's concern now is the fact that RJ Valente is looking to remove this building from the Life of Mine Permit.

Chairman Hansen asked if the Town Planner is the Town had all copies of the NYS DEC correspondence on file. Planner, Mrs. Zepko commented that the Town had some correspondence and would request more documentation from DEC for the Town's file.

Mr. Marotta commented that the issue of pulling the piece of property out of the Life of Mine Permit was a suggestion made by the controller that no longer works for RJ Valente. The controller suddenly left the company because of an illness in his family. The controller pulled the piece of property off the Life of Mine Permit because they did not want to combine the land anymore, the controller would be saving RJ Valente money and wouldn't have to pay for a bond for that piece of property, however, if you look at the revised application the piece of property we are talking about is back in the Life of Mine Permit again. Mr. Marotta will drop off a copy of the application to the Planning Department tomorrow. Mr. Marotta has an extension to their permit; it has not expired. NYS DEC is revamping their permit with Chris Monocco.

Elizabeth Stewart, 101 Button Road commented that at the entrance to the pit stone was installed to control the dust which gets into the tread of the tires and within a few days the stone is gone and the dirt mess appears again. Mrs. Stewart commented that she calls RJ Valente constantly about the need for more stone to control the dust and dirt on the road. Mrs. Stewart bought her house knowing that the mine was there and had no problem with the mine it's the new use and the amount of trucks coming and going, the noise of the trucks idling, and the banging of the tailgates because they are all iced up. Mrs. Stewart commented that she runs around the house grabbing stuff and pictures falling off the wall. When it was just the pit it happened occasionally but now it happens all the time. Mrs. Stewart commented that she has nothing against RJ it is what this job has created over there that is making the quality of her life difficult, as for the road the stone is not the answer to the problem.

Mr. Rose asked if Attorney Chauvin and Chairman Hansen if the Town can do an inspection of the site right before the next meeting so that we can get a current understanding and the current conditions of the road and the entrance and to also clarify some of the questions in the testimony from tonight.

Mr. Chauvin commented that this is one of the things that was discussed and asked the engineers to physically go out and inspect the site. The Engineer needs to have clarity as to what the application is so that they know what they are looking for and would like to have them come in to discuss it with the Board at the public hearing. Chairman Hansen asked if there was anyone else who wanted to speak. No one chose to speak.

Motion made by Mr. Rose that the Board of Appeals adjourn the hearing and reopen the hearing at the next Zoning Board Meeting of Monday, April 7, 2008 so the Town can gather facts from NYS DEC, the Town Engineers information from a site visit, review the Life of Mine Permit as it stands today and in the future, conduct an engineering view of the site and the roads and the surrounding area and to have Mr. Chauvin and his legal team review the applications with the Planning Board and Town Engineers and get the clarifications needed. Seconded by Mrs. Smith-Law. Motion was carried.

Meeting was adjourned at 7:55 p.m.

Respectively submitted by Denise Mikol
Zoning Board of Appeals Secretary

