

**Town of Halfmoon Zoning Board of Appeals**  
**Meeting – Tuesday, July 5, 2016**  
**7:00 PM**

Mr. Rose called the meeting to order at 7:02 PM on Tuesday, July 5, 2016 at the Halfmoon Town Hall with the following members present:

Members –Chairman Rose Mr. Hansen, Mr. Burdyl and Mr. Brennan (absent)  
Alternate Member - Mrs. Curto (absent), Mr. Peter Gemellaro, Mr. Kevin Koval  
Planner - Mr. Marlow  
Town Attorney – Ms. Cathy Drobny  
Town Board Liaison- Mrs. Daphne Jordan

*Motion made by Mr. Hansen and seconded by Mr. Burdyl that the minutes of April 4, 2016 be approved as presented. Motion was carried unanimously.*

**New Business:**

**RCC Enterprises DBA Maple Leaf Childcare Inc., 41 Werner Road- Use Variance (SBL# 272-4-71.11)**

**New Business:**

Mr. John Moran spoke and presented the application for an expansion of a pre-existing/non-conforming use. He stated that they wish to construct a new facility, up to 15,000 SF but will determine the size of the building based on the number of children. Their previous approval from the Planning Board allowed for up to 100 children to be on site, and at this time they would ask for another expansion of a pre-existing/non-conforming use to allow for up to 200 children on site; the number of permitted students is a crucial factor in determining the size of the proposed building.

Paul Marlow briefly explained to the Board the history of the applicants previous approvals and where they stand today with regards to permissible activities on site and what they are looking to do moving forward.

Chairman Rose asked why it was determined that they needed another expansion of a pre-existing/non-conforming use. Ms. Cathy Drobny explained that while they were given an expansion of a pre-existing/non-conforming use prior, that motion was made for an application that was denied by the Planning Board to allow for 100 students. The applicant requesting 200 is a new application and a further expansion of the previous approvals.

Chairman Rose explained that he does not feel that the Town has the ability to regulate the number of children, rather which the Office of Children and Family services (OCFS) determines the number of children permitted on site. He explained that it was his understanding that the previous approval for an expansion of a pre-existing/non-conforming use did not specifically limit the number of children and that should be determined later by OCFS; but rather simply allowed the applicant to continue the previous use on site with more children.

Jeff Burdyl asked the applicant who regulates the number of children they can have and how they determine how many children are allowed on site. Mr. Moran stated that OCFS will determine the number of children allowed and that they typically allow one child per 50 SF of space.

Chairman Rose asked for clarification on what happened with the application after the previous approval for an expansion of a pre-existing/non-conforming use. Mr. Marlow explained that the applicant went back before the Planning Board and received Change of Tenant/Use approval with the specific condition that it be limited to 100 children, he also noted that the Planning Board Chairman made a note of the 100 children limit on the signed application.

George Hansen stated the applicant should appear before the Planning Board to see if they would be comfortable with 200 children in the new 15,000 SF building before the ZBA acts. He stated that the ZBA's previous approval did not have a numerical limit and that it would be up to the Planning Board to establish numbers.

Paul Marlow suggested that a Public Hearing be called for the August meeting; in the meantime, the applicant can appear before the Planning Board to get feedback with regards to the number of children and to gauge whether or not the Planning Board agrees with the ZBA that the applicant does not need another expansion of a pre-existing/non-conforming use. If the Planning Board does not agree, the applicant can appear back before the ZBA in August to gain approval for an expansion of a pre-existing/non-conforming use.

A Public Hearing will be held at the August 1, 2016 meeting, and the Board requested that the applicant appear before the Planning Board prior to the ZBA's next meeting to determine if an expansion of a pre-existing/non-conforming use to allow 200 children on site as part of the new site plan proposal was warranted.

Chairman Rose asked that the Draft minutes from the July 5, 2016 ZBA meeting be shared with the Planning Board as part of their review of the application.

A site visit will occur on July 30, 2016.

*Mr. Gemellaro made a motion to adjourn the meeting, seconded by Mr. Hansel. Motion carried.*

These are summary minutes and are not word for word at the request of the Zoning Board of Appeals. A copy of the recorded tape is available by F.O.I.L. through the Town Clerk.

Meeting adjourned at 7:45 PM.

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