

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday December 5, 2016
7:15 PM

Chairman Rose called the meeting to order at 7:15 PM on Monday November 7, 2016 at the Halfmoon Town Hall with the following members present:

Members –Chairman Rose, Mr. Hansen, Mr. Burdyl, and Mrs. Curto
 Alternate Member - Mr. Gemellaro, Mr. Koval (absent)
 Planner - Mr. Marlow
 Town Attorney - Mrs. Lyn Murphy & Mrs. Cathy Drobny

Motion made by Mr. Burdyl and seconded Mrs. Curto by that the minutes of November 7, 2016 be approved as presented. Motion was carried

Public Hearing(s):

Will Shi Shed, 1 Kelly Lane- Area Variance

Mr. Will Shi presented an application for an area variance related to an existing carport properly located within the front yard of his existing home. The home located at 1 Kelly Lane is on a corner lot and as a result has two front yards; the applicant proposes to have the carport located directly adjacent to the house facing Kelly Lane, and thus it will be in the front yard on the Werner Road side. He requested a variance for an accessory structure in the front yard pursuant to section 165-34(b) of the Town Code and an area variance for an accessory structure within 10' of the existing home pursuant to section 165-34(b)(3) of the Town Code.

Chairman Rose asked why this is considered an accessory structure as it appears to be attached to the existing home. Mr. Marlow clarified that he spoke with the Building Department and it is not by code considered to be attached to the primary structure and therefore is an accessory structure.

No one from the public chose to speak.

Chairman Rose closed the Public Hearing closed at 7:55 PM

A site visit occurred on December 3, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Chairman Rose commented: The neighbors have expressed that they are fine with the carport
- 2) Mr. Hansen commented: The only other option would be to move it.
- 3) Chairman Rose commented: No distance is involved, it's touching the home.
- 4) Mr. Gemerllaro commented: No, several letters of support
- 5) Mr. Hansen commented: Yes, the applicant constructed the carport.

Mr. Gemellaro made a motion to approve the Area Variance, seconded by Mr. Burdyl. Motion was carried.

New Business:

Tony Fusco Shed, 147 Upper Newtown Road- Area Variance

Mr. Tony Fusco presented an application for an area variance to allow for a proposed accessory structure (shed) to be located within the front yard of the existing home. Due to the orientation of the existing house on the flag lot, the shed falls within the existing front yard setback, but is located behind the existing home. They are before the Board seeking variance for an accessory structure in the front yard to section 165-34(b) of the Town Code.

Chairman Rose brought up that the existing driveway did not appear to meet standards adequate enough to allow for emergency services to safely pass as discussed during the proposed variance application to create the existing flag-lot several years ago.

Mr. Fusco explained that he plans to make several improvements to the existing road this coming spring.

Mr. John Higgins, 31 Cary Road stated that he has no objections to the project and does not believe it will affect the neighbors.

Chairman Rose closed the Public Hearing closed at 7:28 PM

A site visit occurred on December 3, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Burdyl commented: Based on the testimony, there does not appear to be any effects.
- 2) Mr. Hansen commented: The applicant clarified why moving it is not possible.
- 3) Mr. Hansen commented: The request is not particularly substantial
- 4) Mr. Burdyl commented: Based on testimony, there will not be a substantial change
- 5) Mr. Hansen commented: It's self-created but a logical choice of location.

Mr. Hansen made a motion to approve the Area Variance, seconded by Mr. Burdyl. Motion was carried.

The Board discussed conditioning the approval based clarification that the previous approval conditions have been met. Mr. Marlow explained that the Planning Department could work with the Building Department to ensure that all outstanding issues of the previous approval were met.

Lori Jacon Shed, 2 Stage Run- Area Variance

Mrs. Lori Jacon presented an application for a proposed area variance to construct an accessory structure (shed) within the front yard of the existing home. She further explained that she had submitted a building permit for a proposed shed and was denied as the proposed shed is located within the front yard setback; the existing home is on a corner lot and has two front yards. The existing parcel contains an accessory structure in the location of the proposed structure, but due to the desire to increase the size the applicant is required to obtain a variance. They are before the Board seeking variance for an accessory structure in the front yard to section 165-34(b) of the Town Code.

No one from the public chose to speak.

Chairman Rose closed the Public Hearing closed at 7:42 PM

A site visit occurred on December 3, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Hansen commented: It's a small shed, with minimal impact and plenty of landscaping
- 2) Mr. Burdyl commented: There is no other logical area for the shed
- 3) Mr. Gemellaro commented: It's slightly larger but in the same location
- 4) Mr. Hansen commented: No, it's not that big
- 5) Mr. Hansen commented: It's the most practical location for a shed

Mrs. Curto made a motion to approve the Area Variance, seconded by Mr. Gemellaro. Motion was carried.

Lawrence Circle Commercial Development, Route 146/Old Route 146- Area Variance

Mr. Jason Dell presented an application for a front yard setback area variance related to a newly proposed commercial development plan. The applicant submitted an application to the Planning Board for the construction of five (5) new buildings, associated parking and stormwater management on the existing parcels located at the corner of Route 146/Old Route 146/Lawrence Circle, with the buildings totaling 60,250 SF. The application was denied by the Planning Board due to the fact that the layout/location of the grocery store did not meet front yard setbacks. Pursuant to Section 165, Attachment 1, Schedule A of the Town Code they are required to have a 50-foot front yard setback and they are proposing to have a 10-foot front yard setback, thus requiring a 40-foot variance.

Chairman Rose expressed safety concerns of the proposed exit on Route 146 near Plant Road and felt without a light it would be a very dangerous intersection. Mr. Dell explained that they are working with NYSDOT on the potential for a light at that intersection and will continue to do so during the development of the project.

Mr. Scott Earl explained that as part of the project they plan to do substantial traffic improvements to the area in order to accommodate future traffic that may result as the surround area further develops. Additionally there is a second phase of development in which Plant Road could potentially be re-aligned but is not on the books at this moment.

Mr. Marlow explained that assuming variances are granted, the applicant will have to conduct a traffic study, and the Town will hire an independent traffic firm to review the traffic reports and determine what sort of mitigation/impact the project will require/have. He further clarified that the ZBA is responsible to determine if granting the proposed variance will cause a concern for safety, not necessarily whether or not the project as a whole causes safety concerns.

Chairman Rose asked what the financial impact would be if the applicant was to remove one of the office spaces and pull the building further from the road to meet the setbacks; Mr. Earl stated that you would lose office space and the through road going east through the site, it would make the project less economically viable.

John Higgins, 31 Cary Road asked for clarification on why it's a front yard setback and expressed he had no concerns with the variances, but wanted to ensure that the ZBA was not setting a precedent to allow for buildings to be within the required setbacks along Route 146.

Al Ceratella, 14 Lawrence Circle stated that he does not feel the project should be approved at any level, he feels as if it does not fit the character of the area.

Chairman Rose closed the Public Hearing closed at 8:22 PM

Chairman Rose noted for the record that traffic is major problem with application and that without a traffic light at this intersection this application should not be approved. Mr. Marlow explained that the Planning Board shared concerns regarding traffic and will consider all the traffic related issues in their review of the project.

A site visit occurred on December 3, 2016.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Hansen commented: It's substantial, but the applicant has made measures to mitigate the issues.
- 2) Mr. Burdyl commented: Only other means would be to eliminate the road, and that may post a safety issue.
- 3) Mr. Gemellaro commented: It's substantial but rational.
- 4) Mr. Hansen commented: It's an impact but they have worked to mitigate it.
- 5) Mr. Hansen commented: It's self-created; there are other options but this works best with the applicants plan.

Mr. Hansen made a motion to approve the Area Variance, seconded by Mr. Burdyl. Motion was carried.

Hudson River Road Self Storage, 423 Hudson River Road- Area Variance

Mr. Nick Costa presented the application for the several area related variances. They constructed several self-storage building on the existing property at 423 Hudson River Road, and when preparing the necessary as-builts required for a Certificate of Occupancy (C.O.) it was found that several of the buildings were constructed in a fashion that would not meet minimum setbacks as required by Section 165, Attachment 1, Schedule A of the Town Code. Due to the setback infringements, the applicant is unable to obtain a C.O. for the storage units and requires several area related variances.

Chairman Rose asked how the Town was notified of the errors. Mr. Costa noted that they submitted as-builts that showed the setback encroachments.

A site visit will occur on December 17, 2016

A Public Hearing will be held at the January 3, 2017 meeting.

Mr. Gemellaro made a motion to adjourn the meeting, seconded by Mr. Hansen. 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 8:37 PM.

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