

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, January 4, 2016
7:00 PM

Chairman Rose called the meeting to order at 7:00 PM on Monday, January 4, 2016 at the Halfmoon Town Hall with the following members present:

Members - Vice-Chairman Tedrow, Mr. Hansen, Mr. Burdyl and Mr. Brennan (Absent)

Alternate Member - Mrs. Curto

Planner - Mr. Marlow

Town Attorney - Mrs. Cathy Drobny

Motion made by Mr. Hansen and seconded by Mr. Burdyl that the minutes of December 7, 2015 be approved as presented. Motion was carried unanimously.

Public Hearing

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

Chairman Rose opened the Public Hearing at 7:03

Mrs. Linda Moran presented the application for a proposed Use Variance, explaining the proposed to operate a daycare and have approximately 100 students. Section 165-66 of the Town Code prohibits the enlargement of a preexisting, nonconforming use; the applicant is seeking approval to expand the use of a portion of the site as a childcare/daycare center, which is not a permitted use in the A-R Agriculture Residential zoning district

Chairman Rose clarified the proposed variance will only apply to the building in the rear of the property; and discussed concerns that there is no area in the Town Code that specifically allows for a daycare use.

Paul Marlow clarified that in the past the Town has considered daycares as a “service use” and that the previous tenant had gained approval from the Planning Board to operate as a school, but had in passing mentioned the daycare use as well and as part of the approval to operate a school they subsequently gained approval to operate a daycare.

George Hansen questioned the reasoning for the proposed Use Variance; and what led the Planning Board to feel that the previously approved use now requires a variance. Paul Marlow clarified that the Board felt as if due to the overwhelming expansion in proposed number of students, it was beyond that of the previous approval and they would need a variance to allow such an expansion.

Chairman Rose stated that he felt it was not up to the Town to regulate the number of students allowed, but rather it was up to the Office of Children & Family Services (OCFS) to do so. Cathy Drobny clarified that it was previously approved for a daycare but with a limited number of students; and that they are seeking an approval to operate the pre-existing/non-conforming use without limiting the number of students.

Chairman Rose stated that the Board does not feel comfortable approving a specific number of children allowed on site; Ms. Moran stated that it would be up to OCFS to designate specifically the number of students allowed on site.

Chairman Rose entered into the record a petition and letters in support of the proposed variance.

Tom Savino, CBRE spoke and explained the events that took place at the Planning Board meeting, and their reasoning for the variance. He stated that he does not necessarily think a variance is required, but they are proceeding as the Planning Board desired.

Mr. Hansen stated that he felt there was no need for a variance; that the Planning Board has previously approved such uses without requiring such a variance.

Paul Marlow clarified that the underlying zoning for this area was A-R Agricultural and does not allow for daycare as a permitted use.

The Board had discussions regarding the need to clarify daycares as a use in the Town Code; and that the ZBA should leave the determination regarding the number of children up to OCFS.

Frank Barbera, Barbera Homes; spoke with regards to potential buffers between his property and the proposed site and requested that buffers be put in place. Ms. Moran stated that they would be willing to put in some sort of buffer between the existing site plan and the adjacent property; Mr. Barbera asked that if fenced, that is not be chain linked fence.

Josh Michaud, 44 Werner Road; raised concerns with regards to potential traffic impacts and requested a speed limit change along Werner Road; as well as the potential for a traffic signal at the intersection of Werner Road and Route 146. Paul Marlow clarified that the ZBA does not regulate the intersection impacts, that it would be something at the Planning Board level and the potential speed limit change would require extensive research and actions beyond the abilities of the ZBA.

Chairman Rose closed the Public Hearing at 7:40

The Board took a short recess.

The Board tabled the application until the February 1, 2016 meeting in order for the applicant to discuss the application with the Planning Department in order to evaluate how to proceed.

Newmeadow School, 23 Sitterly Road- Area Variance (SBL# 278.-1-16.12)

Chairman Rose opened the Public Hearing at 7:51 PM, the notice was not read.

Mr. Gavin Vuillaume presented the proposed Area Variance. The applicant is proposing to construct a 20,000 SF non-for-profit school. The proposed school specializes in education for children with autism and other developmental disabilities Due to site constraints the applicant is seeking a front yard setback pursuant to section 165-Schedule A: The primary structure requires a 50-foot setback, and the proposed construction they will have a 30-foot front yard setback, requiring an 20-foot variance

The Board discussed with Mr. Vuillaume questions regarding future grading, parking space sizes and bus routes.

Chairman Rose asked Mr. Vuillaume to clarify the easement and driveway access for the site; Mr. Vuillaume stated that they owned and maintain the driveway access but the apartments have an easement to use the road.

Mr. Vuillaume noted that the fire department will review this plan at the Planning Board level.

Chairman Rose closed the Public Hearing closed at 8:03 PM, no one chose to speak.

There was a site visit on Saturday, January 2, 2016.

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

- 1) Mr. Burdyl commented: It will be a positive improvement to the existing neighborhood.
- 2) Chairman Rose commented: There is no other feasible method to address the proposed site plan, due to the constraints of the site and the requirements of the school.
- 3) Mr. Burdyl commented: It is substantial, but the applicant has addressed the major issues with the plan.
- 4) Mr. Hansen commented: There will be no adverse impact.
- 5) Mr. Hansen commented: The layout of the building and shape of the lot is limiting and therefore it is not necessarily self-created.

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

New Business:

Spare Lots, Route 146- Area Variance (SBL# 272.-4-45, 272.-4-46, 272.-4-47, 272.-4-48)

Jason Dell, Lansing Engineering, presented the application for a front yard setback and parking space size variance. They are seeking approval from the Planning Board to construct an 18,000 SF office building. As a result of the proposed construction they would be required a front yard variance, as the proposed front yard setback is 10 feet and they are required 50 foot, requiring a 40 foot variance. In addition parking spaces are required to be 10'x 20', with Planning Board discretion to allow 9' x 20' spaces for employee parking. The plan shows 33 of the 91 proposed parking spaces with the dimensions of 10'x 18'. Therefore, a variance in parking space size for the 10' x 18' spaces is required.

Mr. Hansen asked for clarification on why the parking spaces were smaller than Town Code allows and the reason for where they are located. Mr. Dell clarified that in order to meet Town Code requirements they had to reduce the size of the parking spots due to constraints of the site.

Mr. Hansen asked if this has been before the Planning Board. Paul Marlow clarified that this was not before the Planning Board, but instead it was denied by the Director of Planning. It will appear before the Planning Board if and when it receives the required area variances.

Mr. Hansen made a motion to set a Public Hearing at the February 1, 2016 meeting, seconded by Mr. Burdyl. Motion carried.

Clifton Park Church of Christ, 7 Old Route 146- Area Variance (SBL# 272.10-1-21)

Mr. Gavin Vuillaume presented the proposed Area Variance. The applicant is seeking approval from the Planning Board to subdivide the existing 1.82 acre parcel into two separate lots. The lot as it sits contains the Clifton Park Church of Christ and a vacant office building; the Church would like to subdivide the lot in order to sell off the office building. As a result of the subdivision, the newly created lot which will contain the existing office building, will no longer be compliant as it will not meet today's lot requirements and requires several area variances.

Paul Marlow explained the Planning Boards concerns with the proposed variance. The Planning Board felt as if granting of a variance of an undetermined amount of spaces would cause issues with future tenants. A suggestion to help address the Planning Board concerns is if the requested parking variance (7 spaces) is granted, a condition be added that if a future tenant requires more parking than 25 spaces, either through a calculation under the Town Code or as determined by the Planning Board, the tenant shall return to the ZBA for consideration of a greater parking variance.

The Board discussed with the Town Planner and Mr. Vuillaume how this building was classified in terms of parking space requirements and how they determined the minimum number of spots required and the number of spots requested by the variance.

Mr. Hansen made a motion to set a Public Hearing at the February 1, 2016 meeting, seconded by Mr. Burdyl. Motion carried.

Mr. Hansen made a motion to adjourn the meeting, seconded by Mr. Burdyl. 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 8:30 PM.

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