

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
March 7, 2011

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:07 p.m. on Monday, March 7, 2011 at the Halfmoon Town Hall with the following members present:

Members: Mrs. Jordan, Mr. Rose and Mr. Brennan
Alternates: Mr. Burdyl – voting tonight, Mrs. Smith-Law
Town Board Liaison: Paul Hotaling
Planner: Mrs. Zepko
Secretary: Mrs. Mikol

Motion was made by Mrs. Jordan and seconded by Mr. Burdyl that the minutes from the February 7, 2011 meeting be approved. Motion carried.

Shawn Boschelli, 381 Hudson River Road

The public hearing opened at 7:10 p.m. Chairman Hansen commented that we received a letter from Saratoga County Planning Board stating that there is no significant countywide or inter-community impact on the signage area variance for the Ideal Personal Training Studio.

Chairman Hansen commented that the Planning Board denied Mr. Boschelli for his sign application for Ideal Personal Training Studio located at 381 Hudson River Road because the Town's Zoning Laws regarding In-Home Occupation signage allows for a maximum area of a sign to be no larger than 6 SF. Mr. Boschelli's current sign is 2' x 3' double sided and based on Article X, Article 165-49.A.2. The sign application was denied on October 13, 2010.

Mr. Boschelli stated that he is in an M-1 Manufacturing District and would like to keep the same size sign that he currently has for his In-Home Occupation. The front of the building is a duplex and behind it is the business.

Mr. William Montigue, Lock 1 Road commented that he had no concerns with the sign and felt it was a better sign than the one on the dumpster across the street.

Mrs. Jordan commented that the members met there on Saturday morning. Is it Mr. Boschelli's intent to leave the sign on the metal posts the way it is right now?

Mr. Boschelli commented that it could be modified; right now it's the only way I know how to put it up. The sign is not lit. There is a foot or more going up the sides of the sign and it could be cut so it would look more professional. Technically, he planned to leave it as it is, unless the Board had any suggestions to make the sign more viewable.

Mrs. Jordan commented that she assumed that the applicant would need to go back to the planning board after the Zoning Board of Appeals. I think aesthetically the sign is not as nice as it might be. It is also right near a historical marker, which seeing the two together, the sign should be presented better. The size of the sign is not the only issue.

Mr. Boschelli commented that what bothers him is that because of the In-Home Occupation the sign could only be 6 SF. How nice of a sign could I possibly make and what could it be made into? A 2x3 sign is very small, which is 6 SF plus they only want it to be 1-sided, 2 sided would double the square footage. He can make the sign as nice as you would like it but he would like the sign to be however big he wants it.

Mr. Rose asked Mr. Boschelli what size he is looking for? Is it 6 ft on each side? No, Mr. Boschelli commented that he would like to keep it the same size it is now. The sign right now is 2 sided. Each side is about 6 SF. Mr. Rose stated that this Board would want the Planning Board to look at the placement of the sign too.

Mrs. Jordan commented that she is concerned with the placement of the sign and the sign itself doesn't look professional. You can have a 2'x3' size sign on each side that is more professional looking. It looks like something that was just stuck up all of a sudden on these metal posts. It is unsightly and as long as we are here, and if we are granting a variance, it should be cleaned up and look presentable.

Mr. Boschelli commented that if you grant me a variance for a sign that is larger than 6 SF, then yes, I would redesign the sign.

Mr. Rose commented now your asking for a sign that is 12 SF or larger?

Mr. Boschelli commented, well, yes, I would like it to be what I have now which is about 12 SF, it's been there for 6 years.

Mr. Rose commented that his variance request is substantial in nature because only 6 SF is allowed under the zoning regulations.

Chairman Hansen commented that the In-Home Occupation allows a sign up to 6 SF and Mr. Boschelli's sign is doubled the allowable signage.

Mr. Rose commented that the mitigating factor here is that he is in a C-1 Commercial District with an in-home occupation business. There is a twist to the whole situation. Because he is in a C-1 Commercial District, what would an allotted sign size be?

Mrs. Zepko responded that the size of signs in Commercial or Manufacturing Districts are based on the square footage of the building. There is a ratio that is given up to a 250 sq. ft. depending on the site and the size of the building.

Mr. Rose commented that his point is that somewhere in the middle here he has a pre-existing non-conforming use. There may be some latitude to grant a variance for a sign that is a little more substantial in nature to the residential zone, 6 SF. I would not give you a 200 SF sign that would not be appropriate for a property in that situation but something maybe larger would be appropriate.

Mrs. Smith-Law commented that when we went to see the sign on Saturday it is in a Commercial District and if someone is looking for your gym the sign is insufficient because you come up so quickly and the sign is not noticeable and it could look a little different.

Mr. Boschelli commented that it could only look different if it were bigger.

Mr. Rose commented that for clarity, if we approve the variance, it would go back to the Planning Board for site and aesthetically review of the sign.

Mrs. Zepko commented the applicant does have to go to the Planning Board for approval for the sign. During the planning process there is very little review of sign's esthetics as the Town has very little in our code for that except if the structure is impaired. However, this board can make your approval contingent on making changes to that sign. That is in the pervue of this Board rather than leaving it to the mercy of the Planning Board.

Mr. Rose commented that when we looked at the sign it did look a little flimsy and you are running a business out of there and we can't force you to do anything different with the sign, but we should suggest that you make it a little more substantial if you are going to make a larger sign and make it more appealing. That is my recommendation. Not to put erroneous financial terms on it or a hardship. I am sure you can do something a little more substantial than a couple of poles.

Mr. Brennan commented that the Planning Board or the Code Enforcement Officers couldn't come back and say for whatever reason that the sign is unsightly. It's your decision if you want to take that risk of what he or she would consider unsightly or not and I certainly don't know if he would consider it to be unsightly as compared to other ones.

Mr. Montigue of Lock 1 Road commented that people come down Lock 1 Road and ask me where his business is; they missed the sign and the building because it looks like a house. So the sign he has, people are not seeing it. If it were any smaller he would lose a lot of business.

Mr. Rose commented that is exactly my point, if we were to approve a 12SF sign as it is, it should be placed better and in a better frame vs. 2 poles. When we drove by we were not sure what it was until we were right up on it.

Mr. Brennan asked what the square footage of the sign ratio is to the building in a M-1 Zone, and what is the area that your business is in, the work out area?

Mr. Boschelli responded 1300 SF.

Mrs. Zepko commented that there is a cap on the total signage of 200 SF for a single sign, which would technically be the limit for signage in a M1 Zone. They do allow an additional 3 SF per 1000 SF of building area, which would be the maximum, allowed.

Chairman Hansen commented that the sign is as effective as any sign is going to be, I think the problem there is that if you made the sign any larger it would not solve the problem because you have the situation of the business being in the back and you're not going to go down Lock 1 Road and park in a parking lot next to the business part as opposed to pulling in and parking in your circular parking lot in the front. If your coming down from Mechanicville you have a better chance to turn into Lock 1 Road if you happen to see the sign. If you're coming from Waterford by the time you see the sign you will have already passed Lock 1 Road and the driveway and will have to go down and turn around and come back.

I am sure whomever goes to your place of business the first time gets lost and can't find it. Then after that, you know where it is and then your fine. The only way of noticing it is if you have a billboard sign.

Mr. Rose commented that with the line of sight point of view that sign definitely obscures your view going north on Route 4 & 32.

Chairman Hansen commented that Mr. Boschelli is looking to keep the same size sign, is that correct?

Mr. Boschelli commented yes.

Chairman Hansen commented that you could probably put the existing sign on a couple of 4 x 4's and not reduce your sign area and take away the so called ski poles.

Mrs. Jordan commented that the sign should be lower than what it is now. That is why you have a hard time seeing it. It's too high. When we are driving we are not looking up for a business sign. We are generally looking at eye level.

Mr. Boschelli commented that he would change the size; as long as he can have at least the size he has now.

Chairman Hansen commented that would be acceptable.

Mr. Burdyl commented that we have two sub issues with the granting of the variance. First, if we grant him a one-sided or two-sided sign and secondly the size of the sign and the improvements that will be made to the sign.

Chairman Hansen agreed, it depends on what direction the majority of the Board wants to go. Whether it's the existing sign or something even bigger.

Mr. Rose asked what does Mr. Boschelli want?

Mr. Boschelli commented I would like the Board to approve the size of the sign I have now or possibly something bigger.

Mr. Rose commented to the applicant you need to be specific.

Mr. Boschelli commented that he does not want the sign to be 6 SF that is what I am asking.

Mr. Rose commented that you can't be general you need to be specific we need some boundaries.

Mr. Boschelli commented that the sign right now is about 14 SF.

Mr. Rose commented that the reason why I say that is because in one of the area variance tests there is a substantiality requirement. So in approving a variance you can't just approve anything you want as long as it's bigger than 6 SF. I don't think that a 200 SF sign is appropriate for that location since you are a residential in-home business. You are not a commercial entity. That is my opinion; I think we need to cap it.

Mr. Brennan commented that he does agree with that and the other reason why I offer that is, if we approve the existing sign, what happens when the existing sign goes away? The existing sign will eventually go away, it will deteriorate, something will happen to it, someone will hit it, and then what happens? How do we measure what that sign is when the other sign comes back up. How does Code Enforcement come back and say this sign is bigger than the other one. There has to be a number attached to this.

Mr. Rose stated this leads to another path of discussion. If that property-changed hands, will the use convey to a new owner a second time? That is another reason why we would want to cap it.

Chairman Hansen commented unless they change it to a conforming use then it would apply to the current use. If someone bought his business the way it is, it would remain the same.

Mrs. Smith-Law asked if the Board would have to approve the double-sided sign and the total SF? Since it's an in-home business, it is only suppose to be one-sided, correct?

Mrs. Zepko commented that the sign could have as many sides as the applicant wants, as long as the total of both sides doesn't exceed 6 SF. In-home occupations, in general, utilize small signs attached to mailboxes and such. There is a DJ business on Guideboard Road with a little placard that hangs from the mailbox. That is how the sign ordinance is written.

Mr. Rose commented that he didn't think anyone could have foreseen an in-home occupation in a M-1 area.

Chairman Hansen commented that it's rare.

Mr. Brennan commented that we still need to agree on a number.

Mr. Burdyl commented that we could put a number on it not to exceed 24 SF.

Mrs. Jordan commented that a 24 SF sign is huge.

Mr. Rose asked if the sign was a 4 X 8 sheet of plywood? I did not go over to measure it.

Mr. Boschelli commented that the sign was sheet metal. The size of the sign is 14 SF.

Mr. Brennan asked if it were in the Board's pervue to suggest a number or do we wait for the applicant to do that?

Mr. Boschelli asked for 18 SF, 3' x 3' on each side.

Chairman Hansen commented that you may not want a square sign you may want a rectangle sign. It's not a noticeable sign.

Mr. Rose commented that from the line of sight you really couldn't see the sign until you are on it, or passing it. If the sign were lower you would catch it faster. Then there is the historical sign that is right in front it which kind of blocks it. A lower, rectangular sign might be more visible to someone driving by. If you put a border around it, it will have a contrast. I think you will achieve what you are looking for. Then there will be more space on the sign to put "around back" or "parking on Lock 1 Road".

Chairman Hansen asked Mrs. Zepko if when the Planning Board approves a sign, is the structure that supports the sign included in the square footage is calculated, the total signage?

Mrs. Zepko replied generally just the lettering area of the sign however, when the total maximum height of the sign, that is included in the size of the sign and the maximum is 16' tall, which is in our ordinance. That is the only time the structure is counted toward the sign itself.

Mrs. Smith-Law commented that technically you could put up a 3' x 5' sign and can put brick or stone pillars around it.

Mrs. Zepko replied correct.

Mr. Brennan commented to Mr. Boschelli that if there were a condition placed on the sign regarding the aesthetics of the sign, were you intending on making the changes? Is it technically possible for you to make those changes within a short period of time? If we were to ask for an example of the sign to be given to the Board I would assume the existing sign would stay as it is until this Board has made a final decision. Is that correct?

Chairman Hansen commented that is a given. This process started several months ago and was denied by the Planning Board.

Mrs. Jordan commented that your questions are almost making it seem like we are the Planning Board. We are not. We can grant the variance. You wanted Mr. Boschelli to bring back a plan of the sign to us. We don't do that.

Mr. Brennan commented that it was offered by another board member that we delay the hearing and there would be an example. Towards my question, we can approve the square footage but we also got into what was the sign going to look like? That is where it gets sticky in my mind. What will it look like? Who is going to be the subjective decider of that? Mrs. Jordan and I may have the same taste but others may not. Do you see my point? Is it worth getting an example of it? Before I even ask that question and to be fair to the applicant what is the ramification of that from his existing sign and would it impact him from a business standpoint. What I am hearing is no. That the sign will stay the way it is. There is no harm or fow there. If the Board did decide that it was something they wanted to see changed, and they wanted to see an example of that, and we are talking about the aestitics than that would happen too. Or we can just say here is the square footage make it nicer and hope for the best.

Chairman Hansen commented that when you go to a sign place and tell them that you want a certain size and color, if you go up in size increments, the sign will cost more money for it. Then you have options. Take the sign you have now and add nice posts around it, and he may choose that option because he only has to pay for posts, or he might say for another \$100 I could put a slightly bigger sign up with the posts and go that route.

Mr. Brennan commented that he understands the concept but is not sure how subjectively the Board we will be able to measure that. When we say we would like to see it look better what does that mean. If I were the applicant I would ask for the definition of that. Mr. Boschelli came here looking for the square footage to be increased and not necessarily the thought of an additional restriction on it.

Chairman Hansen commented that he is thinking out loud. Mr. Boschelli has too much stuff on the sign for the size of the sign. He has a phone number on there too. My eyes are not the greatest but I can't read those numbers unless I am standing on top of the sign. It's not likely that anyone can get his phone number down while driving 40 mph on Hudson River Road. Maybe the size of the sign is good he just needs to put the name of the business on there, because theoretically, people already know that your business exists. So if you have the name of the business and your street address. They will say, "oh there it is" now they have to find the driveway. If you put too much stuff on the sign you can't read it. For the size of the sign it has too much information on it. That is useless because you can't read it until you have already passed it. It is not an effective sign regardless of the size of the sign.

Mr. Boschelli asked if he could keep the size.

Chairman Hansen commented that if he wants to keep the same sign and size just put a few posts up to make it look more presentable. In a way, we are trying to tell you, that you are not getting your money's worth out of that sign.

Mr. Boschelli asked the Board if they could grant him a square footage of what he can make it. He doesn't mind changing the sign that is not a problem at all. Mr. Boschelli doesn't mind changing it or lowering it, he just wants to keep it the same size.

Mr. Rose commented that for arguments sake the sign is a total of 14 SF. I would propose to cap the sign at 18 SF. You can leave it at 14 SF and put the nice poles on it, but we will give you the latitude to make it a little bigger. The Board is trying to help you with your business. Spend a little bit more money and you will get more bang for your buck out of the sign. If you leave the sign the way it is, you're not doing yourself any justice.

Mrs. Smith-Law commented that we should allow him up to 20 SF. When people are looking for the sign it is supposed to help to locate your business.

Mr. Rose suggested a sign approximately 4' X 3' in size to give a little more length, double sided, with nice 4' X 4' around the outside to make it look nice.

Mrs. Jordan commented that we have to go through a test for this, correct?

Chairman Hansen asked the Board if they were ready to make a decision. A motion was made by Mr. Brennan and seconded by Mrs. Jordan to close the public hearing at 7:44 p.m. Motion was carried.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Mr. Rose commented that there is no detriment. Chairman Hansen commented that there are signs everywhere on Hudson River Road with businesses up and down the road. Mrs. Jordan commented that it is zoned LI-C and M-1.

Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

Mrs. Jordan commented that there is no other avenue for the applicant to take other than what he is taking now and it is to have a larger sign than what the zoning will allow him to have.

Whether the requested area variance is substantial.

Mr. Rose commented that the area variance is substantial to the permitted use in this area but because it is in a M-1, I don't think that it is substantial. It is sort of a dual nature of a request. It's not really in a neighborhood.

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

Mr. Rose commented that there is no impact on the physical or environmental conditions in the neighborhood. Mrs. Jordan commented that there is no substantial impact however, there is a historical marker there and bringing the sign down would alleviate blocking the historical marker. Chairman Hansen commented that you should drive up and down the road and see what the best place is for the sign, except of course in the right-of-way area. It's in a tough spot. Lock 1 Road is there, the historical sign is there, there is a tree there too, and it can't be moved. The applicant was asked not to block the historical marker.

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

Chairman Hansen commented that in a way it was self-created but again it doesn't necessarily mean that we can't use common sense and come up with a reasonable compromise.

Motion made by Mr. Rose that the new sign cannot exceed 15 SF per side and seconded by Mrs. Jordan. Motion was carried.

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