

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
August 1, 2011

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:05 p.m. on Monday August 1, 2011 at the Halfmoon Town Hall with the following members present:

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

Chairman Hansen commented that if Mr. Brennan doesn't come to the meeting tonight, Mr. Burdyl, Alternate would be voting tonight as Ms. Smith-Law has recused herself from this application.

Motion was made by Mr. Rose and seconded by Mr. Burdyl that the minutes from the July 5, 2011 meeting be approved. Mrs. Jordan abstained. Motion carried.

Chairman Hansen commented that the primary purpose for the meeting is a public hearing for Zappone Chrysler, Jeep, Dodge, Ram at 1613 Route 9. The proposal is for a new dealership, which would require a variance for a portion of the new showroom, which they want to add onto the existing warehouse structure at the site.

Zappone Chrysler, Jeep, Dodge, Ram Inc., 1613 Route 9

Scott Reese and Jim Zappone were present with a proposal for the House of Kitchen Site on Route 9 near the Halfmoon Sandwich Shoppe for a car dealership in a commercial zone.

Mr. Reese explained to the Board and residents that the warehouse building was built in 1960. The proposal includes removing the House of Kitchen building and the forward concrete building and will continue to maintain one existing building on the site's southern border. The remaining building will be used as their service building with 15 bays. This building has a pre-existing non-conforming condition of a 9.5 ft. side-yard setback (15' is the required minimum) that the applicant wished to expand by placing an addition of a showroom by aligning the new proposed addition with the part of the existing building that is to remain on site for their service building. A single-curb cut access to Route 9 is being proposed and 158 parking spaces are being proposed.

Mr. Reese showed the Board the on-site storm water management area location at the rear of the site and also explained that there is 20% green space being provided with the majority of the land being in the rear of the site.

The proposed showroom will be attached to the existing warehouse (proposed service building) and does not meet side yard setback according to Zoning 165 Attachment 1 – Schedule A in the Town's Zoning Laws.

A 6' fence line is being proposed along the property line. The hedgerow will remain and will be maintained.

Chairman Hansen opened questions up to the Board.

Vice-Chairman Tedrow asked Mr. Reese why you want to line up the new building with the existing building? What would be the consequences for requiring the 15' side yard.

Mr. Reese commented that we are proposing to make it flush with the other building because we have a service access. If we put the access any further or down further it will block the view of the sales people out into the lawn and would divide the actual showroom. It is more ideal if the access is from the backside of the building and we won't lose any bays because of the size of the building. It just allows for the access to come through the back and then each of them can turn in. There will be garage doors to allow the access out.

Chairman Hansen asked Mr. Zappone what the artist rendering of the show room would look like.

Mrs. Jordan commented that the minutes from last month's meeting stated 190 parking spaces. You said at tonight's meeting there are only 158 parking spaces.

Mr. Reese commented that the space number did change. We did review some of the parking because originally we were asking for smaller spaces, which would require a variance as well. We made the parking spaces 9' x 20' and with that modification it changed the overall count. So we are down to 158 parking spaces.

Mr. Rose asked when we walked the site; the existing structure in the back has two entrances into the building. Why would you not want to drive the cars into the existing structure with the existing doors the way they are today?

Mr. Reese commented that as far as bringing the vehicles in and turning them around it is a tight fit. Mr. Zappone added that Chrysler dictates to us that they want service bays for customer access from the front of the building so the customer doesn't have to go outside. In most dealerships today, you park your car, get out of your car, and walk around the building to a service department. They now want the customer to drive through from the front. The customer will get out of their car inside and we would do the paperwork. Our employees would then take the car into the service department.

Mr. Hotaling asked about the service entrance in the front of the building; will there be enough room to get cars in and out.

Mr. Reese commented that we would have 4 service writers in that area. They will write the cars up and immediately move the cars into the back of the building.

Mr. Hotaling commented that you will have 158 parking spaces; how many will be for display cars?

Mr. Reese commented that we have 4 handi-cap spaces, 12 customer spaces, 36 employee spaces, 47 display spaces, 45 service vehicles and 14 additional spaces.

Mr. Brennan asked what the flow would be like for the 18-wheeler delivering cars?

Mr. Reese commented that the cars will be delivered off site to a piece of property he has access to and the cars will be delivered to the site after hours.

Mr. Hotaling asked if they had an actual storage site in mind where you will be loading and unloading vehicles?

Mr. Reese commented that yes we will have a storage area of cars on another site.

Mr. Rose commented that when you apply for an area variance there is a certain test that needs to be met. One of the tests is one that has to be met by the applicant by possibly looking at other ways of doing this other than an area variance. Just looking up and down Route 9 there are other areas where there is a couple of empty car dealerships now. Dodge World north of Route 146 and the one next to Dunkin Donuts. Just to comment briefly why or why not consider those properties since they already are car dealerships.

Mr. Reese commented that the property north of Route 146, Dodge World is tied up in litigation and foreclosures and has been for a couple of years. It doesn't seem to be settled yet. The other car lot near Dunkin Donuts is much smaller than 3 acres and typically that is what we need for a car lot. The House of Kitchens is 2.7 acres and we like the traffic count. The traffic count is the first thing we look for when we look for a site.

Mr. Rose asked if they could explain about the traffic count.

Mr. Reese commented that there is a high velocity of traffic traveling up Route 9 and it's a high amount of cars and when you reach Route 146 cars turn east and west and as you continue up Route 9 you loose a lot of traffic. There are a very high number of vehicles in the location of the site we are interested in.

Mrs. Jordan asked how is the number of service bays arrived at? You have 15.

Mr. Reese commented that we came up with that number based on the size of the building. Basically if we were to tear down that building and build a new one the same size it would have worked with a total of 15 bays. Chrysler comes up with the number of cars being serviced.

Mrs. Jordan commented that if you didn't need 15 service bays you could always enter that building directly instead of entering through the new part of the building and eliminate a couple of bays.

Mr. Reese commented that they need them all. If they were to redesign the building I would want 20 to 25 service bays but it's cost effective; it doesn't make sense with the economy. It is critical that we have service bays and customers don't want to wait 2 days out for service.

Mrs. Jordan stated that she asked that question to satisfy the test that Mr. Rose was talking about that it could be another alternative. But you're saying it's not economically an alternative.

Mr. Reese commented that if we were to add onto that building we would lose parking and economically 15 bays would be very expensive to replace.

Vice-Chairman Tedrow commented that there is drainage along the southern property line by bringing the new building further south into the swale are you going to be pushing water onto the adjoining property?

Mr. Reese commented that no, we will definitely shape swales and direct them toward the back of the lot to the storm water management area. According to NYS DEC we cannot send watershed to the adjoining property it has to be treated. Even the gutters and such have to be sent to the catch basins.

Mr. Burdyl asked if there was a foundation drainage system put in? So it's going to drain toward the base of the two buildings.

Mr. Reese replied yes. We still have to do some test pits to verify where the ground water is and soil conditions but yes typically the foundation drains will tie into the system.

Mr. Burdyl commented that he asked that because of the age of the buildings and you will need to upgrade that or make sure they are functional.

Mr. Reese commented that yes it will be. The foundation drains will all tie into the system.

Chairman asked if the Board had any questions? No one replied at this time. Chairman opened the public hearing to the public.

Mrs. Krause, neighbor to the south commented that she has lived there since 1948 and the kitchen business has been there for 60 years. Mrs. Krause asked if they would maintain the grass behind the building? And, would they be sending any water her way? Would the hill be taken away?

Mr. Zappone commented that they would maintain the grass and that they would be willing to maintain hers as well. All water will be sent to the on-site detention area in the rear of the property. The slope will remain the same. He further explained that he grew up in Halfmoon and loves it here. We will not be disturbing anything that doesn't need to be replaced. It will be a very clean operation and we will be good to our neighbors.

Mrs. Krause commented that the lot is long and narrow. Will it be large enough for a dealership? Mr. Zappone showed Mrs. Krause a picture of what the lot will look like once construction was completed.

Mr. Hotaling asked about the lights for the property.

Mr. Zappone replied that lights would not be directed toward Mrs. Krause's home or Route 9. The hours will be Monday through Thursday from 8am – 8pm and Friday and Saturday until close at 6pm and Sunday possibly from 11am – 2pm.

Chairman Hansen asked if the Planning Board looked at the DOT drainage culvert that runs parallel to Route 9 that comes out of the corner of that property. You can barely see it. You have to look for it. It's submerged with grass and leaves and dirt. Was that considered when the Planning Board looked at this as part of the storm-water drainage? Was that addressed at all?

Mrs. Zepko commented that the drainage for this site would be handled and flow to the back to a new proposed basin in the rear of the parcel by DeVoe's parcel. The storm water control will not be managed by the swale on Route 9 owned by DOT.

Chairman Hansen commented that whatever comes out of the swale now will come out of it in the future. I think that the culvert is buried probably up to maybe beyond the Sandwich Shoppe and there is obviously water getting into it because you can see evidence of fresh water from the gully wash we had the other day and you can see fresh wet debris coming from the pipe. It just comes and splashes onto the grass because there is no definitive ditch or swale it just runs out along the grass.

Mrs. Zepko commented that there is a lot of old infrastructure there, which is not owned by Mr. Zappone but by DOT. There will be no changes made to that. Water comes from uphill so I don't know what might change on those properties. With the storm water regulations as they are now; everything has to be managed on site. Actually a new design criteria makes it so that DEC makes them control it before it reaches their detention basin.

Chairman Hansen commented that this project would not change DOT's swale on Route 9.

Mrs. Krause commented that several years ago DOT came through and made the culverts deeper but through the years it washes over. No one maintains it.

Chairman Hansen commented that the debris that is in there doesn't come from this property it comes from further up the road. The existing culvert will not change as a result of this project because they are not adding their storm water to that. It will still go to the new system in the rear of the property; it's a natural flow. However, you may still have issues with DOT and their culvert because of the fact that they are still sources of storm water getting into that beyond this property that we are talking about now.

Mr. Reese commented that the water being collected along the parking area and will infiltrate to the soil. It will then go to a dry basin and riprap through stone then into the stream.

Mrs. Zepko commented that DEC issues the permit for site improvements for storm water depending on pre-development conditions. The drainage will improve as a result of this project should it be approved.

Chairman Hansen asked if anyone else would like to speak.

Motion made by Mrs. Jordan and seconded by Vice-Chairman Tedrow to close the public hearing closed at 7:45 p.m. Motion was carried.

Chairman Hansen stated the following:

"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."

Mrs. Jordan commented that it is zoned commercial and actually the building that is being proposed is a much nicer looking building than what is there. The property will be improved esthetically. It doesn't appear that the neighbors object to it considering that only one came and she has a clear understanding of what will be happening and seems to be fine with it. It will not change the character of the neighborhood.

Mr. Rose commented that one thing that Mr. Zappone has commented on is to be a good neighbor and I think he is being honest and earnest about that and said he would take care of that grass in the area and on Mrs. Krause's side of the property that will be more beneficial than it is today.

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

Mr. Rose commented that I asked that question earlier from an economic point of view. That is the source of my questioning and to my satisfaction he has answered the question that there is not another way to use the property for the lot south on Route 9 and for Dodge World because of the issues there it doesn't make any sense either. I think he has answered that to the Board's satisfaction.

Mrs. Jordan commented that also with that test, that is within the property itself it doesn't seem that it could be done differently and they are dictated by what Chrysler wants and to have an overall good business there they need a certain number of bays and a certain amount of space there in order to perform the way they are suppose to.

- ✓ "Whether the requested area variance is substantial."

Mrs. Jordan commented that it's not substantial only because there is so much of the border that was pre-existing non-conforming that has been that way for so many years that we are just continuing that line out for a short distance compared to how it already is.

Mr. Rose commented that Mrs. Krause's property is used residentially now even though it is zoned commercial. A future commercial use of the property if that were to occur would have substantial advance notice of the variances and setbacks, especially if they came back to the board to ask for a variance the other way being closer to the other property. It would be well marked and well understood what the boundaries are with the addition of the building.

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

Chairman Hansen commented that we covered that.

Vice-Chairman Tedrow commented that we talked about the drainage and the impact of the whole facility will be mitigated with the self-contained collection treatment system.

Mr. Rose commented that when the dealership from DePaula came north on Route 9 asking for a variance we had requested that the property would not look like Wolf Road. We ask that you use the same thought process when planning your showroom and I am sure the planning board will approach this. We all live here in Halfmoon and we would like to have it look nice and not just have another concrete slab on Route 9. So I ask as a board member here to take that into consideration although I can't direct you to, I ask that you consider that.

- ✓ "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."

Vice-Chairman Tedrow commented that it is self-created and is proposed as part of the project but I think the rational of the design of the project makes it seem as though it makes sense. I don't think the fact that it is self-created should preclude the granting of the area variance.

Mr. Rose agreed.

Chairman Hansen added that in a sense part of it is not self-created in that he is trying to work with what was there existing and retaining the existing building. He has to use what the previous owner did there as far as the building location is concerned. To some extent he could change it but there are other conditions that he can't change.

Chairman Hansen commented that: The Board of Appeals, in the granting of area variances, shall grant the minimum variance that is shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

Based on the above discussion, Mr. Rose made a motion to approve the area variance as requested by the applicant. Seconded by Vice-Chairman Tedrow.

Motion was carried.

Chairman Hansen commented that just for the record since Mr. Brennan came to the meeting late he would be voting tonight instead of Mr. Burdyl. Mr. Brennan did vote yes with the rest of the board tonight.

Mrs. Jordan made a motion to close the meeting at 7:55 p.m. seconded by Mr. Brennan. Motion was carried.

Motion carried.

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