

Town of Halfmoon Zoning Board of Appeals  
Meeting Minutes  
July 5, 2011

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:05 p.m. on Tuesday July 5, 2011 at the Halfmoon Town Hall with the following members present:

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

Motion was made by Mr. Tedrow and seconded by Mr. Burdyl that the minutes from the June 6, 2011 meeting be approved. Motion carried.

**Bryah and Randy Gifford, 130 Meyer Road**

The public hearing opened at 7:07 p.m.

Mr. Bryah and Mr. Randy Gifford were present with a proposal to use the former Old Dublin Inn for a restaurant type use in an A-R Agricultural Residential zone. The applicant received a denial from the Planning Board at its regular meeting of May 11, 2011. The Town's zoning ordinance states that under Article XII – Non Conforming uses, Section 165-67 – Discontinuance: "When any presently non-conforming use of land/or buildings has been discontinued or has not been in use for two years, the land and buildings shall thereafter be used only in conformity with this chapter, except that the Zoning Board of Appeals, after a public hearing, may permit the resumption of said non-conforming uses."

The applicants are proposing an Irish Pub/Restaurant named Power's Irish Pub, an upscale Pub with traditional Irish foods. The hours would be 6 days a week open from 11 am to 10 pm and on weekends until midnight. The applicants are currently owners of Giffy's Barbeque on Route 9 in Clifton Park.

The Chairman opened the public hearing at 7:07 p.m.

Mr. Higgins of 31 Cary Road commented that he and his wife own the Antique Shop across from the site. The Antique Shop is open on Friday, Saturday and Sunday. Mr. Higgins commented that he has no problem with his neighbors, however, he has the following comments and concerns: St. Patrick's Day in the past, with the Old Dublin Inn was a bad traffic day. Patrons were parking their cars off site and were being bused in and out. There was loud music playing on the deck. The bar was opened all night and for health and safety reasons if needed, there was no place for a fire truck to come to the site. The other concern is the septic system. The tank is limited and sometimes needs to be pumped a couple times a week. When it's hot outside and the sun is out you can smell the septic, which means it's in need of being pumped.

Mr. Gifford commented that they are aware of the large party on St. Patrick's Day. There will be no loud music on the deck and the restaurant/pub will be of a controlled situation at all times. The Gifford's met with Mr. Buck and Mr. Williams last week and the Town requested a letter from their engineer stating the existing septic system is in compliance and meets all state regulations and if it doesn't, the applicant will bring it up to compliance with a building permit.

Mrs. Zepko commented that there would be a change of tenant review by the Planning Board where parking issues, septic issues, and loud music will be addressed.

Chairman Hansen commented that a 2008 map shows the old Meyer Road right-of-way coming out to Route 9 at the existing traffic light. The Gifford's indicated that section of Meyer Road was abandoned by the State in 1974 and is now used for parking. The parking lot is actually on another parcel that is owned by the Hoffman Family as well. The Gifford's further indicated that the prior restaurant operator was required to limit access to the adjacent parking lot from Farm-to-Market Road to one way in. Restaurant patrons had to exit via Meyer Road to Route 9. That creates a dangerous situation and the Gifford's were encouraged to ask the Planning Board if they would consider changing the parking lot access from Farm-to-Market Road to two direction traffic so patrons could go out to the traffic light on Farm-to-Market Road.

Motion made by Mrs. Smith-Law to close the public hearing at 7:18 p.m.  
seconded by Vice-Chairman Tedrow.

Motion was made by Mr. Rose and seconded by Mrs. Smith-Law to approve Bryah and Randy Gifford to open the former use of the Old Dater Tavern/Old Dublin Inn as a restaurant, Power's Irish Pub. The approval is a Resumption of a Non-Conforming use under Section 165-67 of the Zoning Code: "When any presently non-conforming use of land/or buildings has been discontinued or has

not been in use for two years, the land and buildings shall thereafter be used only in conformity with this chapter, except that the Zoning Board of Appeals after a public hearing, may permit the resumption of said non-conforming use."

Motion was carried.

### **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 site for a car dealership.

Mr. Reese explained to the Board that the warehouse building was built in 1960. The project consists of removing the House of Kitchens building and the forward concrete building while maintaining one existing building on the site's southern border. Mr. Reese would like to utilize the one remaining building as their service building with 15 bays. This existing 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. Mr. Reese is proposing a single-curb cut access to Route 9 and provides for 190 parking spaces.

Mr. Reese showed the on-site stormwater management area to the rear of the site and indicated that there is 20% green space being provided with the majority of the land being in the rear of the site.

The proposed showroom attached to the existing warehouse (proposed service blg.) does not meet side yard setback (area variance) according to Zoning 165 Attachment 1 – Schedule A in the Town's Zoning Law's.

Chairman Hansen asked about the residence to the south side of the building and the hedgerow being about 150' from the house, will that remain? The deli on the north side of the site has apartments behind it; will you provide a buffer with a fence?

Mr. Reese explained that the hedgerow would remain and we will do anything we can for Mrs. Krause that lives in the home to the south; we have no problem maintaining her yard. We did go over and talk to her. There are no windows in the steel building. The apartments to the north behind the deli do not require a buffer. It is not a transition zone from commercial to residential, as the apartments are on a commercial zoned lot.

Mr. Rose asked what the zoning is on the house next door? Mrs. Zepko replied C-1 Commercial with a residential use. Mr. Rose commented that every time it rains there is an accumulation of water on the pavement, how do you propose to handle that?

Mr. Reese commented that catch basins will be installed to handle the water and it will be sent to the retention area, roof drains will also be sent to the catch basin.

Chairman Hansen asked if the floor in the warehouse was at elevation? Mr. Reese replied no, it's a lower elevation. It is not a raised floor.

It was determined by the board that there was enough information for a public hearing to be held.

Motion made by Mr. Burdyl and seconded by Vice-Chairman Tedrow that a public hearing be held at 7:00 p.m. on Monday, August 1, 2011 for an area variance at 1613 Route 9. Motion was carried.

The Members will meet on Saturday, July 30, 2011 at 10am at the site.

Motion was made by Mr. Rose and seconded by Smith-Law to adjourn the meeting at 7:30 p.m.

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