

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
August 4, 2008

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:00 p.m. on Monday, August 4, 2008 at the Halfmoon Town Hall with the following members present:

Members: Chairman Hansen, Mrs. Jordan, Mr. Brennan
Absent: Vice-Chairman Tedrow, Mr. Rose
Alternates: Mr. Burdyl, Mrs. Smith-Law
Planner: Mrs. Zepko
Secretary: Mrs. Mikol

Mrs. Jordan made a motion to approve the minutes from the July 7, 2008 meeting and was seconded by Mr. Brennan. Motion was carried.

Kivort Steel Inc., 380 Hudson River Road

Mikhail Polishchuk was present. Dan Tompkins was present with Environmental Design Partnership representing the proposal.

Chairman Hansen opened the public hearing at 7:05 p.m. The proposal is to expand its existing steel distribution facility. The site is 6.5 acres in an M-1 District. Kivort Steel is looking for relief from the minimum 50' front yard setback requirement along two separate side streets Briggs Road and Myrtle Lane. Kivort Steel has frontage on 3 streets: Hudson River Road, Briggs Lane and Myrtle Lane. Chairman Hansen commented that the applicant received a denial from the Planning Board based on the proposed building addition not meeting the required setback for a corner lot.

Mr. Tompkins explained that Kivort Steel wants to expand their steel distribution business by taking an existing crane structure and expanding it double in size and enclosing it. The current proposal is to fully enclose the crane structure and turn it into a warehouse due to operations and new equipment that would be used to cut steel. The steel has to be free of rust and the equipment has to run free of rust and would require an enclosed environment with a heated space. Kivort Steel's footprint is currently 27,000 sq. ft. and is proposing to expand the footprint by 28,850 sq. ft. Stormwater management and grading would need some work as well as making improvements to Briggs Lane. The existing crane structure is currently a minimum of 30' away from Briggs Lane. The variance request would be a minimum of 27.5' feet, which is due to the storage structure not being perfectly parallel to Briggs Lane. The other variance would be for Myrtle Lane from 31.5 ft. to 18.5 ft. The expansion is positioned near the end of Myrtle Lane's R.O.W. and the actual affected frontage along Myrtle Lane is limited to 65'.

Mr. Tompkins commented that they are proposing to add onto the existing septic system with another leach line. The future intent is to talk to Waterford about connecting to the sewer. At this time, Halfmoon has no plans on extending any sewer lines within this area.

Chairman Hansen asked the Board for comments at this time. The Board had no comments to make at this time. Chairman Hansen opened the comments to the public.

Mrs. Pat Maiello, 388 Hudson River Road commented that she owns some of the property they are talking about and wanted to know what they were doing with the trees there.

Mr. Tompkins commented that they are proposing to remove trees but not all the trees. There will be a 10' gap and trees will be remaining in one area, which was shown to Mrs. Maiello and the Board.

Mrs. Nicole Maiello commented that she lives in the house. When looking out the front of her house, there is a road that is closed off, the trees are over grown, and it's a dead end so no one can drive through that area. Mrs. Maiello commented that they park their cars in that area. On the other side of the trees is more trees and then Kivort Steel Property. When the surveyor came out they labeled that area as wetlands. Is the wetlands area the area that you are removing trees from?

Mr. Tompkins repeated himself, on a plan he showed the area where the trees would be removed. This is a variance application and part of that is the removal of trees and after the Zoning Board Meeting we will go back to the Planning Board where there will be a give and take where a fence may be required. Plantings may have to be replaced, a fence may be required, etc.

Mrs. Maiello commented that when they bought their house there was supposed to be a 25' buffer between their house and Kivort when they bought the place. Mr. Tompkins commented that he was not aware of their being a required buffer. It never came up at the Planning Board Meeting. Part of the game plan is to exit off Briggs Lane and the southerly curb cut will be cut off which is there now. The trucks go through the existing building and come out the southerly access.

Mrs. Maiello commented that the only thing separating Kivort and us is the full trees that are perfectly healthy and her boys ride their bikes in that area. Mrs. Maiello is not in favor of a fence that her kids will climb or a stockade fence that after one winter will look terrible, we live there. A-1 septic is on one side and Kivort on the other side we live there and she is concerned with the trees being removed and the safety of her children. The trees are dense and they don't see Kivort Steel.

Mr. Tompkins commented that that some trees will be removed but not all of them. If approved, some of the thickness will be removed to allow tractor-trailers to come through there. If the kids stay on Myrtle Street they will be fine.

Mrs. Jordan commented that the Board did a site visit on Saturday, August 2, 2008 the Board noticed how nice and neat your property was and Mr. Kivort told us that some of the trees would be removed and he assured the Board that he would only take what he needed. Mr. Kivort also said he would do whatever he needed to do to address your concerns whether it be more vegetation or a fence of both.

Mrs. Maiello commented that when you first come in there is a thin patch of trees where the driveway is. If it's in the thicker area of trees that is fine, she doesn't go back there. It's the thinner area where the driveway is. Right out the front door is the area she is concerned with. Mr. Tompkins commented that the thinner area of trees would not be removed. It sounds like there is an agreement.

Chairman Hansen asked what the absolute necessity of the driveway being on that side is. Are you going to bring the loaded trucks into the covered building and exit the back of the building onto Briggs Lane?

Mr. Tompkins commented that there is going to be some need for exterior circulation and also some fire safety issues, for example if there is a problem in the building they will want to have a way to get around the building. It may not be necessary to have a 20' lane; a 16' lane will be ample. That would be needed for a safety issue. The concern is for the fire trucks.

Mrs. Rebecca Soucy, 15 Briggs Lane, owner of the white house in the back and some vacant property stated: It sounds like you will come down the side of her house with the trucks and coming down Briggs Lane. The trucks now are parked almost at her back door. The kids can't play behind the house they have to play along side the house near the railroad tracks.

Mr. Tompkins commented that the proposed traffic pattern is to use Briggs lane for trucks to exit the site.

Mrs. Smith-Law commented that the Board didn't go back that far when doing the site visit on Saturday, August 2, 2008, but saw where the house was.

Mr. Soucy commented that the Town also owns land there. In 58 years there has only been 2 houses down there. We could never get a paved road it was always a dirt street. Now Mr. Beeche is using the road too. Will the road be blacktopped? Mr. Tompkins commented that Mr. Beeche is not supposed to use Briggs Lane. They are restricted from using Briggs Lane. They built a driveway off Hudson River Road. They are working on the new driveway. As far as Kivort is concerned there will be trucks exiting onto Briggs Lane.

Mr. Soucy commented that they are also going over lands of Halfmoon where the water line is by the railroad tracks. It separates our land from Kivort Steel. Mr. Tompkins commented that the trucks would be coming on the northern existing parking lot near Myrtle Lane on Kivort's Land come out the back of the building onto Briggs Lane and exit onto Hudson River Road. As part of that if the Town agrees to that pattern Kivort Steel will pave Briggs Lane, perhaps 20'-24' wide to hold the weight of a truck. There will 5-10 trucks a day going through this process.

Mr. Soucy asked if they already have permission to use Town Land? There is a water line under the road; don't you need permission to use it? Mr. Tompkins explained that it is a public road.

Mr. Soucy asked if a car and the truck could travel on the road at the same time? What about the school bus? Mr. Tompkins commented that the road is narrower than what it would be. It's not 20' wide. The big rigs are not going into that road they will only exit. This area has to be improved as well. Mr. Soucy asked if that means taking trees down on my property as well?

Mrs. Ann Carnevale of 370 Hudson River Road commented that the school transportation uses her driveway to get the school buses in and out because the bus can't go down the street all the way. Mrs. Carnevale leaves at 6:00am and is not affected by it. She does see the big trucks sitting in the driveway waiting to get out in the morning when she leaves.

Mr. Tompkins commented that this is where the operation changes a little bit. The operation will move from one building to another. Remember this structure will no longer be open it will now be enclosed. A lot of clutter, noise and construction will all be hidden. The trucks are sitting there because they are loaded and waiting for orders of where to go. That will not happen on Briggs Lane anymore. Kivort Steel is growing and is looking for more floor space.

Mrs. Jordan asked Mr. Tompkins if Briggs Lane would be blacktopped in the end? Mrs. Jordan asked Mr. Kivort that question on Saturday and he replied, no that the improvements would be crushed stone.

Mr. Tompkins replied: there might be some confusion because the Town is expecting pavement on Briggs Lane. I don't think Kivort has the option of crushed stone. The proposal is to pave it and it's on the site plan, or it won't happen, or there will be a compromise. The whole idea of the pavement is so the Town doesn't have to go through the road with a grader a few times a year to maintain the road and keep it free of potholes.

Mrs. Smith-Law asked if there was any reason why the road wouldn't be paved as wide as a Town Road? Mr. Tompkins commented that the ROW is 50' and stormwater management is going to be a headache. That area doesn't drain right and there is standing water. Mr. Tompkins plans on talking to the Town Highway Department regarding the road. The more pavement the more stormwater runoff.

Mr. Tompkins commented that if you have a total of 10 trucks traveling a road a day it doesn't warrant a wide road, that is why something else is being proposed. The road shoulder will be another 2' of gravel on either side of Briggs Lane. Whether it is a wing curb or not he is not sure because again the storm water will be tricky.

Chairman Hansen asked for any further comments from the public. No one chose to speak. Chairman Hansen asked for additional comments from the Board. No one chose to speak.

Motion was made by Mr. Burdyl and seconded by Mrs. Smith-Law to close the public hearing at 7:45 p.m. Motion carried.

Chairman Hansen commented that the Board must now determine if the applicant has demonstrated the following:

- 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.
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- Whether the requested area variance is substantial.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and,
- 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 further explained that in the granting of the area variances, the Board shall grant the minimum variance that it 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.

This is the criteria the Board uses to determine the impact of the proposal as it relates to the project. Regarding the first one:

Mrs. Jordan commented that the area is Industrial. In the area you can see Beeche Industrial Building next door and the Porta-potty business is next door. The character of the neighborhood would not be changed unfortunately there are residents that live in the vicinity.

Mrs. Smith-Law commented that the proposed new building and the existing building would improve the character of the neighborhood by enclosing it. The business has pride in his property and do care about the property. Mr. Kivort spoke about the neighbors and he cared about what they thought. The only concern that Mrs. Smith-Law has is the environmental one with regard to the trees. If there is a way to keep the trees that would be great, there are trees being cut down all over, keep the trees for buffering it would be a positive thing for the neighbors. Closing the building would improve the area and would not be detrimental at all.

Mr. Brennan agreed that closing in the building would be to their advantage. The area he has more concern with is the truck access with the lanes however; the neighbors that live there clearly have voiced their opinion about the buffers.

Chairman Hansen commented that the area where the building will be extended would be all enclosed so the truck lanes will not be open. The only open part of the driveway is closer to the property line but where the trucks come in and get loaded will be enclosed. The site plan shows some trees where the Planning Board could consider some new trees it appears to only have the natural growth of brush and weeds. Mr. Tompkins commented that it could be looked at.

Mr. Burdyl commented that as we look at the neighborhood the buffer zone is part of the solution and helps the Zoning Board make their decision and the character of the neighborhood will not be altered or changed. Hopefully we can tell our buffer concerns to the planning board and it can be part of their site plan approval.

Regarding the second criteria:

Mrs. Smith-Law commented that there are actually 2 area variances, one being the north side of the building and one being the south side of the building.

Mr. Tompkins explained that the plan is what it is. The site will be an improvement; the road will be an improvement.

Regarding the third criteria:

Mr. Burdyl commented that the area variance request is substantial however the request was reasonable.

Fourth criteria:

Mrs. Jordan commented that the buffer of trees is important to the people living in the neighborhood. This is an LI-C District with businesses in the area. The R-1 use should be accommodated with the tree buffer concerns. The existing trees create a residential privacy for them and should continue.

Mrs. Smith-Law commented that the tree buffer should remain in tact it buffers the noise and view of the commercial aspect of the site against the residential homes. It gives them privacy.

Fifth criteria:

Mr. Burdyl commented that the self-created hardship is not unreasonable. It makes a bad situation better for the Town and better for the neighbors.

Chairman Hansen commented that the construction of the open storage area was approved by the Town in 1999, in 2008 we are here to close it all in, its an improvement for all concerned. It will decrease the noise, it's a visual improvement, and the town road improvements are welcome.

Mrs. Jordan asked Mrs. Maiello if she was satisfied with the trees or a fence or both. Mrs. Maiello commented that she would prefer to have no fence and would definitely prefer the trees. From what was explained by Mr. Tompkins it sounds like the trees Mrs. Maiello wants to remain will remain.

Mrs. Jordan asked Mrs. Soucy about the tree concern for her property. Mrs. Soucy would like to see a heavier buffer since she will see more of the trucks exiting the building. Both concerns should be addressed when it goes back to planning for site plan review.

Chairman Hansen commented that the Board discussed all the tests and asked the Board if they were ready to make a decision regarding the variance request for Kivort Steel.

Motion was made by Mrs. Jordan to approve both area variances requested by Kivort Steel conditional that Mrs. Maiello and Mrs. Soucy receive reasonable buffers along Briggs Lane and that Briggs Lane improvements includes being blacktopped and that a public information meeting be held with respect to the site plan. Seconded by Mrs. Smith-Law

Motion carried.

Belmonte Builders, 18 Gladstone Circle at the Arlington Heights Subdivision.

David Flanders was present with a proposal to reduce the front yard setback at 18 Gladstone Circle by 2.1 feet at the right front corner of the garage. Construction on the house began on May 14, 2008. The homeowner wanted the house to be flip flopped when that occurred the garage ended up encroaching the building setback line by 2.1 feet, which requires an area variance.

Motion was made by Mrs. Jordan and seconded by Mrs. Smith-Law to set a public hearing for Tuesday, September 2, 2008 at 7:00 p.m. in the Town Hall Conference Room. Motion was carried.

Motion was made by Mrs. Smith-Law to close the meeting at 8:45 p.m. and seconded by Mr. Burdyl. Motion was carried.

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

