

**Town of Halfmoon Planning Board**

**March 28, 2011**

Those present at the March 28, 2011 Planning Board meeting were:

**Planning Board Members:** Steve Watts – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Tom Ruchlicki  
John Higgins  
John Ouimet

**Senior Planner:** Jeff Williams

**Town Attorney:** Lyn Murphy  
**Deputy Town Attorney:** Matt Chauvin

**Town Board Liaisons:** Paul Hotaling  
Walt Polak

Mr. Watts opened the March 28, 2011 Planning Board Meeting at 7:01 pm. Mr. Watts asked the Planning Board Members if they had reviewed the March 14, 2011 Planning Board Minutes. Mr. Roberts made a motion to approve the March 14, 2011 Planning Board Minutes. Mr. Higgins seconded. Motion carried.

**New Business:**

**11.016 NB Mama’s Express, 77 Dunsbach Road – Change of Tenant**

Mr. Tom Plakas, the applicant, stated that he has bought the business of Mama’s Express. Mr. Plakas stated that Mama’s Express is a “take out” restaurant that specializes in pizza, subs and some Italian dinners. Mr. Watts stated that a requirement of this Board is when people open up a business or take over an existing business operation that they come in for a change of tenant approval. One of the reasons for this is to allow the Board to review what the new business is offering compared to how the old business operated. Mr. Plakas stated the business is all the same, same name, the menu is the same, prices are the same, and there is no change. Mr. Roberts asked what are the hours of operation. Mr. Plakas stated 11am to 9pm Monday through Sunday. Mr. Roberts stated how many employees. Mr. Plakas stated 4 employees that are the same. Mr. Berkowitz asked if the site ever experienced parking problems. Mr. Plakas stated no and that there is plenty of parking available.

Mr. Roberts made a motion to approve the change of tenant as presented. Mr. Berkowitz seconded. Motioned Carried.

**11.024 NB Youthful Trends, 222 Guideboard Road (222 Plaza) – Change of Tenant & Sign**

Mr. Wayne Perry, business owner, stated the following: They wish to take over the existing tanning salon and create a friendlier atmosphere for its customers. They wish to offer the same tanning service by

utilizing the same five tanning beds but also offer its clientele blue and red LED light facials, vitamin D therapy and an infrared sauna. Also, offer organic and fresh made beauty products for retail sale. Mr. Perry stated the only changes to the storefront would be decorative painting and fixtures and that there is no need for any major structural changes. Mr. Watts asked what the hours of operation. Mr. Perry stated 10am to 9pm Monday through Thursday, 10am to 10 pm Friday and Saturday and 11am and 7pm on Sundays. Mr. Perry stated there would be one full time employee and one part time employee including himself. Mr. Watts asked Mr. Williams if the parking is adequate at the plaza. Mr. Williams stated that the parking is adequate for the plaza as the proposed business requires the same parking as the previous business and it conforms to the Town's requirements. Mr. Berkowitz asked if the services being offered are by appointment or "walk ins". Mr. Perry stated both, but generally there will be a clientele base developed that will have scheduled visits. Mr. Berkowitz asked if they needed any special licenses for the services being offered. Mr. Perry stated no, the vitamin D therapy may be prescribed by doctors but the machine does not require any special licensing. The infrared sauna is also prescribed by doctors for pain management but once again no licensing. All of the skin therapy being offered does not require any licensing; the machines are used by self-administering. The important thing is purchasing the best and proper equipment available. Mr. Berkowitz asked if all of this is offered in separate rooms. Mr. Perry stated the former tanning salon had a room for hair, nails, and teeth whitening treatments, so we are going to utilize that area for the skin therapy services. We are planning on offering the teeth whitening service also and all of the equipment is portable so it can be moved in and out of the room when not needed. There will be no increase in the space that was used by the former business. Mr. Watts asked if they needed a building permit for structural or electrical work. Mr. Perry stated no all of the rooms and electric is in place and will not be changed. Mr. Roberts asked if the applicant is just replacing the exiting signage. Mr. Perry stated yes, we will be utilizing the existing light box above the store and replacing a tenant panel on the freestanding sign.

Mr. Berkowitz made a motion to approve the change of tenant application for Youthful Trends. Mr. Ruchlicki seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for Youthful Trends. Mr. Higgins seconded. Motion carried.

#### **11.027 NB Pelo Subdivision, 118 Fellows Road – Minor Subdivision**

Mr. Duane Rabideau, of Gilbert VanGuilder Land Surveyor, PLLC, stated the following: He is here tonight representing Mr. Bruce Tanski in a request to subdivide a parcel owned by Mr. Henry Pelo. Mr. Rabideau stated the parcel is located directly across from the intersection of Route 146 and the new Fellows Road re-alignment. The applicant wishes to separate a 3.5-acre parcel from the existing 23.8-acre parcel. The proposed lot is surrounded by Fellows Road to the north and west, Route 146 to the south and the new Sunoco station to the east. The resulting acreage of the Pelo lot, that is on the north side of Fellows Road, will be approximately 20-acres when the proposed lot is subdivided. Mr. Higgins asked if the site is in compliance with Town code regarding the need to remove some existing trailers. Mr. Watts stated that he has not heard of any problems there but would look into it. Mr. Ouimet asked the exact acreage of the proposed lot. Mr. Rabideau stated 3.56-acres. Mr. Polak stated that he talked with Mr. Pelo and that once the weather breaks; all of the unwanted debris will be removed from the lot.

Mr. Ouimet made a motion to set a public hearing for the April 11, 2011 Planning Board meeting. Mr. Higgins seconded. Motion carried.

**11.028 NB Garden Time, Inc., 1623 Route 9 – Change of Tenant & Sign**

Mr. Fred Troelstra, the applicant/owner, stated the following: We wish to occupy the former Rainbow Direct site and operate a similar business. They wish to display swing sets, sheds, gazebos and outdoor furniture. Mr. Troelstra stated there are no changes to the site being proposed. The site will utilize the existing fenced off display area, the office building, the five customer parking spaces and two employee parking spaces, and the area in the rear of the site. The hours of operation will be Monday through Wednesday 10 am to 6pm, Thursday and Friday 10am to 7pm, Saturday 10am to 5pm and Sunday 10am to 2pm. There will be one to two full time employees and one part time employee. They wish to utilize the existing signage but only change it out to their business. Mr. Higgins asked if the displays will be totally within the fenced area. Mr. Troelstra stated the swing sets will be in the fenced off area and the sheds will be behind the office building. Mr. Higgins asked how much greenspace the site has. Mr. Williams stated that he is unsure of the greenspace for the site, it is required to have 20% and that the site plan has been pre-approved by the Board for Rainbow Direct. Mr. Higgins stated that he is asking to place more additional displays in the rear and whether or not it affected the greenspace. Mr. Williams stated that this particular lot has a large area in the rear that was used by GE Trailers and that rear lot would be considered greenspace. The area is larger than the front of the lot so the greenspace for the lot would be conforming. Mr. Troelstra stated that the area where the sheds are proposed to be placed will be on an asphalt area. Mr. Higgins stated he is not as concerned with affecting the greenspace with the displays but is concerned with the look of the displays and where they are placed on the site. Mr. Higgins stated that he is concerned with the look of the site and not being cluttered with sheds all over. Mrs. Murphy offered that the Board can place a limit on the number of displays. Mr. Berkowitz stated the applicant has asked for 15 swing sets and six shed displays. Mr. Troelstra stated yes.

Mr. Berkowitz made a motion to approve the change of tenant application for Garden Time, Inc. conditioned on 15 swing sets and six shed displays on site at any one time and that there would be no sale of nursery stock or landscaping supplies. Mr. Ruchlicki seconded. Motion carried.

Mr. Roberts made a motion to approve the sign application for Garden Time, Inc. Mr. Ouimet seconded. Motion carried.

**11.029 NB Apropos, 1475 Route 9 – Change of Use**

Mr. Keith Burke, representing the owner of Apropos, stated the following: The previously approved Internet Café has yet to open to the public and wishes to present a change of use for a private facility until the time it is opened up to the public. Mr. Roberts asked what is meant by private use. Mr. Burke stated the facility would be used for gatherings for individuals approved by the owner. It could be for meetings or a birthday party or things of that nature. Mr. Roberts asked if alcohol would be served. Mr. Burke stated no. Mr. Higgins stated that he heard the applicant state that it never opened up as an Internet Café so this means that it never opened to what is its approved use. Mr. Burke stated that is correct. Mr. Higgins asked if the birthday parties are for children or adults. Mr. Burke stated it is usually adults but some people will bring their children. Mr. Higgins asked what is the maximum number of attendees. Mr. Burke stated never in the excess of 100 people. Mr. Higgins asked what hours do the functions happen and if it is totally inside the facility. Mr. Burke stated the hours vary but never much past midnight and yes all within the facility. Mr. Roberts asked could anyone use the facility to hold a private function. Mr. Burke stated that if you had a request in and the owner approved it, then yes. Mr. Berkowitz asked who is the owner. Mr. Burke stated Claire Bronfmann. Mr. Berkowitz asked if there are any seminars or training sessions that can occur there. Mr. Burke stated no sir. Mr. Berkowitz asked none at all. Mr. Burke stated no. Mrs. Murphy stated just to be clear, training use is allowed within the site's zoning. Mr. Watts stated that what you are telling the Board is that the facility is being proposed to be used for private gathering

and birthday parties etc. Mr. Burke stated correct sir. Mr. Berkowitz asked if there would be any political events or social networking. Mr. Burke stated no. Mr. Higgins asked what is the frequency to the events. Mr. Burke stated that they are very sporadic and it depends on what is asked for. Sometimes there is a Sunday brunch offered but nothing is scheduled on a repetitive basis. Mr. Watts asked that something happened there on March 19<sup>th</sup> and asked Mr. Burke if he was at the site. Mr. Burke stated no. Mr. Watts asked what was the event held there that night. Mr. Burke stated that it was a social event that preceded a training session that was held at their training facility on New Karner Road by the Albany Airport. Mrs. Murphy stated that she has seen advertisements for women's political movements and I thought about attending. So when I hear you state there are no political events being held there it leads me to concern. Mr. Burke stated that unbeknownst to me I have never seen an advertisement for a political event at this site. Mr. Ouimet stated that we have talked about a lot of things but have not heard anything from the applicant of what exactly is being proposed to be operated from there. Mr. Burke stated that we wish to hold social events. It could be birthday parties, brunches, lunches, social gathering but I am confused on what else I can say. Mr. Ouimet asked is this a catering hall? Mr. Burke stated no its not a catering hall, we have a kitchen and when the kitchen is being used a chef will be brought in, on other times food is brought in. Mr. Ouimet asked if weddings are held there. Mr. Burke stated no. Mr. Watts stated that the reason the applicant is here tonight and the reason why I had to send a letter is that there were inquiries about the Internet Café use not being open and gathering occurring there on site. Mr. Watts and Mr. Ouimet asked if the 24-hour Internet Café ever opened up. Mr. Burke stated no. Mr. Ouimet asked if a vegetarian café ever opened up. Mr. Burke stated no. Mr. Ouimet stated that he understands the reason that the Internet Café did not open is because of economic reasons and the economic atmosphere of the time. Mr. Burke stated that is correct. Mr. Ouimet stated that now you are before the Board to utilize the site and structure to hold private gatherings. The private gatherings are anything that is approved by the owner. Mr. Burke stated that is correct. Mr. Ouimet stated that nothing in that building can occur without the owner's consent. Mr. Burke stated that is correct. Mr. Ouimet stated but the Board does not know what that will be, it can either be a birthday party or a social gathering but not likely to be a political event but could be if the owner approves it and so on. Mr. Berkowitz asked how do you contact the owner to see if you can hold an event at the site. Mr. Burke stated the owner lives here locally. Mr. Berkowitz asked what is the process if I wanted to hold a function at the site. Mr. Burke explained that the owner already knows the people that would use the facility and it is not a public advertised facility that typically you would call to reserve. Mr. Ruchlicki asked if it was a private club. Mr. Burke stated no there are no membership dues or anything of that nature. Mr. Roberts stated that it is just for friends of the owner. Mr. Burke stated sort of. It is for acquaintances of hers that would like to have an event and if she pre-approves it then they will have the event. Mr. Ouimet stated so it is not a business, it is not a commercial enterprise, it is not a catering hall but I think of catering halls as a place to hold social events such as Phalens. Mr. Ouimet stated I do not have any idea what exactly the proposed use is. Mrs. Murphy stated here is the problem that I am hearing from the Board, in order to determine appropriate codes with regards to fire, parking, building construction etc., the Board needs to determine the use. Nobody is saying you can use it one way or you can't use it another way, but you are not directly answering any of the questions. Birthday parties or whatever the owner approves does not proficiently provide information to the Board for them to say all is OK and you meet all the requirements for that use. The Board is looking for more specificity in writing on what is being performed at the site. The Board and Code Enforcement Office needs precise information to state that you meet the parking code, the fire code and the building code. Mr. Burke stated that he understood. Mr. Burke stated that he sent in a written response with the letter that was received from Mr. Watts but now I am hearing that was not in detail enough. Mr. Watts stated that is correct. Mr. Berkowitz stated that what you are asking for has limited use. Why don't you use a different location to hold your functions if they are so infrequent. Mr. Burke stated I cannot answer for the owner the reason of why except it was and is her intent to open an Internet Café. She owns the

facility, it is there, it is hers and she has friends that she allows to use the facility. Mr. Berkowitz asked if she charges any money to use the facility. Mr. Burke stated no. Mr. Burke stated there is no staff there that maintains the facility or operates in a catering nature. Mr. Watts stated that the Board is not going to move on the application tonight and is asking the applicant to provide a list of proposed events. Mr. Watts stated in the past and with the inquiries received with this particular site and questions have been asked but it seems that really never receive a solid answer to what how this site is being used. The Board is very forward with the applicants. There have been functions held there, there have been questions on when the café is opening and there are no answers. Mr. Berkowitz stated that we asked the Sportsplex for the same thing. Mrs. Murphy stated that we actually ask everyone to provide that information in order to determine the use is compliant with various codes. Mrs. Murphy stated that there has to be some sort of protocol to determine that the codes are being met. Mr. Higgins asked for clarification on the number of attendees with concern of the fire exits and restroom facilities and parking. Mr. Watts stated that a list of events would help the Board to determine these issues. Mrs. Murphy stated that if there is going to be conferences there, add it to the list. Whatever you feel the facility will be utilized for should be placed on the list of uses. Mr. Watts stated that until this Board approves the proposed change of use application, the only approval the site has is to operate an Internet Café.

This item was tabled to allow the applicant to provide a list of potential functions to be held at the Apropos site.

**11.031 NB Harvest Productions, LTD, 11A Solar Drive – Change of Tenant**

Mr. Peter Sand, Harvest Productions, stated the following: We are proposing to utilize the facility at 11A Solar Drive as a digital printer of artwork imagery. We print out customer images and place them on a wood frame backing and ship them out to the customer. We will have six employees and there is also some part-time and seasonal help like Christmas time. There are 13 parking spaces. That will be enough spaces as this facility is not open to the public. The images are sent from the home base in California to be printed out and manufactured at this facility. Mr. Watts asked what the number of delivery trucks is to be expected. Mr. Sand stated there would be one per week or two weeks delivering material and probably one Fed Ex trailer per day leaving the site. Mr. Watts asked if the total building will be used. Mr. Sand stated yes, it might be a little bigger than what is needed but will give us plenty of room for the printing and framing operation. Mr. Higgins asked if there were any hazardous chemicals stored on site or any need for ventilation. Mr. Sand stated no. Mr. Ruchlicki asked what types of printers are used with regards to the ink. The printers all have self-contained ink cartridges. There are no open ink bays. Mr. Roberts asked if there would be any signage on the site. Mr. Sand stated not at this time. Mr. Watts asked if the company was new to the area. Mr. Sand stated that Harvest Productions originated on the west coast and always wanted to open a facility on the east coast to be closer to some of its clients such as Costco's their main customer. It will be named Halfmoon Harvest.

Mr. Roberts made a motion to approve the change of tenant application for Harvest Productions, LTD. Mr. Berkowitz seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the March 28, 2011 Planning Board Meeting at 7:44 pm. Mr. Berkowitz seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi  
Planning Board Secretary