

**MEETING MINUTES**  
**Town of Halfmoon Planning Board**  
**June 22, 2015**

Those present at the June 22, 2015 Planning Board meeting were:

Planning Board Members: John Ouimet – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Marcel Nadeau  
Tom Ruchlicki  
John Higgins

Planning Board Alternates: Robert Partlow  
Margaret Sautter

Director of Planning: Richard Harris  
Planner: Paul Marlow

Town Attorney: Lyn Murphy  
Deputy Town Attorney: Cathy Drobny

Town Board Liaison: John Wasielewski

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Chairman Ouimet opened the Planning Board Meeting at 7:00 PM.

Vice Chairman Roberts made a motion to approve the June 8, 2015 minutes, seconded by Mr. Higgins. Mr. Partlow abstained. Motion was carried.

**Public Hearings:**

**15.053 Falcon Trace PDD Subdivision Lot #4, 181 Route 236 - Minor Subdivision**

Chairman Ouimet opened the public hearing at 7:01 PM. Chairman asked if anyone wanted the notice read, no one chose to speak.

**Mr. Jeff Williams commented:** I am with Bruce Tanski Construction and Development and I am asking for a subdivision of Lot #4 part of Falcon Trace PDD. It is zoned C-1 through the PDD Legislation. It is actually a 5.13 acre parcel it is across the street from the Halfmoon Town Park and is adjacent to the Jehovah Witness Site and what we are asking to do is to create 2-parcels out of this lot. Parcel 4A would be 4.25 acres that parcel is currently being developed with two 3,000 SF office buildings per the approved subdivision plan through this Board. The second lot 4B will be an 0.88 acre parcel and is not being built on right now it is slated for a 4,000 SF office building.

**Chairman Ouimet commented:** Thank you. Would anyone from the public wish to speak? If not I will close the public hearing at 7:03 PM. Are there any questions from the Board?

**Mr. Higgins commented:** Mr. Williams, I would like to reiterate that as far as that site you will be doing some buffering and put an enclosure around the dumpsters that was all part of the original site plan and is still in effect.

**Mr. Williams commented:** Yes, there is an approved site plan that the Board approved and we are going to adhere to that.

**Mr. Higgins commented:** Thank you.

**Chairman Ouimet commented:** Are there any other questions from the Board? If not, can I have a motion on SEQRA?

*Mr. Berkowitz made a motion to declare a negative declaration on SEQRA, seconded by Mr. Higgins. Motion is carried.*

**Chairman Ouimet commented:** Negative declaration on SEQRA is declared.

*Mr. Berkowitz made a motion to approve the minor subdivision for Lot #4 of the Falcon Trace PDD per the approved site plan, seconded by Mr. Higgins. Motion carried.*

**Chairman Ouimet commented:** Application for subdivision is approved.

**Mr. Williams commented:** Thank you.

**14.148**      **MMM Enterprise LLC, Firehouse Road - Minor Subdivision & Special Use Permit**

Chairman Ouimet opened the public hearing at 7:04 PM. Chairman asked if anyone wanted the notice read, no one chose to speak.

Someone from the audience commented: David Allen is the person we believe spoke. They can't hear the Chairman.

**Chairman Ouimet commented:** The question is does anyone in the audience want the public record read? It is the notice that you received in the mail.

**Mrs. Murphy commented:** For purposes of the record they are on the list for the certified mailing that were sent it was not returned back to the Town and the fact that they are present here today legally gets rid of any kind of alleged notification defect.

**Chairman Ouimet commented:** Thank you. At this time, the public hearing notice was read and is attached for the record.

**MMMH Enterprises LLC, Firehouse Road -  
Minor Subdivision & Special Use Permit (Duplex)**

*Please take notice that the Planning Board of the Town of Halfmoon will hold a Public Hearing on June 22, 2015 at 7:00 p.m. or as soon thereafter as the agenda allows. The Planning Board will hear comments for Minor Subdivision and Special Use Permit requests by MMMH Enterprises LLC, as shown on a plan entitled "Subdivision Lands of Neal Nardini & Raymond M. Flower", dated January 19, 2015 and last revised June 4, 2015, by Gilbert VanGuilder Land Surveyor, PLLC. The proposed project is located on the North side of Firehouse Road and proposes access to Firehouse Road.*

*The applicant is requesting to subdivide an approximately 5.36 acre lot into two (2) new building lots, each of which is proposed to contain a two-family residential home (duplex). The original lot is proposed to be subdivided as follows: Lot A: 1.00 +/- acre and Lot B: 4.36 +/- acres. Each lot will be a "flag" lot and serviced by public water and a private septic system. The applicant proposes a shared driveway for the two lots, a 30 foot "No Cut" buffer along the southern property line and landscaping (arborvitae rows) to buffer the two adjacent properties near the proposed driveway entrance on Firehouse Road.*

*Please take further notice that at such Public Hearing any and all interested persons will be heard. A copy of said plan and application are on file in the office of the Planning Board of the Town of Halfmoon in Town Hall and may be read and inspected by any interested person.  
Dated: June 11, 2015.*

**Mr. Dwayne Rabideau was present from VanGuilder Associates and commented:** I am here tonight representing MMMH Enterprises LLC for a proposed 2-lot subdivision and also for a Special Use Permit for duplex units on these 2 lots. The parcel is located in back of the Country Drive-In along Firehouse Road and the proposal is to create 2-lots in a flag lot configuration Lot A would be a 1-acre lot and a 40' strip back to the remaining Lot B would be 4.36 acres. Initially we were proposing three lots with three duplexes but the concerns from the Planning Board regarding density and buffers to the neighboring parcels and so our client agreed to revise the plan down to 2-lots with duplexes. These lots will use a common ingress/egress easement driveway for the utilities. The driveway configuration has been approved by the West Crescent Fire Chief to meet his standards for fire safety. The parcels will be serviced by public water and each of these parcels will have on-site septic and those locations were shown on the plan. The parcels will also have a 30' wide no-cut buffer along a portion of the lot. Part of the area is zoned PO-R Professional Office Residential. We will be leaving the screening and the clearing limit line was shown on the plan. There is an additional guaranteed buffering on the lot and there is also screening for the driveway. We have done a storm water management plan it will take care of the storm water for both lots. That is our proposal before the Board tonight.

**Chairman Ouimet commented:** Thank you. Would anyone from the public wish to speak? Please come to the podium and state your name and address for the record.

**Mr. Roger Favreau, 45 Firehouse Road commented:** My question is this parcel of which you are speaking about the land has been surveyed for the easement and the buffer zone? It says in the newspaper of June this year.

**Mr. Rabideau commented:** We initially had a 3-lot subdivision and now a revision was made to only a 2-lot subdivision, Lot A and Lot B.

**Chairman Ouimet commented:** So it's not the survey that was revised it was the plan that you submitted to the Board.

**Mr. Rabideau commented:** That is correct.

**Mr. Favreau commented:** My question to the Town and to the owner is when was the surveying of the road rights done? Where are the proper stakes and flags in place?

**Mr. Rabideau commented:** The survey has been done the corners of the property lines have not been marked at this time. We normally do not do that until after an approval in case things change that is our reasoning for it.

**Mr. Favreau commented:** I would like the survey stakes and flags to be in place now before this is approved because I feel like what they are saying is a falsity because they are saying they have enough property to put in a road and a buffer zone in there and I feel they are wrong according to my documentation of the land rights of the Favreau Family.

**Mr. Rabideau commented:** We have done the survey and we stand by it.

**Mr. Favreau commented:** Like I said, all I am asking for is the stakes to be put in the ground where they are saying that they own and I am saying they don't have that land. My understanding is that they have 30' of road where the buffer zone is to put in a proper driveway in there and I am saying they don't.

**Mr. Rabideau commented:** Your contention is this area right here?

**Mr. Favreau commented:** That's right.

**Mr. Rabideau commented:** We actually have 60' there by deed and it all works and we do stand by that. That is enough room for a private driveway and it is not going to be a public road. This is designed as per the request of the West Crescent Fire Department.

**Mr. Favreau commented:** Well I am not an expert on the Fire Department all I am asking for is I would like it if those people that are in charge of this surveying to survey it and put proper signs up meaning stakes and flags of what they are saying that they own. That is all I am asking for.

**Mr. Rabideau commented:** Yes, we can do that after the fact that is no problem. It is what it is we are standing by our survey.

**Mr. Favreau commented:** What I am saying is after the fact is too late I feel I would rather have it done now, please. I am asking for them to do it now. That is all I am asking for. I want to be sure they know what they are talking about. I am having controversy over that right now according to my documentation of the property line on our property on 45 Firehouse Road.

**Chairman Ouimet commented:** So you are saying that the proposed arborvitaes and that row of trees are not on their property?

**Mr. Favreau commented:** It is not. He is saying that he owns 10' off our front porch and I am saying he doesn't.

**Chairman Ouimet commented:** Did you guys do the survey recently?

**Mr. Rabideau commented:** Yes, that is correct.

**Mr. Favreau commented:** My question is if you do a survey the proper way to surveying land, my understanding is, you put up flags and stakes. I have always seen it that way. They do it now all over the place. I am in construction I see it all the time. So why wasn't this initiated when this was done? That is my question. I need it done.

**Mr. Rabideau commented:** We do it after the fact.

**Chairman Ouimet commented:** You stake it after the fact.

**Mr. Rabideau commented:** Yes because if we had staked it prior to we changed it from three to two it's just a normal course of business that we have always done for 30 years.

**Mr. Favreau commented:** I am not asking for stakes on the property in the back. I am asking for the stakes for the road rights.

**Mrs. Murphy commented:** Dwayne would it be difficult for you should the Board choose to approve it, to stake it prior to John stamping anything?

**Mr. Rabideau commented:** Correct yes, no problem at all.

**Mr. Favreau commented:** I am explicitly talking about the road rights.

**Chairman Ouimet commented:** Yes, but he is talking about staking the whole project. We are talking different things.

**Mr. Favreau commented:** I am talking about the road rights. I just want you to point out what you own.

**Chairman Ouimet commented:** Thank you. Does anyone else from the public wish to speak? Please come up to the podium and give your name and address for the record.

**David Allen, 43 Firehouse Road commented:** From what I understood from the lady from the ice cream place that they needed to have 2 fire trucks being to pass each other on their driveway when there was 3 duplexes. Is that different with 2 duplexes? I don't believe they can make this corner in anyway shape or matter to bring a fire truck back there. It is not a possibility. Everybody has been to the ice cream place I have kicked people off my lawn, they want to park on my lawn and in front of

my driveway and even in my driveway to go get ice cream. It's kayos there and the problem is that easement is not going to be able to get a fire truck back there with the kayos of the ice cream place. That was my last statement and you say you have a buffer zone here of 20' between the houses where is the driveway going to be? Roger believes he owns over to this point and I own about 3'-4' off that corner, and that I know. I think this line is wrong my property line goes over to here now we straightened that out a couple of years ago. That was before he bought the house it was straightened out.

**Chairman Ouimet commented:** Hold on please you can't speak from the audience please wait your turn to speak at the podium.

**Mr. Allen commented:** My basic concern is about getting two fire trucks I believe that is the Code that you have to have 2 fire trucks pass each other and how wide is this driveway going to be? Where is the drainage going to go?

**Mr. Rabideau commented:** It is designed that the storm water management all of it goes this way. It goes into this area here.

**Mr. Allen commented:** It will be going into my basement.

**Mr. Rabideau commented:** No.

**Mr. Allen commented:** Hopefully not.

**Mr. Rabideau commented:** This is as per the Fire Chief they have turn outs right here. There is one right here on the plan and another one right there to get back to this duplex.

**Mr. Allen commented:** Another concern that I have is the red clay, you said it passed the perc test when was that in August?

**Mr. Rabideau commented:** There is no red clay back there they is a sand over burden of some places that are over 7' deep, we have done perc tests back there we actually did 2 sets one in the spring time and one later on because of the Board's comments to make sure that there were no issues with septic and both of them are set up for standard septic systems.

**Mr. Allen commented:** If you do have something going on back there who is going to be liable when the fire trucks take out my garage or take out half of the ice cream place and the cars. West Crescent definitely wrong on that.

**Chairman Ouimet commented:** Rich with regards to the Fire Chief he has had an opportunity to review these plans has he not?

**Mr. Harris commented:** Yes, we met on site.

**Mr. Rabideau commented:** We met at the Fire Station and we do have an e-mail based on my conversation with the Fire Chief at the Station we talked back and forth what he wanted and we came up this will work for him and we made the changes based on what you guys saw and then from the e-

mails it says “Gentlemen I have reviewed the attached revisions and I am comfortable with the changes and will adjust my previous concerns. Any questions please let me know. Bill Bryans, Fire Chief.”

**Chairman Ouimet commented:** I don’t know what else you could do?

**Mr. Rabideau commented:** I asked him about the concern about the traffic and the activity around the Ice Cream place he basically said that is not an issue.

**Chairman Ouimet commented:** That is what he told you?

**Mr. Rabideau commented:** Yes.

**Chairman Ouimet commented:** Would anyone else from the public like to come up to speak? Please come up to the podium and state your name and address for the record.

**Mr. Jeff Wiener, 1449 Crescent Vischer Ferry Road commented:** Thank you for allowing me to come here tonight. First off, I would like to re-iterate Roger’s concern that while he is concerned and would like to see flags over here for the driveway this area cuts deeply into what I consider right now to be my backyard I would very much like to see where those flags are because there has been some property adjustments between us and Dave in the past and I think it’s worth while for us to see those flags so we can all validate that in fact we are all working off the latest data and that we all in fact agree with agree with the layout of the site plan that they have done. The other thing I will mention is living right here and the other gentlemen living over here we do have a chance to spend a lot of time watching Country Drive-In and while I like Country Drive-In quite a bit I don’t think you could underestimate the amount of traffic that goes through that area. The amount of foot traffic area, car traffic that goes through that area and I do think it creates a blockage. My other comment and question is looking at this land and granted this is just a site plan so I don’t have a geographical survey given at least my concerns here and I have to think some of their concerns separate from the driveway why wouldn’t we have moved some of these farther down here to avoid the overlap here and the closeness and the proximity to certainly my house and others. With all of this land 4 acres going this way why are we loading this thing right at the front of this driveway why wouldn’t we have put it down here, they would have more privacy, I would have more privacy, he would have more privacy, Roger would have more privacy, it seems like it’s not the optimum layout for the lot size.

**Mr. Rabideau commented:** The situation is set up because of a couple of issues: the keeping of everything towards the front of the lot is because it mitigates the safety issue. If you push it back here the driveway is longer and that has been a big concern of the Planning Board to keep that to a minimum.

**Mr. Wiener commented:** How long is a safe driveway and not a safe driveway?

**Mr. Rabideau commented:** It is the discretion of the comfort ability of the Planning Board for one thing also the fact that keeping it concentrated leaves it in its natural state. One of the big issues we had with the three lot subdivision we had three, the storm water management area was way back here they were concerned about buffering to this area over here so this plan addresses I think closer to what

the Board is looking for as far as keeping the density down and in turn pushing everything towards the front.

**Mr. Wiener commented:** I agree it keeps the density down and I accept that. I appreciate that the Board addresses that. I am not sure though that this is the best layout here. It could have been more of a balance and a better approach here and it could address some of the homeowners concerns also. I guess I will come back and the question is if this driveway is ok and the driveway to here is not safe I am unclear as to how we delineate what is safe and what isn't safe.

**Mr. Rabideau commented:** The driveway configuration that we have now it meets all the standards and we did. The Fire Chief is the ultimate say as far as fire safety and he had no problem with it. It is actually better now since we got it down to 2 duplexes and the Fire Chief did agree to the 3 duplexes he will feel a lot better about it.

**Mr. Wiener commented:** I think we all, and myself included feel better that there is 2 instead of 3 but I still think it could have been optimized instead of 3. I will come back to my comments like they would like this staked here I think there are a couple of key points along here that it should also be staked before it gets approval so we can truly understand it and validate it against current drawings.

**Mr. Rabideau commented:** Basically, what Lyn agrees to if we can get a contingent approval then we would do it. We are not going to go out, we stand by our work and that is where the lines are. Whether we do it before or after really doesn't make a difference. We sign it we are liable.

**Mr. Wiener commented:** I am certainly not the expert on Planning here, I accept that but in light of this being sent back once for some revisions. Why wouldn't you come to my house and knocked on my door and shared these plans with me and ask me my concerns and discussed it with me, walked around showed me your plot plan, show me where this is, and have a discussion with each of the homeowners individually. While I appreciate this forum for doing that and I appreciate the Town's acceptance in doing that, if I was a developer, and I actually do develop wind projects with GE where community acceptance and community buy in is very important as we go and develop wind projects, I don't sense that there was any community development here, any community relationship, I don't really sense this was done in the proper way and I think it could have been done better.

**Mr. Rabideau commented:** This is a situation where the owner wanted to do something with his land and followed the zoning regulations and as far as the public input that is what this Public Hearing is for. It is an opinion thing but this is why they are here we are listening to the concerns but we have addressed buffering issues, everything the Planning Board has talked about and we have not short changed anything.

**Chairman Ouimet commented:** Thank you. Would anyone else from the public wish to speak?

**Mr. Favreau, 45 Firehouse Road commented:** All I am asking for is the surveyed stakes and flags in place before the Town agrees to this. That is all I am asking for. He keeps on pushing this contingency on proof and this and that. What is going to happen now per say if we don't have the flags and stakes in and all of a sudden I have to go through the expense of proving that he is wrong when we can take care of this before hand?

**Chairman Ouimet commented:** If that is a question for me I can say that you may have to go through the expense anyway whether or not this is approved or not approved or tabled. If it is a boundary line dispute which is the first time, I believe this wasn't raised at the last Public Hearing we had, that is between land owners and has nothing to do with the Town of Halfmoon or any other Town.

**Mr. Favreau commented:** Indirectly it does sir because you're agreeing...

**Chairman Ouimet commented:** I understand that but legally it doesn't.

**Mr. Favreau commented:** Well it could be a legal thing if there is an incident and the fire trucks can't get in that road and out properly.

**Chairman Ouimet commented:** That is a different issue I am just talking about the land dispute.

**Mr. Favreau commented:** But it all occurs from the size of the road.

**Chairman Ouimet commented:** I don't know as if we would approve a driveway that is smaller than what is being proposed in this project right now. Another words narrower and if the Fire Chief would agree to narrowing of the right-of-way.

**Mr. Favreau commented:** Well my question is.

**Chairman Ouimet commented:** You have to assume that the surveyor has proper property lines down. I have to.

**Mr. Favreau commented:** You are assuming that but I can't assume that I have been there since 54.

**Chairman Ouimet commented:** I understand you are a neighbor of it. I understand. Hold on only one person can speak at a time and you have to come to the microphone.

**Mr. Favreau commented:** I don't know why there is so much controversy out of putting stakes in the ground with flags on them before this goes any farther. I don't understand that. If they are willing to put a half-million dollars in the back to build houses and to have the surveyors come back and put stakes on the road fronts that is all I am asking for. It makes no sense to me.

**Mr. Rabideau commented:** Like I said before, we would put the stakes in after the fact. One of the issues we have here is this project has been going on since January and has been before the Board about 4-5 times. We are trying to get finality to it, we stand by our survey whether we do it before or after the lines are still the same of where they are going to be. We have a 60' right-of-way through there; we have a driveway that has been approved by the Fire Chief of 25' wide. That was initially 28' wide and he went down to 25' and we stand by that too. We understand marking those lines but to table this again and go out to mark it again we will be running up quite a cost here.

**Chairman Ouimet commented:** Let's see how it goes here. Thank you very much. Would anyone else from the public wish to speak? Is there anyone that hasn't spoken yet?

**Mrs. Jean Meyers, 43 Firehouse Road commented:** I think this was just recently sold we were told?

**Someone commented:** Under contract.

**Mrs. Meyers commented:** It's under contract. They put up the sold sign and they said it was all approved, the realtor did. My problem is this line here shows your buffer zone is in David's balance at 43 Firehouse's yard. His line actually goes, and anybody can pull it up with the Town, off at an angle. In fact, this drawing is just not even depictive of what your lot is doing it is actually going off like this your lot and I don't know what it's doing over here but I know he has a plot plan that has been filed, in fact this here all these are changed like way before you were under a contract with this lot which is what the gentlemen spoke about. Your driveway is it going to be bridge because there is a foot of water here. This is all water and right here somehow you cut his pond in half, this is David Allen's pond that goes here. You're going to put a leach field that is what Mr. Allen was speaking about. It is clay it has cat nine tails, and it has fish in it. This pond here that you can see drains off to here right to where you are proposing duplex is. I think that it is very important that the whole thing gets staked because I don't know about you but I don't buy property and don't have it surveyed before I buy it because you want to know what you are buying. What is being bought is all swamp and wetland and cat nine tails and ACOE came in the last time it came up for a proposal because they were out there bulldozing (I think they came in from another way) back when Morris was alive and they shut it down because it is all wetlands. Do you see this pond all these things are wet, ponds, mud, and cat nine tails. We were also told that the little red and blue lines obviously it had better not be denoting the driveway, we were told it was denoting the wetlands. Are you going to build a bridge, a 300' bridge over this I am just curious. Will ACOE be brought in to look at the wetlands?

**Mr. Rabideau commented:** The site has been delineated for wetlands, there are no DEC wetlands but we have marked out where the ACOE wetlands are there is a pond right here then it goes into a narrow ditch (the ditch line is shown) the driveway here now is where a woods road was pushed through quite a few years ago that goes along this edge right here so there is already a road through this area where the road crosses it's only like 5' wide they really started to ditch it in there. It's a classic situation of where the pond is, obviously the clay is under there but it's a typical low and wet high and dry. You have white pines here that are very indicative of sandy soils. As far as buffering, we are way away from the wetlands.

**Chairman Ouimet commented:** Sorry we are going to have to ask you to come up and identify yourself.

**Mr. Jeff Wiener, 1449 Crescent Vischer Ferry Road commented:** Question here is are these going to be rental units or owner occupied or sold as individual properties what is the ownership structure going to be of these duplexes?

**Mr. Rabideau commented:** They will be rentals the owners will own both duplexes. They own a numerous duplexes in the area and they are very well kept up.

**Mr. Wiener commented:** I guess what assurances do we have that these buffer lines and the buffer zones are going to be maintained?

**Mr. Rabideau commented:** Basically part of the Planning process is to subdivide the land and also at the same time a site plan so if the Planning Board approves this, the plan must be built like this.

**Mr. Wiener commented:** I don't necessarily mean that it is built I have no doubt that it will be built like that. My issue is a year from now or two years from now what is to stop all of these people from just starting to clear cut back I want more lot, I want more land, and the next thing you know these guys I am staring them in the face in the morning.

**Mr. Rabideau commented:** We have it set up so that there is a buffer along here and along here and along the residential parcels.

**Chairman Ouimet commented:** Is there a no-cut in the deed? Are there any deed descriptions?

**Mr. Rabideau commented:** That is correct plus it's on the subdivision map.

**Chairman Ouimet commented:** I see that but the subsequent buyer would see it through the deed description.

**Mr. Rabideau commented:** It will be described when they describe the parcel they will describe around the parcel subject to a no-cut buffer and describe based on the mapping.

**Mr. Wiener commented:** I would appreciate it if that would be in the deed I think that will answer part of my question. I would further ask if this forward instead of it being the corner lot I would love to see that no buffer zone have an angled corner there so it maintains the same perspective all along across here. I can't see that to be a huge issue for you.

**Mr. Rabideau commented:** We could extend that kiddy corner over across that is not a big issue.

**Mr. Wiener commented:** And the no buffer zone is how big? Is there a reason that it couldn't be 50'?

**Mr. Rabideau commented:** Yes, because that is going to cut into what is going on here. In essence it's one of these situations residential against residential technically no buffer zone is required. We stepped forward put the buffer on and it's just instrumental type of deal.

**Chairman Ouimet commented:** So you could add to the 30' if you chose to.

**Mr. Rabideau commented:** We can't right here.

**Chairman Ouimet commented:** Somewhat?

**Mr. Rabideau commented:** We could mitigate it across here like that so now you have a 60, 70 at least on that corner so it's not that adds quite a bit of buffering for his house because that is what he is looking at.

**Chairman Ouimet commented:** Are there any other questions from the public? Please come to the podium and state your name and address for the record.

**Mr. Allen, 43 Firehouse Road commented:** How big are these duplexes?

**Mr. Rabideau commented:** They are standard, I don't know maybe 1400 SF per unit, together they are a total of 2800 SF total. We have a situation right here there seems to be concern there is a difference between actual and physical access which is the driveway verses the actual right-of-way. Right now your house is about 4' off the line.

**Mr. Allen commented:** Yes, I realize that. If you don't have a decent buffer zone you are never going to make the corner. The buffer zone there is about 20'. It's going to be impossible backing up to the ice cream place, we all know what that kayos is like. Just getting a fire truck in there will be hard enough if you need it.

**Mr. Rabideau commented:** Yes, we do have the sign off but we are kind of caught in a tough situation where because of the intensity of the County Drive-In that prevents our client from utilizing his land. At that point in time, that probably becomes potentially a town enforcement issue, a site plan issue, or whatever but we are being held hostage here on this and that seems to be.

**Chairman Ouimet commented:** Dwayne, this is a public hearing and we are here to hear what the public has to say.

**Mr. Rabideau commented:** Well they keep bringing it up and we have to defend ourselves.

**Chairman Ouimet commented:** Just keep listening, and keep responding.

**David Allen, 43 Firehouse Road commented:** Is there any other place you could put an easement in there? Isn't there a road back somewhere over here that would swing up and around and come back this way or down through Morrison's and over that way? That is an awful tight spot. Back by Morrison's I think that is all a public street now you cut back from that way. That would clear that traffic problem right up. There is also, and I don't know where this road falls over here there is a road that comes up over here somewhere that might be a better easement for you also. Then maybe they would approve the 3 duplexes. This is bad; do you know what I mean?

**Chairman Ouimet commented:** This is the only place where we have road frontage we did look at potentially something over here, this is a private road over here. This situation right here this portion of it is Lands of National Grid there is no way of getting that. The other road is Vandenberg Lane and people own right up around the end so there is no public access from that way. We are limited to just what our road right-of-way frontage is.

**Chairman Ouimet commented:** It's your only way in and only way out, right?

**Mr. Rabideau commented:** That is correct.

**Chairman Ouimet commented:** Are there any other questions from the public? Please come up and state your name and address for the record.

**Mr. Roger Favreau, 45 Firehouse Road commented:** I have a question for the Town about this is this the final determination tonight about whether it's going to be granted or not everything that he wants to go through with this?

**Chairman Ouimet commented:** There are two things this Board is being asked to determine, the first is whether or not to permit a subdivision of the lot as he proposes and the second thing whether or not this Board would allow duplexes to be built on the subdivided lots. So it's one lot right now and he wants to make it two. The original proposal was for three lots but this time it's only to make it two.

**Mr. Favreau commented:** My question is then after tonight he can start building.

**Chairman Ouimet commented:** Yeah, he can start developing 2-lots, I don't know what will be approved tonight, and I don't even know if two lots are going to be approved. We are still listening to public comments.

**Mr. Favreau commented:** I would like to ask the Town for another 30-day time period before it's all agreed before he starts breaking ground to build due to the fact that I want to survey my property lines.

**Chairman Ouimet commented:** What do you say Dwayne?

**Mr. Rabideau commented:** It is one of these situations where the survey line we are going to hold to that and if there is an issue with the survey the site plan would be null and void because in the sense that if there is a flaw in it; it was presented as this if it's not the case then it's pretty much null and void. We are backing our survey.

**Mrs. Murphy commented:** I wouldn't go with null and void because if you're saying its "x" and he is saying its "y" we are not going to be the arbitrators of truth and justice for the world the surveys are going to.

**Mr. Rabideau commented:** The survey would be more of the civil thing but this is kind of being reviewed as a site plan also we touched on that a little bit.

**Mrs. Murphy commented:** We base our decision this Board's bases its decision based on your license based on your licensed stamp saying that the map is correct and accurate.

**Mr. Rabideau commented:** That is correct.

**Mrs. Murphy commented:** So we do not go out and do a site distance drawing and verify that what you are certifying is accurate because your certification in of itself says to this Board that it must be accurate. We are not going to be in the middle of any kind of line dispute between neighbors. Saying the survey and enforcing the site plan would enforce the lines. I just want to make sure its clear because it's sort of what you are saying.

**Mr. Rabideau commented:** As far as the survey is concerned this is the first time we heard about a boundary line dispute there has been no indication of that whatsoever.

**Mr. Favreau commented:** It's probably because this is my fault I would have been here at the last meeting but I worked late so I apologize for that but I would have brought it up this situation the first time and I apologize to the Town that I wasn't here the first time. With all due respect I wish the Town would realize the severity of this because of the fact that if I prove that the surveyors that did the surveying are wrong by my property line I am asking the Town for a 30-day buffer zone for this so that nothing is; another words if he is right and I am wrong fine and dandy but I would like the 30-days to be able to have a surveyor there to survey my property lines.

**Chairman Ouimet commented:** Basically what happens is if there is a subdivision approval tonight and subsequently you find out that your lot line comes into where the proposed driveway that is being approved here as part of the subdivision he may end up with a subdivision, he may have two lots that he might not be able to access by not having enough room to go into the lots and that is not an issue for the Town he will still have his property, he will still have two lots. So really isn't a point in pushing it down the road so to speak for another meeting or two.

**Mr. Favreau commented:** I am not fighting the subdivision.

**Chairman Ouimet commented:** No, I understand that. I hear you loud and clear but the property defines what this Board can do to an extent. If it doesn't have the room to get access to interior land locked parcels there is not much we can do about that.

**Mr. Favreau commented:** That is my point.

**Chairman Ouimet commented:** I understand and I just want to make sure that you understood that part.

**Mr. Favreau commented:** That is why I am asking for a grace period for this.

**Mr. Rabideau commented:** I was talking with our client and he informed me there are not going to be building until the fall so there is plenty of time to address this if there is an issue it will come out. We are presenting this survey in front of the Board. He doesn't have a survey and we do but were in a situation where were not going to build until fall so there is time to address any potential issues that might come up as far as property line disputes.

**Mrs. Murphy commented:** As we mentioned earlier that you could not stamp the plans if the Board chose to grant the subdivision until and unless a survey is done.

**Mr. Rabideau commented:** A contingency yes.

**Mrs. Murphy commented:** The only caution and I am not giving legal advise and I am in way trying to alter your decision making process but in so saying but you mentioned somewhere along the line that the sale was contingent and if it's contingent upon this Board's approval and you find out it's wrong after this Board approves it you are stuck.

**Mr. Rabideau commented:** We do realize that. But to hold the signing for 30 days if we can a contingency if the Board so desires that would be fine with us. We would like to address this, step out

in the field, and what not. We are not there to make enemies with the neighbors. That is the last thing we want to do.

**Chairman Ouimet commented:** We understand how that works.

**Mr. Favreau commented:** In other words tonight you are going to vote on just the subdivision of the land.

**Chairman Ouimet commented:** Subdivision and whether or not this Board would approve the building of two duplexes on the subdivided land.

**Mr. Favreau commented:** The last part of that sir is that you are approving it before my right to prove him wrong.

**Chairman Ouimet commented:** If we approve it and you prove that he doesn't have the land to get access it doesn't matter he can't use it.

**Mrs. Murphy commented:** Basically if he doesn't stamp the plans which is what they are talking about you can't get a building permit to put a building on it because it doesn't exist. It kind of satisfies both parties request.

**Mr. Favreau commented:** Thank you.

**Chairman Ouimet commented:** Would anyone else from the public wish to speak?

**Mrs. Jean Meyers, 43 Firehouse Road commented:** If this had been surveyed we would see that this line here goes in an increasing angle this way so your going to have the width for a driveway because this is Roger's house right here. If this is at a trap resort coming out this line here the straight line going straight back is going to be wrong and you said oh David only owns 4' off of his house. No, it's increasingly an angle it's geometry. This is not a surveyors map where is the surveyors map. Will it show the angles? Well then it's exactly wrong because he had this done about 3 years ago and we surveyed and it's an angle. I don't know what to say this is off this line actually goes all the way to the pole so I don't know what don't you usually pull all the other things when you survey?

**Chairman Ouimet commented:** I think we heard what the issues are with the surveys.

**Mrs. Meyers commented:** I can't imagine any Town to approve two duplexes with the water the way it is and if no one has ever walked down this just between the two houses and walked down and you hit a foot of water with cat nine tails and your going to approve two duplexes back here knowing full well there is no access to it I don't know. It is just wrong.

**Chairman Ouimet commented:** Dwayne could you please talk about the site conditions please?

**Mr. Rabideau commented:** We have a situation where through the years they have accessed this parcel using a woods road or dirt road type of deal and they cut across the wetland area. We had to get a backhoe through here and we could walk across the same because right where the driveway is it does narrow off from memory down to maybe 5' -6' wide and they have a culvert there, they have a road

and the driveway just needs to be modified and brought up to standards. As far as one of the problems as far as where the survey lines you stand out there it does appear that the lines head off to the left but they really don't.

**Chairman Ouimet commented:** Let's not spend a lot of time on the survey lines that is something that will ultimately work its self out.

**Mr. Rabideau commented:** As far as the site once you get by this is the only wetland corridor there is. Once you get up here it's high and dry.

**Chairman Ouimet commented:** The rest of the land is not wet is that what you are telling me?

**Mr. Rabideau commented:** Right. Where they are developing there are pines and there are 24" white oaks and things of that nature and when you get back there you have a wetland corridors that go off so that's kind of prevented us from going backwards. All the good land is right where these buildings are going.

**Chairman Ouimet commented:** Ok, thanks. If it's about site lines I don't want to hear it.

**Mr. Jeff Wiener, 1449 Crescent Vischer Ferry Road commented:** If the Board does go forward and approves this today I would ask you to make it contingent upon what the gentlemen have already agreed upon to modify this modification here in the corner.

**Chairman Ouimet commented:** Thank you. What you are talking about is the no-cut line, correct?

**Mr. Wiener commented:** Yes that is exactly right the no-cut buffer line.

**Mr. Rabideau commented:** That is not a problem.

**Chairman Ouimet commented:** Would anyone else from the public like to speak? The public hearing closed at 7:55 PM. Does the Board have any questions?

**Vice Chairman Roberts commented:** Each parcel of land in our Town is not always suitable for development with that being said, the zoning here right now is PO-R Professional Office Residential and I really believe that this property would be best utilized and the surrounding neighbors would have the least amount of impact if this were to stay single family homes rather than duplexes. I am against this proposal as presented.

**Mr. Nadeau commented:** I would agree with Don on this as well. My bigger concern is that you have 3 neighbors that are questioning where the lot lines are. If we table it for another meeting which is 3 weeks Dwayne can go out and put markers out there just to satisfy the neighbors it seems to be a controversy there. The three weeks going to be that detrimental should we approve this project?

**Mr. Michael Satterlee commented:** We have been working on this for 7 months now I heard what you guys said but you all have to realize that we spent \$18,000.00 already on Engineering we have answered every question that the Board asked we re-designed to the Board's standards, we went out there we did multiple perc tests, we had two separate Engineers go out one went out in the fall one

went out in the spring. We brought an excavator in and we dug seven foot holes (7') it is sandy back there. This has been going on for a long time we believe that the use of the land is appropriate. Right to the left there is 6 or 7 four unit apartment buildings, to the side of us is a Niagara Mohawk sub-station, behind is Niagara Mohawk power lines right in the front there is a 3-unit apartment house that this gentlemen owns. We do think that it fits well within and is a nice transition. I just wanted to let you know that we have done everything you have asked us to do; we spent a lot of money addressing every question that has come up with hard Engineering facts. Another thing about staking the lot every time we go back it costs us a lot more money if you all were to approve the plan with the duplexes I will have it staked as soon as Dwayne can get out there.

**Mr. Higgins commented:** Dwayne, number one you have to get ACOE approval just to put the driveway in, correct?

**Mr. Rabideau commented:** That is correct.

**Mr. Higgins commented:** Number two, why didn't you put the storm water retention area on this map? You had it on the other map that I questioned and I have no idea where the storm water retention is on this map.

**Mr. Rabideau commented:** Because that is a survey map all that information is in the storm water management plan.

**Mr. Higgins commented:** Do we have a copy of that tonight?

**Mr. Rabideau commented:** I think Rich has it.

**Mr. Partlow commented:** I have an issue with the wetlands area, the ACOE needs to actually get involved with us again I believe. The ACOE needs to look at this particular piece of property that you need to cut over as far as the wetland is concerned. Also, the storm water retention area in the back I don't have a clear understanding on how that is going to work either.

**Mr. Rabideau commented:** That is a designed system set up for a 100 year storm that meets all the current storm water management practices established for the site.

**Mr. Partlow commented:** In what the young lady was saying over here I don't understand if she is saying its all wet back there then how does the survey show that it is actually dry?

**Mr. Rabideau commented:** We delineated the wetlands we have been delineating for 25 years for the ACOE and DEC. Our comfort and confidence level with our flagging is extremely high because all of our projects are reviewed by the ACOE so we know their standards.

**Chairman Ouimet commented:** Dwayne I have a question: Was this configuration either the first configuration where it was three proposed duplexes or this one shared with the Town Engineer?

**Mr. Rabideau commented:** Yes, that is correct.

**Chairman Ouimet commented:** Michael, can I ask you do you have any problems with the proposal as you reviewed it other than the fact that it was three (3) now it's two (2).

**Mr. Bianchino commented:** The original I think were concerned when it was 3 units but based on the constraints of the wetlands in the back and so on. When they revised it back to two (2) we reviewed what the revised plan and we were comfortable with it.

**Chairman Ouimet commented:** What about the storm water issue?

**Mr. Bianchino commented:** We reviewed everything that he had proposed in terms of storm water, the septic, and we had signed off on it.

**Chairman Ouimet commented:** Thank you.

**Mr. Higgins commented:** I don't think it's unreasonable for me to ask I just want to know where it's going to go. Where is it going? Directly behind the house last time we had a map and it showed where the storm water retention area was.

**Chairman Ouimet commented:** Dwayne can you answer that?

**Mr. Higgins commented:** Come over and point it out on my map. Last time it was over here with no buffer. So it's going in front of the ACOE wetlands and to the north of the house.

**Mr. Rabideau commented:** The way it is set up now is that the storm water management area before the Board has issues with the fact that it was back in this corner and there was no buffering to the substation but right here we have buffering now. Everything is concentrated right here we do have this clearance limit line around there so there is 30-40' of buffering. Here it narrows down because we are forced into utilizing a road access.

**Mr. Higgins commented:** So the storm water retention on this map is the blue area in the middle?

**Mr. Rabideau commented:** Yes that is correct.

**Mr. Higgins commented:** Ok, thank you that is what I was asking. I can appreciate the applicants feelings regarding the duplexes I tend to agree with Don with the intensity of the site from day one and because of the fact of traffic and because of the fact that it's something that we have to live with. The ice cream stand has been there forever, the applicant knew that when he bought the property or contracted to buy the property. It is something that you have to deal with and we said it all along that we thought two single family homes would be much more appropriate here. I am just agreeing with Don. My concerns have always been the storm water and with the amount of ACOE wetlands on the site you are limited on what you can put in there.

**Mr. Partlow commented:** I actually have the same concerns with the duplexes as well.

**Chairman Ouimet commented:** And you concerns are exactly the same as John's that you don't think duplexes fit there?

**Mr. Partlow commented:** Exactly.

**Mr. Berkowitz commented:** Rich spoke but was not on microphone and was not heard.

**Mr. Rabideau commented:** Because of this parcel being in the PO-R there is three options for this parcel to be duplexes with a Special Use Permit which is what we applied for, residential single family, or professional office. Our idea was that the duplexes fit now residential back here when you have multi-family here, a cluster going here, National Grid, residential in this area.

**Mr. Berkowitz commented:** He spoke without being on microphone.

**Mr. Rabideau commented:** Residential, because duplexes are normally families in transition and because of the type of duplexes these are they normally are for people that need a place to live and at some point in time looking for a house and probably within Clifton Park or Halfmoon area so it's transitional.

**Mr. Berkowitz commented:** He spoke without being on microphone.

**Mr. Rabideau commented:** That is what I am saying these are high end duplexes, it's a transition so to put single family here you have all this multi-family and National Grid power lines and sub-station so the duplex actually fits in there. It's a transition from multi-family to 2 duplexes which are multi-family with less intensity to residential.

**Vice Chairman Roberts commented:** Dwayne if I can interrupt here for a second, you are concentrating on the west of your site and the north of your site right on your map to the east of the site is Vandenburg Lane which is single-family street.

**Mr. Rabideau commented:** Yes, that is correct. That is why everything is pushed this way to allow the buffering to these residential lots here. It's a tough spot for single-family with this issue right here. We are being held hostage.

**Vice Chairman Roberts commented:** No you're not being held hostage with that situation there it would be easier to have 2 single family homes because you have less cars coming out. It would be a safer situation than having 2 duplexes plus your not being held hostage I don't know where that came from that is not true at all.

**Mr. Rabideau commented:** It seems to keep coming up from the public as an issue that the Fire Trucks can't get in. We have addressed that issue I specifically asked Fire Chief about that and he said it's not an issue.

**Mr. Michael Satterlee:** These duplexes we are going to put up first of all, my nephew is going to live on one side. I have multiple duplexes in Halfmoon these are beautiful duplexes. When they are constructed they will be about \$400,000.00 with stone on the front they are going to enhance the neighborhood. They are absolutely gorgeous and the folks that we rent to are mostly from Global Foundries the rent that we get is \$1,700.00 per month. These are really nice units that we are putting in we are not putting in anything that wouldn't appeal to the public.

**Chairman Ouimet commented:** I have a couple of comments to make. I heard tonight several people talk about access to this back lot or the entire of this lot by Fire Trucks. I think the only way that any of us could determine access is there or not there is to have an evaluation by the Fire Chief. If it's a single family or multi-family dwelling I believe that the access road standard is something like 20' for the State Code. If the Fire Chief says that it can get in and out of an area that is good enough for me. The real problem that I have is with the fact that the neighbors are all disputing the property lines and I don't know if you have enough access or enough property to build an access road. If you had to re-design that access road, if you found out you didn't have enough property and I am not disputing your survey your ability to survey, your accuracy, or anything, but it sounds like you have a property dispute on your hands. I don't know if you do or you don't but if you don't have a way to get in there you will end up with a piece of property you can't access which is not right either because people should be able to use their property however the Town Zoning Codes determine. It seems that you have resolved through consultation with the Town Engineer any kind of storm water issue or the ability to get accurate septic service back there. It seems to me that is not an issue. I am really concerned though about getting in and getting out of the property based on what I heard tonight. Whether it's a single family or duplex that you are going to be able to build there I don't know. If you look to the south of where you are proposing they are all single-family homes, if you look to the north in the front of it and they are all multi-family units it's kind of a blended neighborhood and you have a lot of multi-family units and a lot of single-family homes and quite honestly I think you did a good job trying to buffer the units the way you did.

**A person from the audience commented:** You buffered the single-family houses away from the proposal that you are presenting here. Again, you might be running out of land I don't know how you are going to do that access part, I just don't based on what I heard tonight.

**Mr. Michael Satterlee:** I am willing to have everything staked could we get an approval so that we can move forward?

**Chairman Ouimet commented:** If don't know that if I took a vote right now you would get an approval based on what I have heard from my fellow Board Members.

**Mr. Michael Satterlee:** I am just trying to find common ground having this cost us a lot of money and I am willing to do it we are confident on the lot lines and I am absolutely willing to do it I am just trying to figure out a compromise.

**Chairman Ouimet commented:** I am not so sure that if we call for a vote tonight I don't think the votes would go in your favor. You get a subdivision but I am not so sure you will get duplexes based on what I heard.

**Mr. Rabideau commented:** Based on the direction of the wind we are willing to have this tabled to the July 13, 2015 meeting and in the meantime we will set the corners and property lines for there and mark them up for the neighbors to see where we have the lines.

**Chairman Ouimet commented:** Just so everybody here and are still here and I know that you have all been here for a long time and I appreciate the fact that you all stayed there will not be another public hearing it will just be the Board and the developer so you are all welcome to come back when

they come back to the Board but just to listen we will not take any comments from the public at that time, the public hearing is closed. Just so you understand.

**Mr. Rabideau commented:** In the meantime we will mark the lines so everybody knows where we have established them and we will take it from there.

**Chairman Ouimet commented:** I trust that you heard the discussion on duplexes.

**Mr. Higgins commented:** Dwayne when you are staking the corners of the property could you also just put the stakes where the driveway is going to go because I for one would like to go out and take a look at it.

**Mr. Rabideau commented:** Like the centerline of the driveway?

**Mr. Higgins commented:** The centerline of the driveway or just the sides of the driveway then we will know its 12 ½' on either side of the driveway.

**Mr. Rabideau commented:** Probably the center of the driveway.

**Chairman Ouimet commented:** John, I just caution you that if you go out to look at it the way its staked and it hasn't had the input of the neighbors you may not get the accurate view.

**Mr. Higgins commented:** I understand that I drove in there but without any marks it's hard to figure out exactly where.

**Mr. Nadeau commented:** Maybe if Board Members could go look at this. Dwayne will it be done in 10 days, 2 weeks of staking?

**Mr. Rabideau commented:** Yes, it will be within 2 weeks.

**Chairman Ouimet commented:** We can set-up a committee to go out, who would like to go.

**Someone from the audience spoke but name was not given.** Our intention is to build duplexes on this land.

**Chairman Ouimet commented:** I hope you understand what the Board meant about out making comments.

**Again no name given commented:** The question is if it makes a lot of sense for us to stake the property if that is what you are all saying that you aren't going to grant us the Special Use Permit for duplexes.

**Chairman Ouimet commented:** I can't say that unless we take a vote. If you want us to take a vote tonight we can do that. Just to be clear we would have to take a vote first on the subdivision and next whether or not the Special Use Permit would be granted.

**Mr. Nadeau commented:** I don't think we are comfortable with the Subdivision yet until we see the staking of the land. We wouldn't act on the Special Use Permit.

**Chairman Ouimet commented:** It kind of makes sense that we table it.

**Mr. Rabideau commented:** We will table to the July 13<sup>th</sup> meeting, the next meeting.

*Mr. Nadeau made a motion to table this until the Monday, July 13, 2015 meeting, seconded by Mr. Higgins. Motion was carried.*

**Chairman Ouimet commented:** This is tabled to the July 13, 2015 meeting thanks to everyone and the members of the public that came up to speak.

**New Business:**

**15.068/15.067 Sent Antenna, 13 Solar Drive/ Clamsteam Road- Addition to Site Plan**

**Mr. Mark Appleby was present and commented:** Good evening I am here on behalf of Realty Site Solutions and I represent Senet Antenna in installing one antenna on an existing cell tower at 13 Solar Drive and Clamsteam Road. Senet is proposing to install one antenna on each existing tower and we will not be increasing the height of the tower or increasing the leased area which is presently there.

**Chairman Ouimet commented:** Are you installing any ground based equipment?

**Mr. Appleby commented:** We will be installing one cabinet which is approximately 2' x 2' on an "H" frame within our 4' x 4' leased area.

**Chairman Ouimet commented:** Thank you. Are there any questions from the Board?

**Mr. Higgins commented:** The antenna level on the Solar Drive is 144' is that going to be the lowest or is it in the middle of the existing antennas?

**Mr. Appleby commented:** According to the plan there is a microwave dish with a couple of antennas.

**Mr. Higgins commented:** That is fine, that was all I was asking, thank you.

**Chairman Ouimet commented:** Are there any other questions?

*Mr. Berkowitz made a motion to declare a negative declaration on SEQRA for 13 Solar Drive and Clamsteam Road, seconded by Vice Chairman Roberts. Motion carried.*

*Mr. Berkowitz made a motion to approve the addition to the site plan at 13 Solar Drive and Clamsteam Road, seconded by Vice Chairman Roberts. Motion carried.*

**Chairman Ouimet commented:** Applications are approved, thank you on both of them.

**15.074** Hess Retail Stations LLC, 1513 Crescent Road-Sign

**15.075** Hess Retail Stations LLC, 1583 Route 9- Sign

**15.076** Hess Retail Stations LLC, 1698 Route 9- Sign

**Ms. Debbie Cianciulli commented:** I am with FST Engineers representing Philadelphia Sign Company Hess and Speedway. What they want to do is change the existing signs on site that read Hess to reading Speedway and on the ground sign they want to change the manual price signs to LED digital price signs so they can change them inside the building. All the signs are staying in the same place.

**Chairman Ouimet commented:** So the monument signs will also be changed?

**Ms. Debbie Cianciulli commented:** The monument sign yes, they are going to change the face of that as well.

**Chairman Ouimet commented:** From hard numbers to LED's.

**Ms. Debbie Cianciulli commented:** Yes, if your Town allows that then yes if not we won't change that.

**Mrs. Murphy commented:** Are all these businesses owned by same person?

**Ms. Debbie Cianciulli commented:** Hess owns the property they are wanting a Speedway.

**Mrs. Murphy commented:** Here is the issue; there is a right of access issue that exists as it relates to 1583 Route 9.

**Ms. Debbie Cianciulli commented:** Yes, I read that e-mail. The people from Hess, they call themselves Speedway now they are working on it. They have their Attorney looking into it with regard to the ground sign for the ID Sign right?

**Mrs. Murphy commented:** No for the roadway access easement and that is obviously of great concern to the Board so I would request that the Board table this request until we hear back from the Attorney's as it relates to the right-of-way.

**Chairman Ouimet commented:** It's the same owner for all 3 parcels, is that correct?

**Ms. Debbie Cianciulli commented:** Yes.

**Mr. Higgins commented:** I also suggested Don that the applicant obtains a copy of the Town's requirements for the LED signs because there is a certain mitt requirement that you cannot exceed the intensity of the light during the day and at night so you might want to look at that also.

**Mrs. Murphy commented:** We don't have that we have had a standard in the past that we asked them to comply with but we don't have a Local Law that mandates.

**Mr. Higgins commented:** Ok then the standard that we used in the past can that be given to the applicant.

**Chairman Ouimet commented:** I think that at the point of our approval or disapproval of what they want to propose then we can deal with that. Right now we are just going to table this without a date until we can resolve this issue.

*Vice Chairman Roberts made a motion to table the Hess Station signs for all three addresses, seconded by Mr. Nadeau. Motion was carried.*

**Chairman Ouimet commented:** These applications will be tabled until the Town Attorney and whoever the Corporate Representative is works out the issues. Thank you.

**15.080    The Stereo Workshop, 215 Guideboard Road- Sign**

**Mr. Ronald Alvaro was present and commented:** I am the owner and operator of the Stereo Workshop and we are requesting permission to erect a new sign.

**Vice Chairman Roberts commented:** Yes I did review it and it will conform to the rest of the signs at the plaza. It is going to be a 3' x 8' wall sign and will be lit with LED lights.

**Chairman Ouimet commented:** Are you sharing space with Aqua Science? Is that correct?

**Mr. Alvaro commented:** Yes, the space was split in half it use to be Fred the Butcher's old store.

**Chairman Ouimet commented:** Are you going to share the Sign Panel?

**Mr. Alvaro commented:** No they are going to have their own sign. There is enough space for both signs.

*Vice Chairman Roberts made a motion to approve the signage for the Stereo Workshop for 215 Guideboard Road, seconded by Mr. Nadeau. Motion carried.*

**Chairman Ouimet commented:** Sign is approved, thank you.

**15.085    Performance Contraction, 430 Hudson River Road- Change of Tenant/Use**

Tabled no one was present.

**15.077 & 15.078 Harvest Moon, 1512 Route 9 – Change of Tenant/Use/Sign**

**Mr. Jim Layamon was present and commented:** I am proposing to move into the Savemore Beverage Site Plan for my business Harvest Moon Market.

**Chairman Ouimet commented:** I know you submitted an application and you talked to the Planners but can you talk to the Board a little bit about what you propose to do out there?

**Mr. Laiacona commented:** The original site had a sub store that went in there, then a motorcycle shop. We would like to bring it back to a food store like a small market that would sell fresh fish from Boston and Gloucester where we have contacts that fish would be coming in four times a week.

**Chairman Ouimet commented:** Is Harvest Moon anywhere else or is this going to be a new venture?

**Mr. Laiacona commented:** No this is a new adventure I have had three other businesses I operated out of Menands, New York for 30 years for produce I sold that company and I was set up by Fred the Butcher I did the produce there and now we are moving on. We plan on doing a little deli, prepared foods, and fish.

**Chairman Ouimet commented:** Are you going to have tables and chairs and serve inside?

**Mr. Laiacona commented:** We plan on 2-3 tables a small amount of tables maybe 8-12 chairs that would be all but basically we want to do prepared foods to go home with either that or be a fish market where you buy fresh fish.

**Chairman Ouimet commented:** Thank you very much, Paul have you had an opportunity to take a look at the parking requirements?

**Mr. Marlow commented:** Yes, per Town Code the parking requirements are 8 spaces there is roughly 40 parking spaces for the site and we have no parking issues there.

**Vice Chairman Roberts commented:** I have looked at the signage and the horizontal sign that is fine but where do you plan to put the vertical sign 8' in height? Where is that going to go in the front?

**Mr. Laiacona commented:** Right now the 8' sign says Motor Cycle Shop and right below it he has bottle return right underneath that. Now I understand that they were taking the motorcycle shop sign and they applied to move the sign off of that sign post.

**Chairman Ouimet commented:** The motorcycle shop is still on that site.

**Mr. Harris commented:** It is on the plaza sign.

**Mr. Laiacona commented:** The motorcycle shop is located on the left of the Beverage Store. He has the Savemore Beverage is in the center and then there is two end cap stores.

**Chairman Ouimet commented:** Would this sign be on the wall of the north side of the building?

**Mr. Laiacona commented:** No, this sign would be out on the road. The sign already exists there is a sign there that says Savemore Beverage on top and below it is the Motorcycle Shop Sign.

**Mr. Harris commented:** It is a free standing sign the application said wall mounted so we took that to mean that it was mounted on the side of the building.

**Vice Chairman Roberts commented:** How tall will your sign actually be?

**Mr. Laiacona commented:** The one that is wall mounted is 2 x 8 I believe. I was told that what was there now is 4' x 8'.

**Vice Chairman Roberts commented:** So you are just switching out what is already there. As long as you are not going any larger we should be alright. You won't be going any higher.

**Mr. Laiacona commented:** No we are just replacing the sign that is there.

**Mr. Higgins commented:** Excuse me Don but when the motorcycle guy came in for an approval didn't we approve that sign for him?

**Vice Chairman Roberts commented:** Now the owner wants to change it out right?

**Mr. Nadeau commented:** I thought maybe it was over the door John.

**Vice Chairman Roberts commented:** Where is his sign going to go? I guess, right? It's a good point.

**Mr. Laiacona commented:** I understood that he put up another sign at the entrance to the plaza?

**Mr. Harris commented:** I don't know I would have to check the approval.

**Vice Chairman Roberts commented:** We should approve the one sign and table the other one until we find out more information.

**Chairman Ouimet commented:** We may have to.

**Mr. Berkowitz commented:** There is also a truck for sale in front of the building that is hiding one of the signs. I was there yesterday. They are selling a pick up truck.

**Mr. Laiacona commented:** The owner told me that the motor cycle sign was in the middle of the sign that is out there now he told me that was coming down. He is leaving that spot. That is your spot ask them for the dimensions of it and they told me it was 4' x 8'. So that would be your spot and that is where I plan on putting the sign in that spot.

**Vice Chairman Roberts commented:** The second sign is on the building. That is fine there is no problem with that sign.

**Chairman Ouimet commented:** The sign on the building is not an issue. It's the monument sign is the issue because we don't see how it could fit there.

**Vice Chairman Roberts commented:** We should look at this maybe don't you think? We can approve the use and the one sign and table the other sign.

*Vice Chairman Roberts made a motion to approve the change of use/tenant and wall mounted sign for the Fresh Market located at 1512 Route 9 as presented, seconded by Mr. Nadeau. Motion was carried.*

**Chairman Ouimet commented:** Change of use is approved, welcome to Halfmoon we hope you do very well there.

### **Old Business:**

#### **15.066 D/N Excavating Site Plan, 201 Fellows Road - Commercial Site Plan**

Mr. Higgins recused himself.

**Mr. Jason Dell,** I am an Engineer with Lansing Engineering here on behalf of the applicant D/N Excavating for their site plan improvements. The project site is located along the eastern side of Fellows Road and encompasses approximately 3.78 acres and D/N Excavating currently operates their shop from the site and what D/N would like to do is construct an approximately 3,024 SF 3-sided pole barn and the reason they would like to construct it is to have coverage storage of plows, snow removal equipment, mowers, trimmers as well as construction related equipment valves, pipes and that sort of thing. When we were here at the last meeting the Board had indicated that they couldn't move forward with the project until we heard back from the County so we are here tonight to answer any further questions you folks may have as well as to move the project forward as the Board sees fit.

**Chairman Ouimet commented:** Thanks Jason, I have a question on what you put up there on the easel. The proposed building is the shaded box or shaded area and the rendering is that of that proposal?

**Mr. Dell commented:** Yes.

**Chairman Ouimet commented:** So I can't tell from the rendering where the opening is? Is it on the back side of the building?

**Mr. Dell commented:** Where to get into the building? This is a gravel area so you will come in this way.

**Chairman Ouimet commented:** So that is what you will see from the road?

**Mr. Dell commented:** This is what you will see looking in from the parking lot here.

**Chairman Ouimet commented:** So is this open on the bottom?

**Mr. Dell commented:** This is open here, closed, closed, and closed.

**Chairman Ouimet commented:** So it's enclosed on three sides.

**Mr. Dell commented:** That is correct.

**Chairman Ouimet commented:** One of the comments the County Planning Board raised was for us to inquiry as to whether or not the size of the building is adequate to house all these things that need to be stored outside.

**Mr. Dell commented:** They have different requirements at different times of the year. The majority of their equipment this time of year is out and about on various construction sites and throughout most of the winter the majority of it is too. The biggest component that they wanted for storage is their snow removal equipment when they get in their plow trucks they don't want to have to clear off snow when take out the snow blowers they don't want to clear the snow off of them. Same thing with any kind of piping to just leave it inside underneath closed storage so it doesn't get dirty and get cleared out. This building is what they came to me and said this is what we need to construct, this is what we need.

**Chairman Ouimet commented:** So this is the building and we can assume that there will be no outside storage of any other materials.

**Mr. Dell commented:** They do still stock pile some other materials various aggregate that may be needed on different job sites like crushed stone, top soil, whatever else may be needed.

**Chairman Ouimet commented:** Other than that but all pipes and 2 x 4's and 4 x 4's and trucks and other equipment will be in this building it is big enough to house all of it.

**Mr. Dell commented:** At times there maybe some over flow.

**Chairman Ouimet commented:** Just so we are clear cause we don't want any outside storage.

**Mr. Dell commented:** They aren't making any money on material when it's here they need to put that in the ground. So it doesn't make sense for them to leave that here.

**Chairman Ouimet commented:** Are there any questions from the Board?

*Mr. Nadeau made a motion to approve the commercial site plan for 201 Fellows Road, seconded by Mr. Berkowitz. Motion carried.*

**Chairman Ouimet commented:** Application is approved, thank you.

**15.070 Keystone Novelties Distributors Fireworks Tent, 1707 Route 9 - Sign**

**Mr. Jeff Williams, Bruce Tanski and Development commented:** I am here on behalf of Keystone Novelties Distributors Fireworks trying to get an approval for some signs for the temporary tent sale located at the Shops of Halfmoon on 1707 Route 9. I asked the applicant they were here before the Board at the last meeting and received the Change of Use for the temporary sale and the tent setup but the sign was tabled. They had a number of signs they were proposing. What I asked them to do was to list the minimum signage that they needed in order to have a successful sale so they are proposing 2- 3 x 10' signs that say Fireworks and I know that the rendering I gave to Rich shows Keystone Fireworks but there is another rendering in the package that was handed in before that sign actually just says Fireworks it's a red and yellow sign it doesn't say Keystone so there will be 2 of those 3 x 10 and the second sign that they wanted was a 4 x 6 buy one get one free to hand outside. We have 9 days between the last Board Meeting and this Board Meeting and what I came up with was to take their existing banners and we want to adhere them to a corrugated plastic board that makes it rugged and makes it sound and that could actually be attached to the tent siding. Once again it's a 10-day sale its temporary signage and these signs will be taken down at night when the sale is not going on. That is my proposal for the signs. I also wanted to mention too that there are two other signs that they proposed at the last meeting those signs are something about credit cards accepted and \$25 free fireworks with a \$100 purchase those signs will be hung inside the tent so they won't be viewed from the roadway as such. The customers can read them when they are in the tent area. I believe the open sign although it is large is an exempt sign in the Town's Ordinance. My total square footage package is 84 SF of signage.

**Mr. Higgins commented:** What size is the open sign?

**Mr. Williams commented:** I believe that sign is also 4' x 6'.

Mr. Higgins commented: I thought that the open sign could only be 2' x 2' to be exempt.

**Mr. Williams commented:** If that is true and I honestly looked at it too I thought that was a very large open sign I think maybe they can get a smaller sign that says open.

**Mr. Higgins, Vice Chairman Roberts commented:** I think we should. I thought it was mentioned in the pre-meeting that the open sign is exempt as long as it's under a certain size.

**Vice Chairman Roberts commented:** Can you get a smaller open sign?

**Mr. Williams commented:** Yes. Is there a certain maximum is it 2' x 2'? It's 2 SF for the open sign ok.

**Mr. Higgins commented:** Thank you. Also, is there a reason why they didn't move the tents further away from the road and Bruce agreed to do that at the last meeting? We didn't want people parking on Route 146 and walking over to the tent so we asked them to put the tent further back into the lot so customers would pull in and park. I drove by it today and it appears to be right out front where they originally requested and not where we asked them to put it.

**Chairman Ouimet commented:** I agree John, I went by it yesterday I actually picked up something at one of the Shops and came past it and noticed the same thing. It is too close to the Road. Bruce did say he would move it in a little bit.

**Mr. Williams commented:** I will check on that and I guess we will move it back further. I didn't realize it myself. If I can I will have the people move it tomorrow.

**Chairman Ouimet commented:** The real concern that we have is cars stopping on Route 9 and walking up the hill.

**Mr. Williams commented:** And I agree. I was wondering too if we can put a no parking sign on Route 9 and Route 146.

**Chairman Ouimet commented:** I was wondering too but I don't think you can.

**Vice Chairman Roberts commented:** I think the 3 signs are fine and if we approve 3 signs it's 3 signs not 4 or 5 not 6.

**Mr. Williams commented:** Just like what we discussed.

**Chairman Ouimet commented:** Just make it clearer Don. I think whatever sign approval will be contingent on moving the tent back; the signs come down at night when the tent is closed, the open sign is 2 SF in size, spend \$100 get \$25 for free will be inside the tent not on the outside.

*Vice Chairman Roberts made a motion to approve the signs as presented which includes 2 signs that are 10' x 3', 1 sign that is 4' x 6', an open sign that is no larger than 2 SF contingent on moving the tent back, seconded by Mr. Berkowitz. Motion was carried.*

**Mr. Williams commented:** How far back do you want the tent?

**Chairman Ouimet commented:** You have quite a lot of space the visibility is going to come from the fact that you have that big blue stripes on that white tent. Use your best judgment why invite trouble, you don't need it.

**Mrs. Murphy commented:** What they were discussing at the prior meeting was to move the tent so the rear of it abutted on the back of the platform for the site the part that is already cleared.

**Mr. Williams commented:** The back parking lot maybe.

**Mrs. Murphy commented:** The back part of the tent it showed it parking lot that was lined and MG square that was not lined. They put the tent in the back of that so you would have to park in a spot and walk to the tent.

**Chairman Ouimet commented:** Right now you would have to mark spots or whatever is left of them or whatever they look like now they have been there for a few years. Then you would have the blank area so then you have a new road. It think the new section is paved back there it is kind of odd the

way it is. You have the parking lot then you have waste land and then this huge tent. So you have room to move it.

**Chairman Ouimet commented:** All approved.

**06.185 Princeton Heights, Princeton Street- Major Subdivision**

**Mrs. Nadine Shadlock**, Attorney for Belmonte Builders I am appearing before the Board in connection with our application for final subdivision approval. As you may recall we were last before you on the 24<sup>th</sup> of February, 2014 it's a 51-lot residential subdivision all single-family homes. We have two access point's one on Princeton Street and the other on Manchester Drive.

Mr. Jason Dell with Lansing Engineering will run through very quickly the various approvals that we have from Department of Health etc.

**Chairman Ouimet commented:** Thank you.

**Mr. Jason Dell, Engineer with Lansing Engineers commented:** As Mrs. Shadlock mentioned it has been a long process but at this point in time, we have a technical sign-off letter from the Town's Engineer indicating that we have satisfied all the technical comments pertaining to drainage, water, and storm sewer. The Department of Health has reviewed the plans they have given us a verbal to go ahead and produce mylar's for them to sign and stamp. Department of Environmental Conservation has deferred their review on this project and I have cc Rich Harris on all the correspondence back and forth between myself and Randy Galusha the Department is in the process of transitioning from a formal review by them to a PE Certification which we certify to them that all of their requirements and the requirements of the Sewer District have been adhered to when developing these plans and they will issue an approval letter based on our certification to them that we have completed all these items. We still have to submit a formal application to them but along with the application this PE Certificate will go to them and has gone to them. I did cc Rich Harris on all of that correspondence so that is in place as well. We also received the ACOE wetland disturbance permit that was quite a point of contention on this project both the size of the wetlands and the disturbance of the wetlands but we do have our formal ACOE Permit. One other item that we had agreed to do during the Public Hearing and the approval meeting was for some drainage improvements that will be part of the project. Well actually ahead of the final approval last year when there was flooding in the Northwood Development area Mr. Belmonte helped out and put in a new 36" culvert as we had indicated and described the existing 24" culvert that was there was not sufficient and there was some flooding that had occurred there and Mr. Belmonte put the 36" culvert in at his cost. That part of the improvement has already been done.

**Chairman Ouimet commented:** We appreciate the fact that the off-site improvement was done by Mr. Belmonte to alleviate a present problem.

**Mr. Dell commented:** At this point we believe that we have addressed all of our requirements for the State Agencies, the Federal ACOE, as well as CHA and we would like to request a final approval this evening.

**Chairman Ouimet commented:** One other issue that the Board raised the last time we were here and that issue has to do with monitoring the existing condition of the streets and whether or not there

would be any indemnification agreement or arrangement of some type to deal with the situation where heavy construction equipment would deteriorate the streets.

**Mrs. Shadlock commented:** Your recollection is exactly correct. I have been in communications with Rich Harris and with Lyn Murphy and we have been discussing the plan that we tentatively have in place for your consideration and Town Engineer we are proposing from Woodin Road to that point into the southerly portion of Manchester.

**Mr. Higgins commented:** I am sorry but you need to use the microphone please.

**Mrs. Shadlock commented:** I am sorry, from Woodin Road directly into the southerly branch of Manchester Drive it is the shortest and most direct route past the fewest number of homes and we propose that Mr. Dell and Mr. Bianchino will walk that road, they will take photographs of existing conditions and will note different points along the road where the photographs are being taken. They can take some video but we will do a very good job of monitoring existing conditions and we would propose to do that not less than 30 days before any construction of any kind is done on the property.

**Chairman Ouimet commented:** Does that include clearing and site work?

**Mrs. Shadlock commented:** If the Planning Board would like that it would be fine.

**Chairman Ouimet commented:** If you're going to do site work without equipment then it's ok.

**Mrs. Shadlock commented:** Right.

**Chairman Ouimet commented:** If you're going to use equipment then obviously I would think that whatever arrangement is agreed to that it be put in place before you do any heavy equipment moving down any of those roads.

**Mrs. Shadlock commented:** That is perfectly fine and appropriate.

**Chairman Ouimet commented:** Lyn is that what you understood too?

**Mrs. Murphy commented:** That is my understanding.

**Chairman Ouimet commented:** Are there any other questions from the Board?

**Mr. Higgins commented:** Jason a little piece off to the left there is that part of the property owned by Belmonte?

**Mr. Dell commented:** Going through the lands of Mclagan?

**Mrs. Shadlock commented:** Yes, the land is owned by Belmonte right now but it is subject to a reversionary entrance to Mr. Mclagan. He had certain circumstances and had agreed long ago that he would convey that road strip to give us our northerly access but he had certain circumstances in his life which made it advantageous to him to convey the property subject to a reversion and he can buy it back from Mr. Belmonte.

**Chairman Ouimet commented:** What is the reversion condition?

**Mrs. Shadlock commented:** He simply pays a sum of money and he can buy it back at a predetermined value.

**Chairman Ouimet commented:** Oh he can repurchase it?

**Mrs. Shadlock commented:** Oh yes, yes.

**Chairman Ouimet commented:** So it's not an event driven thing.

**Mrs. Shadlock commented:** No.

**Chairman Ouimet commented:** Other than the fact that he has to come up with the money.

**Mrs. Shadlock commented:** Yes, exactly. Mr. Mclagan has shared with me he likes land he has had it for many, many years and he wishes to build on it and put a residence there is his plan. He had circumstances and it was a win, win for us.

**Chairman Ouimet commented:** So would your access road then become an easement road?

**Mrs. Shadlock commented:** No it's a fee interest. What we did is these are separate parcels here which are subject to reversionary interest, this is not. It was defined Mr. VanGuilder did the survey work for us and we have a fee interest in the entirety of the road and the only part that is subject to reversion are the two little lots that Mr. Mclagan would like to retain and build on at some point.

**Chairman Ouimet commented:** So there will be two-lots on either side of the road?

**Mrs. Shadlock commented:** One.

**Chairman Ouimet commented:** One lot by a road that bisects it.

**Mrs. Shadlock commented:** Correct.

**Chairman Ouimet commented:** Those are intended to be become Town Roads correct?

**Mrs. Shadlock commented:** Correct.

**Mr. Higgins commented:** So they would have to come back for subdivision at some point? The only reason why I am asking I was concerned about the storm water along that section of the road and I talked to Mike about that earlier so being that it's owned by Mr. Belmonte and is part of this project the storm water that comes along that section of road is going to go where?

**Mr. Dell commented:** There are two catch basins situated at the intersection that will bring water in this direction and discharge it into the stream, correct. Then I had talked with John Pingelski out there.

We had gone and walked that section of the road and he had identified to me the problem spot. The water sheets down to a low area along Manchester Drive and it sits there.

**Mr. Higgins commented:** We talked about this 2 years ago and we are trying to make sure because the neighbor's complained because they were concerned about getting deluged with water and I just want to go on record that the water concern is being addressed and it is being taken care of.

**Mr. Dell commented:** Those catch basins are shown on the plan as well as on the profiles showing exactly the size, location, and extent of piping required to come back into. That will be constructed as part of the road construction.

**Mr. Higgins commented:** The intent of all of that is to keep any water from going out onto Manchester Drive and flooding any of the neighbors. I just want this in the minutes so it doesn't happen.

**Mr. Dell commented:** It is also to improve the drainage on Manchester Drive.

**Chairman Ouimet commented:** You've got an opportunity to work with Jason since our meeting on several of the Engineering issues.

**Mr. Bianchino commented:** Yes we have.

**Chairman Ouimet commented:** Has the issue that John raised here about storm water in the direction and diversion and containment and appropriate outflow been addressed?

**Mr. Bianchino commented:** Yes, in addition to that I think John Pingelski, Highway Superintendent had also requested because he has an on-going icing problem in that one section of Manchester Drive that we would try to add those catch basins out on Manchester and pick up that drainage and that was accommodated as part of the plans before preliminary approval. Not only are we taken care of the drainage in that area and not adding to Manchester Drive we are actually addressing some of the pre-existing conditions on Manchester Drive.

**Chairman Ouimet commented:** So it's addressed?

**Mr. Bianchino commented:** Yes.

**Chairman Ouimet commented:** Thank you.

**Mr. Higgins commented:** Thank you.

**Chairman Ouimet commented:** Are there any other questions? Can I have a motion?

*Vice Chairman Roberts made a motion to Declare Negative Declaration pursuant to SEQRA, seconded by Mr. Berkowitz. Motion carried.*

**Mrs. Murphy commented:** Just for clarification the condition if this is acceptable to the Board would that Manchester Drive be used for construction traffic and prior to any heavy equipment being

utilized on the road for purposes of this project the conditions of the road would be documented to the satisfaction of our Engineers together with the applicants Engineer and the Highway Superintendent and the applicant's Attorney and myself would have a formal agreement in writing signed by the applicant and the Town detailing how they were going to secure funds so that the Town can be assured that there are funds available to fix the road should something happen and the applicant refuses to do so.

*Vice Chairman Roberts made a motion to approve using Lyn's comments as a contingency, seconded by Mr. Berkowitz. Motion carried.*

**Chairman Ouimet commented:** Thank you very much and please pass on our thanks to Mr. Belmonte for doing the off site improvements a year or so ago.

**Mrs. Shadlock commented:** We have Mr. Belmonte's daughter, Lindsay here with us tonight so she will be here before you at some point.

**Chairman Ouimet commented:** Please thank your father for us.

*Mr. Higgins made a motion to adjourn the meeting, seconded by Mr. Nadeau. Motion carried.*

Respectively submitted by Denise Mikol, Secretary  
Town of Halfmoon Planning Board