

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday August 6, 2018
7:00 PM

Chairman Curto called the meeting to order at 7:00 PM on August 6, 2018 at the Halfmoon Town Hall with the following members present:

Members- Chairman Curto, and Mr. Koval, Mr. Griggs, Mrs. Paluocci
Alternate Member - Mr. Micelli (absent)
Planner - Mr. Marlow
Town Attorney – Cathy Drobny

Motion made by Mr. Micelli and seconded Mr. Griggs by that the minutes with changes of July 2, 2018 be approved as presented. Motion was carried

Public Hearing(s):

Klapija Duplex, 281 Grooms Road- Area Variance

Mr. Jason Dell of Lansing Engineering presented the application. The applicant is before the Board seeking approval for an area variance as it relates to the proposed construction of a duplex at 281 Grooms Road. The lot currently contains a single-family home that has been condemned by the Building department and is no longer habitable. The applicant proposes to remove the structure in order to construct a new duplex. Town Code requires that the applicant have 40,000 SF and the lot as it sits only has 20,473 SF. Due to the size of the existing lot, the applicant is unable to meet the minimum lot requirements and was denied by the Coordinator of Building and Planning.

Mr. Koval asked how many bedrooms each unit would be; Mr. Dell noted it would be 3-4 rooms per unit.

Mr. Dell noted that there were several duplexes in that immediate area.

Chairman Curto asked if the applicant had considered a single-family home; Mr. Dell noted that due to the fact that the applicant has children and is planning for their future, he would like to have a duplex to give them a place to live when they get older.

Mr. James Remmington, 15 Woodridge Circle expressed concerns that he had with the size of the proposed lot, stating he believes that the applicant should have to have the minimum area required per the Town Code. He further asked when the code changed to 40,000 SF and what the smallest duplex lot in Town was.

Mr. Marlow noted that at that moment he did not have the information on the smallest lot in Town which maintains a duplex. He further noted that while he did not have the date of the specific amendment to the Town Code to change it to 40,000 SF, in the past the requirements for square footage for a duplex varied depending on what particular utilities were available on site.

Mr. Remmington does not feel a duplex is an appropriate use of the location.

Mr. Marlow clarified that should the ZBA grant the variances the applicant will still need to go back to the Planning Board for approval of the duplex.

Mr. Koval asked how big the building would be; Mr. Dell that the building would be approximately 3,400 SF., very similar to the setup of various townhouse throughout the area.

Mr. Marlow informed the Board that he would provide the concerns of the ZBA back to the Planning Board and clarified that the ZBA does not have the ability to act on the use of a site rather the numerical variances requested. He further clarified that should the ZBA approve the application they will need to return back to the Planning Board to finish the Special Use Permit.

Mr. Remmington asked the Deputy Town Attorney for an interpretation of the proceedings and if she felt the language was correct. Stating that should the ZBA approve the variance it could be weighted on the Planning Boards decision. Ms. Drobny clarified that the ZBA does not have jurisdiction of the duplex approval, that the Planning Board is responsible for taking action on the duplex.

Mr. Koval asked if they approve it can the Planning Board still deny it. Ms. Drobny stated that the Planning Board can still deny it even if the ZBA approves it.

Ms. Daphne Jordan asked if the ZBA could approve the construction of a structure and not necessarily a duplex. Ms. Drobny stated that they can make a recommendation that a structure be built but not necessarily a duplex.

Chairman Curto closed the Public Hearing closed at 7:35 PM

A site visit occurred July 21, 2018 at 9am.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Koval commented: No, there are 7-9 ;
- 2) Mr. Koval commented: No matter what they do they'll need a variance;
- 3) Chairman Curto commented: Yes, the variance is 20,000 SF;
- 4) Mr. Koval commented The use is to dense for the site;
- 5) Chairman Curto commented: Yes, it's currently a single-family and to ask for a duplex is self-created.

Chairman Curto made a motion to deny the Area Variance, seconded by Mr. Koval Motion was carried.

Fulmer Shed, 47 Linden Park Drive- Area Variance

Mrs. Andrea Fulmer presented the application. The applicant is before the Board seeking an area variance as it related to a proposed shed at 47 Linden Park Drive. The current lot has a single-family home and they wish to construct a new shed, but due to topography constraints they are requesting to locate the shed within 10-feet of the primary structure, which they have permission from their HOA to do so. The Town Code requires that an accessory structure be no closer than 10-feet from a primary structure and the applicant proposes it to be approximately 2-feet. Due to the proposed location the application was denied by the Building Department and the applicant is before the Board seeking a variance for the location of the shed in relation to the home.

Mr. Koval asked if they considered doing it as an addition; Ms. Fulmer said they did not wish to do that.

Mr. Koval noted that he was concerned with the location and the potential fire safety issues, further stating there is other places on the lot they can locate the shed.

Ms. Fulmer asked if the Board would be more comfortable if they sheet rocked the walls; Mr. Marlow stated that she would need to work with the Building Department to determine if that was sufficient fire protection.

Chairman Curto asked if they could possibly move the shed; Ms. Fulmer said they would prefer not to because it would limit the use of the rest of the yard.

Mr. Griggs asked if anyone will review the shed plans; Mr. Marlow stated that the Building Department would have to review the building permit

Mr. Griggs asked if they can condition an approval on an engineer's signoff; Ms. Drobny stated that they could condition the approval.

Mr. Koval brought up concerns with conditioning an approval, stating that he was not sure what specific codes the approval should be conditioned on. Furthermore he wanted to ensure that any code the application may be conditioned on sufficiently addressed their concerns.

Mr. Richard Fulmer asked if the Board would feel more comfortable if the shed was built to the same standards as an accessory structure that is attached to the home. Mr. Marlow stated that he would build the shed as if it was a garage attached to the home and would have to meet the same fire code as an attached garage.

Mr. Koval asked if they made that a condition of the approval, would they be bound to constructing it that way and would the Building Department be able to enforce that. Ms. Drobny said she was not sure because now they are discussing building more of an addition than a shed.

Chairman Curto stated that under those pretenses she would prefer the application be withdrawn and a new permit be submitted to the Building Department with the new fire design. Mr. Koval noted that is wouldn't matter the material of construction, the application before the Board is regarding the distance from the home.

Mr. Marlow suggested that the Board should make it conditioned on it being satisfactory to the Building Department, and that he would discuss with the Building Inspector the specific concerns the Board had. If you condition it on meeting fire code it is too broad.

Mr. Koval noted that he still has concerns as there are other ways to do this without obtaining a variance.

A site visit will occur on July 21, 2018 at 9:30am

Chairman Curto closed the Public Hearing closed at 7:54 PM

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Koval commented: No, it's a good spot and hidden from site;
- 2) Mr. Griggs commented: Yes, there is another location on site for the shed;

- 3) Mr. Griggs commented: If the structure was properly designed it would be fine;
- 4) Mr. Koval commented Physically no, but environmentally yes if it's not properly constructed;
- 5) Ms. Paloucci commented: Yes, there are other locations on site for it.

Mr. Koval made a motion to deny the Area Variance, seconded by Ms. Paloucci, Mr. Griggs Opposed. Motion was carried 3-1.

New Business:

Giffy's Bar-B-Q, 130 Meyer Road- Expansion of a Pre-Existing/Non-Conforming Use

Mr. Bryah Gifford presented the application. The applicant is before the Board seeking approval to expand on the pre-existing/non-conforming use at 130 Meyer Road. Giffy's Bar B-Q currently occupies the barn next to Power's Pub for the purpose of a catering prep station, which was approved by the Board earlier this year (following approval by the ZBA for an expansion of the pre-existing/non-conforming use). They now wish to complete the expansion plans previously discussed with the Board. They are now proposing a 1,218 SF addition onto the south side of the renovated barn. The applicant states the expansion is similar to the original addition to the barn. Additionally, they are proposing a 348 SF addition to the north side of the barn and a deck on the west side. They propose the additions to allow the barn to be utilized as a banquet facility for various events. Due to the pre-existing nature of the site the applicant was denied by the Planning Board in order to appear before the ZBA for an Expansion of Pre-Existing/Non-Conforming Use.

Mr. Koval noted that there appeared to be a step in the right-of-way; Mr. Marlow clarified that no construction should occur in the right away and that will need to be addressed at the Planning Board review.

Mr. Koval asked what the capacity would be; Mr. Gifford says he wouldn't know until he built it and it was inspected by the Building Department.

Chairman Curto asked what the current size of the building was; Mr. Gifford stated it is 1,400 SF but the new addition on the south side would be the same square footage of what was previously on the barn.

Chairman Curto asked for clarification on the application type; Mr. Marlow stated that they are physically expanding on the pre-existing nature of the site.

Mr. Koval clarified that they are only looking at the request to allow the site to expand their uses on site.

Mr. Marlow noted that the barn had originally been much larger but was partially torn down due to the fact it became unsafe; and at this point they are seeking approval to construct the new barn in a similar footprint as the old barn.

A site visit will occur on August 25, 2018 at 9am

A Public Hearing will be held September 4, 2018

Mr. Koval made a motion to set a Public Hearing for September 4, 2018, seconded by Chairman Curto. Motion was carried.

Bubb Single-Family Home, 18 Cary Road- Area Variance

Mr. Arthur Bubb presented the application. The applicant is before the Board seeking approval for several area variances related to the construction of a new single-family home at 18 Cary Road. The currently lot contains an accessory structure nearer to the road and they wish to construct a single-family home further back off the road. Per the Town Code you are required to measure the front yard setback (50-feet) from the point at which the lot opens to the required frontage. Due to the utilities available on site, the applicant is required to have 150-feet of road frontage, which occurs at approximately 350-foot depth on the lot. The applicant has proposed to construct their home within the 50-foot setback due to the amount of large trees in the rear of the lot. Due to the proposed configuration of the single-family home, and the existing accessory structure the applicant was denied the building permit is before the Board for several area variances.

Mr. Griggs asked if the map before them was the original layout of the lots; Mr. Bubbs clarified that was indeed how the original lots were laid out.

Ms. Paloucci asked how long the accessory garage has been there; Mr. Bubb stated it was constructed when the house at 22 Cary Road was constructed in the early 80's.

A site visit will occur on August 25, 2018 at 9:30am

A Public Hearing will be held September 4, 2018

Chairman Curto made a motion to set a Public Hearing for September 4, 2018, seconded by Ms. Paloucci Motion was carried.

Faye Involotska Wholesale Bakery & Residence, 10 Route 236 – Area Variance

Ms. Faye Involotska presented the application. The applicant is before the Board seeking several area variances as it relates to the proposed bakery and residential unit at 10 Route 236. The applicant has appeared before the Planning Board on several occasions to utilize the existing single-family home as a bakery with a residence incidental. In addition to the proposed bakery component, the applicant is also proposing to construct a 838 SF addition on the house to make the total square footage of the building being 2,349 SF (1,154 SF residence, 1,195 SF bakery).The site as it sits is a pre-existing/non-conforming site and due to the proposed addition on the existing building the applicant was denied by the Planning Board and is before the ZBA seeking several area variances.

A site visit will occur on August 25, 2018 at 10am

A Public Hearing will be held September 4, 2018

Chairman Curto made a motion to set a Public Hearing for September 4, 2018, seconded by Ms. Paloucci Motion was carried.

Mr. Koval made a motion to set a Public Hearing for September 4, 2018, seconded by Mr. Koval. Motion was carried.

Mr. Koval made a motion to adjourn the meeting, seconded by Ms. Paloucci. Motion was carried.

These are summary minutes and are not word for word at the request of the Zoning Board of Appeals.
A copy of the recorded tape is available by F.O.I.L. through the Town Clerk.

Meeting adjourned at 8:34 PM.

Town of Halfmoon Zoning Board of Appeals