

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
November 4, 2013

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:04 p.m. on Monday, November 4, 2013 at the Halfmoon Town Hall with the following members present:

Members: Vice-Chairman Tedrow, Mr. Hansen, Mrs. Jordan, Mr. Brennan
Alternates: Mr. Burdyl – absent
Town Attorney: Mr. Chauvin
Storm Water Management Officer: Mrs. Zepko
Town Liaison: Mr. Polak
Secretary: Mrs. Mikol

A motion was made by Mrs. Jordan and seconded by Vice-Chairman Tedrow to approve the minutes from the September 3, 2013 meeting. Motion was carried.

Chairman Rose commented: Welcome everyone to tonight's meeting. We have one item of old business tonight and two items for new business. We will do the new business items first.

John Ceremuga, 202 Brookwood Road 285.-4-26

Mr. Ceremuga was present with a request for an area variance to build an accessory garage on his property. The Local Law of the Town of Halfmoon requires that all accessory structures be located no closer than 5' to the side and rear property line and no closer than 10' to the primary structure. Accessory structures must be placed in the side or rear yard. The applicant received a denial for a building permit.

Mr. Ceremuga commented that he has lived at this property for 40 years. The property has been in the family since 1900. My wish is to put up a garage. I was told that the garage has to be 5' away from the property line, which it is, according to the drawings. The Town of Halfmoon property is the adjoining land where the water tower is located on Brookwood Road. The garage kit being proposed is 24' x 24' and is approximately 13' high. The garage will be located about 12.5' off the front property line, my house is only 14.5' from the front property line. Technically this would be located in my backyard and not in my front yard due to the atypical placement of the house on the lot.

Chairman Rose asked if anyone from the Board had any questions.

Mrs. Jordan asked, did he just say that technically this would be located in his backyard and not in his front yard.

Mr. Ceremuga commented, yes that is what I was told at the Building Department. I am right on the corner of Brookwood Road by the Water Tower. I was told that if I were to draw a diagonal line parallel with the road to the corner of the house that puts it in back of my property. Mr. Ceremuga went up to the Board and showed them on his survey map.

Mrs. Jordan commented that she is not familiar with planning issue. How is this figured out?

Mrs. Zepko asked if a Code Enforcement Officer spoke with you.

Mr. Ceremuga replied, yes.

Mrs. Zepko commented that could be their determination depending on how the Board wanted to look at that.

Mrs. Jordan commented then he wouldn't be here. That is why I don't understand why you are here.

Mr. Polak spoke but was not heard on the microphone.

Chairman Rose commented that what he is considering to be his backyard is bordering Town of Halfmoon lands.

Mr. Ceremuga commented, this is not proposed to be any closer than 5' to the property line.

Mrs. Jordan commented the only issue is the determination of your front yard or your backyard and that is why I am asking the question as to how it is determined. If it is indeed your backyard you don't need to be here.

Mrs. Zepko stated that the proposed garage is not shown to be forward of the existing house while it does not meet the required front yard setback, it is not creating a greater non conformity.

Mr. Ceremuga commented that he is trying to follow the procedure.

Chairman Rose commented, if a variance is not required, I think we should table this item for this Board until it goes back to the Code Enforcement Officer to clarify if the request for a variance is needed or not.

Mr. Chauvin commented, I would suggest that you follow that course of action and the only fly in the ointment here and Mrs. Zepko when you talk to them, if you don't mind having that conversation that would be great, please check to make sure that he wasn't looking at it as a dual front yard setback because it is a corner lot. That could be the trigger. Let's make sure that wasn't what brought us here in the first place.

Mrs. Zepko agreed.

Chairman Rose commented that if it should be deemed or required to come back to this Board for a public hearing I would like to set it now.

Motion was made by Vice-Chairman Tedrow and seconded by Mr. Hansen for a public hearing for Monday, December 2, 2013 at 7:00 p.m. Motion was carried.

The site visit will be November 30, 2013 at 9:30 am. Should the Building Department decide that a variance is not needed the site visit and public hearing will be canceled.

Mr. Chauvin commented, in looking at the map with Mr. Polak the issue appears to be a little bit different than what was presented by the applicant. I think it's a difference in the language. Yes, depending upon how the line is drawn, it is an odd shaped lot. The garage will not sit in front of the house but there is a 50' requirement for the garage as a setback from the road and we only have 26.55' from the road to the garage. I think that is what and again I was not there for the conversation, but I believe that is what we are really looking at here for the variance.

Mr. Chauvin stated: Mr. Chairman having had the opportunity to discuss this with Mrs. Zepko that is the issue that was raised the lack of the 50' setback from the road; however, it has been custom practice that we are not creating any greater non-conformity. We are not encroaching into the setback any further. We are actually setting this building back further from the roadway than the home is already situated. Given there is no enlargement of the non-conformity I would concur with Mrs. Zepko's recollection that given there is no enlargement of the non-conformity there really is no reason for the applicant to continue to pursue the variance and the building permit should be issued if that was the issue that Dave was really reading into. Why don't we set the public hearing contingent on the review of the Code Enforcement Officer that way it can always be cancelled?

Motion was made by Vice-Chairman Tedrow contingent on the determination of the Code Enforcement Officer and seconded by Mr. Hansen for a public hearing for Monday, December 2, 2013 at 7:00 p.m. Motion was carried.

Chairman Rose commented that the site visit shall precede the meeting on the 30th of November and if required the public hearing will be set for December 2, 2013.

Luis Montes and Rosa Laura Junco, 21 Oregon Trail 279.13-2-17

Chairman Rose commented that Luis Montes and Rosa Laura Junco of 21 Oregon Trail are requesting an area variance for a garage addition to their home. Under Article VII, Section 165-31 Part 165A Schedule A states that the side yard setback for an accessory structure attached to the primary structure must be a minimum of 10' and a total of 25'. The applicant was denied a building permit from the Code Enforcement Officer.

Mr. John Markowski of Dream Builders & Remodeling is representing the applicant. Mr. Markowski commented that the home at 21 Oregon Trail will be taking the existing garage and turning it into living space and then adding a garage onto the side of the home. Various options were explored to try to determine what the best option would be in this case. As proposed, per our submission for a building permit and for the Architect involved, putting the garage attached to the side of the house and making a front load garage would be consistent with the neighborhood. Keeping the character of the home intact giving the living space that the homeowners are after will be the goal. We looked at putting the addition in the back as well as the front of the property and it created various issues. This was the best scenario. This additional garage will sit where the existing driveway is. We looked at impacts and really there is no further impacts or water runoff because it is impervious asphalt right now. There is a property alongside the driveway that I believe is Town owned that can never be built upon. This is the reason we are here tonight.

Chairman Rose asked what the variance request was exactly. How many feet?

Mr. Markowski commented it was for an area variance for the side yard setback. When building the new garage it would be only 4' to the property line instead of 10'.

Mr. Brennan asked what was the size of the current side load garage.

Mr. Markowski commented 24' x 24' is what I believe it is. That will all become livable space.

Chairman Rose commented that if I understand you correctly you are trying to achieve a 6' variance request.

Vice-Chairman Tedrow commented that he is showing a total of 15' he needs a total of 25' so that would be a 10' variance on the one side. Was this a conventional subdivision or was it a PDD?

Mr. Markowski commented that he believes it was a conventional subdivision.

Mrs. Mikol agreed it is a conventional subdivision.

Mr. Markowski commented that he would be making the garage living space and therefore minimizing the footprint impact on the home that we are modifying. It certainly makes good sense and is a side yard setback issue.

Chairman Rose asked if the Board had any further questions. At this point we need a motion to set a public hearing.

Motion was made by Vice-Chairman Tedrow and seconded by Mrs. Jordan for a public hearing on Monday, December 2, 2013 at 7:00 p.m. Motion was carried.

The site visit will be on Saturday, November 30, 2013 at 9:00 am.

Chairman Rose commented that this concludes new business. Now we are going into old business.

Brendan Murphy, Lots A and B Werner Road- 272.8-2-3 and 272.8-2-2

Here is a summary thus far:

This is an area variance request. The applicant has owned two lots on Werner Road since 1971 and both lots have 15,000 sq. ft. of area. The Local Law relating to Zoning for the Town of Halfmoon requires that each lot with water and septic is required to have 20,000 sq. ft. of area. The applicant was denied a building permit from the Building Department and for the record these will be treated as two separate applications. They were referred to Clough, Harbour for their review and comment on the Engineer's Report regarding drainage concerns raised by adjoining residents. Subsequently, there is an Engineers Report made by Paul Male. We have had several site reviews. On May 18th which Mike Bianchino of CHA was present for and John Pingelski, Highway Superintendent as well as the builder, applicant, and Members of the Board? We left the last meeting open, so this is still open to the public.

We started this application in August 2012 and opened the public hearing September 4, 2012. Mike Bianchino, Clough, Harbour & Associates reviewed the Engineer's Report last revised February 23, 2013 by Mr. Paul Male, P.E. from Saratoga Springs. There was an internal e-mail exchange and that will also be part of the record. The Town Engineer concurred with the findings of the applicant's engineer about the on going drainage issues in that area. The Board Members have had a chance to review the report.

On October 15, 2013 the Zoning Board received a packet with respect to Army Corp. of Engineer with amendments from Paul Male; P.E. dated October 30, 2012, and last revised on September 2, 2013, from Mr. Anthony Vaccarielli. Mr. Vaccarielli was asked to send the entire report to Mr. Bianchino, Clough, Harbour & Associates for his review. A copy of what was submitted was also sent to all the Zoning Board Member, Town Attorney, and Storm Water Management Officer. Our Town Engineer, Mr. Bianchino commented back to Mr. Paul Male, P.E.

The Zoning Board asked as part of their review to see a wetland survey of the property. As such, a survey map of the property showing any and all wetlands was provided to the Board as part of that request. A drainage plan was also requested to clearly outline the current drainage pattern as well as the possible impacts and post construction plan of the proposed homes.

Chairman Rose commented that with respect to lot A and B on Werner Road the Local Law of the Town of Halfmoon requires a minimum of 20,000 sq. ft. and the applicant, Mr. Murphy has 15,000 sq. ft. of area. The building permit was denied by the Building Inspector. The ruling from the Army Corp of Engineers is now part of the record as a jurisdictional determination of wetlands on both lots. We will continue with the hearing tonight for that application.

Mr. Vaccarielli was present. However his Engineer Mr. Male was not able to be present. The Board is in receipt of the ACOE approval along with the DEC approval and the NYS Parks and Recreation approvals.

Chairman Rose commented, yes we have it here in the file, thank you.

Mr. Vaccarielli commented that they have met the conditions requested by the Board. Mr. Male received an e-mail from the Town's Engineer about the proposed homes having full basements regarding the water table. Most likely the homes would be slab type homes and we were hoping to move ahead tonight and get a vote. If you have any questions, I will try to answer it.

Chairman Rose commented that the Town Engineer had two questions. I am asking Mrs. Zepko to address those questions.

Mrs. Zepko commented that she had a conversation with Mr. Bianchino, Town Engineer, and also with Mr. Vaccarielli the applicants Engineer, Mr. Male, today regarding this application. Our Engineer had a question with regard to a basement but, your saying they will be on slab. I am guessing that if that is what you are stating considering the water table and the lack of further studies done regarding the basement that the Board would want to make any approval conditioned on that being done as a slab and not full basements. The one thing I spoke to Mr. Bianchino about regarding this application was that we still would want to see, prior to any Building Permit if this was approved as a buildable lot, would be an analysis of the swale that is to be installed in the back. The applicant is being asked to show what the quantity of water that will be directed to that swale from the impervious surface on each lot.

Mr. Vaccarielli commented that Mr. Male mentioned that to me and he suggested and thought it could be made a condition of the Building Permit. The calculations were already completed on the whole site and it was very minimal and the conversation today was that he was unable to do those additional calculations tonight but he would certainly provide it to the Town. He doesn't foresee any additional impacts to the site.

Chairman Rose asked if there were any members of the Board that had any questions for Mr. Vaccarielli, no one responded.

Chairman Rose commented that he had a question with respect to a conversation he had with the Town Highway Superintendent. The Town Highway Superintendent does not want the responsibility of cleaning out the new catch basin. We are wondering, how you plan to maintain that after the properties are developed?

Mr. Vaccarelli commented that the structure (catch basin) would be located on the property on the right. We would have deed restrictions requiring the basin to be maintained by the owner. There is minimal involved as the water comes in and drops to another elevation.

Chairman Rose commented that he thought there was concern from our site visit that the water is backing up onto the road and across the road because the water is originally from across the street. One of our concerns is how that is going to be maintained going forward. We don't want it going across the road. It's a hazard.

Mr. Vaccarelli commented that it's more of a question for the Engineer. What's going to happen is there is going to be an improvement over there with flow versus the damming that is going on now. There will be an improvement versus obstructions that are currently over there.

Mrs. Jordan commented that in the future there could be obstruction again to this new catch basin. So what the Chairman is asking is how is it going to be maintained so that it doesn't dam up or have any obstructions in the future?

Mr. Vaccarelli commented that the only feasible thing would be a deed restriction to alert the homeowner to maintain the swale and the catch basin that we would place there.

Chairman Rose commented that was one of the comments made at the site visit.

Mr. Chauvin commented that there was a previous suggestion that it would be dedicated to the Town. The Town Highway Department and Superintendent has indicated that he does not want that. If the applicant were to indicate that they wanted to pursue a deed restriction or covenant with regard to an affirmative obligation to the homeowner the question comes to the enforcement of that covenant and enforcement of that restriction. Who would be taking care of that in the event that the homeowner does not, in fact, live up to the obligation? Is there going to be a Homeowners Association or some other entity that would be responsible for that?

Mr. Vaccarielli asked that a Homeowner's Association for one lot? When is the last time you saw that? I am not an attorney but the scenario that I have seen in other municipalities would be a deed covenant that would be recorded in the County Clerk's Office. We have done it in Albany and Saratoga County.

Mr. Chauvin asked: what is the enforcement mechanism that you're setting up within your restrictions? What is the consequence if they fail to maintain it?

Mr. Vaccarielli commented that the municipality gave us the verbiage and the enforcement is on the homeowner.

Chairman Rose commented, what protection does a deed restriction give to the Town? That is the essence of my concern and the Town Engineer's concern is that the water is going to back-up onto the road because while we realize that the intent is to improve flow the potential down the road for that to back up because the amount of water is that area is a significant amount of water. We are trying to mitigate that now. I haven't heard how you are going to mitigate it.

Mr. Chauvin commented that Ms. Zepko was suggesting that the possibility of a maintenance agreement certainly could be explored and certainly if you want to propose language related to a deed description or conveyance restriction, we would be willing to take a look at it if the applicant wants to move forward. That is not something that we are going to promulgate our selves under these circumstances.

Chairman Rose asked if any members of the Board had any concerns.

Mr. Hansen commented that he was hoping that we would see something from the Town Engineer indicating whether or not he agrees with the applicant's Engineer as to whether or not the proposed drainage system is going to work properly. I believe we discussed that a couple of meetings ago. We should have professional input from the Town.

Mr. Vaccarielli commented that in the e-mail from the Town Engineer he stated that there was no significant adverse effect to developing these lots and thought that I forwarded that.

Chairman Rose asked if the information in that letter was provided to the Zoning Board or to the Town's Engineer. Did you provide it to Mr. Bianchino regarding the elevations?

Mr. Vaccarielli commented that his Engineer, Mr. Male completed the Engineer's Report.

Mr. Chauvin stated: Mr. Vaccarielli, I will draw your attention to Article XVIII Section 165-92 B of the Zoning Ordinance with regard to Maintenance easements. "Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Halfmoon to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Counsel for the Town of Halfmoon."

If you want to propose something, certainly we can review it. It is not something that is typically done in situations like this where it would be an individual homeowner who would be engaging in that agreement with the Town and ultimately run with the land, it would usually be the developer and ultimately be a commercial enterprise, or in the nature of a commercial enterprise, that would be engaging in those. If you want to craft something and suggest that, I am certain that we could take a look at it. It is not something that we typically do and it would be something that we would have to be pretty restrictive on and impose some heavy bonding or a letter-of-credit type of obligation in order to make sure that there are sufficient funds to pay for any damage or any maintenance required with regard to this so that it's not creating an open safety welfare hazard for the roadway, the adjoining property owners, etc.

Chairman Rose stated: I have a question for Ms. Zepko. We have the e-mail here which we looked at. Mr. Male was providing information back and forth to review the elevations. I think that is still Mr. Bianchino's issue? Since they are trading e-mails back and forth regarding the elevations it would probably be consistent for him to contact Mr. Male to make sure he gets exactly what he needs. I am not sure if that means that we have to wait to move on this until Mr. Bianchino gets back or do we make it conditional?

Ms. Zepko replied, I think that Mr. Bianchino would want to review the requested stormwater calculations prior to any approvals.

Mr. Chauvin commented that the Board is concerned about the maintenance and future upkeep of that catch basin and the ancillary drainage structure and you want to try to explore that deed restriction and maintenance agreement option for purposes of insuring maintenance to give you some comfort going forward. For the potential of an approval we would want to see that language and make sure we were comfortable with that prior to approval or the Board could make any approval contingent upon that language being provided. It is still the Board's pleasure whether you want to do that or not but certainly if there are any questions that you are not comfortable with relating to the Engineering you have the option to wait for additional correspondence between the two Engineers. If you feel that you have enough information this evening to make any decision or to make any decision contingent upon certain satisfactions of additional Engineering and/or signoffs by an Attorney related to the deed restriction, the Board has that option as well.

Chairman Rose asked the Board if they had any comments to that.

Mrs. Jordan commented, if we table this and we come back next meeting with language for a deed restriction that doesn't mean that the Town is going to accept that? Who has to accept that language?

Mr. Chauvin stated: after review by the Town Attorney of the deed restriction or maintenance agreement, the Board could decide if it was satisfied. So I would review the language to make it hit all of the legal corners that you wanted it to hit.

Mrs. Jordan commented suppose we approve it and we don't think the legal language is sufficient.

Mr. Chauvin commented that it would be contingent upon the language being sufficient for our purposes. Until the Town is satisfied with the way the legal easement is written then the approval would not be effective.

Chairman Rose asked if there were any other comments from the Board.

Vice Chairman Tedrow commented that if I understand the e-mail that Mr. Bianchino was looking for an additional Engineering sketch or plans with the elevations that you mentioned and directions of flows and so on. Have we seen that yet?

Ms. Zepko replied no.

Mr. Vaccarielli commented that the original study and engineering report was dated January 13, 2013.

Vice Chairman Tedrow asked if those calculations were in it.

Mr. Vaccarielli replied there was a new update in September 2013. The last calculation we were looking for was the impervious calculation and that was it, I believe.

Ms. Zepko commented, I believe that Mr. Bianchino wanted calculations for the direction and how much run off water and quantity of water will go in either direction. How much will be directed to the back swale and how much will be directed to the new structure in the front.

Mr. Vaccarielli commented, there is an additional calculation but this letter has been answered with the updated Engineers Report. The two questions from Mr. Bianchino were about the basements and the new calculations.

Chairman Rose commented that in summary, the Engineer is still waiting for certain pieces of information including the basement report and to confirm whether the elevations are agreed to.

Ms. Zepko commented that the direction of flow and the quantity of water and the impact to the neighbors. We still need the calculations on that as well.

Chairman Rose commented that my personal concern is that the neighbors not be impacted. We are trying to make sure we protect the neighbor's I know that is your interest as well. We just need to ensure that. I am not speaking for the Board, I think if we put a general contingency out there and upon Mr. Bianchino's approval and the approval from the Town Attorney of any language concerning the maintenance agreement, we could request an approval and then when the contingencies are met it becomes enforceable or in effect. Does anyone have any comments on that? Would that be a general course of action that we would want to take? I guess we could make a motion on that?

Mr. Brennan commented, I would agree with that especially with the maintenance part. While I think that is a substantial item that is outstanding it seems that the Board's requirements are to make sure that maintenance happens. What we decide becomes the Town's responsibility.

Chairman Rose commented, I don't think we want the Town to be responsible for cleaning out that catch basin or fixing the road. It's not an issue that the Town created. We have to ensure that the Town is protected here. That is above most important especially water laying on the road and cars coming down there. It is not an easy place for people to see water sitting on the road. Are there any other comments?

Mrs. Jordan commented I am not so sure I would want to vote on something without seeing everything before me. We don't have all the information yet. I know you want to make contingencies but I am not sure that is the way to go.

Vice-Chairman Tedrow commented that we are taking about two contingencies: one an Engineers final sign-off and also the legal sign-off on the maintenance.

Mrs. Jordan added and agreement by the applicant that the houses are built on slabs without basements.

Vice-Chairman Tedrow commented, I agree with Mrs. Jordan we shouldn't have so many contingencies in the air before we act on this.

Mr. Hansen commented that he agrees, I thought we would have it all by now, particularly the Engineering review.

Chairman Rose commented that either way is fine but I will side with what the Board wants to do. We are going to wait, it is appropriate.

Mr. Vaccarielli commented that the conversation he had with Mr. Male today about the Engineering he saw this potentially coming. The original calculations were very minimal and the additional calculations he thought were also very minimal and could be a simple condition. Last time I requested a condition based on the ACOE. Obviously that was a big condition. We've met that hurdle along with the DEC hurdle and all the other hurdles. The legal easement aspect is going to be a situation is going to go back and forth and will incur expense and the Engineering is 98% complete on this property. It would be a relief to move ahead and get this project approved based on the conditions and the legal easement.

Chairman Rose commented, as Vice-Chairman Tedrow stated there are too many conditions up in the air and we want to make sure everything is addressed and reviewed before any approvals are made. Mr. Bianchino is not here tonight to make any comments. While I understand your request, it is more prudent for us to request that you wait until we get the Engineers to agree with each other and we ask for your patience for that. At this point, the Board is leaning toward waiting and leaving the hearing open for the December 2, 2013 at 7:00 p.m. We look forward to hearing about the deed agreement, the slab issue and the water run off. Hopefully 30 days is enough time to complete this.

Chairman Rose commented that having nothing else on the agenda, would anyone in the audience like to speak before I close the meeting?

David Taylor, 403 Hudson River Road, stated he has resided there for 15 years but has been in Halfmoon for 57 years. I also resided for the better part of 10 years on Werner Road adjacent to these 2 lots. I have knowledge of everything engineering wise that has been going on for the last 50 years on that road. My Dad still lives there at 83 Werner Road and yes I would like to be heard. I appreciate everything the Board has said tonight and I can appreciate their concerns but there are a few of us that were not there 50 years ago and I was. It is my hope tonight to shed some light on this property in question and maybe to propose a resolution that could be accepted by all parties involved. That is something we have not heard since this proposal came up. First I would like to reiterate what I had stated before some weeks earlier. I am, and have been, an excavating contractor in this Town since 1968 and lived at the southern boundary of the property in question at 48 Werner Road for the better part of 10 years. I have extensive hands on experience with the extreme high water table all around that area. I have also witnessed first hand the catastrophic failures as a result of builders building on the lots up and down Werner Road both with slabs and full foundations.

Not to mention the vacant lots are part of the existing storm water management area that has a very high potential to have a negative impact on all surrounding lots. It doesn't take a structural engineer to see the challenges in building any projects in either. I am not going to go on and on about the negatives, I am hoping to point out a solution. Now that I have talked about all the negative attributes associated with these lots I would like to talk to you about hardships. I am sure that none of us would like to create a hardship for any party involved in paying taxes on building lots for several years even if those lots were subdivided decades ago. Now it seems to be substandard to today's standards. Somehow, it isn't quite fair. I also know that sometimes hardships are just not avoidable; it happens. Having said that; I would like to consider two other items that we haven't discussed yet.

Liability comes to mind and maintaining the swale, I don't think the Town needs anymore green land, wetland swales, or erosion; the Town just doesn't need more of that. The other is repercussion. This is a word that any Attorney is very familiar with. It goes hand in hand with liability. The repercussions of what some people proposed not only put the Town in jeopardy, it will also put surrounding homeowners in jeopardy and lower the property values and give them additional catastrophic structural failures of their existing homes. It will put them next door to vacant rental properties that we all know on a slab are more vacant more often than full basements. I know there are Engineers in the room and I know there are people with engineering knowledge. Let me say this one thing quite frankly when you have a water table of 26" on a property and you want to put in a full basement you are in the wrong business.

Chairman Rose commented that the applicant is proposing not to put in a full basement, but to place the proposed homes on slabs.

Mr. Taylor commented I heard the verbiage tonight and it said to me that it is still up for negotiation whether they are going to use full basements or slabs.

Chairman Rose commented this Board is of the opinion that this applicant, Mr. Vaccarielli, will build a house on slab.

Mr. Taylor commented that is a better offer than what I thought I heard. However, I still don't think it's a great proposal and I will tell you why. We are in a unique position in this Town, right now. To fix all the wrongs of our ancestors.

Chairman Rose commented, Mr. Taylor I appreciate your comments. We would appreciate it if you would summarize your position and your concerns and we will put them in the record and into consideration. I know you're concerned for the neighbors but I would appreciate you summarizing.

Mr. Taylor stated: that he would like to propose a solution for all. I don't believe that the lots are suitable for home construction; however, they are suitable for residential ground construction and garage construction. Both parties north and south from the property are interested in these lots and they also made attempts to purchase them. Take the hardship off the Board because the property owner has the opportunity to recoup all of his investments since 1971 and make a profit but he has denied that. The owner would rather play a crap shoot with the Town of Halfmoon to make more money. This can be mediated relatively easy. All the parties I am familiar with, and I have known Mr. Murphy for over a decade, are more than willing to negotiate and that would take all these factors of fear, liability and hardship and give everyone a resolution including who takes care of the drainage easement by the way that it would need zero maintenance. ACOE would never let you tear out the root system in there. Who is going to go in there with a track hoe and put a swale in there? That would be catastrophic you would have serious problems if that ever happens.

Chairman Rose thanked him for his comments. If you would like to submit your prepared notes for the Board we would be glad to add it to the record.

This item was tabled for the December 2, 2013 meeting. Motion was made by Mr. Hansen and seconded by Mrs. Jordan to close the meeting. Motion was carried.

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

