

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday August 4, 2020
7:00 PM

Chairman Curto called the meeting to order at 7:00 PM on August 4, 2020 at the Halfmoon Town Hall with the following members present:

Members- Chairman Curto, and Mr. Koval, Mr. Griggs
Alternate Member - Mr. Micelli, Mr. Maxfield
Planner - Mr. Marlow
Town Attorney – Cathy Drobny

Mr. Koval made a motion to Approve the July 6, 2020 Zoning Board of Appeals minutes, Mr. Micelli seconded Minutes Approved.

Public Hearing:

Pogoda Duplex, 315 Grooms Road- Area Variance

Mr. Brian Sipperly presented the application. The applicant is before the Board seeking approval to subdivide the existing parcel into two new lots and construct two new duplexes. Lot 1 is proposed to be a conventional lot and Lot 2 is proposed to be a flag lot in the rear, both containing duplexes. The applicant submitted a Minor Subdivision and Special Use Permit application to the Planning Board and was denied by the Coordinator of Building, Planning & Development as they are unable to meet front yard setbacks and minimum lot widths.

Mr. Koval asked for the applicant to outline the changes from the last meeting; Mr. Sipperly noted that there will be no real physical changes to the site but more so clarifications of language.

Mr. Griggs asked for clarification on the frontage; Mr. Sipperly noted the frontage.

Mr. Micelli asked to note the driveway location; Mr. Sipperly noted that it would be where the existing driveway is located.

Chairman Curto asked if the driveway was wide enough for emergency services vehicles; Mr. Sipperly noted that it is wide enough to park vehicles without obstructing driving movements.

Mr. Griggs asked the applicant to identify the lot frontage on Lot 1; Mr. Sipperly noted that it is 99.8-feet and added that because it cannot meet the required lot width, it cannot meet the front yard setback requirements.

Mr. Marlow explained how the front yard setback is calculated and why the required variances are what they are.

Mr. Aaron Vera noted that the rear lot frontage is 146-feet and cannot meet the 150-foot requirement without requiring a variance. For Lot 2, building two is setback 51-feet from the front lot line; however the setback being measured from the part where the lot reaches 150-foot width requires a 49-foot variances.

Mr. Vera noted that Lot 2 is proposed as is in order to accommodate for a septic system and reserve system.

Mr. Maxfield asked if Lot 1 septic was on the north side and Lot 2 septic was on the south side; Mr. Sipperly confirmed they were.

Mr. Maxfield asked if there was an overflow for the septic systems; Mr. Sipperly said there was and the proposed layout would prevent it from being close to the neighbors or on the hill.

Mr. Griggs expressed that he believed the setback requirement should be 70-feet as required in the PO-R zoning district. Mr. Marlow explained that per Schedule A of the Town Code the requirements for a duplex in this zoning district shall meet area requirements of R-1 zoning districts, which requires a 50-foot front yard setback.

Mr. John Rybaltowski, 323 Grooms Road asked for clarification where the house and driveway would be located; Mr. Vera noted where the proposed house could go as well as the approximate locations of the new driveway. He noted that there is approximately 40-50-feet of wooded area on your property and the land on this property is already cleared for the water line so there is no need for further clearing along that property line.

Mr. Rybaltowski asked under what circumstances the Board would consider granting the variances.

Chairman Curto noted that there are five tests as part of the area variance request, if they can be answered in favor they can approved the variance; Mr. Micelli noted that this is the sort of situation in which case variances are for.

Mr. Rybaltowski noted that the applicant should have known that there were limited development options when they purchased the property; Mr. Koval noted that was a risk of the applicant, there is no guarantee a variance will be granted. We have to look to see how it fits in the area, if there are other situations like it, if it is a detriment to the area, was this hardship self-created. We have to access it as a whole and decide if it makes sense for the area.

Mr. Marlow explained the approval process and noted that even if this Board should grant the necessary Area Variances that the applicant would have to appear before the Planning Board for the Special Use Permit to allow for the duplexes. He noted that there is no guarantee that the Planning Board would grant the Special Use Permit just because the Area Variances were granted.

Mr. Koval noted this would be the same process if it was a single-family home as the lot does not meet the requirements for a single-family home. Regardless of what they build they'd need variances; we are not approving what they can build but rather that it is a building lot.

Mr. Rybaltowski asked if he would hear the reasoning for the tests, Mr. Marlow explained the process of reviewing the five tests and any potential votes.

Chairman Curto closed the Public Hearing at 7:34pm

A site visit occurred on August 1, 2020 at 9:00am

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

- 1) Mr. Micelli commented: This will be in compliance with other homes in the area, ****this portion of tape is inaudible;*
- 2) Mr. Koval commented: There is no other way to build other than this; Mr. Micelli I agree with that, with all the configurations they need an area variance; Mr. Griggs noted it is a non-conforming lot in that it does not meet some area requirements as it is.
- 3) Mr. Koval commented: By the letter of the law yes, but for the area, no; Mr. Micelli agreed, Mr. Griggs noted that it meets the area regulations in general, it is more than 70-foot setback it's just an issue of where the lines are measured from that you would never know just driving by;

- 4) Mr. Koval commented: No, it is a mixed area, there is residential and a house of worship; Mr. Micelli noted he believed it would be an appreciated for the homes in the surrounding area; Chairman Curto noted there are three adjacent single-family homes;
- 5) Mr. Koval commented No, it is starting as a substandard lot; Chairman Curto noted the flag lot presented a dramatic and irreversible change to the neighborhood; Mr. Griggs noted there are several flag lots in that area.

Mr. Koval made a motion to approve the Area Variances, seconded by Mr. Micelli, Chairman Curto-Nay. Motion passed 4-1

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

These are summary minutes and are not word for word at the request of the Zoning Board of Appeals.

Meeting adjourned at 7:40 PM

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