

Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, March 7, 2022
7:00 PM

Chairwoman Curto called the meeting to order at 7:00 PM on March 7, 2022 this meeting is being held in person and via Microsoft Teams following members present:

Members- Chairwoman Curto, and Kevin Koval, Frank Griggs, Leonard Micelli, Dave Maxfield
Planner - Paul Marlow
Town Attorney – Cathy Drobny

Chairwoman Curto made a motion to Approve the February 7, 2022 Zoning Board of Appeals minutes, Mr. Micelli seconded, Minutes Approved.

New Business:

Sweet Addition, 25 Chateau Drive- Area Variance

Mr. Nicholas Sweet, EDP presented the application. The applicant is before the Board seeking a variance as it relates to the proposed addition for the home at 25 Chateau Drive. They are seeking to construct a three-season room on the rear of the existing home, with the proposed addition, the new rear yard setback would be approximately 19.6'. The building permit for the proposed addition was denied by the Building Department as it would not meet the minimum rear yard setback. Section 166-547(c) of the Cardin Acres Residential PDD: Requires that the lots be in conformance of the subdivision plan as approved by the Planning Board. The final subdivision plan requires a minimum 30-foot rear yard setback, the applicant has a 19.6' rear yard setback, thus requiring a variance of 10.4'. It is not visible from the road, so there is not an undesirable change to the neighborhood; there is no other feasible method with the property to the rear as it is preservation land. He did reach out to the land owner behind them, but they were not interested in selling the property. It is not substantial as it is a large rear yard and they are only impacting 8% of the setback area. In terms of environmental, there is no impact to wetlands. It is self-created but the other option is not to build. It is a unique lot as it only has 130-feet of depth.

Mr. Koval asked if there was land preservation area (LPA) behind his parcel; Mr. Sweet said there was but the project would have no impact on the wetlands. I have paperwork from DEC removing some of the wetlands behind me and giving me permission to construct a shed within the buffer area.

Mr. Marlow noted the shed is not in the LPA and is within the wetland buffer; Mr. Sweet noted it is within the 50-foot buffer which DEC had granted permission to do.

Mr. Marlow noted that the previous home owner had obtained a shed permit to locate it on one side of the parcel and Mr. Sweet moved it to the other side. Upon discussing the potential wetland violation with the applicant, he provided documentation from DEC giving him permission to use that area for his shed.

Chairman Curto closed the Public Hearing at 7:04, there was no public comment.

A site visit will occurred on February 26, 2022 at 9am.

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

- 1) Mr. Micelli commented: No, the location is in the rear, no change;
- 2) Mr. Koval commented: He explored other options and they will not work;
- 3) Mr. Maxfield commented: No, it is not substantial
- 4) Mr. Micelli commented: There is no impacts on wetlands of the LPA;
- 5) Mr. Maxfield commented: Yes, but does not create a major problem.

Chairwoman Curto made a motion to approve the Area Variances as proposed, seconded by Mr. Micelli, Motion was carried

Landry Single-Family Home, 7 Route 236- Expansion of a Pre-Existing/Non-Conforming Use

Mr. Robert Landry presented the application. The applicant is before the Board seeking an expansion of a pre-existing/non-conforming use for the existing single-family home at 7 Route 236. Traditionally the building has been used as a single-family home, but more than two years has passed since it was last utilized as a residence and at this time the applicant wishes to use it as a residence once again. Due to the fact that the applicant has lost the pre-existing nature of the site, they are before the ZBA seeking an expansion of a pre-existing/non-conforming use to allow them to use it again as a single-family home.

Mr. Koval asked how long the house has been vacant; Mr. Landry said it's been more than two years.

Mr. Micelli asked if he was taking trees down; Mr. Landry stated that the wind storm took some trees down and they are cleaning up the mess from it.

Mr. Mike Klimkewicz, MRK Properties explained that he is okay with improvements they are making but has some concerns. He noted they clear cut the property and removed the buffer to the adjacent mobile home park. The property runs parallel to Route 236 and the tree line provided a buffer from the noise of the road. He is also concerned about people cutting through this property, from the mobile home park and crossing Route 236 on foot. The owner of the parcel keeps removing property stakes installed by the surveyor. He would request that a fence or row of plantings be installed along the property line.

Mr. Micelli asked Mr. Klimkewicz if he had the property surveyed; Mr. Klimkewicz noted that they did twice, both times by Environmental Design Partnership.

Mr. Maxfield asked Mr. Klimkewicz if the trees that were removed were his or the applicants; Mr. Klimkewicz noted they were both. The majority were on his but he thought the property went the other way and he took down the buffer between 3 & 7 Route 236, some of them were on our property.

Mr. Micelli asked Mr. Klimkewicz if they've seen people cutting through the property at 7 Route 236; Mr. Klimkewicz said his management staff has observed it.

Mr. Koval noted that Mr. Landry may not be liable to plant anything, you're looking to have your commercial property buffed, and the onus may be on you. I am just questioning who the onus would be on here.

Mr. Klimkewicz stated the trees were all there and have been removed, some on the wrong property.

Mr. Koval noted that he feels the trees removed from his property should be replaced.

Mr. Klimkewicz noted if it was a commercial lot, he would not have been able to take them all down.

Mr. Koval stated you only need a permit if disturbance is over one acre; Chairwoman Curto stated you need permission to cut more than seven trees

Mr. Micelli asked if the neighbors spoke to one another about the costs of the fence/bushes; Mr. Klimkewicz said that he has not, he had talked to the applicant about not removing the survey stakes.

Mr. Koval asked if the building had any improvements and any work that would need building permits; Mr. Marlow noted he would need to check with the Building Department.

Mr. Koval questioned what the responsibility of the Board was as it relates to addressing the buffer situation; Mr. Marlow noted you could do it as a condition.

Mr. Griggs questioned if there was anything in the code that would allow them to make him install screening.

Mr. Koval stated for commercial properties, for ones he's had, he's had to install buffers, but if its residential it kind of eliminates that but it's commercial now, it's a Catch 22.

Mr. Marlow noted for a Commercial Site Plan, the Planning Board would have to review that. Often times when it abuts residential we do have certain requirements depending on the zoning of the parcels; generally from commercial to residential.

Mr. Koval asked Mr. Landry if he'd install a fence; Mr. Landry said he would if that is what the Board wished.

Mr. Koval asked Mr. Klimkewicz if he would prefer a fence or buffer; Mr. Klimkewicz noted a fence is better as it will eliminate the foot traffic.

Mr. Koval asked if this would be just along the rear property line; Mr. Klimkewicz said that would be fine

Mr. Koval suggested it be made a condition of approval; Mr. Marlow requested a date for completion to be given for that condition.

Mr. Koval raised concerns that supply chains may cause delays; Mr. Marlow noted they could give them as much time as needed but from a Code Enforcement standpoint, it is easier to enforce with a set date.

Mr. Koval asked if there is a delay in supply, if there was a way to work with the applicant whereas violations will not be issued; Mr. Marlow noted they could give him as long as they see fit to install and that with a tentative date in mind and the commitment from the applicant, Mr. Klimkewicz may be satisfied, even if it gets pushed back a bit.

Mr. Klimkewicz noted he just wants to see the existing trees stay and the fence gets up at some point.

Mr. Landry asked Mr. Klimkewicz if he would share the cost of the fence; Mr. Klimkewicz agreed to share the cost.

Mr. Koval made a motion to approve the Expansion of a Pre-Existing/Non-Conforming Use as proposed conditioned on a 6-foot high, wood stockade fence being stalled along the rear property line by July 1, 2022, seconded by Mr. Micelli, Motion was carried

New Business:

Fountain Shed, 19 Chateau Drive- Area Variance

Mr. Matt Chauvin, Ianniello Anderson presented the application on behalf of the applicant. The applicant is before the Board seeking a variance for the existing shed, located within the no cut (land presentation) area of their existing home at 19 Chateau Drive. The applicant constructed the shed without a building permit, and located it partially on Town property and partially within the restricted Land Preservation Area (LPA). The applicant had previously proposed to amend the LPA line with the Planning Board but upon further researched opted to seek a variance instead. They are now appealing the building inspector's denial of the building permit and wish to move it onto their own property, but still within the LPA. The building permit for the already-existing shed was denied by the Building Department due to the location within the LPA. He indicated that there was some grading done by the developer and then following the purchase, the homeowner did further grading.

Mr. Griggs asked how the shed is accessed; Mr. Chauvin noted there is no road and is accessed through the yard.

Mr. Koval asked if it could be moved; Mr. Chauvin noted there is no more room with the existing pool and there is a grade that slopes away. He noted that DEC has since reduced the previously delineated wetlands. 21-25 Chateau all have sump pump lines that discharge into the LPA, we are trying to keep the shed from seasonal outflows. There is an existing patio and fire pit on this property in the LPA. I'm not going to say the shed should not have been placed in the LPA, but we are trying to correct the problem.

Mr. Micelli asked if it is on a stone pad; Mr. Chauvin said it was and would be moved.

Mr. Micelli noted that based off what he is hearing, it is a tight area; Mr. Chauvin said it is a large area but the buildable area that remains is very tight. His client did not understand that the shed could not be in the LPA, he knew no structure/building could go there. He wanted to put up a pool house, but settled for the shed thinking that was more appropriate but now realizes, he was wrong and that is why they are here. There was no malicious intent by this, they want to bring it as close to compliance as they can and clean up the encroachment issue with the stormwater management area.

A site visit will occur on March 26, 2022 at 9am.

Chairwoman Curto made a motion to hold a Public Hearing at the April 4, 2022 meeting, Mr. Micelli Seconded. - Unanimous

Chairwoman 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 7:30 PM.

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