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**Town of Halfmoon Zoning Board of Appeals  
Meeting – Monday, April 4, 2022  
7:00 PM**

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

**Public Hearing(s):**

**Chairwoman Curto:** Good evening this is the April 4<sup>th</sup>, 2022, Zoning Board of Appeals meeting we'll call the meeting to order at 7:02pm, has everyone had an opportunity to review the minutes from March. (This meeting is being held in person and via Microsoft Teams)

**Leonard Micelli:** Yes

**Chairwoman Curto:** Any changes?

**Leonard Micelli:** I didn't have any

**David Maxfield:** No

**Chairwoman Curto:** Motion to approve as submitted.

**Leonard Micelli:** So, moved.

**Chairwoman Curto:** All in favor (all were in favor) shall we have a public hearing for the Fountain Shed at 19 Chateau Dr. Ill open that public hearing at 7:04. The applicant is seeking a variance for an existing shed that is located within a no cut land preservation area of their existing home at 19 Chateau Dr. The applicant constructed the shed with out a building permit which is located on Town property and partially within the restricted land preservation area. Would the applicant like to come up to the podium, please state your name and your relationship to the project.

**Public Hearing:**

**Fountain Shed, 19 Chateau Drive – Area Variance**

**Matt Chauvin:** Good evening, my name is Matt Chauvin, I am the attorney for Brian and Tony LaFountain, and I'm also here with Sofia Maruso on behalf of the applicants this evening. The application before you are to move that 10x 20 or the intent of the applicant as a result of the application excuse me, is to move that 10 x 20 shed, removing the encroachment, it currently encroaches across the property line onto stormwater management area property owned by the Town of Halfmoon. That shed would be relocated within the applicant's property and in conformance and compliance with the applicable set back requirements. The shed would be pulled forward in addition and offset further behind the applicant's house to restrict visibility from the street. In addition to correcting the encroachment as it exists the applicants citing the shed in the proposed area will minimize the visibility from the street for the other neighborhood property owners and also, we'll pull it forward and further

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away from the water course that exists within the rear land preservation area? Its important to note that this site is approximately 1.7 acres, it is the largest site in that subdivision, the land preservation area as shown in the upper left-hand corner of the map that's on your screen, runs from the applicants rear yard and then kind of an L shape all of the way down behind the five homes that border it through that portion of the cul-de-sac that is there. That's the application in a nutshell before you, we are asking for the Boards consideration of hope this evening for approval and certainly we are happy to answer any questions that you may have.

**Kevin Koval:** So, the, where she is being supposedly moved to that is on the homeowner's property?

**Matt Chauvin:** It is, everything that you see in that map, the upper left-hand corner from the structure shown as the home into the land preservation area and then you can see there are five additional numbered lots down to the right that entire area that is behind those numbered lots is owned by this applicant. It's all part of one lot.

**Kevin Koval:** Okay so that is all part of 19?

**Matt Chauvin:** It is

**Kevin Koval:** Okay, this is a little confusing on this, it shows almost like a property line across the back?

**Matt Chauvin:** Yea the line there is confusing but that is not a property line that is the line of demarcation for the land preservation area.

**Kevin Koval:** Okay.

**Francis Griggs:** On all the other homes to the right, they're all in compliance with the wetlands behind them because we had an applicant come a couple of weeks ago to put up a sunroom. My only question his property is the only one that is in the land preserve, all of the other ones seem to be clear, or we think compliance.

**Matt Chauvin:** They don't own any of the land preservation area.

**Francis Griggs:** So that's all his?

**Matt Chauvin:** That's all his

**Francis Griggs:** Okay

**Matt Chauvin:** So, they can't go in there.

**Francis Griggs:** So, whatever is being built prior the last applicant he was in compliance because he was away from the wetlands?

**Matt Chauvin:** He's on his property

**Francis Griggs:** He's on his property line correct

**Matt Chauvin:** Technically this applicant is on his property , but his property is made up of a massive portion of the land preservation area so , this is a very unique circumstance, this is not a cookie cutter run of the mill parcel

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which makes it a little bit unwieldy to deal with, the clearing area we were out for the site visit you can see its grassed its landscaped it's the builder did a lot of that vegetative clearing to the rear of where the fence line is and the pool, prior to the transfer of title , it certainly has been enhanced and improved since then. The goal here is to bring this as much into compliance knowing that this is a very unique site and this will not be a permanent structure the land preservation area lacks any real firm definition, it was sort of established by way of the conversational minutes of the Board meetings when the subdivision was being approved back in 2005. Essentially what it boiled down to as far as we're distilling from the minutes is that there was not to be any construction in the land preservation area, this will be on skids, it's not going to have a foundation, it will be on a crusher run base, it will not be permanent structure, nor will we have any significant environmental impact or stormwater runoff. The area where the shed will be placed is still an incredible distance from the stormwater course that is there, and it is important to note, we do reference those other properties nearly all if not all of them are discharging stormwater into the land preservation area through sub-pumps that they have directed and dug out trenches and piped into Mr. Fountains property.

**Francis Griggs:** Right, which is going back into the wetlands if I remember correctly.

**Matt Chauvin:** Correct, it eventually makes its way into the stream course that is back there.

**Francis Griggs:** Gotcha, now when Mr. Fountain's moving the shed, he is coming forward with it, we discussed that on the site visit he is still in land preservation?

**Matt Chauvin:** Coming forward and I guess if your looking at the shed, coming forward and moving to the right to get compliant with the set back requirements, and to essentially square it up behind the home, he cant get it out of the wetland preservation area , there isn't room to pull it out of land preservation area, despite the way that it appears on that map the land preservation area is right up to that fence line where the pool exists , the shed is coming, into , further into compliance but its still going to be in the land preservation area.

**Francis Griggs:** Thank you.

**Chairwoman Curto:** Any other questions or comments from the Board?

**Francis Griggs:** I don't have any more.

**Chairwoman Curto:** Any from the audience? Yes, you'll need to come up to the podium because our meetings are recorded so if you can come up to the podium and state your name.

**Paul Marlow:** You can come up now if you like.

**Emma Kravits:** Good evening my name is Emma Kravits, I am , our property is adjacent to the Fountains property, we live at 21 Chateau, and if wildlife is concerned, in the past few years because the shed has been located over there we have not , from what we observed the existence of the shed had no impact whatsoever on the wildlife habitat, the birds are still coming, we still see deer, we still fox occasionally, so if , as I say if that is of any concern there is no impact wildlife whatsoever.

**Chairwoman Curto:** Thank you

**Emma Kravits:** Alright.

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**Francis Griggs:** Thank you.

**Chairwoman Curto:** Any other comments? Ill make a motion to close the public hearing at 7:12

**Francis Griggs:** So, moved

**Chairwoman Curto:** And at this time, we'll go through a series of questions.

**Paul Marlow:** The one thing that I wanted to bring up and I know we have talked to Mr. Fountain about this is the stormwater management area, the overflow that had gotten I would say damaged.

**Matt Chauvin:** I believe at some point I don't think it had anything to do with the shed but there was activity back there and at some point there was a area that crosses a culvert pipe, we had it looked at by a surveyor and an engineer It's a 50 dollar fix we will be happy to restore it and make any correction that necessary, at some point maybe a little ATV was on it and there clearly was some stone and what not added over there so that can be removed

**Paul Marlow:** I just wanted to make sure that we got that on the record

**Matt Chauvin:** Yea we did address that and certainly are happy to restore it regardless of where we end up this evening.

**Francis Griggs:** I have one more question, has there ever been any complaints about this shed? Until you found it.

**Paul Marlow:** No

**Chairwoman Curto:** Anything else? Meeting is closed. In making our determination the zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board Shall consider number 1) Whether an undesirable change will be produced and the character of the neighborhood or a detriment to nearby properties could be created by the granting of an area variance.

**Leonard Micelli:** I don't think its going to change the neighborhood because being there we have sheds in all of the backyards, I think the only problem with Mr. Fountains situation is that he is sitting in land preserves, so that would be my answer to that question.

**Chairwoman Curto:** I think the change is undesirable because it currently sits partially on Town property, which has already caused damage on the stormwater management area. Number 2) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

**Francis Griggs:** It doesn't appear that there is any other place to put it.

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**Chairwoman Curto:** No and they're currently another shed by the pool as well as an area where there is a fire pit and brick pavers so I'm not sure where else that shed can go. Number 3) whether the requested area variance is substantial.

**Francis Griggs:** So, it shouldn't be there so I guess it's substantial in the fact that it shouldn't be there. But the actual move of it I don't think will really make much difference to the rest of the character in the community, but it shouldn't be there.

**Leonard Micelli:** I would have to agree with that I mean you're still moving it forward, but you are still in land preserve.

**Chairwoman Curto:** Number 4) whether the proposed variance will have adverse effect or impact on the physical or environmental conditions in the neighborhood or the district.

**David Maxfield:** I don't think it would be out of character because there are other sheds in the area, granted it is in the preserved area, but I don't think it would be out of character.

**Kevin Koval:** I agree I don't think the shed in and of itself would have a negative impact on the neighborhood.

**Leonard Micelli:** I would have to agree with that like I said in the first statement we have sheds all in the backyards and I do agree with Madame Chair it encroached on Town property.

**Francis Griggs:** It was all open space when the applicant bought that property, so he didn't clear the woods out to put a shed back there, it was all open space.

**Chairwoman Curto:** Number 5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

**David Maxfield:** I think they did make their own problem, but it sounds like they are trying to rectify the situations to the best of their ability.

**Chairwoman Curto:** Yea I would say yes, the alleged difficulty was self-created and the PDD clearly states that there is 60 % open space overall back there. I make a motion to deny the area variance and request the shed be removed within 60 days. Do I have a second?

**Leonard Micelli:** I will second that motion and just for a narrative on all of this I think in the very beginning if the homeowner would have contacted the building inspector as opposed to not putting up the shed without clarification of what was going on you could have saved a lot of problem being away from the Town properties and secondly and not be involved in land preserve. That's just my thoughts on it and for a condition I want it to be known for the record that, that road should only be used for official vehicles at any given time and not to be used by anybody living in the residence whether they or whether they haven't been so that would my statement on the condition.

**Chairwoman Curto:** All in Favor?

**Francis Griggs:** Aye

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**Chairwoman Curto:** Kevin?

**Kevin Koval:** We should do roll call on this, not in favor

**Leonard Micelli:** Im not in favor.

**Kevin Koval:** Im not in favor of the motion

**Chairwoman Curto:** You're not in favor of the motion?

**Kevin Koval:** No, Im not.

**Francis Griggs:** Im not in favor of the motion.

**David Maxfield:** I agree Im not in favor of the motion.

**Kevin Koval:** Do we have an opportunity to make another motion?

**Chairwoman Curto:** Yes

**Kevin Koval:** I make a motion that we approve this application based on the fact that it is not a permanent structure.

**Chairwoman Curto:** It requires a building permit, however.

**Kevin Koval:** Oh yea, you still have to get a building permit.

**Chairwoman Curto:** It is considered a permanent structure.

**Kevin Koval:** So, I retract that part about the permanent structure, Id like to make a motion that we approve the application.

**Chairwoman Curto:** For a shed to be on Halfmoon Town property?

**Kevin Koval:** No, they have it proposed to move it off Halfmoon Town property and into the land preservation which is his own property.

**Chairwoman Curto:** Well then you will need to clearly re-state that

**Kevin Koval:** Okay, so I would like to make a motion to approve this application to the location indicated on the plot plan provided that shows the shed is moved off of Town property with the proper set back and closer to the home. I agree it should not be on Town property.

**Leonard Micelli:** And I deny for the simple reason that even coming forward or even if he brought it all of the way up to the fence by the pool you're still in land preserves and in land preserve nothing should be developed on the property, and that's mine.

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**Kevin Koval:** So, are you?

**Leonard Micelli:** Im against it, I say Im voting against the applicant.

**Francis Griggs:** I second Kevin's

**David Maxfield:** I third Kevin's

**Chairwoman Curto:** And Im still against it, I don't believe those structures should be placed in the land preservation area, it's clearly stated in the PDD. Let's do roll call, Kevin?

**Kevin Koval:** I made the motion so

**Leonard Micelli:** I deny the applicant

**Chairwoman Curto:** I deny

**David Maxfield:** Approve

**Chairwoman Curto:** Okay 3 to 2, motion is carried, thank you.

**New Business:**

**Lussier's Autobody LLC, 1385 Crescent Vischer Ferry Road – Area Variance**

**Chairwoman Curto:** Hi there, how are you?

**Jason Dell:** Im well thanks.

**Chairwoman Curto:** Go ahead.

**Jason Dell:** Good evening my name is Jason Dell, Im an engineer with Lansing Engineering here on behalf of the applicant for the Lussier Auto Body Commercial site plan and two variances that we are seeking. So, our project site encompasses about 1.93 acres and is located at 1385 Crescent Vischer Ferry Road. The project site as I mentioned is currently occupied by Lussier's Autobody and this parcel is zoned as C-1. So, this project got approved sometime ago and it was the applicant's goal to remove the old structure that was previously on the site and construct a new modern building in its place. The applicant has done that and has improved the property significantly and the constructed building is a two-story building with approximately 2800 sq. ft. footprint and the parking area and building are both nearing completion and as we did the as built survey of the site, we did identify two minor deviations from the Town Code and need to seek the area variance. So, the Town code requires a side yard setback in the C-1 zone to be a minimum of 15 feet. The as built building was constructed with a side yard setback of about 14 feet 7 inches so as discussed in the pre-meet, we're about between 3 and 4 inches shy of that minimum setback and the second area variance that we are seeking is the Town code requires parking stalls to be 10 feet wide by 20 feet long with a minimum drive aisle width of 22 feet. So the as constructed parking area will accommodate 10 foot wide stalls by 18 feet long stalls with a drive aisle width that's about 24ft, 10 in. so where as we are shy on the length of the individual parking stalls we do exceed the drive aisle width so if we did extend those parking stalls

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to 20 feet long the drive aisle width would be shy by about 1 ft 2 in. so we figured the drive aisle between the stalls would be the more important entity to meet the wider width where as the parking stalls are at 18 feet long which is pretty similar to most other Towns around here . Mr. Harris indicated in the pre-meet over in Clifton Park the parking stalls over there for comparison purposes are about 9 x 18, whereas here we are proposing, and we have 10ft x 10 ft long stalls. So, we feel that the variances that we are requesting are minor and will not create an undesirable change in the character of the neighborhood as this is all a commercial zone through there and we are here tonight to answer any questions that you folks have with the hope of moving this project forward and scheduling a public hearing.

**Kevin Koval:** So, in the original site plan that was approved by the Planning Board how did, I mean by looking at this, its saying the building location as built survey, oh as per built survey, what got out of place here, was the building put closer to the road because the road didn't move?

**Jason Dell:** No, in speaking with the applicant it had to of been an issue with when they did their stake out on site, you know maybe a stake got shifted, it got moved, could have been just an issue with relation to the setbacks from those stakes and how they are measured. So there just some construction oversites or just something got mixed up. There is no improvement to the site by sliding the building over 3 inches.

**Kevin Koval:** Im talking about the parking spaces, I understand there three inches on the side yard set back I can see how that can happen, but you're a couple feet off on the parking lot.

**Jason Dell:** Yea, 1.2 feet off is what it is and in speaking with him he indicated it was probably an offset to a stake if you look on either side it's a 6 inch curve on either side of the parking lot so the 1.2 feet could have been a 6 inch curve plus an inch so just a slight variation like that would result in the 1.2 feet off.

**Kevin Koval:** Okay.

**Francis Griggs:** So, what the building being used for, are these parking spots for people who will be at that building all day or is it a commercial place where they kind of come and go and that's it?

**Jason Dell:** It's a, back in the day when it was approved back in, I believe 2013, it was discussed that there used to be a used car sales there, there is going to be an entity of that, there's office space that's going to be there as well as some retail, so there will be you know in and out movements within the parking area.

**Kevin Koval:** It's currently vacant

**Jason Dell:** It's currently vacant the buildings not operating

**Francis Griggs:** Commercial vehicles as well as cars, like, my car.

**Jason Dell:** Yes

**Francis Griggs:** Is there big panel, like moving trucks?

**Jason Dell:** No, I don't believe so, I mean this is the current auto body shop is in the back here, that's still operating, this is just a new building up front here, so there will be offices in there associated with the auto body shop as well as additional

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**Francis Griggs:** So cars and trucks not commercial moving vehicles or anything like that that's going to hang out 2 feet into???

**Kevin Koval:** There's also existing parking spaces all along the side of the property that could accommodate larger vehicles as well, so it's not like that is the only place if you had a bigger vehicle, you're not confined to just parking in front there.

**Chairwoman Curto:** Any other questions?

**Leonard Micelli:** I don't have any

**David Maxfield:** Just an odd question, I don't know if anybody knows this or not but, do you know, so you have the parking spots right and then you have the parking spots on the next side, in between what's the average width supposed to be for when you back up?

**Jason Dell:** In here?

**David Maxfield:** Yea, in between the two parking spots from front to back

**Jason Dell:** Halfmoon code requires 22 feet, we've got about 24 feet 10 inches so just shy of 25, so there is ample maneuvering room within that drive aisle for cars to back in and out.

**Richard Harris:** Rich Harris from Town of Halfmoon Building, Planning and Code. So, the applicant could have probably gone, he's got a choice of two ways to go with this, one could have been to make the parking spots, this is the after the fact discovery, 20 feet but then be short on the aisle width by about 2 feet. He chose, and he could have gone either way with it, originally when Code went out there the parking spots were 18 feet and the aisle width was correct, 22. Was it 24 and change originally? Not originally?

**Jason Dell:** 24' 10" yup, we shortened it back??

**Richard Harris:** Sorry and the aisle was accurate, the applicant then went and made the parking spots longer with paint, that then made the aisle too narrow. I can say from my own experience in this type of field review and site plans and obviously the Board can weigh in. I think it would be preferable to have an aisle consistent with your point that meets the code and parking spaces slightly shorter than the code, which is what the applicants requesting so I'm not trying to deny that but I think answering your point, I think from a logistics in a parking lot, and Jason is a Civil Engineer, he will probably speak to that also, having space for cars to back up even though they are already sticking out a little bit would be preferable than proper spaces but shorter aisle just from my perspective.

**David Maxfield:** Thank you.

**Kevin Koval:** A 9 x 18 is a standard sized spot.

**Jason Dell:** That's correct

**David Maxfield:** I looked at the typical length of a car its 15 feet for a typical car if you have a truck then its 20 feet is the typical length of a truck.

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**Chairwoman Curto:** Any other questions for Jason? Ill set a site visit for Saturday April 23<sup>rd</sup> at 9 am.

**Francis Griggs:** So, moved

**Chairwoman Curto:** And I'll make a motion to set a public hearing on Monday May 2<sup>nd</sup>, 2022, at 7:00 pm. Can I get a second on that?

**Kevin Koval:** Second

**Chairwoman Curto:** Any other business? I make a motion to adjourn at 7:30

**Francis Griggs:** So, moved