

Zoning Board Minutes - June 7, 2004

(approved at the 8/2/04 ZBA meet.)

NOTE: The June 7, 2004 Town of Halfmoon Zoning Board of Appeals meeting was inadvertently not recorded. The following minutes are transcribed exclusively from Mr. Jeff Williams' hand written notes while attending to the meeting.

Chairman Hansen called the June 7, 2004 meeting of the Town of Halfmoon Zoning Board of Appeals to order at 7:30 pm with the following members present:

Vice Chairman Tedrow, Mr. Ouimet and Mr. Rose – Zoning Board of Appeals members and Jeff Williams – Zoning Board Coordinator.

Mr. Tedrow made a motion to approve the May 3, 2004 ZBA minutes with changes. Mr. Hansen seconded. Motion carried.

David Klein and Tamara McCollough, 3 Clearwater Ct

Mr. Hansen stated that he has reviewed the issue to build a deck with regards of not meeting the rear yard setback requirements as requested by Ms. McCollough. Mr. Hansen stated a deck is not considered a part of the building, due to it not having a roof or supporting walls and therefore, does not have to meet the rear yard setback requirements. Mrs. McCollough stated she understands that but would like to continue with the variance request in case they do decide to place a roof on the proposed deck sometime in the future. Mr. Hansen opened the Public Hearing at 7:40 PM. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 7:42 PM. Mr. Hansen stated the lot of 3 Clearwater Ct. has a rear boundary line that is askew and that the rear yard setback envelope is very difficult.

Mr. Ouimet made a motion to approve the rear yard setback variance for the deck with a roof. Mr. Tedrow seconded. Motion Carried.

Mr. Hansen asked the applicant to remind the Building Department that the variance has been granted in case someday in the future they come in to place a roof on the proposed deck.

Betts Subdivision, Betts Lane

Mr. Wesley Betts and Bill Betts appeared before the ZBA to ask for a use variance by allowing two flag lots to be created off of Betts Lane in the Town of Halfmoon. Mr. Hansen stated that some of the Board members visited the site during the weekend. Mr. Hansen asked Mr. Wesley Betts if they have contacted Mr. Craig Hayner on possibly purchasing a tract of land to gain frontage on Hayner Road. Mr. Betts stated not yet. Mr. Wesley Betts showed the Board where the two proposed flag lots are to be located and the use of an existing easement through an existing parcel to allow access to the two proposed flag lots. Mr. Tedrow stated that each proposed lot needs to have property fronting on a public road in order to be subdivided and that easements cannot be used for frontage. Mr. Wesley Betts stated that he could purchase property fronting on Betts Lane and the other lot can purchase land fronting Hayner Road from Mr. Hayner. Mr. Tedrow asked if the remaining lands are still farmed. Mr. Wesley Betts stated yes. Mr. Hansen asked the width of the shown easement. Mr. Betts showed the Board the map and it was determined that the width would not allow for two 20ft stems in order to create the two proposed flag lots. Mr. Wesley Betts stated in the future the farm would most likely be developed residentially and at that time, the Betts' will request from the developer to have access to a public road as part of the future development. Mr. Betts stated the reason for needing to build at the proposed location was due to the land is a family owned farm and that his parents need assistance in care as they approach their "golden years". Mr. Hansen opened the Public Hearing at 7:52 PM. Mr. William Betts, owner of the farmland, stated that the farmland will be developed in the future and it is his intention to enter into contract for the lands that the proposed flag lots be given access to a Town road as part of the development. Mr. Hansen stated that there is always the possibility that the lands will not be sold or developed and that the proposed two flag lots need to show frontage on a public road in order to be created. Both lots need to show, at a minimum, 20 ft of frontage on an existing public road. Mr. Wesley Betts stated that they would approach the neighbor to see if it is possible to gain frontage on Hayner Road. The Board discussed the possibility of placing a condition of approval that the future development of the Betts farm land. Mr. Hansen stated the proposed lots would need to show present frontage on an existing public road in order to be created. Mr. Wesley Betts asked if the first proposed flag lot

would be able to be created. Mr. Hansen stated the first lot would be able to be created by showing frontage on public road with the requested variance and approval from the Planning Board. Mr. Hansen asked the Board if they should do one lot at a time. (Discussion amongst the Board on how to proceed with the application). Mr. Hansen stated they could do both lots with condition that the lots show the required road frontage and gains Planning Board approval. Mr. Wesley Betts stated he feels comfortable that the second lot can gain frontage through Craig Hayner's land and alleviate the concerns from Mr. Gorsky of the driveway causing flooding problems on his land. The Board reviewed the Public Notices to see if Mr. Gorsky was notified. He was notified but was not present at the meeting. Mr. Rose stated he is concerned with emergency access and wanted to know if there will be a turn around area for the emergency vehicles. Mr. Wesley Betts stated that they own campers and will have a large gravel driveway that would suit a turnaround area for the emergency vehicles. Mr. Rose stated he does not want to create any peril for the occupants, especially the second proposed flag lot, but does not have a problem with the contingencies as long as they are followed. Mr. Rose asked what was the applicant's time frame for building. Mr. Wesley Betts stated as soon as possible. Mr. Ouimet asked if they are creating a precedent on the second flag lot. Mr. Hansen stated the last meeting granted a variance and that as long as the properties comply with the required area and appears to be a safe situation the Board has approved second flag lots. Mr. Hansen closed the Public Hearing at 8:22 PM.

Mr. Ouimet made a motion to approve the first (Wesley Betts) flag lot contingent on gaining 20 ft of road frontage on Betts Lane. Approved the second flag lot contingent on gaining 20 ft of frontage through the Hayner Land on Hayner Road. Mr. Tedrow seconded. Motion carried.

Snyder's Restaurant, Old Route 146/ Route 9

Mr. Duane Rabideau from VanGuilder Associates and representing Mr. Bruce Tanski was present to seek a variance for a corner lot set back regarding a proposed addition to the existing restaurant. Mr. Rabideau stated that the proposed addition will be further set back than the existing walls of the existing restaurant. Mr. Hansen asked if there was to be a new entrance to the building and new seating arrangements. Mr. Rabideau stated the existing rear entrance is where the proposed addition will be placed. The addition will have the new entrance. Mr. Rabideau stated there would be additional seating available with the addition. Mr. Rabideau stated that the current number of parking spaces provided meets the requirement for parking at a restaurant use. Mr. Hansen stated that the County has responded with a "no county wide or inter-community impact" with comments, which the Planning Board will review. Mr. Hansen opened the Public Hearing at 8:33PM. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 8:34 PM. Mr. Hansen asked Mr. Berkowitz, the Planning Board liaison, if the Planning Board had any concerns. Mr. Berkowitz stated the Planning Board is looking into the re-arrangement of the parking lot and looking to gain green space but stated he feels the Planning Board is comfortable with the addition request. Mr. Hansen stated the impact to the site is very minimal with the addition being less of a set back issue than that of the original building.

Mr. Tedrow made a motion to approve the corner lot setback variance as presented. Mr. Rose seconded. Motion carried.

Old Dublin Inn, Meyers Road

Mr. Bill Byrne, Old Dublin Inn owner, appeared before the ZBA to obtain a variance to place a deck on the existing Old Dublin Inn restaurant. Mr. Hansen explained that the applicant is before the ZBA to obtain relief on an enlargement of a pre-existing, non-conforming use due to the site being zoned Agricultural/Residential although the use of a restaurant has been occurring for years. Mr. Byrne stated that he appeared before the Planning Board in 2003 for parking and site improvements. Mr. Byrne stated that all of the approved improvements are in place, such as 58 parking spaces, one way traffic through the site, private drive signage, no parking signs of Meyers Rd, the dumpster has been relocated, extra tree plantings and a drainage swale. Mr. Byrne stated that he appeared before the ZBA before where the ZBA requested the improvements be placed before the deck would be considered. Mr. Byrne stated he appeared before the Planning Board in May so the ZBA would be able to gain comments from the Planning Board. Mr. Byrne stated the Planning Board did not want any live music outside. Mr. Ouimet asked if there would be food and drink served on the proposed deck and if so, will it be the same items offered inside. Mr. Byrne stated yes and that a service bar for the deck may be added later but he needs to get a permit from the State to do so. Mr. Ouimet asked if smoking would be allowed on the deck. Mr. Byrne stated he does not want to offer it. Mr. Ouimet asked if the deck would be offered by rent to private parties. Mr. Byrne stated it will not be rented out but will be used for people who would prefer to eat outside during the warm months. Mr. Hansen stated he spoke with Mr. Watts, Planning Board Chairman, and Mr. Watts stated they have complied with the improvements on their site plan. Mr. Tedrow asked if parking is still an issue on Meyers Road.

Mr. Byrne stated that the Town placed no parking signs and the problem has stopped. Mr. Rose asked if there were any neighbors to the site. Mr. Byrne stated that there is an antique shop, a barn and some residential uses up the hill on Meyers Road. Mr. Rose asked how the design of the deck would match the Old Dublin Inn style. Mr. Byrne stated that he wants to design the deck with some modifications to the railings to give it a more antique feel. Mr. Rose asked what is the hardship. Mr. Byrne stated that sales are down 38% from the previous years. Mr. Byrne stated the deck does not increase new patronage but helps retaining the winter crowd. Mr. Ouimet asked when the deck would be closed. Mr. Byrne stated that the dinner crowd is over by 10 pm and would be a good time to close the deck. Mr. Ouimet asked if the deck would be covered. Mr. Byrne stated he is thinking of placing an expandable canopy on it. Mr. Rose asked if the deck would be heated. Mr. Byrne stated he might place a deck heater on it during the fall. Mr. Hansen opened the Public Hearing at 8:51 PM. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 8:52 PM. Mr. Ouimet made a motion to grant the enlargement of the pre-existing, non-conforming use conditioned on the hours of operation as determined by the Planning Board and that the same items offered inside are the same offered on the deck. Mr. Rose seconded. Motion carried.

Preville Subdivision, 23 Dunsbach Road

Mr. Hansen explained to the Board that this item was reviewed by the ZBA in 2003. The approval was granted contingent on the applicant submitting a subdivision plan to the Town's Planning Board showing the existing front lot meeting the minimum required area of 30,000 SF. The applicant submitted a subdivision plan to the Planning Board but due to existing wetlands on the rear parcel the applicant was unable to place the proposed duplex on the rear lands and meet the required 30,000 SF area for the front lot. Mr. Michael Preville displayed the subdivision plan to the Board and explained that the majority of the rear lot is designated wetlands. Mr. Hansen opened the Public Hearing at 9:05 PM. Mr. Hansen asked if anyone from the Public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 9:06 PM. Mr. Ouimet stated the 2003 review also asked to make sure emergency vehicles could access the rear lot. Mr. Ouimet stated that the access was to be improved and accepted by the Fire District. Mr. Preville stated that they are showing a 20 ft access off of Dunsbach Road, trees have been trimmed back to widen the access, the overhead power lines have been raised to allow adequate access of emergency vehicles and the proposed driveway has been straightened. Mr. Ouimet stated it would need to be accepted by the Town's Fire/Code Enforcement and the Fire District. Mr. Preville stated that there was a mobile home on the rear lot, which caught fire, and the emergency vehicles were able to access the lot at that time. Mr. Hansen asked if the Fire/Code Enforcement officer visited the site. Mr. Preville stated yes and that he feels they have adequately addressed the concerns for fire access. Mr. Preville also stated that the proposed duplex will be a modular type and that four 52 ft sections will need to be brought in to construct the duplex. Mr. Preville stated that also dump trucks have accessed the area to bring in fresh dirt for their horses. Mr. Hansen read the 2003 ZBA approval and stated that the condition of approval was to have a 20 ft access for the rear lot, the front lot was to be 30,000 SF with 135 ft of frontage and the Fire/Code Enforcement was to approve the access for the rear lot prior to a CO being issued. Mr. Preville stated he feels they have met all of the conditions except the front lot being 30,000 SF due to the wetlands. Mr. Preville stated there is more than enough area from the rear lot to be conveyed to the front lot to gain the 30,000 SF area but the lot line for the front lot would be very erratic and probably would not be in the best interest to them or the Town. Mr. Rose stated that the 2003 approval was granted because it appeared there was more buildable land on the rear lot? Mr. Preville stated they are trying to improve the area by removing a mobile home and replace it with a nice duplex. Mr. Preville stated that he understands that they could replace the mobile home without a variance. Mr. Ouimet asked where the fire hydrant is located. Mr. Preville stated across the street. Mr. Preville stated they could remove the horse paddock area off of the front lot and that area could be used also for fire equipment to access the rear lot. Mr. Rose stated that things change, the front lot could be sold and the ZBA needs to ensure that the rear lot can be accessed. Mr. Ouimet asked if there was an existing septic on the rear lot. Mr. Preville stated yes. Mr. Tedrow asked if the existing septic system was adequate for a duplex. Mr. Preville stated it was designed for a four-bedroom home and is actually larger than what is needed. Mr. Ouimet asked if the proposed duplex could be orientated differently on the rear lot. Mr. Preville stated that due to the wetlands and the location of the existing septic system that would not be feasible. Mr. Rose asked if the front existing home was rented. Mr. Preville stated yes but the tenants only use half of the front lot and the other half is used to house their horses.

Mr. Rose made a motion to approve the front yard area variance contingent on the Town's Fire/Code Enforcement office accepting the access to the rear lot prior to appearing before the Planning Board for subdivision approval. Mr. Ouimet seconded. Motion Carried.

Mr. Ouimet made a motion to adjourn the June 7, 2004 Town of Halfmoon Zoning Board of Appeals meeting at 9:20 pm. Mr. Rose seconded. Motion carried unanimously.

Respectfully Submitted,
Jeffrey R. Williams
ZBA Coordinator