

Zoning Board Minutes - September 7, 2004

Chairman Hansen called the September 7, 2004 meeting of the Town of Halfmoon Zoning Board of Appeals to order at 7:30 pm with the following members present: Mr. Tedrow, Mr. Ouimet, and Mr. Rose –Zoning Board of Appeals members and Jeff Williams – Zoning Board Coordinator.

Mr. Ouimet made a motion to approve the August 2, 2004 ZBA minutes. Mr. Rose seconded. Motion carried.

Ianiello Subdivision, 25 Pruyn Hill Road, Area Variance

Chairman Hansen re-opened the Public Hearing at 7:32 PM. Mr. Hansen read a letter submitted by Lucy Gaida, adjoining property owner, stating she has no objection to the Ianiello Subdivision request. Mr. Dan Tompkins, Environmental Design Partnership representing the Ianiellos, submitted further information to alleviate the concerns raised by the Board at the August 2004 meeting. Mr. Tompkins stated he has reviewed the plan with the neighbor, Mrs. Gaida, and will place a deed restriction and a note on the plan that the 15' side yard setback line would be adjacent to her property. Mr. Tompkins continued that there will be a restriction of placing only a single-family residential unit on the proposed vacant lot and that the front yard set back will be an average of all the existing front yard setbacks within a 300 ft range as described in the Town's zoning ordinance. Dan stated the average front yard setback would be in the range of 30-50 ft by taking the average front yard setbacks in the 300 ft range. Mr. Tompkins stated he feels that he has addressed any impacts to the neighborhood, while maintaining the character of the neighborhood and allowing the Ianiellos to market a building lot. Mr. Hansen asked if anyone from the Public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 7:41 PM. Mr. Rose asked if the proposed single-family house would be single story. Mr. Tompkins stated that it may be or it may be a two story single-family house. Mr. Tompkins explained that the neighborhood has a mix of two-story and single-story houses. Mr. Rose asked if Mrs. Gaida understood that there could be a two-story house built. Mr. Ianiello, the applicant, stated that they told her a single-family house but there are (2) two-story houses in the immediate surroundings of the proposed lot. Mr. Hansen stated he visited the Town's Assessor office and obtained a tax map of the Pruyn Hill Development. Mr. Hansen stated he highlighted all of the existing lots with 75 ft or less of frontage. Mr. Hansen stated there are existing lots with 75 ft or less of frontage but the majority of the lots are greater than 75 ft. Mr. Ouimet stated he is not comfortable with deed restriction. Mr. Ouimet asked Mr. Tompkins if his clients have a buyer. Mr. Tompkins stated no. Mr. Ouimet stated it sounds like you are restricting the marketability for the proposed lot with deed restrictions. Mr. Tompkins stated there are two fail-safes represented by deed restrictions and a note on the subdivision plan with regards to the 15 ft side yard setback and the single-family only. Mr. Rose questioned if the front yard setback would need another variance at time the building permit was obtained. Mr. Tompkins stated the Town's Zoning Ordinance has a section in it describing "Front Yard Exceptions". Mr. Ouimet asked the Board if anyone else has a concern with the deed restrictions. Mr. Rose stated that at the August 2004 meeting, the Board asked for a house design. Mr. Tompkins stated that he requested the Board to table this item at the last meeting to allow him time to discuss the matter over with the Ianiellos. Mr. Ouimet stated that the Board did not or has not asked for the deed restrictions. Mr. Ouimet continued that if the Board approved the area variance with out any restrictions then there would be a building lot. At the time of the issuance of a building permit and if a variance was needed then the ZBA could look at the circumstances associated with the building. Mr. Tompkins stated he feels the restrictions are a good thing, the neighbor is in agreement and it allows everyone to be aware that there are certain attributes to the building lot to offer a good, safe plan. Mr. Tedrow stated the Board should review the proposed building lot with regards to the requested area variance. Mr. Tedrow continued that the Town cannot enforce any deed restrictions and that he feels it is just an added measure. Mr. Tedrow asked if Mrs. Gaida would be able to enforce the deed restrictions. Mr. Tompkins stated he was unsure but is inclined to think that it would only be between the Ianiellos and the buyer of the lot. Mr. Ouimet stated that the Board should not trouble over the deed restriction but questioned the area variance and whether or not to approve such a small building lot. Mr. Hansen stated the majority of the lots in the Pruyn Hill development are larger than what is being asked for but there are some smaller also. Mr. Hansen continued that the majority of the homes were built 40 to 50 years ago and questioned the Board if they want to create another small building lot. Mr. Tompkins added that Public water and sewer to alleviate any well water and septic separation concerns service the area. Mr. Tompkins stated that he feels the proposal reflects the character of the neighborhood meaning there are existing lots with smaller area and frontage, the neighbor is agreeable and that the proposed lot will be buildable. Mr. Ouimet stated there are five criteria that the Board can use to weigh its decision. Mr. Ouimet stated that he feels the proposed lot will not alter the character of the neighborhood, the applicant does not own adjacent property to add to the proposed lot, the question of the variance request is substantial could be discussed further and maybe it is self-created. Mr. Tompkins stated that the self-created part could be seen that in 1925 there were three separate parcels encompassing the Ianiello's land. In 1961 the Ianeillos purchased the three 50 ft wide lots and somehow the lots

were combined to be known as one lot. Mr. Tompkins stated at one time there were three building lots. Mr. Ianiello stated there are three lots near the target parcel with 50 ft lot widths. Mr. Hansen agreed. Mr. Rose questioned if the Board was setting any precedence by creating a small building lot. Mr. Tedrow stated it is a unique situation because the way Pruyn Hill Development was created with such small lot to begin with. Mr. Tedrow continued that the given the uniqueness of the area the Board would not be approving the smallest lot. Mr. Hansen asked the Board if they are ready for a decision. Mr. Tedrow made a motion to approve the revised application. Mr. Hansen asked for discussion. Mr. Ouimet stated he does not want to approve anything that has the deed restrictions associated with it. Mr. Tedrow stated he likes the idea of giving Mrs. Gaida the 15 ft side yard set back. Mr. Rose suggested they approve the 15 ft side yard setback but not the deed restrictions. Mr. Ouimet stated he wants to make it clear if the Board approves the request, the Board is not making it a condition with the deed restrictions. Mr. Tedrow agreed. Mr. Hansen stated he does not feel comfortable with changing the map because it was what the neighbor agreed to. Mr. Tedrow withdrew his previous motion. Mr. Ouimet made a motion to approve the Ianeillo subdivision conditioned that the easterly boundary of the proposed vacant lot has a 15 ft side yard set back and that the lot will only have a single-family use. Mr. Tedrow seconded. Motion carried. Mr. Rose asked Mr. Tompkins to amend the Lucy Gaida letter and submit it to the Board with the correct date of when she reviewed the plans. Mr. Tompkins agreed.

Campbell Subdivision, 405 Hudson River Road, Area Variance

Mr. Hansen explained that this item was before the Board in August 2004 and that the Public Hearing was left opened in order for the applicant to submit additional information prior to the Board making a decision. Mr. Hansen suggested a motion to continue to leave the Public Hearing open. Mr. Ouimet made a motion to keep the Public Hearing open for the October meeting. Mr. Rose seconded. Motion carried.

Sitko Building Permit, 56 Church Hill Road, Front Yard Setback Variance

Mr. Hansen opened the Public Hearing at 8:34 PM. Mr. Ron Sitko, the applicant, stated he purchased an existing home overlooking the Mohawk River. Mr. Sitko stated that the existing garage is dilapidated and needs to be replaced. Mr. Sitko stated he wishes to build a larger garage, in the same location, in order to house their two cars and a boat. Mr. Sitko stated that he wishes to enlarge the garage by 7 additional feet in the front. Mr. Sitko stated a front yard set back variance is needed due to the front of the proposed garage will not meet the required 50 ft front yard set back from the property line. Mr. Sitko stated the garage will actually be more than 80 ft from the road due to a large area of state land between the Church Hill Road and the Sitko property line. Mr. Hansen asked if anyone wished to speak. No one responded. Mr. Williams told the Board that Mr. Hartley reviewed the plans and had no objections. Mr. Hansen closed the Public Hearing at 8:41 PM. Mr. Ouimet asked who owns Mohawk Drive. Mr. Sitko stated the State of New York. Mr. Sitko stated his request would not alter the character of the area.

Mr. Rose made a motion to approve the application as presented. Mr. Ouimet seconded. Motion Carried.

Belkavich Subdivision, 130 Canal Road, Area Variance

Mr. Hansen opened the Public Hearing at 8:46 PM. Mr. Lou Chicatelli, the attorney representing the Belkavich Estate, presented a request to subdivide two existing residential homes, located on one parcel, to create two separate lots. Mr. Chicatelli stated in order to separate the two existing homes; two non-conforming lot areas would need to be created. Mr. Chicatelli stated they have tried to split the area evenly but due to a rock out cropping one lot is slightly larger than the other. Mr. Chicatelli concluded that the proposed action will not change the existing conditions other than adding a lot line. Mr. Ouimet questioned the encroachment over the state land. Mr. Williams showed the Board a letter from the State Canal Corp. acknowledging the encroachments. Mr. Hansen asked if anyone from the Public wished to speak no one responded. Mr. Hansen closed the Public Hearing at 8:53 PM. Mr. Ouimet asked if asked if any of the public have commented on this request. Mr. Hansen and Mr. Williams stated no. Mr. Hansen stated that he requested the area of notification to be expanded. Mr. Tedrow made a motion to approve the variance as presented. Mr. Rose seconded. Motion carried.

Mr. Rose made a motion to adjourn the September 7, 2004 Town of Halfmoon Zoning Board of Appeals meeting at 8:57 PM. Mr. Ouimet seconded. Motion carried unanimously.

Respectfully Submitted,
Jeffrey R. Williams
ZBA Coordinator