

**June 5, 2006  
Town of Halfmoon  
Zoning Board of Appeals  
Meeting Minutes**

Chairman George Hansen opened the June 5, 2006 Town of Halfmoon Zoning Board of Appeals meeting at 7:30pm with the following members present: Chairman Hansen, Vice-Chairman Tedrow, Mr. Rose, Mrs. Jordan, and Mr. Brennan. Also in attendance was alternate Mr. Burdyl.

Chairman Hansen asked if the Board reviewed the May 1, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mrs. Jordan made a motion to approve the May 1, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes. Mr. Tedrow seconded. Motion carried.

**Lawrence and Joyce Tucker, 259 Lower Newtown Road, Area Variance**

Larry Tucker stated that they are seeking an area variance for substandard frontage that would allow them to subdivide. Mr. Tucker stated that he owns a 2.86-acre parcel that has frontage on Lower Newtown Road and Allen Drive with an existing single-family house. The existing house accesses the site from Lower Newtown Road with frontage of 54.72 ft. The parcel also has frontage on Allen Drive of 47.51 ft. The applicant wishes to subdivide the property to create a 0.92-acre parcel with frontage on Allen Drive. This proposed action would leave a 1.94-acre parcel with the existing house and with frontage on Lower Newtown Road. Mr. Hansen asked if anyone from the public wished to speak. Mrs. Ferrell of 5 Allen Dr. stated that the proposed subdivision map stated that on the map the two parcels both state that they are 1.92 acres, although one stated 40,000 SF and the other stated 84,000 SF. Mr. Hansen stated that they has discussed this discrepancy with Mr. Dave Flanders of David A. Flanders Associates, and that a corrected map was submitted to the Building Dept. which had one lot at 0.92 acres with the other at 1.94 acres. Mrs. Ferrell asked what the minimum lot size requirement was for a flaglot. Mr. Hansen stated that the lot would need to conform to the minimum lot requirements for a lot with public water and private sewer in the R-1 zone of 30,000 SF and that technically this would not be a flaglot, as that only requires 20 ft of frontage, but is rather a lot with substandard frontage. Mr. Rose asked what the distance was to the nearest house on surrounding parcels. Mr. Tucker stated that it was more than 100 ft to the nearest house structure. Mr. Ferrell stated that when he purchased his house he was told that this lot could not be subdivided. Mrs. Ferrell asked how another septic system in this area would affect the ground water. Mr. Hansen stated that most of the residences in this area have public water and there is no way to foresee a problem. Mrs. Ferrell asked if Mr. Tucker was planning on building on the proposed lot. Mr. Tucker stated that he was subdividing to sell the new lot. Mr. Ferrell asked where the entrance to the proposed lot would be. Mr. Tucker stated Allen Dr. Victoria Keegan of 261 Lower Newtown Rd. asked if there would be a connection of the two driveways between the lots. Mr. Tucker stated no, the new lot would have access from Allen Dr. only. Mr. Ferrell asked if the building location on the proposal map was going to be the actual location of the house. Mr. Tucker stated that the Town requires setback guidelines and anyone building there would have to

follow those guidelines to build there and the location shown on the map is ideal due to the topography of the land. Mrs. Ferrell asked if there would be a house built or if it was possible to put mobile homes on the lot. Mr. Tucker stated that the lot was zoned for residential use that allows a single family home and that the zoning does not allow for mobile homes. Mr. Tucker stated that he would be willing to discuss selling the land to the adjacent neighbors if they were interested. Mr. Dinuzzo stated that there are requirements to keep septic systems a certain distance from neighboring wells. Mr. Tucker stated that the location of the septic would be the responsibility of the developer. Mrs. Ferrell asked if the Board had looked at the property. Mr. Hansen stated that all of the Board members had visited the site. Mr. Hansen referred to the five tests in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 2. The Board determined that there would not be an undesirable change to the character of the neighborhood. Mr. Rose stated that there was substantial room between neighboring properties for a home on this site. Mrs. Jordan stated that if a home were built on this lot, it could deter people from dumping garbage on the site. The Board determined that there was no other feasible pursuit for the applicant to take, that the area variance was substantial from 150ft to 47ft, and that the proposed variance would not have an adverse effect on the physical or environmental condition in the neighborhood. Mr. Rose stated that the difficulty was clearly not self-created as the property lines were the same as when the applicant purchased it. Mr. Tedrow stated that he disagreed, and that the difficulty was self-created by the application being made. Mr. Hansen stated that he felt that this should not preclude the granting of the area variance. Mr. Farrell asked what the ROW was on this lot. Mr. Flanders stated that it would be difficult to tell without a survey as this varies. Mr. Farrell asked how the minimum frontage requirement was obtained in the Local Law. Mr. Hansen stated that the requirements change according to the utilities available and the minimum frontage changes accordingly to keep the lots from being increasingly deep. Mr. Hansen asked Mr. Faulkner of 14 Hayner Rd. if he remembered if this area was developed prior to zoning. Mr. Faulkner stated yes, he had built his house in 1962 prior to zoning regulations. Mr. Tedrow made a motion to approve the area variance, Mr. Rose seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Rose-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

#### **Betty Floud, 223 Cary Road, Use Variance**

Dave Flanders, of David A. Flanders Associates, stated that Mrs. Floud is seeking a use variance to allow a residential use in a light industrial-commercial zone on a 4-acre parcel that they are hoping to subdivide from a 41-acre parcel off of Cary Rd. Mr. Hansen stated that he needed to advise the Board that he spoke with Steve Watts, Planning Board Chairman, and Lyn Murphy, Town Attorney, and it was concluded that because the parcel has not yet been subdivided, if a decision was made by the Board tonight that it would apply to the whole parcel as it exists now. Mr. Hansen stated that the Board could make a recommendation on whether they feel that a residential use is appropriate in this area. He stated that if the applicant received an approval on the subdivision from the Planning Board and applied for a building permit for the house they would be denied by the Building Department for a non-conforming use and would need to come back before the ZBA for this use variance application at that time for a decision. Mr. Rose asked if

the advisory opinion was binding. Mr. Hansen stated that it was strictly a recommendation and he did not believe that it was binding. Mr. Hansen stated that it is possible that zoning in this area will change in the future as the zoning is being reviewed and that was another option for the applicant. Joyce Floud, of 14 Ushers Rd., stated that this is a family farm that they are trying to subdivide so that the family can maintain the property. Mr. Hansen stated that the Board is constrained by what the Town Attorney has advised. Mrs. Floud asked how the zoning became light-industrial/commercial in this area. Mr. Hansen stated that at the time the zoning was adopted, the Town had to have a variety of uses and due to the railroad line this was a good location for this use. Mr. Hansen stated that at that time all of the zoning was adopted through public hearings. Mr. Hansen referred to the five tests in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 1. Mr. Tedrow stated that the lack of interest in the area for industrial use has shown that a reasonable return cannot be realized under current zoning. Mr. Hansen stated that the lot in question is less desirable for commercial use due to the topography. Mr. Hansen stated that the Board received an anonymous letter from a neighbor complaining of abandoned cars and debris left on the property and that the Code Enforcement officers have been out to inspect the site. Mr. Hansen stated that the Building Department would contact Mrs. Betty Floud in regards to this issue. The Board concluded that the requested use variance would not alter the character of the neighborhood and that the hardship was not self-created. Mr. Rose stated the advisory opinion should be based on not finding any significant argument to the four tests for the use variance as reviewed by the Board. Mr. Tedrow made a motion that based on the information received tonight and on the Board's deliberations, the Board believes that the requirements of the ordinance which test use variances would be met subject to any changes in information from this point forward. The Board reserves the right to re-evaluate the application. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Rose-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.

Mr. Tedrow made a motion to adjourn the June 5, 2006 Zoning Board of Appeals Meeting. Mr. Brennen seconded. The vote was as follows: Mr. Brennan-aye, Mrs. Jordan-aye, Mr. Rose-aye, Mr. Hansen-aye, and Mr. Tedrow-aye. Motion carried.