

**November 6, 2006
Town of Halfmoon
Zoning Board of Appeals
Meeting Minutes**

Chairman George Hansen opened the November 6, 2006 Town of Halfmoon Zoning Board of Appeals meeting at 7:30pm with the following members present: Mr. Rose, Mrs. Jordan, Mr. Tedrow, and Mr. Brennan. Also in attendance was alternate Mr. Burdyl.

Chairman Hansen asked if the Board reviewed the October 2, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mr. Rose made a motion to approve the October 2, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes. Mrs. Jordan seconded. Motion carried.

Frechette Subdivision, Upper Newtown Rd-Area Variance

Chairman Hansen stated that the application had previously been before the Board at the September 5, 2006 meeting at which time it was referred back to the Planning Board for further review. The Town Attorney advised the Planning Board prior to the October 23, 2006 Planning Board meeting that the application had already been denied and could not be considered for additional discussion because there was no longer an open application before them. Mr. Gil VanGuilder, of VanGuilder Associates, stated that the applicant owns a 6-acre parcel that he wishes to subdivide to create four lots that all meet the minimum size requirements for the A-R zone. Two of the lots will have the required frontage on Upper Newtown Rd. and the applicant is seeking an area variance to allow for two flaglots. The lots will have private sewer and water. There are plans to connect to the public water when it becomes available with the extension of the water treatment plant in approximately a year, however, they have allowed enough square footage to allow for wells should the need arise. There is a small amount of federal wetlands that are drainage corridors and connect to culverts. They are subdividing the lots in this way to allow for the least impact on these wetlands. There will be an agreement written into the deeds of the lots stating that they will share maintenance on the common driveway. Changes have been made to the original application to add ten percent additional square footage to the two front lots. The homes in the flaglots have been turned to represent a more conventional layout to face the driveways. The first flaglot has been increased by approximately three-tenths of an acre to enlarge the building envelope. These changes have been made in response to the Board's concerns at the previous meeting. A 30 ft turnaround has been added to the fourth lot for emergency vehicles and the third lot has been designed so that the driveway can be used as a turn around as well. Mr. Burdyl asked what the paving material would be for the turn around. Mr. VanGuilder stated that it would be constructed the same as the driveway with the minimum of eight inches of crusher run and may be paved if the homeowners desire. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Rose asked if it was possible to add a larger turn around at the fourth lot for large trucks such as fire trucks or snow plows. Mr. VanGuilder stated that the 30 ft turn around would allow for a truck to turn around. Mr. Rose asked how more than one vehicle could turn around. Mr. Van Guilder stated that the third lot's driveway has been designed to allow for a vehicle to back up

and turn around and that could accommodate the second truck. Mrs. Jordan stated that the changes to the plan do seem to reflect what the Town's Comprehensive plan calls for but she does feel that an actual circular turn around may be more adequate than the 30 ft stub. Mr. VanGuilder stated that the applicant would certainly consider this if the Board was in favor of that change, the drawbacks would be that there would be increased impervious surface and this type of circle does make plowing more difficult. Mr. Hansen stated that the Planning Board considers the review and planning of the site and that the Zoning Board of Appeals was to make a decision based on if it is consistent with the area and so fourth. The application will go back to the Planning Board for the Minor Subdivision application. Mr. Hansen asked for a motion to close the Public Hearing. Mr. Tedrow made a motion to close the Public Hearing. Mr. Rose seconded. Motion carried. Mr. Hansen referred to the five tests for an Area Variance in the Town of Halfmoon Local Law, Article XIV, section 1403, part B, number 2. Mr. Rose stated in regards to the first test that there was no detriment to the nearby properties. Mr. Hansen stated that a cul-de-sac had been discussed as an alterative method. Mr. VanGuilder stated that financially it was not viable for the applicant to place a Town road on the site. The physical layout of the lots would also make the placement of a cul-de-sac difficult as well as the placement of the utilities, which can go under a driveway but not a Town road. Mr. Tedrow stated that the benefit sought by the applicant could not be met with a Town road because of the cost and the geometry of the parcel. Mrs. Jordan stated that a Town road my not be feasible, but a turn around may still be an option. Mr. Hansen stated that he believes the test refers to whether the applicant could obtain a four-lot subdivision without two flaglots and that the answer to that appears to be no as there is not sufficient frontage for four lots. Mrs. Jordan stated that if a Town road could not be placed on the site, she is concerned with whether a fourth lot is viable from a safety standpoint. Mr. Rose stated that the area variance is substantial. Mr. Tedrow stated that yes the variance was substantial. Mr. VanGuilder read a review by the ZBA from the June 7, 2004 meeting that stated that as long as the required area was met and it appeared to be a safe situation than the Board granted such variances for additional flaglots in the past. Mr. Rose referred back to the second test in regards to safety and stated that this was the concern of the Board. Mr. VanGuilder stated that the applicant would like to mitigate those concerns. Mr. Rose asked what the financial viability would be for three lots instead of four. Mr. VanGuilder stated that the developer would have to spend resources to bring utilities to the three lots and the fourth lot would be of minimal cost, making it the major source of income for the property. Mr. Butler, the applicant, stated that they are making money with the fourth lot and would only break even on three. Mr. VanGuilder stated that the applicant had contacted the adjoining landowner but that they were not interested in selling the property at this time. Mrs. Jordan stated that the environmental concerns had been addressed in regards to the fourth test. Mr. Brennen stated that the physical area of the lots is adequate. Mrs. Jordan stated that the hardship was self-created. Mr. Hansen stated that setbacks and density meet zoning regulations. Mr. Rose stated that he still has concerns with fourth lot and the ability of emergency vehicles to turn around. Mr. Brennen stated that the width of the drive is a larger concern so two trucks could pass, but that placing strict contingencies on the variance could be a detriment to the planning process for the Planning Board. Mr. Rose made a motion to approve the area variance contingent on the Planning Board reviewing the application for

safety so that two emergency vehicles are able to pass and turn around. Mr. Brennen seconded. The vote was as follows: Mr. Hansen-aye, Mr. Rose-aye, Mr. Tedrow-aye, Mrs. Jordan-aye. Motion carried.

Mr. Rose made a motion to adjourn the November 6, 2006 Zoning Board of Appeals meeting. Mrs. Jordan seconded. Motion carried.