

**January 2, 2007
Town of Halfmoon
Zoning Board of Appeals
Meeting Minutes**

Chairman Hansen opened the January 2, 2007 Town of Halfmoon Zoning Board of Appeals meeting, held at the Town's Senior Center, at 7:30pm with the following members present: Mr. Tedrow, Mr. Rose, Mrs. Jordan and Mr. Brennan. Mr. Burdyl was present as the Zoning Board of Appeals alternate and sat in for Mr. Brennan for a short period during the Becker-Area Variance discussion.

Chairman Hansen asked if the Board reviewed the December 4, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes.

Mrs. Jordan made a motion to approve the December 4, 2006 Town of Halfmoon Zoning Board of Appeals meeting minutes with a minor change. Mr. Burdyl seconded. Motion carried.

Mr. Mark Becker, 731 Hudson River Road, Area Variance

Chairman Hansen opened the Public Hearing at 7:31 PM. Chairman Hansen explained that Mr. Mark Becker applied for a building permit to place a pole barn on their property. The building permit was denied on the basis that he proposed pole barn was to be placed within the front yard of the property and the Town's ordinance states that residential accessory buildings can be placed within the side yard or rear yard of the property. Mr. Becker explained that the property is long and narrow and that the existing house is ~300ft from Hudson River Road. Mr. Becker stated the proposed pole barn would be placed ~ 160 ft from Hudson River Road and cannot be placed in the rear yard or side yard of the property due to lack of sufficient area to meet required setbacks and the existence of the septic field. Mr. Becker introduced his neighbor, Mr. Fred Woelfersheim, to the Board. Mr. Woelfersheim stated he does not have any concern with Mr. Becker proposed location of the proposed pole barn. Mr. Becker stated he understands that he has to prove that the proposed location of the pole barn cannot be constructed in the side or the rear of his property and that the front yard is the only location suitable to build the proposed pole barn. Mr. Rose stated that he understands the pole barn cannot be constructed in the rear yard portion of the Becker property due to a scenic restriction. Mr. Becker stated no that the proposed pole barn cannot be built in the rear yard due to the location of the existing septic field. Mr. Becker stated that the rear yard of the property is adjacent to State land associated with the Hudson River. Mrs. Jordan stated that at the December 4, 2006 ZBA meeting, the Board asked for the applicant to produce a survey of the property showing the proposed location of the pole barn and all of the other existing improvements. Mrs. Jordan asked if the survey has been completed. Mr. Becker stated that due to the holidays, they could not have a surveyed performed. Mr. Becker stated that Mr. Woelfersheim has a survey of his property that shows their shared boundary line. Chairman Hansen stated that Mr. Woelfersheim's property is to the north of Mr. Becker's property. The Board reviewed Mr. Woelfersheim's survey. Mr. Rose asked where the power pole was located near the front of Mr. Woelfershiem's and Mr. Becker's properties. Mr. Wolfershiem pointed out the location. Mr. Rose asked if Mr.

Woelfershiem's survey has been filed at the County. Mr. Woelfershiem stated yes. Mr. Burdyl asked where the location of Mr. Becker's septic field is located. Mr. Becker showed the approximate location of the septic field and the approximate boundary of the State land adjacent to the Hudson River. Mrs. Jordan stated that she would like to see all of the existing boundaries and improvements on a survey of Mr. Becker's property. Mr. Becker stated he would only be able to show the approximate location of the septic field without digging up the septic field to show exact location. Mr. Burdyl asked how long would it take for a survey to be produced. Mr. Becker stated about six weeks. Chairman Hansen stated that several Board members visited the site and that there was a tree line separating the properties but he feels that the power pole is the best indicator to where the actual property line exists. Mr. Tedrow asked what the width of the property. Mr. Becker stated 110 feet in the front and 80 feet in the rear. Mr. Becker asked what the minimum setback requirement for a residential accessory building. Mrs. Jordan stated 5 ft from the side or rear yard boundary line. Mrs. Jordan stated that this is the reason why the Board needs to see a survey to make sure proper placement of the proposed pole barn. Mrs. Jordan stated the Board needs to apply a test to prove the requested variance and that the Board would not be able to perform the test without an actual survey. Mr. Rose agreed. Chairman Hansen asked the Board if they wish to table this item until a survey is produced for Mr. Becker's property. Mr. Rose stated that at the December 4, 2006 meeting, the Board requested a survey. Chairman Hansen stated that the Board could adjourn the Public Hearing or change the December 2006 request. Mr. Rose asked Mr. Becker if he has ordered for a survey to be performed. Mrs. Becker stated that they have called different surveyors, researched for an existing survey but due to the holiday season a survey could not be performed in time. Mr. Rose asked how long would it take for a survey to be produced. Mrs. Becker stated six to eight weeks. Mr. Woelfershiem asked the Board if they could review the deed for Mr. Becker's property. Chairman Hansen stated the deed would not show the location of the proposed pole barn and would be difficult to determine the exact boundary line. Mr. Woelfersheim stated that his survey shows the boundary line. Chairman Hansen asked who owns the sheds represented on Mr. Woelfershiem's survey. Mr. Becker stated that one shed and the garden no longer exist and that one shed is on his property. Mr. Becker asked the Board if the main concern was that the location of the pole barn is not close to the property line. Mrs. Jordan stated that the Board needs proof that you cannot build the proposed pole barn in the location described in the Town's zoning law for accessory buildings in a residential zone and that the proposed location meets all other minimum area requirements. Chairman Hansen stated that the proposed detached pole barn also needs to be at least 10 feet from the principal building. Mr. Woelfersheim asked if Mr. Becker could sketch the location of the proposed pole barn by measuring off of his survey. Chairman Hansen stated that it would give an approximate location of the existing and proposed buildings by one to two feet. Mr. Becker stated that the person they bought the home from has a boundary survey. Mr. Becker stated the boundary survey does not have any of the existing improvements on the property as the former owner used the boundary survey to obtain a building permit for the existing house. Chairman Hansen asked the Board if they would like to make decision.

Mr. Tedrow made a motion to table the Becker Area Variance request application and to adjourn the Public Hearing until a site survey is produced. Mrs. Jordan seconded.

Chairman Hansen asked the Board for further discussion. Mr. Rose asked if a surveyor could verify the existing and proposed locations off of Mr. Woelferhsheim's survey. Chairman Hansen stated probably not and that a new survey should be produced with the boundary lines and existing and proposed improvements represented. Motion Carried unanimously.

Chairman Hansen asked Mr. Becker to contact the ZBA secretary once a survey is ready to be presented to the ZBA.

Grant & Georgine Lewis, 37 Deer Run Hollow, Area Variance

Chairman Hansen opened the Public Hearing at 8:11 PM. Chairman Hansen explained that the applicant is before the Board for an area variance for the minimum side yard setback requirement. The required minimum side yard setback is 10 ft, whereas, the applicant is seeking relief for a 9 ft side yard set back.

Chairman Hansen stated that by looking at the plot plan the existing house is 23 ft from the side yard boundary. Mr. Greg Bold, the applicant's engineer, stated that is correct and that at the time the proposed addition was being designed the applicant believed that they had 12 ft to work with. Unfortunately, at the time of construction, the addition was placed on an existing "bump out" on the house. The "bump out" is approximately 2-3 feet in depth and this caused the addition to be placed 1 ft over the side yard set back or 9 ft from the side yard boundary line. Mr. Tedrow asked if there are utilities in the back of the house that the applicant may need to get to. Mr. Lewis stated no all utilities are in the front. Mr. Bold stated that the other side of the house is about 20 ft from the property line and the rear yard can be accessed through that area. Mr. Rose asked if there have been any issues from the neighbor and asked if the neighbor was notified of tonight's hearing. Mr. Hansen asked if there was anyone in the audience who wished to speak. No one responded. Chairman Hansen closed the Public Hearing at 8:16 PM. Mr. Hansen checked the Public Notices and verified the neighbor did receive a Public Hearing Notice. Mr. Lewis stated that he has talked with the neighbor and that the neighbor did not have any issues with the addition. Mrs. Jordan stated the Board should run through their 5-point test. The Board agreed that the proposed addition and requested area variance would not be an undesirable change to the character to the neighborhood, the addition would not be able to be placed without a variance, noting that the addition is already started, that the addition would not be a subsequent change to the character of the neighborhood and the addition would not be an adverse impact to the environment or neighborhood. The Board stated that variance request was self-created by an innocent mistake made by the applicant's engineer and an oversight by the Town's Building Department. The Board stated that the self-created test does not necessarily turn down the request.

Mr. Rose made a motion to approve the area variance as presented. Mrs. Jordan seconded. Motion Carried unanimously.

Mr. Rose made a motion to adjourn the January 2, 2007 ZBA meeting at 8:22 PM. Mrs. Jordan seconded. Motion carried.

Respectfully Submitted,
Jeffrey R. Williams, Sr. Planner