

Town of Halfmoon Zoning Board of Appeals  
Meeting - Monday, December 1, 2014  
7:00 p.m.

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:09 p.m. on Monday, December 1, 2014 at the Halfmoon Town Hall with the following members present:

Members: Vice-Chairman Tedrow, Mr. Hansen, Mr. Burdyl, Mr. Brennan  
Alternate Member: Deborah Curto - absent  
Councilmen: Mr. Connors  
Town Attorney: Ms. Cathy Drobny  
Secretary: Mrs. Mikol

Chairman Rose commented: We will save the minutes for the end of the meeting as well as our discussion regarding Miranda and Saratoga County.

**Old Business:**  
**Public Hearings:**

**Wilfredo Miranda, 1480 / 1482 Route 9 – 278.4-2-52 and 278.4-2-55**

The Board will discuss this at the end of the meeting.

**Stewarts Shop #112: 1403 Route 9 – SBL # 285.1-1-33**

Vice-Chairman Tedrow commented: Mr. Chairman for the record, I would like to state that my son works for Stewart's but I believe that I can deliberate without being effected by that relationship.

Chairman Rose commented: Thank you for the notice. I trust that you can do so. For the benefit of the public anyone who wishes to speak tonight will have to come up to the microphone and give your name and address because the minutes are recorded.

Mr. Chris Potter, applicant for Stewart's Shops Corp., at 1403 Route 9 is requesting to construct a 1,100 SF gas canopy and eliminate the existing gas canopy; in addition, to also eliminate the full access ingress/egress on Route 9 and construct a consolidated right-in/right-out only along Route 9 in it's place. The applicant is in need of the following variances:

**Front Yard**-(Route 9): Pursuant to Section 165, Attachment 1, Schedule A, and Section 165-34C, Town Code requires a 50' front yard setback for the canopy (accessory structures in C-1 must have the same setback as the principal structure). The proposed canopy is 14' from Route 9, requiring a variance of 36'.

**Front Yard**-(Church Hill Road): Pursuant to Section 165, Attachment 1, Schedule A, and Section 165-32C, Town Code requires a 50' front yard setback. The pre-existing building is 10' from Church Hill Road, requiring a variance of 40'.

**Rear Yard** Setback and Transition Yard: Pursuant to Section 165-32F and Section 165, Attachment 1, Schedule A, Town Code requires a 100' setback or 50' setback with fencing or evergreen plantings for the rear yard that abuts the residential-zoned/use lot to the east. The pre-existing setback of the existing building is 14', requiring a setback of 86' or 36', respectively.

**Parking Spaces:** Pursuant to Section 165-35C and Section 165, Attachment 2, Schedule B, Town Code requires twenty-seven (27) off-street parking spaces and twenty (25) are shown on the revised site plan. Therefore, a variance of two (2) off-street parking spaces is required.

Mr. Potter commented: We are in need of four (4) variances in order to construct a new gas canopy 20' x 55' with two dispensers which are the same as what it has today. The location of the canopy will move slightly from where it is today to improve safety and circulation within the lot. The existing canopy is in really bad shape and it is in need of replacement. By doing this we can hopefully correct some of the issues within the lot. The existing gas tanks will remain the same, green space will be reduced by about 1,000 SF, there is not a big impact there. We gain one parking spaces after configuring them around the building. Access will change on Route 9 we have two curb cuts now and we will go down to one which will be a right turn in and a right turn out. It will need DOT approval. The curb cuts on Church Hill Road and Terminal Road will remain as is. The existing free standing sign will be removed and will now have signage on the canopy to replace that. All the lighting will be redone on the canopy to LED and will be adding a few light poles around the new entrance.

Chairman Rose commented: For the record, we have a letter from the Saratoga County Planning Board indicating a decision of no significant county wide or inner community impacts. I will circulate that with the Board Members.

Chairman Rose commented: He wanted to clarify the last meeting we talked about variances that were already granted back in 1981 regarding this parcel.

Secretary Mikol commented: At the last meeting Mr. Hansen and Vice-Chairman Tedrow commented that the applicant received a variance a long time ago. At the request of the Board, I went back in the records and found that there was an approval for variances for side yard and front yard. Later in 1984 they received a variance for a storage shed and approval again in July 2011 from Planning Board for the curb cut on Terminal Road. You should all have a copy of those minutes in your folders.

Chairman Rose commented: Let's take a pause here for the Members to see the notes regarding this. Would any of the variances that were granted back in 1981 and 1984 time frame negate the current requested variances?

Secretary Mikol commented: It looks like the only variance needed is the canopy and the parking spaces. The building itself already has a variance. This is the same case as the DAM Liquor Store, once you change your site plan you have to revisit all the variances needed for the site. However, in this case, the Stewart's building already has a variance and the DAM Liquor store building did not.

Chairman Rose commented: Have you all had a chance to review the County and the previous minutes? Do you need more time?

Vice-Chairman Tedrow commented: Just for clarification are we going back to the list of needed variances and the Planning Board's resolution of September 8, 2014 are some of those taken care of by this evidence of prior approvals?

Chairman Rose commented: That is really my question as well I don't think the Planning Board knew about this update in 1981 or took that into consideration when they denied your application. I think that is sort of another situation that we have deal with tonight. Obviously I don't think they would have denied it if they had known that you had some previous variances granted for the location of the store itself. The canopy is clearly something that is moving that is obvious. The location of the building and the setback they were not aware of that. It looks like the County Wide Impact took into account the Planning Board's full disposition of their ruling as well so they were also not aware of their previous variances as well. I am not sure that we have the latitude or not to ignore two parts of the request and only focus on the two that do need variances from what the record shows. We are going strictly on the face of the application. If the County doesn't have a problem with it it's already been approved by them it is sort of superfluous in my opinion.

Mr. Burdyl commented: I think you are on the right track, Chairman. I would go on with your opinion.

Chairman Rose commented: I will ask for wiser council from Mr. Hansen and Vice-Chairman Tedrow from your experience if pieces of information were omitted to the County and to the Planning Board that have surfaced since those meetings would that negate the reason to require all but full package. Do we have the latitude to do that? Or should we just approve it or re-approve the entire package as it is knowing that the previous variances were already covered. Make it one complete package going forward for the record. There are so many pieces and parts to this application from the past 30+ years.

Vice-Chairman Tedrow commented: I think it would be safer just to re-confirm prior variances and the new variances do it in one package.

Chairman Rose commented: To avoid a fragment that is really the decision here I think we need to make as a Board. If we should decide to approve it we should consider it into one package or fragmented?

Ms. Drobny commented: If you're not changing the Zoning at all and it has a pre-existing approval you can exclude it from the package because they already have that part of the approval.

Chairman Rose commented: Should we keep the package together?

Mr. Hansen commented: As I understand it the only structural part of this that you are changing is the canopy, is that correct?

Mr. Potter commented: That is correct.

Chairman Rose commented: Does the Board have any more questions for the applicant? We did a site visit the Saturday before Thanksgiving, November 22, 2014.

Mr. Burdyl commented: I would like to re-confirm the outlet to Terminal Road that will still have ingress/egress?

Mr. Potter commented: Yes, It will be both ingress/egress as it is now.

Chairman Rose commented: What is the dimension of the canopy? What will it be increased to?

Mr. Potter commented: It is 20' x 55' is the proposed size and the existing is 20' x 40.

Chairman Rose commented: That is the canopy that covers the gas island correct? It is not attached to the main structure?

Mr. Potter commented: It is not attached, it is separate.

Vice-Chairman Tedrow commented: Is the parking space size resolved?

Mr. Potter commented: It is they are all 10 x 20.

Vice-Chairman Tedrow commented: There is no variance needed there?

Mr. Potter commented: Correct. We are two spaces too short for the quantity of spaces needed.

Chairman Rose commented: Do you already have a variance for the parking spaces now?

Mr. Potter commented: I don't think so because when we did the access to Terminal we only got Planning Board approval and no variances.

The applicant received a denial from the Planning Board on the original site plan at the September 8, 2014 meeting. The applicant came to the Zoning Board with changes made to the map after they were denied from the Planning Board therefore; the Planning Board had not seen the revisions that were made. The applicant went back to the Planning Board and was again denied on the revised site plan at the Monday, November 10, 2014.

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

"Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance."

Mr. Burdyl commented: I have a question, with the neighbor's concern about the buffering would we make that a contingency or would we ask Stewart's to provide us with a letter that they will go ahead with the neighbor to install 30 linear feet of buffering.

Chairman Rose commented: Hold off on that for a second as I read through the tests until a motion hits the table here. We can entertain whatever motion is on the table for the Planning Board for review post decision.

Mr. Hansen commented: They are not proposing any different use of the property as such. The canopy is being enlarged but it is going to have about the setback as it does now so it is not a material difference in a sense.

Mr. Burdyl commented: I would also agree that what we have been presented it doesn't appear to be a material change in what is going to be present at the site.

Chairman Rose commented: The applicant would still have to go DOT for approvals going forward but it appears to me that the curb cut is going to change probably from my un-qualified opinion and make an entrance into the store safer from the road on Route 9. I don't know if you noticed that at the site. I have seen a lot of cars back up at the light coming home from work and people pulling into that gas station from the first cut off I think moving that up a little bit would help cars from slamming their breaks at that light. It is not the best situation I am not saying it is even a good situation but my comment is to not make judgment on that. Anything to change the current curb cut probably would have a positive impact on the area in general for the safety and the health of the community. I am sure that DOT would rule on that officially but it appears that it would have that impact to me.

"Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance."

Vice-Chairman Tedrow commented: If the purpose is to shelter the gas pumps it is hard to see how you can fit anything that would work without a variance on that site.

"Whether the requested area variance is substantial."

Mr. Hansen commented: It is substantial but as the Vice-Chairman just pointed out they don't really have much of an alternative there because of the shape of the lot. It is long and narrow and the only way to put up a canopy is to get a variance for it.

"Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;" and

Chairman Rose commented: They are going to increase the amount of green space so there is some impact there. There is not much green space on that property as it is. I am not considering that to be a green space site. I don't think it would dissuade me if it were a major impact.

"Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance."

Vice-Chairman Tedrow commented: I think it is self-created but the overall purpose of the site plan changes to make the over all circulation and access to the site better. The overall purpose is to improve things here.

"The Board of Appeals, in the granting of area variances, shall grant the minim variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

Mr. Hansen made a motion to approve the variance as requested conditioned on submission from Stewart's regarding the landscaped requested by the neighbor, Mr. Plotnick of 102 Church Hill Road. Motion was seconded by Mr. Burdyl.

Mr. Brennan commented: Just to be clear on what Mr. Hansen's motion is...you're saying conditional on a discussion with them or the placement of additional landscaping. The reason why I ask that question is because I think it was brought up that it would be difficult to put that landscaping on Stewart's property and I am not sure of the Board's position on requesting an applicant to install product on someone else's land. I just want to make sure I understand that motion.

Mr. Hansen commented: My motion was contingent upon placement of landscaping and I guess it would be up to the adjacent landowner to determine whether or not they are willing to allow Stewart's if they couldn't put it on their own property if they would be willing to put it on the adjacent landowner's property. Granted if you look at the map the plan looks like the scale is 1" = 20' it looks like at least a 1/2" of map here between the existing retaining wall as a minimum so that is 10' would that be enough to put plantings in there? 10' is fairly decent right?

Mr. Potter commented: I think it depends on the type of plants we are talking about. If you are talking about a tree that is going to get substantially large I would think that if the retaining wall wasn't there I would say yes. I would have to compromise a retaining wall that holds back his property from falling into our building.

Mr. Hansen commented: I don't think the trees are the way to go anyway because they didn't work 30 years ago. I am thinking arborvitaes or something like that if anything it would take a long time for them to get big enough to be a problem.

Chairman Rose commented: The one thing that we should consider is that the applicant had these variances prior to purchasing his property in 1988 so from a time frame perspective I think we should give the applicant some latitude to work with the neighbor to plant trees that are mutually agreeable to both parties, that is really the intent of what we are trying to say here, I think. He actually bought his house in 1988 knowing that Stewart's was there to me that is obvious by admission here. We don't know the condition of the trees in 1988 and can't determine that at this point from this picture. Perhaps we could amend the motion to include the work within a reasonable time frame or bring it up at the Planning Board meeting when they go back for site plan review.

Vice-Chairman Tedrow commented: The Planning Board has to approve the site plan anyway so can't we ask them to deal with the buffering issue, rather than our board deciding what kind of tree to plant. They do that more often than we do.

Mr. Hansen commented: I would think so.

Chairman Rose commented: It appears to me that the applicant is willing to work with the Town and the neighbor to work out some kind of an arrangement. I think we should put it in the Planning Board's court to address it and make the final decision on how to fix it and we will leave it up to the applicant and the neighbor to mutually agree upon it. Let's send that recommendation forward with Mr. Marlow from the Planning Department.

Mr. Hansen commented: How do we want to word the approval then?

Mr. Burdyl commented: A letter of intent of the mutually agreeable screening between Stewart's and the neighbor.

Mr. Hansen commented: That would be fine with me.



Mr. Burdyl commented: The Planning Board can elaborate on that.

Chairman Rose commented: I am not quite sure what an arborvitae is to be exact. Is it short, tall, fast growing, wide tree.

Mr. Potter commented: It is compact it's an evergreen.

Motion made by Mr. Hansen to approve the variance request for Stewarts at 1403 Route 9 contingent upon the recommendation to the Planning Board that they consider a mutually agreed screening device with that of the neighbor, Mr. Plotnick at 102 Church Hill Road, seconded by Mr. Burdyl. The motion was unanimously approved and will take effect immediately.

**Lands of Sabourin – 29 & 33 Church Hill Road – SBL #285.1-2-21.211 and 285.1-2-65**

Chairman Rose commented: Our second public hearing tonight is lands of Paul Sabourin at 29 and 33 Church Hill Road. I believe this is being treated as two separate applications and we will need two separate resolutions. This proposal will allow all the accessory structures to become part of 33 Church Hill Road. Two of the existing structures do not meet the appropriate setbacks for accessory structures in an R-1 Residential Zone.

Mr. Duane Rabideau, from VanGuilder Associates applicant for Paul Sabourin for the side yard area variances for 2 garages located at 29 and 33 Church Hill Road. The front garage on Lot 33 is encroaching into the side yard of 4.4' which requires 5'. The garage has been in existence for at least 30 years. The other garage located on 29 Church Hill Road has a side yard of 3.7' and doesn't meet the 5' requirement. We are here tonight because we were before the Planning Board requesting a Minor Subdivision (Lot Line Adjustment) for property located in the Town of Halfmoon in an R-1 Residential Zone allowing all of the accessory structures of 29 Church Hill Road to become part of 33 Church Hill Road. It has been determined by the Planning Board that the proposed subdivision would abolish any and all pre-existing status of the site, and as a result of the inadequate setbacks, the site would no longer be in compliance. The applicant is in need of the following variance:

Side Yard Setback: Pursuant to Section 165-34.B(1), a minimum 5' side yard setback for residential accessory structures is required. The west side of two existing accessory structures, both labeled "Garage", are less than 5'. The larger garage has a setback of 3.7' +/- and the smaller garage is estimated by staff to have a setback of 4.5'. Therefore, variances for side yard setbacks of 1.3" and .5" respectively, are required.

Two letters were given to the Board from adjoining landowners Flannigan and Lindberg stating that they have no objection to the request.

Chairman Rose commented: We do not have letters in our packet. Two letters were submitted to the Chairman dated November 15, 2014 one from Rita Lindberg of 57 Church Hill Road and the other from Kelly Flannigan of 37 Church Hill Road both letters are on file.

Mr. Brennan commented: These letters went directly to Mr. Rabideau and not directly to the Town.

Mr. Rabideau commented: Yes they were emailed to me.

Mr. Brennan commented: Did we receive any communication to the Town from the neighbors?

Secretary Mikol commented: Yes, the public hearing notices were sent and I believe everyone signed off on the notice.

Mr. Brennan commented: Were any letters sent in from the neighbors either agreeing or disagreeing? I wanted to affirm that the letters only came from the applicant and from the Town Hall.

Secretary Mikol commented: No. We did not receive any letters from the neighbors.

Chairman Rose commented: Mr. Rabideau how could this come to be that buildings are built within less than 5' to the property line?

Mr. Rabideau commented: The property lines in the rear of the property are not well defined and these buildings were just erected the owner thought he knew where the property lines were. They are pretty close to the 5' so by today's standards they would know exactly where the property lines are. They would have had a building permit and they would have known where the property lines are so they would meet the requirements. Back 25-30 years ago it was a little bit looser and ended up being too close.

Chairman Rose commented: So these buildings were built without building permits?

Mr. Rabideau commented: I believe that is the case.

Chairman Rose commented: Was there difficulty in the zoning at that time frame? Was the zoning clear as to what the requirements were?

Mr. Rabideau commented: I do not know. I am not aware of that.

Chairman Rose commented: What were the setback requirements 25 years ago when these were built?

Secretary Mikol commented: Zoning began in 1968.

Chairman Rose commented: So zoning did exist when these were built.

Secretary Mikol commented: The garage at 29 Church Hill was built in 1994, I could not find a record of a permit. The garage at 33 Church Hill was built in 1990, I could not find a record of a permit.

Chairman Rose commented: Zoning did exist when these were built.

Secretary Mikol commented: Yes.

Chairman Rose commented: A site visit was made on November 22, 2014, I am not sure if everyone made it there but three of us did go. We walked the property and met with Mr. Sabourin it is clear that there is nothing near those buildings but they are near the edge of the property. From a visual prospective there are woods behind them. It looks like the nearest house is more than a couple hundred yards away other than the main house. The other thing I noted from the site review was that there is a retaining wall on the property it appears to be well constructed. There is also a concrete pad that the buildings are on. How they got to be is one set of facts but what is there now doesn't appear to be intrusive to anything around the area. The subdivision as I understand it is for their daughter to build a house. Does the Board have any questions? Would anyone from the audience like to speak?

Chairman Rose commented: I will close the public hearing at 7:52 p.m.

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the Enforcement Officer, to grant area variances as defined herein.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

"Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance."

Mr. Hansen commented: I would say it would have no change or no difference nothing new is being built there. The building already exists and the property line will not change.

"Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance."

Mr. Brennan commented: I don't see how anything could solve this issue short of moving the property line.

"Whether the requested area variance is substantial."

Vice-Chairman Tedrow commented: It is not substantial, I don't think the distances coupled with the fact there is nothing right across the line or near across the line. I don't think it is substantial.

"Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;" and

Mr. Burdyl commented: My observation is that the requested variance will not have a major impact on the environmental conditions.

"Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance."

Vice-Chairman Tedrow commented: Yes it was self-created in the sense that the buildings were put up too close to the property line but I don't see that would be a factor to influence our determination for granting or not granting the variance.

Chairman Rose commented: I want to make one comment, because the properties are in a situation created by the applicant because they didn't get a building permit or seek approval from the Town and it appears that there is no record of that. I just want it to be clear that anything going further on the property back there we are not grandfathering in future requirements that go outside of Town approvals.

Consider that as part of an admonishment to the fact that we are sitting here doing something that should have not been done in the first place. Our role is not to prevent somebody from doing something like this but I just want to make sure I am clear on that any future changes to that property would have to go through the Town process with the appropriate zoning. As Chairman of the Board I think that is part of my responsibility to communicate that out.

"The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community."

Motion was made by Vice-Chairman Tedrow to approve the variance request, seconded by Mr. Burdyl. It was approved unanimously and will take effect immediately. Motion carried.

#### **Joseph Backowski – 4 Mann Blvd. – 266.136-1-41**

Chairman Rose commented: The next item is part of the Dater Farm Subdivision on the north end of Town off Farm-to-Market Road.

Mr. Hansen commented: I just noticed that for the last two items a SEQRA form has been filled out. I am not sure that is necessary is it for things like single-family homes?

Vice-Chairman Tedrow commented: I think that area variances are type 2 actions which are automatically waived through the SEQRA process.

Mr. Rabideau commented: We do not have to do the form?

Mr. Hansen commented: Well I have to look at the current SEQRA regulations to see I think what the Vice-Chair said is correct. There are certain exempt actions that automatically fall into Type 2 actions where you don't have to go through the SEQRA process. It might save you and us some time.

Mr. Rabideau commented: So these are type 2 actions.

Vice-Chairman Tedrow commented: Yes, area variances are.

Chairman Rose commented: Were you asked to prepare that?

Mr. Rabideau commented: It is almost automatic on our part. Not sure if it was required so we do it automatically.

Mr. Rabideau commented: Mr. Backowski began construction of a 24' x 24' accessory garage at 4 Mann Blvd. Code Enforcement noticed the construction on October 8, 2014, and a stop work order was issued because he had no building permit. Mr. Backowski applied for a building permit on October 29, 2014 and received a denial. Pursuant to the General Code for the Town of Halfmoon, Article VII Section 165-34, Accessory buildings; height and location, Part B: It states that "Location. Residential accessory buildings may be erected within rear and side yards in accordance with the following requirements: (1) Rear or side yard: five feet from side or rear property line. (2) Side yard, street side of corner lot: same as for principal building. (3) Not closer to a principal building than 10 feet."

Mr. Backowski is requesting an area variance to finish constructing a 24' x 24' garage located at his home with the garage being located in front of his primary structure.

Chairman Rose commented: Can you elaborate that construction, or under construction? Did I hear that right?

Mr. Rabideau commented: It is under construction.

Chairman Rose commented: How did they get under construction?

Mr. Rabideau commented: Apparently Mr. Backowski started constructing prior to a building permit.

Chairman Rose commented: Why would he do that?

Mr. Rabideau commented: That is why we are here.

Chairman Rose commented: I would like to know. I think the applicant owes us an answer to that question for the record. I can't let you deflect you need to give us an answer when we come back for the hearing.

Mr. Rabideau commented: Yes, oh yes. Right now I don't have that answer I don't know why he started construction without a building permit. I told him that this is the most contentious part of this. That is why we are here right now.

Chairman Rose commented: I find it odd that you ask for a variance after you start building something. I am not sure how the other members feel. It puts us in a bad situation.

Mr. Brennan commented: I agree it puts us in a bad situation. It adds a layer of complication to the applicant's request but it has happened previously in a couple of different cases that I can think of. We have resolved it as a Board in all those cases.

Chairman Rose commented: I believe one of those was a house that was already built.

Mr. Brennan commented: Yes, that could be. The house was flipped.

Chairman Rose commented: I remember a garage that was misplaced.

Vice-Chairman Tedrow commented: Who is the builder on this?

Mr. Rabideau commented: Mr. Backowski is the builder of the garage. Mr. Backowski is a builder he works for Belmonte Builders.

Chairman Rose commented: The plans show Belmonte Builders that is why I am asking that question.

Mr. Hansen commented: It is an existing house. He is putting up a new garage.

Chairman Rose commented: I am looking at the plans for the garage. Is it being built through Belmonte Builders? It's in our packet the picture of the garage and the construction drawing.

Mr. Rabideau commented: Belmonte Builders may have drafted up the plans for him.

Mr. Brennan commented: The drawing was needed to apply for the building permit. The applicant is the homeowner and not Belmonte Builders. Is that correct?

Secretary Mikol commented: Yes, that is correct.

Mr. Burdyl commented: The plan states "proudly designed and built for". That is what they are stating on the plan. Unless there is a contract that Belmonte is building it.

Mr. Brennan commented: Mr. Chairman, the applicant will give us a reason of the purpose of why construction began without a permit. The excuse we had for the house being flipped by a request of the homeowner and the garage outside of the setback limits. What we are looking for is an explanation of how this happened and why.

Mr. Rabideau commented: From what Mr. Backowski told me, he started construction prior to and I don't know why. He picked this spot because the lot is unique and the lots are deep and are built far off the road.

Mr. Brennan commented: An explanation is being requested from this Board for the next meeting. There is documentation from the Building Department.

There will be a site visit on Saturday, January 3, 2015 at 9:00 am.

Motion was made by Mr. Brennan and seconded by Mr. Burdyl to set a public hearing for Monday, January 5, 2015 at 7:00 p.m. Motion was carried.

Chairman Rose commented: Please ask Mr. Backowski to attend the public hearing.

### **Wilfredo Miranda, 1480 / 1482 Route 9 – 278.4-2-52 and 278.4-2-55**

There was much discussion about the procedure on what the County Planning Board requires from the Town. We will certainly take more particular attention to our time frame when submitting applications to them.

It has been determined that the Board will do a re-approval of their approval made at the October 6, 2014 meeting to today's date.

Motion was made by Mr. Hansen and seconded by Mr. Brennan to re-approve the approval for Wilfredo Miranda dated: December 1, 2014. Motion was approved.

Meeting adjourned at 8:40 p.m.

Respectively submitted by Denise Mikol, Secretary  
Town of Halfmoon Zoning Board of Appeals