

## **Town of Halfmoon Planning Board**

### **November 24, 2008 Minutes**

Those present at the November 24, 2008 Planning Board meeting were:

**Planning Board Members:** Steve Watts – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Marcel Nadeau  
Tom Ruchlicki  
John Higgins

***Alternate***  
**Planning Board Members:** Bob Beck  
Gerry Leonard

**Senior Planner:** Jeff Williams

**Town Attorney:** Lyn Murphy

**Town Board Liaisons:** Paul Hotaling  
Walt Polak

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Mr. Watts opened the November 24, 2008 Planning Board Meeting at 7:00 pm. Mr. Watts asked the Planning Board Members if they had reviewed the November 10, 2008 Planning Board Minutes. Mr. Roberts made a motion to approve the November 10, 2008 Planning Board Minutes. Mr. Ruchlicki seconded. Motion carried.

Mr. Leonard sat in for Mr. Ouimet in his absence.

**Public Informational Meeting:**

**08.074 PIM     Johnson Subdivision, 23 Johnson Road – Amendment to Approved Minor Subdivision**

Mr. Watts opened the Public Informational Meeting at 7:01 pm. Mr. Watts asked if anyone would like to have the public notice read. No one responded. Mr. Gil VanGuilder, of Gilbert VanGuilder and Associates, stated the following: During the approval of a 3-lot subdivision of Lands of Wanda Johnson located on the westerly side of Johnson Road a stipulation was put on the approval that if any of the 3-lots were to seek an approval for a duplex dwelling, then they would have to come back to the Planning Board for approval. We are here tonight for that approval. I was asked by the Board at the last meeting to prepare a plot plan that would show how the access would work for a duplex structure and we have demonstrated that. This was submitted to the Board. Basically it would be one single curb cut as was demonstrated on the subdivision plan and the garages are proposed to be front load garages. Mr. Michaels would occupy half of the duplex. It would have a two-stall garage on the northerly side of the

structure and the southerly portion of the structure would have a single stall garage. I believe that was the main request of the Board at the last meeting. Mrs. Murphy asked Mr. VanGuilder to show the public where Lot #2 was located on the map. Mr. VanGuilder stated Lot #2 is the southerly most lot of the group. Lot #3 is the large lot in the rear that would have access along the southerly portion of the lot into a 7.1-acre parcel and this lot's frontage would be on Johnson Road. Mr. Watts stated at the last meeting the applicant discussed where duplexes were located in the immediate vicinity. Mr. John Michaels, the applicant stated the following: With speaking with Mr. Jeff Williams, it was brought to my attention that people frown on two-family homes due to the fact that they would change the nature of the neighborhood. I canvassed the area and found that there are three other two-family homes within a 1/2-mile of this proposed subdivision. Two of the two-family homes are located on Johnson Road and one of these homes has 2 curb cuts and the other two-family is located on Raylinsky Lane. So, I didn't feel that a two-family would actually change the nature of the neighborhood all that much. Mr. Watts asked if anyone from the public wished to speak. Mr. John Ciulla, of 18 Johnson Road, stated the following: There has been a lot of rumors, innuendos and speculations about what is happening here and I would like to see if I could try to clarify this. What you are being asked to do tonight is to approve one duplex on these 3-lots and asked if that was correct. Mr. VanGuilder stated yes, that is correct. Mr. Ciulla asked if the other lots would remain, at least for now, single-family residences? Mr. VanGuilder stated yes, that is correct. Mr. Ciulla asked if all the other stipulations that we talked about the last time would still come into play in terms of how the road is going to be built and maintaining the tree line and all of that. Mr. VanGuilder stated correct. Mr. Ciulla asked if the road ever gets built would it be located right along the lot line? Mr. VanGuilder stated the easement would be 25 FT wide and would be adjacent to Mr. Ciulla's property. Mr. Ciulla asked did we end up with something on the map that talks about how that road would be sloped so that it wouldn't impact his property. Mr. VanGuilder stated the following: Yes, there is a note on the subdivision map that states "the proposed driveway for Lot #3 will be constructed so that the surface runoff is directed towards the natural drainage corridors within Lots #2 and #3". In other words it would flow straight back and not onto Mr. Ciulla's property. Mr. Ciulla stated the following: Mr. Michaels came to see me the other day and we had some discussion about this. I am satisfied, if the Board is satisfied, that this is the only one of the three lots that would have a duplex. The only other stipulation I would like is, if the Board can make this stipulation, that this duplex be owner-occupied. Mrs. Murphy stated the following: We wouldn't have a legal right to force the issue but if the applicant is willing to consent to that being a condition, we can include that. Mr. Michaels stated I do plan on this duplex being owner-occupied. Mrs. Murphy asked is that you, Mr. Michaels, consenting to that condition. Mr. Michaels stated the following: Yes ma'am, however, would this condition be placed on the final map and should 30 years come around, being an only child, I decide to move down the road to live with my parents, then it couldn't be an owner-occupied dwelling. What happens then? Mrs. Murphy stated the following: You heard what my answer was; legally we would have a very difficult time imposing that condition. If you were to consent to it, then that would be fine. Mr. Michaels stated I agree that the duplex would be owner-occupied for at least the first 25 to 30 year. Mr. Watts stated relative to the other lots, both of those lots meet our Zoning Ordinance in terms of size, water and sewer where duplexes could be built on. Mr. Williams stated Lot #1 does not meet the requirements for a duplex lot but Lots #2 and #3 do meet the requirements. Mr. Watts stated on the record the issue of how our Town Ordinance reads relative to the construction of duplexes verses single-family homes on a lot, as long as the lot meets the minimum lot requirement. Mr. Williams stated the requirements for a duplex would be 30,000 SF with public water and sewer

available, 40,000 SF with public sewer or public water available and 50,000 SF if no public utilities are available. Mr. Watts stated technically when we approve something like that people can put up duplexes. Mrs. Murphy stated the following: The way the note is currently written it says that there will be no multi-family dwellings without Planning Board approval. If the applicant was consenting to no multi-family dwellings, that would be a note that would be filed with the County Clerk's Office and would be enforceable by this Board and any future Board for that property. Mr. Michaels asked so that would go for Lot #3 at this point and they would hold the consent for that? Mrs. Murphy stated that is correct. Mr. Michaels stated: so it is my understanding that they would be willing to consent to that because they have no intention to build a duplex. Mr. VanGuilder stated: there was some confusion between my office and this Board as to which lot was to be designated as a two-family home. Mr. Nadeau asked should this property be sold 5 years from now and nothing takes place, could the new owner at that point create a duplex for the lot that is allowed to have a duplex? Mrs. Murphy stated the following: The way the note is written Lot #3 would have to come before the Board and get permission to build a duplex. Without the note, they could just come in to get a building permit. If the Board chose to remove the "will not be allowed without Planning Board approval" which is what the actual initial approval was, there is no mechanism there. It was just "no multi-family dwelling" and then you could prohibit whoever purchases the property from building a duplex. If you get rid of "will be allowed without Planning Board approval", they are on notice when they purchase the property, even though it meets our zoning, that they can't build a duplex. They would have to get a variance in order to build a duplex and they wouldn't legally have a ground upon which to get the variance because they would be purchasing the property with full notice. That's not to say people couldn't try. Mr. Watts closed the Public Informational Meeting at 7:12 pm. Mr. Higgins stated the following: I think the intent of having Mr. VanGuilder do the driveway layout was that we were trying to get a single curb cut for Lots #2 and #3. I know they have said that they don't feel that is workable but I think that was the intent at that time because of the proximity of the driveways where we were trying to get a single curb cut for both Lots #2 and #3. Mr. VanGuilder stated the following: Yes, I realize that and Mrs. Zepko had mentioned that, but we looked at the sight distance at that location and you can see all the way to the stop sign on the intersection of Pruyn Hill Road and Johnson Road and you can see past Raylinsky Lane which is almost 1,000 FT in each direction. When the County reviewed this I had a conversation with Mr. Mike Valentine and he was very familiar with the area and he said he saw no sight distance issues here. I know that typically on high traffic roads we try to group curb cuts, but in this instance, having a duplex building where you have to have garages on both sides, we would end up with a driveway going all the way across the front of first unit to get to the second unit. In this case we could come straight in and it is a much more esthetically pleasing and cleaner way to access the property. Mr. Williams stated the Highway Superintendent looked at the curb cut scenario and did not see any problems with separate curb cuts. Mr. Watts stated: that is a Planning Board issue and I think that that was a suggestion at one point to try to resolve the issue but I think the perspective of that has been met. It was brought up, but once you start moving things around, it really didn't work that well and it was of no great value. Mrs. Murphy stated there should be a modification of that map note that prohibits the placement of multi-family dwelling on that third lot where it just gets rid of the language about without Planning Board approval. Mr. Higgins asked would the "no further subdivision" language remain in there? Mrs. Murphy stated correct, all the other notes would remain.

Mr. Nadeau made a motion to approve the Johnson amendment to the approved minor subdivision to allow modification to the note on the approved subdivision plan to permit one duplex to be built on Lot #2. All other subdivision notes remain. Mr. Higgins seconded. Motion carried.

**New Business:**

**08.107 NB      Arlington Heights Pump Station, Saville Row – Minor Subdivision**

Mr. Mike McNamara, of Environmental Design Partnership, stated the following: I am here tonight representing Legacy Builders. Legacy Builders is an affiliated company of Belmonte Builders. Belmonte Builders is the developer of Arlington Heights, which is adjacent to the parcel of land being considered tonight. The application before the Board is a minor subdivision. What we are proposing to do is to cut out a 5,200 SF rectangular piece of land from the 28-acre parent parcel. The purpose of the subdivision is to have a lot for the pump station that was constructed as part of Arlington Heights and this would enable dedication of the pump station to the County. Mr. Higgins stated the following: I know the applicant has been before us with some preliminary plans for remaining lots and asked if this pump station would take care of all of that or would they need a second pump station. Mr. McNamara stated the following: No, there may be a couple of units that would have a grinder pump but the vast majority of that second piece would go to this. This would be a permanent location and it would not be moved to another site and there would not be a need for another pump station. Mr. Nadeau asked if there would be any lights on this pump station. Mr. McNamara stated the following: There would be an odor control building that is about 14 FT x 14 FT and there might be a small light on that building. Mr. Nadeau asked if this light would affect the neighbors. Mr. McNamara stated the following: No, in fact, it has already been constructed and it is way in the back. It may be visible to one lot but there would be some plantings and a fence around it. The lights would be pointed toward the ground and the lights are low intensity. Mrs. Murphy stated the following: This may just help the Board to understand what is happening here; initially the County had agreed that they would take ownership of sewer lines including the pump station with an easement to the pump station for maintenance, etc. The County has changed its policies and procedures and now will only take the lines if the pump station is transferred in total like a fee simple total transfer. So the pump station already exists and nothing is changing as far as the neighborhood is concerned. This is just a legal transfer in order to permit the County to take ownership. Mr. Watts asked has the certificate of occupancy been issued, have all the requirements been met, have all the bonds been issued for this pump station and has the County been accepting flow? Mr. Gerry Magoolaghan, of Belmonte Builders, stated yes everything has been done.

Mr. Roberts made a motion to set a public hearing for the December 8, 2008 Planning Board Meeting. Mr. Higgins seconded. Motion carried.

**08.108 NB      Usherwood Business Equipment Inc., 7 Corporate Drive – Change of Tenant**

Mr. Tom Andress, of ABD Engineering, stated the following: I am representing Mr. Ed Abele in the Capital Region Business Park for 7 Corporate Drive. We have moved a tenant, Bovis Lend Lease, into 3 Corporate Drive so there is some extra space at 7 Corporate Drive. Usherwood Business Equipment would occupy 3,250 SF. Usherwood Business Equipment is basically sales for copy machines and items like that. All the sales people would be leaving the site for sales to the different businesses. It would not be a retail establishment; it would be just an office.

They would have a few pieces of equipment at the site if someone wanted to come in to look at the machines but most of the time the employees would be going to the job site. Mr. Watts asked if there would be adequate parking available. Mr. Williams stated yes. Mr. Watts stated please have the applicant advertise that they are located in the Town of Halfmoon. Mr. Address stated I definitely will.

Mr. Berkowitz made a motion to approve the change of tenant application for Usherwood Business Equipment, Inc. Mr. Ruchlicki seconded. Motion carried.

**08.109 NB      Magnolia 9 LLC, 164 Ushers Road – Change of Tenant**

Mr. Jeff Oskin, the applicant, stated the following: I am before the Board tonight requesting a change of tenant approval to allow a new business to rent some office space on an existing facility on Ushers Road. The business is a brokerage for automobile sales. It would not be a used car facility and would strictly be a brokerage between dealers, public auctions and other facilities of such that would be exclusively in the wholesale business. Mr. Nadeau asked if the applicant stated that this business would be exclusive to wholesale? Mr. Oskin stated exclusive yes, no retail. Mr. Higgins asked if the existing sign was retail or wholesale? Mr. Oskin stated the existing sign has been taken down pending this change of tenant approval. Mr. Higgins stated I think the sign that was up was retail. Mr. Oskin stated the sign that was up there is a New York State mandated sign. Mr. Higgins stated but there are two different classifications for New York State. Mr. Oskin stated the license itself is a retail license verses a pure wholesale license but we do not intend to have any retail facilities or a public lot of any type whatsoever. Mr. Higgins asked is there a reason why you went with retail rather than wholesale? Mr. Oskin stated the following: It is for flexibility for the future. It was difficult enough to get a license with the State, it was just for flexibility but the intent for the foreseeable future is to not have any facilities there for retail. Mr. Higgins stated so there would be no on-site display of vehicles? Mr. Oskin stated that is correct. Mr. Higgins stated or if there are vehicles stored it would be in a designated parking area. Mr. Oskin stated that is correct, but again there would be no inventory or cars there. Mr. Watts stated so it would be just an office. Mr. Oskin stated it would be just an office. Mr. Watts asked would you have any cars coming from the Northway Auto Auction? Mr. Oskin stated the following: No, the cars would come from dealers themselves to the auction whether it is at Northway Auto Auction or some other facility. Mr. Higgins stated for the record in the approval, the customers would be using the designated parking spaces that are shown on the site plan. Mr. Watts stated correct. Mr. Roberts stated the applicant has stated on record that there would be no retail.

Mr. Roberts made a motion to approve the change of tenant application for Magnolia 9, LLC contingent upon there would be no onsite vehicle display (for sale). Mr. Higgins seconded. Motion carried.

**08.111 NB      Bishop Hubbard Senior Apts., 54 Katherine Drive - Sign**

Mr. Wayne Gendron, of Hanley Sign Co., stated the following: We are looking to take down the existing sign and just replace it with a brand new sign with the same square footage. The sign would have a slightly different design and color scheme. The sign would be located in the same area as the existing sign. They would just be upgrading their existing sign.

Mr. Roberts made a motion to approve the sign application for Bishop Hubbard Senior Apts. contingent upon the sign is not place in the State's right-of-way. Mr. Berkowitz seconded. Motion carried.

**08.112 NB      Grace Fellowship Church North, 1 Enterprise Drive - Sign**

Mr. Paul Meyer, of Hanley Sign Co., stated the following: I am representing Grace Fellowship North. The occupant is looking to place 2 new signs on the premise that they have taken tenancy of. There would be 1 wall sign and 1 monument sign. The monument sign was pre-existing and we are just looking to infill it with 2 new box signs. The wall sign is a reverse channel letter, it would be backlit against the wall and it is an aluminum dimensional letter. The wall sign would be 74.5 SF and the freestanding sign is 18.5 SF give or take. Mr. Roberts asked how high the freestanding sign would be. Mr. Meyer stated the freestanding sign is an existing sign and stands 8 FT tall.

Mr. Roberts made a motion to approve the sign application for Grace Fellowship Church North contingent upon the freestanding sign is not place in the State's right-of-way. Mr. Nadeau seconded. Motion carried.

Mr. Ruchlicki made a motion to adjourn the November 24, 2008 Planning Board Meeting at 7:27 pm. Mr. Higgins seconded. Motion carried.

Respectfully submitted,  
Milly Pascuzzi,  
Planning Board Secretary