

**MEETING MINUTES  
TOWN OF HALFMOON PLANNING BOARD  
MARCH 23, 2015**

Those present at the March 23, 2015 Planning Board meeting were:

Planning Board Members: John Ouimet – Chairman  
Don Roberts – Vice Chairman  
Rich Berkowitz  
Marcel Nadeau - Absent  
Tom Ruchlicki  
John Higgins  
Lois Smith-Law – Absent

Planning Board Alternates: Robert Partlow - Absent  
Margaret Sautter

Director of Planning: Richard Harris  
Planner: Paul Marlow

Town Attorney: Lyn Murphy  
Cathy Drobny

Town Board Liaison: John Wasielewski

Chairman Ouimet opened the March 23, 2015 Planning Board Meeting at 7:00 PM. Alternate Sautter will be voting tonight.

Chairman Ouimet asked the Planning Board Members if they had reviewed the March 9, 2015 Planning Board Minutes Vice-Chairman Roberts made a motion to approve seconded by Mr. Berkowitz. Motion was carried unanimously.

**PUBLIC HEARING:**

**15.013 Stone Crest Preserve Duplex, 4 Mallard Place – Special Use Permit**

**Chairman Ouimet commented:** Tonight's public hearing is first on the agenda would anyone like the notice read? Chairman read the notice:

*Please take notice that the Planning Board of the Town of Halfmoon will hold a Public Hearing on March 23, 2015 at 7:00 p.m. or as soon thereafter as the agenda allows. The Planning Board will hear comments for a Special Use Permit request for a proposed two-family residential structure (duplex) at 4 Mallard Place in the Stone Crest Preserve Residential Subdivision. Renderings of the proposed duplex structure and a plot plan for 4 Mallard Place, as shown on a plan entitled*

*"Proposed Plot Plan, Lot 9, Stone Crest Preserve, Street Address 4 Mallard Place", dated December 23, 2014, by Gilbert VanGuilder Land Surveyor, PLLC, have been submitted for review and consideration.*

*Please take further notice that at such Public Hearing any and all interested persons will be heard. A copy of said plan, renderings and application are on file in the office of the Planning Board of the Town of Halfmoon in Town Hall and may be read and inspected by any interested person.*

**Dated: March 11, 2015**

**Chairman Ouimet commented:** Mr. Barbera if you would like to make a presentation. Please make sure the microphone is turned on please.

**Mr. Frank Barbera** was present with Barbera Homes and commented: Sadly Mr. Chris Grekleck could not join us this evening but I am here to make the presentation. I would also like to welcome the neighbors from the Stone Crest neighborhood, the people are very fortunate to live in that community the one that Mr. Grekleck is looking forward to join. I must say that coming into this evening we were kind of perplexed by the controversy surrounding the proposal and I think as you will see this evening that what we are proposing will fit in with the community and the existing home that is already there. The value of the home is in keeping with the neighborhood it will be valued at over \$450,000.00 which is above a lot of the sale prices presently in the community. It will be going on a cul-de-sac lot. Several months ago I was approached by Mr. Grekleck who I know personally, he use to be my neighbor in another community and Chris had asked me about building a duplex for his personal situation. It was my recollection that the Town of Halfmoon had always allowed duplexes as of right as I learned going back to 2013. That has since changed to make it a Special Use Permit, which is why we are here this evening. As you can imagine, this put a lot of stress on Mr. Grekleck but we are hopeful that we can with the community this evening in presenting this plan. In trying to keep with the neighborhood I approached Mr. Rich Rossetti who is the previous builder and Rich had a duplex home already in the development. I got permission from Mr. Rossetti to use the same exact plan so that it would be inline with the other home that is on Stone Crest now. To introduce the neighborhood to the concept in preparation for tonight Mr. Grekleck along with two other persons from the company went and knocked on doors of the surrounding 21 homes between the end of Stone Crest leading up to our model at 40 Stone Crest; about 15 people were home many of whom signed the petition we had in support which we presented to you. In addition, for those people that we were not able to reach we put out flyers of information to the rest of the community so there was full disclosure as to what we were presenting and planning for this evening. One of the key points that I want to make before reading the letter that was prepared for the Board is that contrary to the existing duplex that is the community which is a rental property, Mr. Grekleck is proposing this to be owner occupied. Not only will it be owner occupied but one of the conditions of the property that will run with the deed is that any subsequent purchasers also make this an owner occupied property. This will not be your typical two-family where there is nobody in control of the house there will be an owner there and again when he goes to sell it in the future, when that day comes, it will be stipulated in the deed restrictions for the property that is also owner occupied. This will enhance the value of the home and the neighborhood. At the last meeting I submitted a letter that we had prepared and I would like to read that into the minutes for the Board.



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**Dear Town of Halfmoon Planning Board;**

The attached proposal for the Duplex is being made on behalf of Mr. Christopher Greklek, who is known to me personally and approached me looking for a suitable location to build a Duplex home that will accommodate his personal health and family situation.

I recommended the Stone Crest Preserve neighborhood knowing that a Duplex home was already approved by the Planning Board at 14 Stone Crest Drive. In addition, I approached the Builder, Rosewood Homes, and obtained permission to use the same plans so the home is in keeping with the community. Mr. Greklek has made some modifications that will further enhance the aesthetic appeal and increase the value of the homes in the neighborhood for example; he is incorporating a side entry 3 car garages to the plan as well as a 9' basement.

The exterior of the home will be consistent with other homes in the community using the same Included Features that a traditional single family home being offered by Barbera Homes has and the home will be seeded and landscaped in keeping with the other properties. Another major benefit is the property will be owner occupied.

Mr. Greklek is a cancer survivor who is presently undergoing additional treatments and single parent of three children who live with their mother in nearby Latham. His purposes for the Duplex is to ensure himself and his children a home that can be supported using the income generated from the attached property should his health force him to stop working. This is just another step in the process for Mr. Greklek who is taking the emotionally painful steps of planning for his and his children's future wellbeing while facing the daunting prospect of battling cancer - again.

It is Mr. Greklek's sincere hope and desire to live in the Town of Halfmoon and particularly in the Stone Crest community, which is why he purposely followed the example set by 14 Stone Crest Drive to ensure compatibility with the community and because it affords him easy access to his clients many of whom require travel, his health care professionals, and his children.

Respectfully Submitted,

*Frank A Barbera*  
President

**Chairman Ouimet commented:** Do you have a rendering of the proposed building?

**Mr. Barbera commented:** Yes, it was previously submitted, it was sent to the neighborhood and I do have a copy of it as well.

**Chairman Ouimet commented:** Could you post it on the bulletin board so folks can look at it if they choose to.

**Mr. Barbera commented:** Are there any questions from the Board? I know we answered questions the last time we were here and now it's a public hearing.

**Chairman Ouimet commented:** Thank you, it's the public's turn, they go first. Does anyone from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Vincent DiCerbo of 64 Stone Crest Drive commented:** I am against this proposal (excuse me if I'm coughing it's my third cold this winter) and I don't quite understand Mr. Barbera it's my recollection and my indication from reading the meeting minutes of previous Planning Board meetings that this Board did not approve that other duplex, am I correct? That was there by a matter of right.

**Chairman Ouimet commented:** That is correct.

**Mr. DiCerbo of 64 Stone Crest Drive commented:** The \$439,000.00 average sale price is perhaps correct in so far as it goes. It is simply not correct when you move into the part of the of the development the part that we live in which was the Toll Brothers development which was originally part of the entire subdivision and was approved as approximately 90-single family homes. I can't reiterate to you enough how upset my neighbors and I are about this proposal. Quite frankly, once again, I don't understand why somebody else is not aware of how upset we are. Clearly, the Planning Board and the Town Board have consistently I believe through their actions have considered this area to be single-family homes. The fact that the first duplex was built it was built as a matter of right because there are no prohibitions. The fact that the Town Board saw fit to remediate that issue tells me that the intent of the Town Board was this remain single-family. As for the stipulation that the home will be occupied as a matter of a contract to the next buyer by an owner occupied person I am not so sure how you can enforce that. How do I know it's the owner? Seriously, I am not going to say that it won't be but, it's simply not something that we can check nor would we want to check. We don't want to go knocking on doors and ask people if they are the owner of the home that they live in. #3 my final point, I don't want to delay your time, there are many, many areas in the Town of Halfmoon that provide beautiful duplex opportunities for anyone that wishes to avail themselves of it. If you go down into the Toll Brothers Development down Vosburgh Road cross Route 146 go to Sheldon Hills it is a beautiful pristine development and anyone who wants to buy a duplex in there will certainly get their monies worth and will live in a very upscale nice community. Once again I reiterate our opposition to this proposal. We bought our home in 2011 thinking this was a single-family neighborhood it would always remain a single-family neighborhood and absolutely extraordinary circumstances it should remain a single-family neighborhood. From my point of view I cannot see any extraordinary circumstances that would permit or allow this Board a duplex in this neighborhood. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Ed Spychalski of 12 Foxhound Circle commented:** I was the fourth person to build in the development and one of the first questions I asked Toll Brothers was if this was going to be strictly one-family homes, I left an area where we had duplexes, and I paid a heck of a lot more money than what is proposed on the floor today and I want to make sure we keep our neighborhood one-family homes that is what we were told. That was the intent presented to this Board at one time when Toll Brothers came here to build. That is what I bought, that is what I am here trying to enforce I hope that you understand that. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. John Maybe of 57 Stone Crest Drive commented:** My wife and I have been homeowners and residents in Halfmoon since 1987. In 2008 we were the first family to choose, have a home built, and move into what was then known as the Estates of Halfmoon. Some factors that went into our decision were: #1 that we would still be residents of the Town. The reputation of the original builder and the original builder's vision of what this community would look like. The first sentence in their advertising material was Estates at Halfmoon will encompass 87 luxury single-family homes. The original builders vision didn't pan out completely I think he put in about 40 homes. Second builder enters the community we assume to continue building single-family homes. One day we hear that one of these homes is a duplex a multi-family unit. We said how did that happen? I didn't hear anything about that, how did they sneak that one in? Well it's already done, can't do anything about it, it is what it is. Yet a third builder is in the community, they are now proposing to build at least one additional multi-family unit. I would like to go on record as being opposed to any more duplexes or multi-family units in this single-family community. Planning Board I always keep in the back of your mind when considering any proposals that come before you. Everybody can't always get what they want. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Bob Karlicek of 7 Fort Hill Drive commented:** I would like to reiterate the view point that the neighbors have stated, we bought in the Estates of Halfmoon primarily because it was advertised to be single-family homes. The issue that we have now is that one duplex kind of leaked in, the Board responded when certain complaints and questions were raised about it to change the use conditions to require a special hearing for any changes to the use of the land for non-single family residences. That's an admission to a degree that perhaps there was a bit of an oversight and the first time the duplex was let in. Our first speaker we had today who talked about building the home sited several times that there is an existing use case with a duplex that is there now and the proposal to build yet another one which simply reiterates the prior use cases to indicate that the remaining sites on the property could simply go additional duplex multi-use homes. I think it's incumbent upon the Board to act on behalf of the residences that are there now and to reflect the original use intent for that space to limit the one duplex

that is there already making the properties as single use homes and just preserve the rights of the people who bought there with good intentions of residing in a residence with only single use homes. To not do that opens the door too as Mr. Maybe said, many other duplexes possibly that perhaps 5 or 10 years from now will just simply become rental units for property value and will not really adhere to the value of single residence homes where the owner provides the incentive to maintain the property and keep things up to snuff. I would like to be able to express my opposition to the use of this particular parcel for another duplex in the neighborhood. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Al Frank of 71 Stone Crest Drive commented:** When I came forth to this Board on a Special Use Permit I want to let you know that first of all I am opposed to duplex for 4 Mallard Drive in our community. It is out of character for the neighborhood. When I moved into the Estates of Halfmoon it was with the understanding that the neighborhood would be comprised of single-family homes. I also understood that after the first and only duplex in the neighborhood was built the provision that I am hearing about was put into effect for Special Use Permits to address these additional duplexes. My concerns are numerous, I am concerned about the devaluation of my own home, and others homes in the neighborhood that can be impacted by this duplex. Duplexes are out of character in the neighborhood due to transients that can occupy that other side of house that they are talking about. The potential absence of a landlord can be there, there is no guarantee; how would you enforce that? I don't know how it can be maintained as far as the outside if the homeowner is absent as far will be in character of the neighborhood. The addition burden, I don't know if that was looked at, of the Town infrastructure such as the need for additional medical facilities we don't have a hospital here it's 40 minutes away. They keep talking about bringing facilities. We are bringing more and more people in and now you want to double the space in one single lot. The impact of my tax dollar on the school infrastructure is another concern and what I see is 2 families that are going to be occupying one lot and that also impacts the schools. The water and sewage is another impact, the addition of independent sewage grinder pumps on one property. Before it was one grinder pump per lot now you're going to have two per lot, has that been looked at? The traffic itself on the street and the entrances and egresses, the traffic on Route 146, Route 9, and I87 it's very hard to get onto the Northway from Route 146 from our development. Street parking at Stone Crest and Mallard Place three cars for two residences, really? I am one residence I have three cars and a three car garage, and you expect that to be in a cul-de-sac what happens if there is a party how will they park, it would be two separate families. The impact of rain and snow runoff onto the creeks and basins because of the property and the amount of cement or asphalt that is there it has increased because it is two-families, has that been looked at? Not just bringing in this one duplex but looking at bringing additional duplexes we have to stop it now we can't allow it because if by allowing one you will allow more and by allowing more you bring on all these additional problems. Again, I urge the Board to consider the impact of the neighborhood both in the character and the value of the existing homes, and infrastructure impacts can occur following additional duplexes to be built. I urge the Board do not approve this permit.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Tim Anderson of 14 Foxhound Circle commented:** I would like to thank the Planning Board for giving me the opportunity to show my opposition to this project of income property at Mallard Drive off of Stone Crest. I don't believe that rental income properties are appropriate for this existing neighborhood. Barbera Builders knows this is not appropriate and that is why the drama hardship was attached to the proposal. It will open the door for full blown marketing of income rental property to be included in the sale of the housing in this neighborhood. Even though that might not be his intent we know its all about money and sales. I moved to the Town of Halfmoon because it was a beautiful area and I found a neighborhood that had beautiful existing homes in it. I don't want Halfmoon to become undesirable.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes Sir, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Glenn Babineau of 48 Stone Crest commented:** Obviously we all here are opposed to the proposal. My biggest thing is and I am sure we all witnessed this with the current duplex where it is right now, safety. The roads are dark, people use to jog, running the streets, but half the time you come around the corner and there is always cars in the road so safety is a big thing. The last thing you want to see is that someone got hit by a car or smashed into a car. I have nothing against duplexes or Mr. Grekleck I grew up in a duplex. Safety reasons and too many people is something that I want you to be aware of.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mrs. Lynn DiCerbo of 64 Stone Crest commented:** My husband was the first speaker he stole some of my thunder, I want to also thank Mr. Harris for reaching out to people that live in the neighborhood who were not required by the law to be notified but many of us did get letters so we could come here and speak out against the building of a duplex in the Stone Crest Preserve Development. I don't want to repeat what others have said I whole heartedly agree with everyone's position that they have spoken about tonight. I want to raise a couple more points and first looking at the history of the development, Mr. Rossetti ironically was the one that came before this Planning Board in 2008 and proposed the subdivision called Stone Crest Preserve. It was presented to the Planning Board as a 90-lot subdivision. Mr. Rossetti's Engineer said at least twice at the meeting that it was a single-family subdivision. We certainly relied on that, especially those that live in the Toll Brother's Subdivision. Incidentally, we are all connected its not three separate developments. There were three builders the first builder was Toll Brothers with luxury homes with the representation that the average price of a home is \$423,000 that is a complete misrepresentation. I paid almost \$500,000 for my home. I have neighbors that paid \$700,000 for their homes. We have all made improvements on top of that. We are looking at major life investments in our properties. The last thing that we want to see happen is to have rental properties in our development for all the reasons that everyone has stated tonight. The potential is even beyond this application. I think I counted about 15 vacant lots that are still remaining in the subdivision and they are being built by Mr. Barbera as far as I know. If this were approved what is to stop some of the other perspective buyers of those empty lots to come before this Planning Board and say hey, you have two

duplexes I want a third one. What would stop that from happening? There would be almost no legal ground to stand on to deny it. As everyone has pointed out, 14 Stone Crest and apparently Mr. Barbera is not aware of this because in his letter he said that the Planning Board approved 14 Stone Crest but that is not true. It snuck in by Mr. Rossetti the one that came before this Planning Board in 2008 I am building a single-family home subdivision but yet he puts in a rental property and Mr. Rossetti does not live there he rents it. We have a turn over of tenants, we don't know who lives there, we have a multitude of cars, we don't want to set that precedent, we do not want any more duplex homes to be built in our subdivision. It is an aberration, it does not fit with the character of the neighborhood, I believe it was Mr. Maybe that had asked where it came from? None of us knew that this was going to be a duplex. It has two mailboxes the two front doors and trees which this proposed house has as well it is obviously a duplex and there is the potential to create density issues, two-families per lot instead of one that creates its own set of problems, and ascetically it looks like the other duplex and I don't see the relevance of that. We just don't want to see a proliferation of duplexes start with one and then before you know it we have fifteen (15) of them. I am deeply considered with Mr. Barbera's statement in his letter where he says that he is purposely following the example set by 14 Stone Crest Drive to insure compatibility with the community. It is troubling because it sounds like this is something that they believe is very appropriate and therefore could certainly be appropriate for some of the other lots as well. I am urging the Planning Board to deny this application it seems to me that when the Town Board amended the Zoning Code to require the Special Use Permit it was trying to fix this exact situation where anyone in this Zone could put in a duplex along with the single family homes and nobody would have say over it or control over it. I believe that we are speaking loud and clear against the 4 Mallard Place duplex and we respectfully ask the Planning Board to please deny the application and preserve our single family home subdivision. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Chris Frering of 29 Stone Crest commented:** I have lived there for 2 ½ years. I want to live in a single-family community. I want to reiterate what someone said, there is always traffic outside the existing duplex and it's hard to see around those turns and I get annoyed when I have to go around cars and I can't see other cars coming. I don't want the value of my home to decline. There are always people moving in and out within the last two years that I have been there, I don't know who lives there, and I don't want duplexes to be built or allowed. I oppose this duplex.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Charles Petraske of 52 Stone Crest commented:** I came up from Long Island and duplexes and multiply living arrangements were very prevalent. I moved up to Saratoga Springs and then Halfmoon, we have been here for about 4 years. We love the neighborhood we bought it because it's a single-family neighborhood. I think it will seriously degrade my property value. I live in a Toll Brother's house probably the least expensive house and it was still over \$100,000 more than the proposed duplex. I am very concerned about the traffic, the speeding, multiple cars going down the road, parking I won't reiterate too much of what everybody else has said. Somebody mentioned a grinder pump and we've



have had a significant amount of problems with grinders. Right now I am going through the same thing the second time it malfunctioned and what the person says is it's just a pressure thing within the neighborhood. The more houses and more grinders that you are putting in it could malfunction and then they will break which multiple people in my neighborhood have experienced so far. Mr. Grekleck went around to the community and tried to create advocates, cancer is a tough thing to fight, and I understand the hardship. I have a severely disabled son as well, I bought this house, it's my biggest investment and I put a lot of money into it. My son is disabled and I want to maintain the integrity of not only my house but my property value as well. Hopefully this will not be approved. Thank you

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Ram Thapa is building the house at 6 Mallard Place commented:** I didn't know there was going to a duplex around this house. I have nothing against the person that is going to build but I tried to build house here. I have been looking for the last 6-8 months and found the perfect place to build at 6 Mallard Place. Now I see it's a duplex which I don't agree with so I ask the Board to deny it. Not only me, but my other two friends three of us are going to build so last month we all signed the contract and today I got the hearing notice at 7:00 and had no idea what is going on. If I had to pay that much money I could buy a duplex community instead of building here. The house is not built, it is going start I don't approve of this for my site. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. John Mayba of 57 Stone Crest commented:** I had a question as to the person who was moving into 6 Mallard and if he was aware of the duplex proposal. I just got my answer, thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mrs. Diane Anderson of 14 Foxhound Circle commented:** I live in the Estates of Halfmoon and I just want it noted that I oppose multiple dwellings. I worked a lifetime to have a home like I have and I don't want it down graded.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Vimal Kamineni of 15 Fort Hill commented:** I live in what use to be called Stone Crest Preserve or what use to be called Halfmoon Estates. I am a realtor and have an interest in properties. I have a house, a rental property it's a duplex in Guilderland Community near Albany. Since then I work for Global Foundries and I moved closer to Malta me and my wife we both work there. We wanted a single-family home and the house that Mr. Barbera is referring to was built by Stone Crest Preserve's

specifically to rent it out to Global Foundries. Any advertisement that you see that it says it's close to Global Foundries and then I did. I am an Engineer and I am very inquisitive about things. When I received this letter from Barbera Homes I wanted to know who the buyer was. When I searched for it I found that this person is a serial investor and we all have our personal problems but we don't need to impose our personal problems within our community because if you really want a townhouse there are so many townhouses in this neighborhood and I honestly don't agree with this but it's up to the Planning Board to decide. I wish you can make the decision we have so many people that are expressing the same concern. The Builder is saying this is a good opportunity. The only opportunity that I see is him making money but there is no real opportunity or growth in the community and it is completely against the character of the neighborhood. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mrs. Linda Frank of 71 Stone Crest Drive commented:** I am livid, my husband and I bought a house with Toll Brothers, Halfmoon Estates. This is our biggest investment we don't have a lot of money to throw around. We are counting on this house for equity and with adding additional duplexes I am afraid our house values will go down plus this is our sixth house we bought. We have moved around the country for mu husband's job, we have lived in Silicon Valley, Bucks County PA, Maryland, Vermont for 20 years and this is our second house we have had built. We have never had a problem we have always lived in single family developments. No one ever came with multi-family or duplexes, no one ever thought to do that and we never heard of it. I am really angry please consider turning this down.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mrs. Laurie Boyce of 56 Stone Crest Drive commented:** My husband and I looked at five (5) builders before we chose Toll Brothers. The reason we chose Toll Brothers was because it was a single-family home community. Many other communities were also single-family but because of the integrity and the neighborhood, we met some of the neighbors while shopping for a development and we liked the area. I have to say that I was disappointed when Toll Brothers didn't continue the subdivision then Rosewood came in and now we have a third builder. I was not excited about Barbera Homes, nothing against them but having a third builder and they are not keeping with the character of the neighborhood. When I first saw the homes going up I was pleased with them, I liked the model and the amenities and it looked like a nice home but now we are hearing about a duplex and going on the premise of one already being there. The one that is already there was not approved by this Board. Every time I drive by the duplex I feel like that is the first thing I see when I come into the neighborhood and I feel like it devalues the integrity and the values of our homes. Mr. Barbera wrote a letter when they first came to the neighborhood expressing their interest in fitting into our community and you asked us to bring concerns to you. I think we are all bringing our concerns to you tonight. We are all opposed to the duplex. It has nothing to do with Mr. Greklecks situation it is not a personal vendetta and situations change. He could move into the house and a year from now he may sell it. Our concern is that we cannot verify that it's owner occupied after that point. I have the same issues with safety, parking and ditto to what everyone brought up. I am opposed to this duplex. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? Yes, please come up to the podium identify yourself with your name and address for the record and whether you are for or against this proposal and why.

**Mr. Jared Stockwell of 1 Foxhound Circle commented:** I am here with my friend Charles, I moved here about 1 ½ years ago from Long Island I am originally from the city. I have two young boys and it is refreshing to live in a single family neighborhood. I grew up in a residential development filled with duplexes and multi-family homes as well. I get concerned about the safety aspect. My kids are young 5 and 7 they ride their bicycles and having another duplex in the neighborhood would be a safety concern and I do oppose of this and I wanted to stand on the record for that. Thank you.

**Chairman Ouimet commented:** Does anyone else from the public wish to speak? If not I will close the public hearing at 7:45 PM and open it to the Board for questions.

**Vice-Chairman Roberts commented:** First of all I would like to say that I sympathize with the applicant with his health problems and wish him the best with that situation. That being said, all the neighbors that spoke tonight stole my thunder because after doing a site visit I had many of the same concerns. We saw the existing duplex that was built under the old ordinance and I have to believe that if that came before us today under the new ordinance it would have never been approved. Secondly, on our visit we saw that the cul-de-sac had 5-6 other lots that are not developed yet and if we were to approve this we would be hard pressed and if they ever came before us with other duplexes it would be hard to say no. Stone Crest Development is basically a single-family development and I really think an additional duplex would not fit in with the character of the existing neighborhood and I am against this proposal as presented.

**Chairman Ouimet** asked if anyone else from the Board would like to speak.

**Mr. Higgins commented:** I agree totally with Vice-Chairman Roberts I am familiar with the area and I agree that it should remain as single family homes.

**Chairman Ouimet commented:** I just want to say that the existing duplex of 14 Stone Crest Drive as our Vice-Chair said was not something that came before this Board. This Board never rendered an opinion as to whether or not a duplex was appropriate for that subdivision. Just so we are clear the Town Board has changed the Zoning Ordinance and now requires any application for duplexes to come before this Board. Our obligation is to determine whether or not it fits the character of the community. I was on the Board in 2008 as well as just about everybody else on the Board tonight. We did approve Stone Crest Preserve as a single-family subdivision it was never contemplated to have multi-family properties inside of Stone Crest by this Board anyway. Vice-Chairman Roberts and I did go out to take a look at the site last week it is totally un-development there and would be right next to the existing duplex if approved. I don't know that it matters but I agree with Don and I don't think I would vote for approving a duplex if Rossetti came here and asked for approval at the time he converted the single family to a duplex. I don't know about the rest of the Board but I know I wouldn't. I think I will entertain a motion to deal with this application.

*Vice-Chairman Roberts made a motion to deny this application as presented because the proposal does not fit in with the over all characteristic of the existing neighborhood, seconded by Mr. Berkowitz. Motion was carried unanimously.*

**Chairman Ouimet commented:** The application is denied. Chairman thanked the neighbors for coming out tonight.

## **NEW BUSINESS:**

### **15.035 Legacy Title Services, 1407 Route 9 – Change of Tenant/Use**

**Chairman Ouimet commented:** It appears that no one is here for this application.

*The item was tabled as the applicant failed to appear.*

### **15.038 Accumetra, 7 Corporate Park Drive – Change of Tenant/Use**

**Mr. Brian Sleasman from ABD Engineers & Surveyors commented:** I am here on behalf of Ed Abele for a change of tenant. This is a small software company that does software management for MRI Machines and CAT scans in the medical industry. The tenant is planning to lease 600 SF of office space which was formally used by Capital Financial Advisors. There will be 3-5 employees and their normal business hours are 8-5 PM. I don't believe there will be any clients coming to the office. Most of the work is done over the internet, phone or at clients offices.

**Chairman Ouimet commented:** Are there any retail sales? Is there any inventory?

**Mr. Brian Sleasman commented:** No just software.

**Chairman Ouimet commented:** Rich and Paul have you had an opportunity to look at the parking situation.

**Mr. Marlow commented:** We have, there is sufficient parking and there have been no parking issues as of today.

### **15.041 NYS Motor Truck Association, Inc., 7 Corporate Park Drive – Change of Tenant/Use**

**Mr. Brian Sleasman from ABD Engineering & Surveyors commented:** I am here on behalf of Ed Abele the tenant is looking to lease 2900 SF of office space. It was formally held by Rutland Matt & CPA at 7 Corporate Park. It is a non-profit trade association that represents the interest of the trucking industry. This is just an administrative office it is not for meetings and there will be six (6) employees Monday – Friday 8-4:30 PM.

**Chairman Ouimet commented:** Rich? Paul? Parking?

**Mr. Marlow commented:** We looked at the parking and there are no problems as of today.

**Chairman Ouimet commented:** Even with the addition of the other tenant under the first request?

**Mr. Marlow commented:** Yes that is correct, all of these tenants are office spaced tenants and they fit within the perimeters from when the building was designed.

**Chairman Ouimet commented:** Are there any questions from the Board on these two proposals?

**Mr. Higgins commented:** I know NYS Motor Truck Association occasionally organizes rallies with a number of vehicles and they go through Albany and different areas. Will they be using this site as an assembly point for vehicles for those rallies?

**Mr. Saltzman commented:** I can't say for sure but I don't believe so. I believe this is just for administrative use and not for actual meetings.

**Mr. Higgins commented:** We would have concerns because if you're talking about a couple hundred trucks trying to fit on that site it's really not conducive.

**Mr. Saltzman commented:** To the best of my knowledge that is not the intent. I believe, like I said, it's just for administrators.

**Chairman Ouimet commented:** If we choose to approve their change of use we could limit the approval to administrative use.

**Mr. Higgins commented:** That is fine.

**Vice-Chairman Roberts commented:** Are there any signs being proposed for either of these uses?

**Mr. Saltzman commented:** No there is not.

**Chairman Ouimet commented:** If there is going to be signs in the future the tenants should be told that they need to come back to this Board for approval.

**Mr. Saltzman commented:** Ok very good.

**Chairman Ouimet commented:** Is there a motion on both of these proposals?

*Mr. Higgins made a motion to approve change of tenant for both applications with the condition that it is strictly for parking for administrative and there will not be any parking for vehicles for any kind of rally or association thereof as it relates to NYS Motor Truck Association.*

**Mrs. Murphy commented:** It may be cleaner for purposes of the Planners if we do two separate resolutions because we are putting conditions on them.

**Chairman Ouimet commented:** Can I have a motion on Accumetra?

*Mr. Higgins made a motion to approve the change of tenant for Accumetra, seconded by Mr. Ruchlicki. Motion was carried unanimously.*

*Mr. Higgins made a motion to approve the change of tenant for NYS Motor Truck Association with the condition that it is strictly for administrative and it will not be intended for an assembly point for any kind of rally or demonstration, seconded by Mr. Berkowitz. Motion was carried unanimously.*

**Chairman Ouimet commented:** Change of tenants was both approved.

### **15.012 Harbor Freight Retail Development, 1617 Route 9 – Commercial Site Plan**

**Mr. Rich Harris commented:** We are some what testing out our new projector and screen. There are TV sets on either side and will eventually be working that might make it easier for Board Members to view the presentation, baby steps. It was working before the meeting, now its not.

**Mr. Jason Dell from Lansing Engineering commented:** I am here on behalf of the applicant for Harbor Freight Retail Development project. It is located along the eastern side of Route 9 and immediately north and east of the Halfmoon Sandwich Shop and in front of the three (3) existing apartment building. The project site encompasses 3 parcels and they will be consolidated as part of the project with a total of approximate 6.8 acres. We have 2 retail commercial buildings the first one on the western side of the parcel will be a 15,000 SF retail building that will house the Harbor Freight Facility and along the eastern side of the project property will be a 12,000 SF retail development. There will be one access point that will service both the 2 buildings being proposed as well as the Halfmoon Sandwich Shop. This will remove the 2 existing entrances located in the central northern portion of the site and we will have one controlled entrance into the facility. The proposed parking has been laid out in accordance with the Town of Halfmoon requirements. We do have a slight excess in parking after we looked at the actual tenant space and what Harbor Freight requires versus what is required by the Code. We may want to bank parking stalls as we move forward on the proposal. Water will be supplied by the existing water main that is on Route 9, sanitary sewer will be provided to the project we will extend a force main that will connect overland to the existing pump station by Casale Rent-All. The County Sewer District has additional capacity and would be able to service this project. Each building will have separate dumpsters. The proposed green space we have is 25%. Harbor Freight anticipates approximately 2 delivery trucks per week that will access the loading dock in the rear of the building. We are here tonight to introduce the project to the Board and answer any questions that you may have and ask the Board to move it forward as it sees fit.

**Chairman Ouimet commented:** Thank you, I will open it up to limited questions to the Board because it will be referred to CHA for their review and comment.

**Mr. Higgins commented:** Do you have an easement in place for the sanitary sewer connection?

**Mr. Dell commented:** There is an easement that the applicant is working on with the owners of this property. I don't know if it's actually been conveyed yet or written but there is an agreement in place.

Also, on the retail commercial 12,000 SF building I don't see a loading dock or loading area and the rear access I assume is mainly for emergency vehicles and loading. I just have a concern that if your all bottled up back there with delivery trucks your not able to get by each other.

**Mr. Dell commented:** Right now there are no plans for a loading dock in the rear of the building. However, as the project moves forward and they do wish to have a loading facility we would have to look to reconfigure the building and reduce the square footage and include a loading dock. Right now we don't have any plans for a loading dock.

**Mr. Higgins commented:** I agree that as we look at this further down the road that possibly land banking some parking so we can keep more green space.

**Mr. Berkowitz commented:** You are consolidating the Harbor Freight, Sub Shop and the building behind it?

**Mr. Dell commented:** The buildings behind and the sub shop were already consolidated with the central lot it was done as part of the original sandwich property. There is an existing lot that comes back straight through and encompasses the 3 apartment buildings that are back there now. There is also a sliver of land called the squash lot.

**Mrs. Sautter** made a comment but it was not heard on the recording.

**Mr. Ruchlicki commented:** It looks like the way you have the plan shown that some of the parking is in the area of the Sandwich Shop.

**Mr. Dell commented:** It will all be part of the same lot.

**Chairman Ouimet commented:** At this time we are going to refer this to CHA for Engineering review and comments. I also would like it to be referred to Emergency Services for early review with the one access point issue. Thank you.

### **15.032 Plant Road Estates PDD, Plant Road – Amendment to Site Plan**

**Mr. Michael MacNamara with Environmental Design Partnership commented:** I am representing the applicant Malta Land Development and here with me tonight is Mr. Tom Samascott he is the realtor for the project and Mr. George Olsen, Architect. This is the first project for Malta Development in the Town of Halfmoon. Most of their other communities are farther north in Milton and Malta. One of their current projects is Lakeview Landing it's on Route 9P overlooking Saratoga Lake and Malta Development has chosen to market that project towards Senior Living. Of the 31 lots they have built so far more than 75% of them are single story buildings or the master bedroom is on the first floor and 2/3 of the purchasers are over age 55. One of the options that they offer on their homes is smart home technology that you see on Time Warner commercials where you can monitor your home and lock your door check your temperature settings on your cell phone or computer. It is very popular with residents that travel three or four months out of the year. All that experience has given Malta Development an understanding of the needs and desires of people that are age 55 and over market.

They were recently recognized for their efforts with a National Association of Home Builders Award for communities of age 55 and over. This brings us to the Plant Road project and as you know with this PDD proposal 40 of the 150 units are required to be age 55 and over. It is not shown on this map but those 40 units are the ones closest to the former club house. It is one of the things that attracted Malta Development to the project, unfortunately one of the things they spotted right away was a problem with the existing approval is that there is this geographic delineation of the 40 units. The requirement for age 55 and over is not just the initial purchase it goes into the deed and it follows the property. It becomes a requirement of the owner if they should turn around and sell it later on. When you have a geographic delineation like that what happens realistically is if you're looking to purchase a unit in the development rather than buy one that has the restriction you would simply move to another unit and buy one that doesn't. What you end up with is with a hole in the project when if those units go last. Originally what we intended to do was to ask the Board to replace that geographic delineation with the first 40 purchases over age 55 kind of like a chronological satisfaction of the requirement. Unfortunately we found out that it's not very practical and the Attorney General's Office has to approve the HOA and you can't have any kind of floating conditions. They have to have everything in a specific location. Instead what we are asking the Board to consider is to change from where the units are for age 55 and over to the units on the other side of Plant Road. There are 33 units on this side of the road and the other 7 would be on the other side of the stream. What that does is put it off to Phase 2 and 3 of the project and it allows us the 99 units in Phase 1 to build out and prove what we are saying that we will exceed that 25% that the PDD requires for age 55 and over. If we do that we can approach the Town Board at the end of Phase 1 and ask them to lift the restriction. The other problem with the approved plan is in the size of the building unit. The unit that is on the approved plan was supplied by the previous owner he doesn't have a lot of experience with the age 55 and over it was just kind of a place holder building and an off the shelf design. The size of those units resulted in a building to building separation of 25' for the project. The smaller unit would have resulted in a smaller bedroom on the first floor because the master bedroom didn't fit; it's an essential thing if you are going to market to age 55 and over you have to have a master bedroom on the first floor and a workable kitchen. This graphic shown to the Board is the approved building and what you would have in order to get a decent amount of living space you would have a full 2-story with all three-units. What we are proposing for the Board to consider is to go with a 10' building separation and that would allow us to go with a wider unit as shown. The end units are either a partial second floor or a total one story structure. The other advantage of that is that it offers some architectural variation. Going back to the approved building you have one solid 2-story boxy type design the width is narrow so your front facade is basically garage door, pedestrian door, garage door, pedestrian door if you contrast it with the end units that have porches, there is a door and a window and you can vary the look as well as the roof line on the second floor. The 10' sounds like a narrow thing but really it is a point to point separation. If you look at the interior loop the buildings are all with the 10' separate at the back of the unit and by the time you get to the front, because of the angle, you really have like 25' at the front. It is a little bit wider and on the opposite units and gets wider as you go back, again the separation might be about half way back of the building because of the nature of the way its offset. Obviously 10' with this style building you would have almost like an alley way. It is just a point to point separation so again we ask the Board to consider those two changes.

**Chairman Ouimet commented:** You have been around this project as long as I have; you know I'm going to address the issue that you first raised about moving seniors to other side of Plant Road. Do you recall the reason why they were on the west side of Plant Road? It was because the amenities are on the west side of Plant Road and the Board had concern with workability for seniors to get to the amenities.



**Mr. MacNamara commented:** Yes, that is correct.

**Chairman Ouimet commented:** So now you want us to consider changing that and to approve putting the senior units on the other side of the road and have the seniors walk across the 40 mph road to get to the amenities. Why would we want to do that?

**Mr. MacNamara commented:** Well I think the difference is the past owner may have looked at the 40 units as a burden. I have to sell 40 units to age 55 and older. Malta Development is not really looking at it that way. They see this as a strong market and really their floor plan is geared to 2 out of 3 units to be for age 55 and older.

**Chairman Ouimet commented:** I understand that but what I don't understand is why are you going back to the original design which was to put the 55 year olds on the other side of Plant Road when we said no to that. Why do you think we are going to change our mind? What has changed?

**Mr. MacNamara commented:** Again, it is to buy time to get away from the restriction and show that we are going to far exceed the Town's goal. Forty units out of 150 is about 25%.

**Chairman Ouimet commented:** What about the safety of the seniors crossing the road? Are you building a bridge?

**Mr. MacNamara commented:** Even if you don't change there is a good chance that a lot of seniors are going to buy the lot on this side of the road anyway again because of the nature of how they are being marketed.

**Mr. Berkowitz commented:** They don't have a choice if you make the west side of road 55 and older they won't have a choice.

**Mr. MacNamara commented:** We are looking again at Lakeview Landing 67% of their sales are for age 55 and over. That is the same strategy that they are using here. They fully expect out of these 90 units probably at least 60 of them will be for seniors and they are on the same side as the club house.

**Mr. Berkowitz commented:** I just don't agree with that.

**Chairman Ouimet commented:** With respect to the 10' separation between buildings couldn't you achieve that just by eliminating one of the units? Not achieve 10' but it maintains the same separation as already approved just by re-shifting everything around and taking one unit out.

**Mr. MacNamara commented:** By eliminating one unit or one building in the whole project? I am not sure what you mean.

**Chairman Ouimet commented:** I don't know it seems to me the elimination of something from the cluster will allow you to achieve what you want to achieve with a different building layout.

**Mr. MacNamara commented:** I think you would have to do it pretty much in every area. You would have to eliminate a unit everywhere. It gets to a point where the economic feasibility of the project is no longer there.

**Chairman Ouimet commented:** I know, but if you haven't looked at it you can't really speak of the economic feasibility. You need to look at that. Are there any comments from the Board?

**Mr. Higgins commented:** Maybe I am slightly confused so what I understand your saying is during Phase 1 you fully anticipate that your going to hit the 40% or the 40 unit requirement for the entire project so at that point did you say you were going back to the Town Board and have them re-classify what your saying here as far as Phase 2 and 3 to be designated for over age 55. Are you going to change that or are they going to remain designated for over age 55.

**Mr. MacNamara commented:** No, we will ask them to completely list it because what we will say is that we met the requirement. We have exceeded the Town's goal for 40 units and have them list the restriction and we will continue to build those same units which are geared toward seniors. Another words let the product speak for itself.

**Mr. Higgins commented:** How will you determine going down the road to maintain that ratio as homes get bought and sold. So 10 years from now how are you going to guarantee that you will still have a minimum of 40 units owned by age 55 and older.

**Mr. MacNamara commented:** Again, the floor plan does that. The floor plan with the master bedroom and the kitchen on the first floor is what attracts the purchaser. If it makes sense they will continue to buy it.

**Mr. Higgins commented:** As I understand it isn't that a requirement for them to have at least 40 units designated for age 55 and older?

**Mrs. Murphy commented:** That is what the PDD says.

**Mr. Berkowitz commented:** Does the PDD say if the owner is age 55 and older or does it say the resident is age 55 and older.

**Mrs. Murphy commented:** I will have to look and see what it says.

**Mr. Higgins commented:** My question: I know you feel that people buying it will be in that age group but there is no way to ensure that the minimum ratio is maintained.

**Mr. MacNamara commented:** No if the restriction is limited, then no. Again, the Town Board and if your Board were to go with this plan the Town Board could say no and these would be the units where that perpetuity would be.

**Mr. Higgins commented:** If that is the case then I have the same problem that John has with the seniors or the older residence having to cross Plant Road which is what we were trying to avoid originally when we looked at this project.

**Mr. MacNamara commented:** I don't think the intent was ever to exclude age 55 and older from buying these lots.

**Mr. Higgins commented:** No, but we were hoping to keep the number of older residence from crossing Plant Road to a minimum by emphasizing that the units on the other side of Plant Road near the facilities are going to be utilized by the residence that were more easily accessible on that side.

**Mrs. Murphy commented:** Just for purposes of the record the application that was submitted to the Board had to do with modification of the separation of the side yard setback from 25' to 10' it didn't have anything to do with modifying the terms and conditions of the PDD with regard to age.

**Mr. MacNamara commented:** No not with modifying the PDD.

**Mrs. Murphy commented:** It doesn't have to do with what you're proposing. So you can't do that here you have to go to the Town Board.

**Mr. MacNamara commented:** Well I think this Board has discretion to say where the 40 units are I know they can't lift the restriction.

**Mrs. Murphy commented:** No I would disagree with you because the Town Board created the PDD with the restriction that the seniors are on the one side of the road. This Board can't modify that. It's on the attached map which is referenced in the PDD as what is going to be there. This Board has the authority to change modifications of the site but not the whole idea of the plan.

**Chairman Ouimet commented:** In addition to that Mike we never approved the building layout we only approved number of units and the positions. So whether you go from that proposed layout that was submitted when the original proposal was before this Board or go to a modified building layout it's not something this Board controlled. We didn't tell you had to build it that way. I thought you said that before, that we approved the layout just not the buildings.

**Mr. Berkowitz commented:** This is unrelated to this. They clear cut that whole area on Plant Road now I understand why you had to do it for the site distance assessment but what about the other part of the north side is that going to be refurbished or rescreened? How is that going to work?

**Mr. MacNamara commented:** Do you mean along the road? There is a planting plan there is quite a bit of plantings, a berm and a fence that goes along Plant Road for screening.

**Mr. Berkowitz commented:** So if you drive along Plant Road you're not going to see it? It will have a berm and be blocked?

**Mr. MacNamara commented:** Correct. We have some visual simulations for that when we were going through the approval.

**Mrs. Sautter commented:** In your proposal the narrative says that you have 2 revisions but as far as I can see you're asking for the blueprint of the size of the home, architectural style, the aesthetics of the

home, the layout of the home and lots to modify the PDD. All of those things are not what it says here it was very confusing. You're asking us for things that we cannot approve. I get where you are going with it but I don't know why you are doing it this way. It seems like you are doing it backwards. If this PDD was approved for seniors and that was the intent then they must come first and they were thought of first. So to add that character and then say we are going to push them aside and show us what we can do I understand that the home is probably what they would like but that is not what this site was meant for.

**Mr. MacNamara commented:** Well the approval didn't have anything to do with the architecture another words, a two story building versus a one and a half story. When that comes into play the building that was proposed by the applicant on the original plan is what resulted in the building to building setback that the Board approved. What we would like to do is go a little wider and a little larger footprint in order to accommodate the seniors and have a master bedroom and kitchen on the first floor.

**Mr. Berkowitz commented:** Does the original building fit the number of homes you want to change it to or are you looking for a larger home and they won't all fit on the site. You are asking for a larger building and it can't accommodate that many units.

**Mr. MacNamara commented:** We believe it can accommodate a 10' separation.

**Mr. Berkowitz commented:** Yes but with a variance.

**Chairman Ouimet commented:** You're not on the microphone please come to the podium.

**Mr. Tom Samascott commented:** I am the owner of Malta Development and this project. We are not trying to make a bigger building we are trying to make a bigger first floor footprint to accommodate the age 55 and older.

**Mr. MacNamara** made a comparison to the one we are doing in Malta and it is not an age 55 and up community but we designed the building to attract that kind of attention and like he said they are approximately 70% of our sales. Myself, reading through from the beginning, I wasn't here in the beginning for the approval, but from what I understood when all of the age 55 and over located on one side of the road maybe there was a clubhouse, maybe a swimming pool; and other amenities that were proposed that went away.

**Chairman Ouimet commented:** I don't think they went away I think they changed.

**Mr. Samascott commented:** I think now it's just a pavilion and a mailbox common area and a putting green. My point is, we think the better way to do it is if we can get what you are looking for by design rather than by saying this lot or that lot because like you said they are just going to go to a separate lot. You have an age 55 and up and then something happens to that person they can't even leave their house to their kids. The kids have to sell it to another age 55 and up. We think that by design we can do a better job then what is there and as a backup for the Town it's not being lifted. You are the attorney so you will know more about it but when I read it I thought it was referred to this Board to decide where they went but not how many of them.

**Mrs. Murphy commented:** It was detailed on the map and the reason it is so clear to me is because it was such an item of discussion to keeping them on the one side of the road. The Town Board was very focused on that. I am not saying that wouldn't be amendable to what you are saying but you would have to go to the Town Board to get an amendment to the PDD in order to accomplish that specific request.

**Mr. Samascott commented:** Do you think we can decide which ones they are? Are you thinking it was done at the Town Board level?

**Mrs. Murphy commented:** Yes.

**Mr. Samascott commented:** Alright I didn't think that was the case.

**Mr. MacNamara commented:** What about the building separation issue is that something within this Board or the Town Board?

**Chairman Ouimet commented:** I can speak to it but I already addressed it in general terms and I think we can table that issue while you do your research as to what it would do to reconfigure the existing layout to achieve the separation that has already previously been approved with your new building design. If you need to remove one lot, two lots, five lots, or fifteen lots and come back to us and tell us what the answer is from an engineering stand point and from a cost analysis whether or not the cost far weighs the benefit of doing that. Other than that, I don't think we have enough information to consider your request to reduce it from 20' to 10'.

**Mr. MacNamara commented:** You want to see alternatives.

**Chairman Ouimet commented:** I would like to see you explore an alternative so you can come in here and tell me what the down side is to maintain that same distance, 20' is not a lot.

**Mr. MacNamara commented:** Its 25' and that is what they are now for the current buildings.

**Chairman Ouimet commented:** That is not a lot.

**Mr. Berkowitz commented:** If I remember right there was a controversy over this project because of the density.

**Chairman Ouimet commented:** Yes there was. There was a lot of back and forth over the number of units that were ultimately approved and I think that if you minimize the distance between the units the controversy will be rekindled. If you go to the Town Board for an amendment of the PDD they will have to have a public hearing and then who knows. There were a lot of interesting comments made at the public hearings regarding Plant Road before. Are there any other questions from the Board?

*Vice-Chairman Roberts made a motion to table this proposal, seconded by Mr. Berkowitz. Motion was carried unanimously.*

**OLD BUSINESS:**

**15.019 Valente Office Building, 118 Button Road – Minor Subdivision/Change of Use**

**Mr. Higgins** recused himself from this item.

**Mr. Dean Marotta was present and commented:** I am with RJ Valente I was here at the prior meeting and you folks asked for some information drawings on the area of the mine and where we wanted to remove the spot. Since then we learned that maybe it's best for us to go to the Zoning Board of Appeals but I understand that you have some questions on what we want to take out of the mine so with that being said I will try to answer them the best that I can.

**Chairman Ouimet commented:** In the proposal that you submitted to us, it indicates that you want to subdivide 13 acres out of the entire parcel but the existing garage or service structure, for the lack of a better word to describe it, is significantly smaller than that.

**Mr. Marotta commented:** Yes 13 acres is correct. That is a simple answer. We simply drew a line there. A lot of the property going down toward Button Road takes you to a ravine and just a wild area so rather than try to just carve a horseshoe out we just kind of cut it and just said it's not useable property.

**Chairman Ouimet commented:** So you are saying of the 13 acres not much of it is usable other than what is already in use.

**Mr. Marotta commented:** Pretty much because if you look at it closely it's probably hard to see on the small drawing but you have your building and your parking area then you have a huge detention pond. After the detention pond the property falls off to a creek. That creek is on the property and after the creek it starts to go back up and then it borders I believe is Reo property at that point. You are never going to fill that creek in. You are never going to do anything with that creek, its DEC monitored. That is why we drew a straight line.

**Chairman Ouimet commented:** Should this Board determine to deny your request for a change of use. Would you be applying to the ZBA to rezone the entire 13 acres to C-1 Commercial?

**Mr. Marotta commented:** I guess I would go with the path of least resistance. We basically want to remove the commercial service building and its parking lot for resale. Then we can move our facility away from the area. So whatever is going to be easier I am actually looking for a little vision on your part which would be easier? I will do whatever is going to be the easiest way to get it done.

**Chairman Ouimet commented:** We had some extensive discussions on this at the pre-meeting and I think that the bottom line is that the only thing we could foresee being carved off is if you subdivide it out would be the existing garage, the parking area a fixed amount of property which is significantly smaller than the 13 acres in your request. If you were inclined to limit you're zoning request to just the building and a small amount of property surrounding the building in your application to the ZBA I think that we would be something more attuned, if you will.

**Mr. Marotta commented:** I have no problem doing that I will have to confer with our surveyor to redraw that and get that to you. There are some of the detention ponds that would have to go with that property because they control the parking lot. Actually those ponds were slightly overbuilt because they are preexisting. We fixed them up and that is why they are there.

**Mrs. Murphy commented:** You are amending your application so that the portion that is currently built out be zoned will have a C-1 Commercial use.

**Mr. Marotta commented:** If that is agreeable then yes I have no problem with that.

**Chairman Ouimet commented:** Does the Board have any questions? We will need a motion to deny based on the fact that it doesn't meet the existing zoning.

*Vice-Chairman Roberts made a motion to deny the application as presented because it doesn't meet existing zoning, seconded by Mr. Ruchlicki. Motion was carried unanimously.*

**Mrs. Murphy commented:** Your application for the subdivision, you plan to amend that we don't have the new map in front of us it will only include that parcel.

**Mr. Marotta commented:** Ok, I will get that to you.

#### **15.004 Ushers Machine & Tool Co. Inc., 180 Ushers Road – Addition to Site Plan**

**Mr. John Chetland with Machnick Builders commented:** I represent MMMH Holding which is the owner of Ushers Machine & Tool Company on 180 Ushers Road. We were previously denied by the Board for our application and subsequently went to the Zoning Board of Appeals and were granted two variances. Both were for pre-existing non-conforming condition in which the front of the existing building did not meet the front setback of 50' because it is currently 20'.3" and a rear storage building that was 0'.0 setback. Both of those variance requests were approved by the ZBA. I am here tonight to ask for approval to move forward with a 2300 SF office addition and in order to do that we need to remove an existing office which is too small which is approximately 504 SF. The proposed addition will be aesthetically conforming to what the existing building looks like so it will look like it belongs there.

**Chairman Ouimet commented:** The addition is not creating a need for another variance is it? Are there questions from the Board?

*Vice-Chairman Roberts made a motion to declare negative declaration pursuant to SEQRA on this application, seconded by Mr. Ruchlicki. Motion was carried unanimously.*

*Vice-Chairman Roberts made a motion to approve this application as presented, seconded by Mr. Ruchlicki. Motion was carried unanimously.*

### **15.029 Wal-Mart Seasonal Storage, 1549 Route 9 – Change of Use**

**Mr. Cory Hide, Assistant Manager of Wal-Mart, Route 9 and commented:** I live in Ballston Spa and I am representing Wal-Mart and the seasonal storage area. We are looking to be able to store some of our soil and plantings and use part of the parking lot to the side of building for that and also underneath the awning in the front of the building to store pre-made bicycles for sale.

**Chairman Ouimet commented:** My understanding from the drawing that was submitted to the Planning Department that you plan on blocking the road?

**Mr. Hide commented:** From what I understood we are not going to be using the area shown on the plan to the Board we are going to be using the side parking lot. The area was shown to the Board.

**Chairman Ouimet commented:** What about the perimeter road is it going to remain unblocked?

**Mr. Hide commented:** Yes, the perimeter road will not be blocked.

**Chairman Ouimet commented:** So that is not the same as what was submitted to the Board?

**Mr. Marlow commented:** No the rendering we had shows the partial display located on the side of the building and the other larger portion of the display would be if you came out of Realty USA and went to the right along the outside loop it would located there.

**Mr. Hide commented:** We were originally going to use that area for bicycles. I was made aware today that we are going use the awning in the front of the building instead of the parking lot.

**Chairman Ouimet commented:** Bicycles are not seasonal.

**Mr. Hide commented:** I think that is why we were going to move it over there and not store them in the parking lot. We are going to use the side for the soil, mulch and paving stones.

**Chairman Ouimet commented:** Do you have a new rendering to show to the Planning Department that shows that the perimeter road is not blocked. The one we have blocks the road and it shows plants.

**Mr. Hide commented:** I can get one for you I don't have one with me.

**Chairman Ouimet commented:** I just want to make sure that you are not blocking the road.

**Mr. Hide commented:** From what I was told we were not blocking the road. I can get a confirmation on that for you.

**Chairman Ouimet commented:** What I would like to tell you is that we will not approve your seasonal storage if you block the road. Maybe that will help you to get the space moved over. How many parking spaces will you be eliminating by moving it over to this side of the road?



**Mr. Hide commented:** It is between 110 and 120 parking spaces will be eliminated for the outside seasonal storage area.

**Chairman Ouimet commented:** You have a parking demand at your store do you think that might cause a bit of a problem.

**Mr. Hide commented:** Usually this lot itself is not, we don't have too much parking going on in this area most of it is in the front. We are not going to be blocking the side road because the TLE entrance is on this side as well for the Tire Lube Express so people need to get in there.

**Mr. Berkowitz commented:** You are blocking a whole section of the front parking.

**Mr. Hide commented:** The part shown was not shown and was to be crossed off.

**Mr. Berkowitz commented:** So you're not going to be using that portion of the parking lot.

**Mr. Hide commented:** No we are not using that part just the other part of the parking lot we are just going to use this in the front for the bicycles.

**Mrs. Sautter commented:** Maybe you should come up and see the map that we have. It clearly shows states plants and bagged goods and I know you keep saying the bicycles are going to be there but that's nothing we have heard of either. We have never and would never allow bicycles to be driven around in the parking lot or even outside. It is not a good idea.

**Mr. Berkowitz commented:** Bicycles are shown in an area where people walk back and forth with carts.

**Chairman Ouimet commented:** It is pretty congested there.

**Mrs. Sautter commented:** With bikes and kids and shopping carts.

**Mr. Berkowitz commented:** I was suggesting that you come back next time to the Board with a new site plan.

**Vice-Chairman Roberts commented:** That is what I was going to say. Come back with a new plan showing exactly what is going to be there.

**Chairman Ouimet commented:** Yes, and I think Paul that you need to run this by the Waterford Halfmoon Fire Department just to make sure their plan is not in fringing on the fire access to the building. You don't want to do that anyway I am sure.

**Mr. Berkowitz commented:** And also keep taking inventory of the trees and the front of the facility to make sure they are all there.

**Chairman Ouimet commented:** We have this conversation every time you come in for your seasonal approval. The winter beats the heck out of the pine trees. The problem is that if you leave

them that way they become very unsightly and I don't think it reflects well on your imagine so I think if in fact we get the point of approving seasonal storage we will make it contingent on replacing any dead or diseased trees.

**Mr. Higgins commented:** How can we consider bicycles? That is an inventoried type item that should appropriately be displayed inside the display area within the store without taking into consideration the square footage and everything else. It is a sidewalk that is intended for pedestrians and not for displays.

**Chairman Ouimet commented:** We have had the same question with Lowe's and Home Depot with grills, wheel barrels, ladders and lawnmowers they store right out front on the walkway in front of the store.

**Mr. Hide commented:** Yes, essentially with the bicycles.

**Chairman Ouimet commented:** It is usually not looked at very favorably by this Board.

**Mrs. Sautter commented:** I think the area you are talking about isn't it pushed back a little and there is a door there but it's where the carts are pushed into the building.

**Mr. Higgins commented:** He is talking about the other side. It's the left hand side.

**Mr. Hide commented:** At the side entrance there is a setback with an overhang.

**Mr. Higgins commented:** There are vending machines or something and some benches. Again, the original concept of the store did not have that on the plan as a display area.

**Chairman Ouimet commented:** It is funny how all these things appear. When the weather starts to get better and things appear that you have never seen before and never see again until the weather gets better again. Then they disappear because the snow removal removes them. So I think we will invite you back to the next meeting and hopefully in the interim you can resolve the issue about where you are going to put this seasonal storage and what is going to be there. Rich and Paul if you can refer that to the Fire Department because I am concerned that this wide open for them in case they need to have access for an emergency. I am sure you are too. Are there any other questions from the Board? Thank you.

*Mr. Ruchlicki made a motion to adjourn the meeting at 8:43 PM, seconded by Mr. Higgins. Motion was carried unanimously. Chairman Ouimet commented: Thank you everyone.*

Respectively submitted by Denise Mikol, Secretary  
Town of Halfmoon Planning Department