

Town of Halfmoon Zoning Board of Appeals  
Meeting Minutes  
February 3, 2014

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:10 p.m. on Monday, February 3, 2014 at the Halfmoon Town Hall with the following members present:

Members: Vice-Chairman Tedrow, Mr. Hansen, Mr. Brennan, Mr. Burdyl  
Town Attorney: Mr. Chauvin  
Town Liaison: Mr. Polak  
Secretary: Mrs. Mikol

A motion was made by Mr. Hansen and seconded by Vice-Chairman Tedrow to approve the minutes from the January 6, 2014 meeting. Motion was carried.

Chairman Rose commented that we have one item on tonight's agenda for an area and frontage variance for Michael Holohan of 81 Woodin Road. Mr. Holohan owns the vacant lot next to his house and would like to sell the lot to a builder to construct a single-family home.

Mr. Michael Holohan, 81 Woodin Road – 278.19-2-34

The lot has 146.17' of frontage and 17,608 sq. ft. of area. Under the requirements of the Town of Halfmoon General Code Article 165 Attachment 1 Schedule A the applicant is required to have 150' of frontage and 30,000 sq. ft. of area in an R-1 Residential District. I received a denial for a building permit from the Director of Code Enforcement. I have a builder; Bellaforte Construction is looking to build a colonial style home on the vacant parcel. The Janis Family owned the parcel since 1967 when the lot was created.

Chairman Rose asked: Are you the owner of the property?

Mr. Holohan commented: Yes, I am the owner. I bought the parcel and the parcel that the house sits on at 81 Woodin Road. My parcel is smaller it's only .33 acres and the vacant land abuts next to my house.

Vice-Chairman Tedrow commented: Presently you own both of the lots?

Mr. Holohan commented: Yes, I presently own both lots.

Vice-Chairman Tedrow commented: Does this sound familiar? Is this the same as the case we recently heard of land being in common ownership? Have you had any testing done in terms of test pits for ground water depths or perc tests for the design of a waste water system to see if it's feasible on a lot that is this small?

Mr. Holohan commented: The perc test would be done after the approval of this Board. The construction company is going to do that once I get the variance for it to be an approved building lot. All the homes surrounding the parcel are all on septic. It is my understanding from the previous owner's family, that the lot is sustainable for a home with the septic on it. Also, the size of the home in conversation with the builder would only be for a 3-4 bedroom home with a smaller septic system.

Vice-Chairman Tedrow commented: It seems we have a chicken and an egg situation here because basically what you're asking us to do is to declare if this is a buildable lot without a perc test via the variance's you are requesting, and the determination about whether it's a building lot depends on whether you can put a septic system on it.

Mr. Holohan commented: Yes, I understand that is the difficulty that lies with trying to do it the way I am doing it. The builder has to take insurances from me that after speaking with the family that owned the property for so long that it can sustain a septic system in that area. The builder doesn't want to put money into a perc test before going through this protocol that I have to go through with the Town of Halfmoon. I would be more weary if it wasn't in the area that it's in. There are three houses that surround the property in a "U" shape they are all on septic, the houses are all the same size as the house the builder is proposing to build within the neighborhood, it fits within the size of the lot, there are no wetlands near the property, and it's flat with sandy soil.

Vice-Chairman Tedrow commented: Do you know where the septic system is for your house?

Mr. Holohan commented: Yes, it's on the opposite side of my house right on Breski Lane. It's actually only 10' off Breski Lane.

Mr. Chauvin commented: Would you be tying into the Town's water system?

Mr. Holohan commented: Yes, that is where that 30,000 sq. ft. comes into play there is only one utility.

Chairman Rose commented: Could you please show us on a map where your septic system is located?

Mr. Holohan commented: My septic or the proposed septic location?

Chairman Rose commented: Both.

Vice-Chairman Tedrow commented: To what extent, does the Building Department review septic system plans in a case like this.

Secretary Mikol commented: Septic systems are done and inspected by a designed engineer.

Vice-Chairman Tedrow commented: An engineer would have to design the system.

Mr. Chauvin commented: An engineer would design the system. The Building Department would review the plan in its stamped form and will go out to inspect it as it's put into the ground to make sure that it is built in conformance with the engineer's design and plan. The engineer that design's the system will also inspect it and sign off on a letter with his/her stamp on it stating it was built according to his designed plan.

Chairman Rose commented: It looks like there is just a building permit application but there is no engineering plan for the septic design and location.

Mr. Holohan commented: Correct, right now there is no sale of the property. The sale of the property is contingent on the approval of this Board to go forward. Once that approval is in place it will be up to the builder to design the septic system. If they move forward and the septic could not meet your standards then he couldn't build and he would be stuck with a half acre piece of property that he can't do anything with.

Chairman Rose commented: So when you re-make your application hypothetically you would have to have a stamped engineered plan for the septic system and location.

Mr. Holohan commented: At that time, it wouldn't be my application anymore; it would be Bellaforte Construction's application. They would have to submit an engineered plan as to where the design of the septic goes by doing the perc test. The septic system would have to conform with the Code of Halfmoon, the setbacks, and the size of the septic system for the house being built. All the houses in the area are colonial type construction. Across the street is a ranch but this type of house fits within the character of the neighborhood. It's better not to be a more sizable house like in the Timberwick neighborhood where you have the larger homes.

Mr. Brennan commented: Your house is on the corner of Woodin Road and Breski Lane, your house is already established. Has this property been divided already or do you currently own the entire square including the vacant lot.

Mr. Holohan commented: I own the house on the corner of Woodin and Breski Lane that is where I reside. The vacant lot is a separate piece that I am trying to sell which I also own. The prior owner sold them both to me as one. Back in 1967 when the Janis Family built the home he kept the two parcels separate. I receive a separate tax bill for the residential vacant parcel and another one for my house. Over the years, I'm not sure why, Mr. Janis never combined them but he didn't. Maybe he had the idea to sell it one day but never did. The Janis's both passed away, the house and the land was placed in an estate and the family sold it to me in July.

Mr. Brennan commented: You bought both the house and the adjacent property together.

Mr. Holohan commented: Yes.

Mr. Chauvin commented: Is your house and the vacant parcel on separate deeds? They could have separate tax numbers but do they have separate deeds?

Mr. Holohan commented: They are on the same deed right now. We are in the process of having the vacant land taken off the deed through Wells Fargo. We asked for a release but apparently they have to approve it as well. In speaking with them they will approve it with either one of two things. I have to take the proceeds of the property and put into the mortgage of my house or not. They will let me know within the next month.

Mr. Chauvin commented: Released from financing purposes but from an actual title perspective it is still titled in one parcel one deed which creates a subdivision issue.

Mr. Holohan commented: I am naive to that point, when I bought it it was referenced in paperwork as two separate parcels.

Mr. Chauvin commented: That is my question, how is it structured as long as it is structured as two separate meets and bounds descriptions.

Mr. Holohan: In my deed it's two different paragraphs for two separate parcels.

Mr. Brennan: Are you making any changes to the land around the existing house and if that is the case is there any further consideration we have to give towards shrinking that down?

Mr. Chauvin commented: It doesn't sound like we are looking at a change in the size of the parcel. The applicant is not seeking to change the size of either parcel they are separate parcels and remain in their form. The application is for an area and frontage variance to allow the construction of a single-family home on this sub-standard parcel that pre-dates our zoning. The Board certainly has gone through this revelation recently and certainly has the discretion to request a demonstration from the applicant that the proposed structure and septic system etc...can actually be built on this parcel and that it would function in that particular location, that there would not be a storm water management issue or any of those natures. I don't know that there is necessarily a water problem in that area. I just know that the last one we looked at was what we were evaluating. In this instance we would be evaluating certainly what I have heard tonight is that there is concern of the building envelope for the home and the functioning septic system within the confines of that lot. This Board certainly has the ability to take those things into consideration when performing their evaluation and can ask for what ever necessary demonstration or proof that it is in fact engineerable, designable and buildable such that it will function safely.

Chairman Rose commented: What I am reading, it looks like its deed parcel 2 and deed parcel 1 based on the engineered stamped and their name with 2-34 and 2-35. Is that what you are saying is two different deeds from a tax map point-of-view? He could have them financed together.

Mr. Holohan commented: My wish was that the parcel the house sits on was a much bigger parcel that I could have just taken land from and made my lot bigger.

Chairman Rose commented: There is no confusion on that, financing is irrelevant to us here. The lot you want to build on is the .404 sq. ft. and the lot your living on today with your house is .263 sq. ft.. What is the difference in the square footage of the two houses you are proposing?

Mr. Holohan commented: My house is 1750 sq. ft. and the proposed house will be 1855 sq. ft. so about 100 sq. ft. larger. I have a 4-bedroom house he will be building a 3-bedroom house.

Mr. Brennan commented: As far as your existing septic system it is on the Breski Lane side of your house?

Mr. Holohan commented: Yes. It abuts Breski Lane, correct.

Mr. Brennan commented: Is there any restrictions on the distances between adjacent existing septic systems or any property lines?

Mr. Holohan commented: The builder specified that it couldn't sit near a well or within 100' of a well whether it's active or not active.

Mr. Chauvin commented: Secretary Mikol just pointed that out there has to be a 100' separation from well to septic on all properties in the area. I don't believe there is any other restriction relative to proximity but obviously you don't want your leach fields near the adjoining property. As long as you keep within the confines of your lot you will be fine.

Chairman Rose commented: Public water is being proposed any public sewer coming to the area that we know of?

Mr. Chauvin commented: There is public water in the vicinity; that is why I asked whether or not there was a tie in or a well situation here. It sounds like they will be on public water however, public sewer is not there.

Mr. Holohan commented: I was told that by the family that I bought it from that public sewer was supposedly in the works, but that has been an issue apparently from when I talked to the neighbors that it has been planned for years. My hope is that it would because I would love to hook into the sewer myself. There are no sizeable parcels around there that a builder would come and build a development and bring sewer down that road.

Mr. Brennan commented: As far as proposed house location and the proposed septic system does that represent the leach fields also?

Mr. Holohan commented: Yes, that is correct.

Mr. Brennan commented: So the leach field as far as you know right now is depicted on this proposed plan is contained wholly within that area and can fit into that area without any problems depending any perc test and well.

Mr. Holohan commented: Yes, pending the perc test and pending the well location confirmation from the Town, the construction company wanted me to ask the neighbors or go to their doors and ask, do you know where your well is? I don't find that acceptable because you are talking about folks that have been there for 50+ years that are now on public water for how many years. They may not know exactly where the well is so I was hoping the Town would be able to tell me where their wells are so that we know for certain that the septic is farther out than 100' from any well.

Mr. Brennan commented: I am not sure what the authorized source is?

Mr. Holohan commented: How do we determine that? I could go ask the neighbors if that is sufficient for the Town. I just find it insufficient. No one is using the well anymore everyone is on water.

Secretary Mikol commented: The information regarding well and septic locations of adjoining lots comes from your engineer and the information is placed on the map to show it is a buildable lot along with your perc test data and septic location.

Vice-Chairman Tedrow commented: The building permit application says that it will be a slab foundation so there is no basement.

Mr. Holohan commented: No, he is not putting in a basement.

Chairman Rose commented: Does anyone want to move this to the next step by setting a public hearing?

Motion was made by Vice-Chairman Tedrow and seconded by Mr. Hansen to set a public hearing for Monday, March 3, 2014 at 7:00 p.m. Motion was carried.

Chairman Rose commented that as part of that we have a site visit and we usually do it the Saturday before the meeting. So we are looking at March 1, 2014, at 9:00 – 9:30 a.m. It usually takes about a half hour.

Motion was made by Mr. Brennan and seconded by Vice-Chairman Tedrow to close the meeting. Motion was carried.

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

