

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
August 6, 2012

Chairman Hansen called the meeting to order of the Town of Halfmoon Zoning Board of Appeals at 7:05 p.m. on Monday, August 6, 2012 at the Halfmoon Town Hall with the following members present:

Members: Vice-Chairman Tedrow, Mrs. Jordan. Mr. Rose, Mr. Brennan

Alternates: Mr. Burdyl, Mrs. Smith-Law

Town Board Liaison: Paul Hotaling, absent

Town Attorney: Mrs. Murphy, Mr. Chauvin

Town Planner: Mrs. Zepko

Secretary: Mrs. Mikol, absent

Motion was made by Mrs. Jordan and seconded by Vice-Chairman Tedrow that the minutes from the June 4, 2012 meeting be approved. Motion carried.

Chairman Hansen commented that tonight is an agenda meeting. We will be asking the applicants questions. This is not a public hearing but one will be scheduled for the next meeting. The next meeting will be held on Tuesday, September 4, 2012 because Monday is a holiday.

Mr. Brendan Murphy, Lots A and B Werner Road

Mr. Greg Meyer, Surveyor from Town of Colonie was present with a proposal for Mr. Brendan Murphy on Werner Road. The request is for an area variance. The applicant has owned two parcels since 1971. Both lots have 15,000 sq. ft. of area. The Local Law in the Town of Halfmoon requires 20,000 sq. ft. minimum area. The applicant was denied a building permit due to lot size. They will be treated as two separate applications.

Mr. Murphy has owned the property in question for more than 40 years. He acquired them from his brother who is also in attendance and he acquired them in the mid 60's, Mr. Kevin Murphy is also present. He acquired about 8 lots and Mr. Kevin Murphy had built on a few of them and these are the last two remaining that Mr. Brendan Murphy purchased. When these lots were approved it was approved as part of a subdivision. The lots up and down Werner Road that are surrounding these two lots are all identical in size and in area and have water and sewer there now. The lots are all 100' x 150' in area. I believe when these were all approved they had well and septic. Tonight, we are here to look at these lots, taxes have been paid on both lots for more than 40 years as two separate parcels.

They are on one deed as two separate parcels. Mr. Brendan Murphy is looking to build on these lots as two separate parcels with water and sewer.

Chairman Hansen asked if you brought a map of the original subdivision with you tonight?

Mr. Meyer commented no.

Mrs. Jordan asked if the original subdivision map could be brought to the public hearing?

Mr. Meyer replied yes. Do you want the tax map or the subdivision map that is on file? The map would be from 1960.

Chairman Hansen asked Mrs. Zepko if we had a copy of the original subdivision map that these lots are in?

Mrs. Zepko replied no.

Chairman Hansen wanted to get an idea of what the original subdivision looked at with lot sizes and the way there laid out. Does this proposal back up to one of the new developments?

Mrs. Zepko replied yes, the Werner Road PDD.

Chairman Hansen commented that this area appears to be served by water and sewer, is that correct? Werner Road has water and sewer lines?

Mrs. Zepko replied yes.

Mr. Meyer commented that we are strictly looking for an area variance. We do meet all the side setbacks, rear setbacks and front yard setbacks. A moderate size house could fit within the setback lines very nicely. We don't meet the current code of 20,000 sq. ft.

Mrs. Jordan asked how many sq. ft. are the other lots from the original subdivision?

Mr. Meyer commented on Werner Road they are exactly the same size going left and right. They were all identical rectangular in size and in area by 100' by 150'. The lots in the rear depending because on a cul-de-sac you had more of a pie shape but the ones on Werner Road are all identical in size.

Mrs. Jordan said thank you.

Chairman Hansen asked if you have a copy of the tax map with you by chance?

Chairman Hansen asked if there were houses on either side of these lots now?

Mr. Meyer commented yes. All the lots were developed except for these two.

Chairman Hansen asked approximately what street number are these lots? 50?
Does anyone else have any questions?

Vice-Chairman Tedrow asked when the adjoining lots were developed? When were they built on?

Mr. Meyer commented the mid to late 60's.

Chairman Hansen commented that normally we would like to take a look at these properties before our hearing. Would it be convenient for somebody or for the applicant to show them to us on Saturday, September 1, 2012? Are you folks all available that day? At 10am?

Mr. Meyer replied yes.

Motion was made by Mrs. Jordan and seconded by Vice-Chairman Tedrow to set a public hearing for Tuesday, September 4, 2012 at 7:00 p.m. Motion was carried.

Mr. Meyer asked if the Board would like to see the subdivision map ahead of the public hearing?

Mrs. Jordan asked that the map be brought to the site visit.

DEC Development, Stone Quarry Road

Chairman Hansen commented that the applicant DEC Development of Stone Quarry Road is requesting an area variance. The lot doesn't meet the minimum lot width at the building setback line. The requirements of the Local Law relating to Zoning for the Town of Halfmoon is 150' this lot has 121.75' the applicant was denied a building permit.

Mr. Dwayne Rabideau, VanGuilder Associates was present with a proposal for DEC Development on Stone Quarry Road. Mr. Rabideau commented that just for clarification the two lots that we subdivided are on Stone Quarry and the other two were on Plank Road just north of Captain's Blvd. The larger vacant parcels were for duplex lots.

We are asking for an area variance on the south side of Stone Quarry Road about 235' east of Plank Road. We are asking for a relief of the minimum lot width from 150' to 121.75'. It is my understanding that there is a possibility based on review from the ZBA Attorney that we are also asking for an area variance of a lot below 30,000 sq. ft. that still has to be determined. Further discussion will determine that.

Mrs. Zepko stated a lot adjustment was approved in 2010 to move the lot line on this property which reduced the overall area from 30,000 sq. ft. to 27,000 sq. ft.

Chairman Hansen commented that the map in the folder indicates an area of 30,000 sq. ft.

Mrs. Zepko commented that the map you have is not accurate according to the Town and the County. A 27,000 sq. ft. lot was filed at the County and is substandard for a duplex lot.

Chairman Hansen asked what the story is on the other lot on Plank Road? On Plank Road it is between the two duplex lots and the existing house on the corner.

Mr. Rabideau commented that the County web site shows the tax # for the lots that are shown in red and who the parcel owners are at this time. That is the basis for our determination that the lot is still over 30,000 sq. ft. The issue as far as potential variance and the acreage of the lot our application is for a lot that is more than 30,000 sq. ft. The confusion on the map given out represents the lot line adjustment that took place after the initial 3-lot subdivision that took place a few years ago. Tax mapping changed the lines but the conveyances through the deeds that never took place. As you can see our parcel is the last 3 numbers 41.2 is owned by DEC Development 31 is also DEC Development and 41.32 is also DEC Development. The lot line adjustment was filed but the deeds were never changed. The Bank would not release the bond.

Vice-Chairman Tedrow comment that it sounds like your taking a little piece of land and passing it back and forth between parcels to make it meet certain standards for approval of the lots.

Mr. Rabideau commented no, the intent was to convey it back to the original lot but it never took place.

Chairman Hansen commented that the lot line adjustment looks like there was an encroachment from the corner lot onto that other empty lot next to it.

Attorney Chauvin commented that it was his understanding that there were two separate lot line adjustments. One taking into account the encroachment the other not. They were done at the same time. One was done as a result of an encroachment. Where you see the bump out on the parcel 41.32 that was done because the driveway of that home was encroaching. If you go straight up the page toward the 41.2 parcel that line is the subject of the filed map. It is adjusted to the left of where it was. If you were to add the 3,000 sq. ft. to the 41.31 parcel at that time that it was done, Mr. Rabideau's position is that it was never actually conveyed. The map showing that increase in 3,000 to 41.31 was filed at the County. Mr. Rabideau is saying that the transfer never took place. I would suggest if that in fact is the case then you would have 2 conforming lots from an area perspective not from a width perspective. We would only be talking about the width issue. We would need something with a title search or abstract showing what the deeds read and the last time they matched the plot. The map filed at the County looks contrary to what your applicant is saying. We need more information before you can make a determination as to whether you are doing two variances or one.

Mr. Rabideau commented that when the Town approves a lot line adjustment they automatically change the tax map. That does not mean it was conveyed through deed. They just change it. I would expect someone getting a notice stating that there is a substandard lot because the conveyance never took place. As far as the bump put goes on the south side of the building at 41.32 the intent is to address the driveway issue but in the original DEC Development there is an easement to take care of that driveway. They were trying to add it to the parcel but already had an easement to take care of the issue. No conveyances took place but we will provide a higher level of information from the County to insure the Town of exactly what happened.

Mr. Rose asked Chairman Hansen if we would set a public hearing without knowing all the facts?

Chairman Hansen commented that is my question too, we don't even know at this point what the announcement of the hearing would be.

Mr. Rabideau commented that in the event an area variance is required as far as the 30,000 sq. ft. we could ask for that now even though we don't feel it is necessary because the lot is large enough.

Attorney Chauvin commented that he was just chatting with Mrs. Zepko and It may make more sense that if you choose, set a public hearing for both issues the width and area variance and within the next 30 days we could hash out whether or not there is an area variance issue here. We can always cancel a portion of the program and move forward on the width setback. Other wise it would be done in multiple steps.

Mrs. Jordan commented that doing it that way I would expect a lot more people to come out if they see that there is an area variance as well. People might not think it's such a large deal if it's just a width variance you maybe inviting people for no reason.

Mr. Rose commented that it would not be a big deal but it would kick off the process of notifying the landowners.

Attorney Chauvin commented that if the applicant was requesting a review of both width and area then you would have to make a decision on both. If the applicant is choosing to request one variance for just the width that is what the Board will act on.

Chairman Hansen commented that on a procedural basis we only have the paperwork application for the width of the lot. We don't have anything in the file for the area variance.

Mr. Rabideau commented that this was just brought to my attention late last week as a question.

Mrs. Zepko commented that this request could be added at the applicants request.

Chairman Hansen commented that we don't technically have the paperwork in front of us for the area variance. I don't think we could even consider it tonight. We can't just say throw it in the hopper we don't have the paperwork.

Attorney Chauvin commented that you would need to amend that application to do both.

Mrs. Jordan asked if we could wait another month until you know what the real situation is?

Mr. Rabideau commented because of the question of potentially requesting an area variance and you don't have that before you so you can't act on that. In lieu of that, we are going to roll the dice and set the public hearing for the lot width. We feel that it is 30,000 sq. ft. and the other one potentially goes away. If it doesn't then you will see me back here again.

Mr. Chauvin commented that is what I am getting at. It is certainly within his purview you can go forward on the application for the lot width variance and with the understanding if there is a substandard lot area issue you would have to make a new application and start the process all over again.

Mr. Rabideau commented that is correct. We did not know how the Board was going to handle this.

Chairman Hansen commented that the extra square footage was never actually sold or deeded to anyone else.

Mr. Rabideau commented yes, that is correct. I believe the intent of that line adjustment was to add it to add it to 41.31 and our client also owns that lot. At that point, there was no reason to go forward with that lot line adjustment. He bought lots 1 and 3 are based on each lot being over 30,000 sq. ft. With that being said we will go with the premise that we will go with the proposal of the minimum lot width. We will clarify to everyone's satisfaction whether we need the other variance or not.

Chairman Hansen commented that if you do we would have to go through the process again.

Mr. Rabideau commented that is correct. We potentially could have a public hearing for the minimum lot width and then depending on how that goes it may be a mute point because then we need to come back for a lot area variance.

Mrs. Jordan commented that I am thinking in terms on how I would think. If you're coming in for just the lot width I don't think I could just sit and go through our steps and judge whether that is acceptable if the next month we would have another hearing on the area.

Mr. Rabideau commented yes, I could see where you are going. Basically if a lot area variance were also needed we would withdraw the public hearing. It's either all or nothing.

Mr. Chauvin commented that a corrected map would need to be filed to get things on file correctly to show all the findings. Something would have to go to the County telling them that the transfer of lands never took place and they would need to reverse it back the original way.

Chairman Hansen commented that we would be setting up the site visit for Saturday, September 1, 2012 between 10am and 10:30am. The actual meeting would be held on Tuesday, September 4th at 7:00 p.m.

Vice Chairman Tedrow made a motion to set a public hearing for Tuesday, September 4, 2012 at 7:00 p.m. for a lot width area variance for DEC Development on Stone Quarry Road and was seconded by Mrs. Jordan. Motion was carried.

Motion made by Mr. Brennan and seconded by Mr. Rose to close the meeting. Motion was carried.

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

