

Town of Halfmoon Zoning Board of Appeals
Meeting Minutes
March 4, 2013

Chairman Rose called the meeting to order for the Town of Halfmoon Zoning Board of Appeals at 7:01 p.m. on Monday, March 4, 2013 at the Halfmoon Town Hall with the following members present:

Members: Mr. Hansen, Mrs. Jordan
Member Absent: Mr. Brennan and Vice-Chairman Tedrow
Alternates: Mr. Burdyl, Mrs. Smith-Law
Town Board Liaison: Walter Polak
Town Attorney: Mr. Chauvin
Town Planner: Mr. Casper
Secretary: Mrs. Mikol

Motion was made by Mrs. Jordan and seconded by Mrs. Smith-Law that the minutes from the February 4, 2013 meeting were approved as presented.
Motion was carried.

Mr. Burdyl and Mrs. Law-Smith, Alternates will be voting tonight for Mr. Brennan and Vice-Chairman Tedrow who are absent this evening.

Mr. John VanChance, 272 Upper Newtown Road

Chairman Rose opened the public hearing at 7:03 p.m. Mr. VanChance is requesting an area variance under Chapter 165-Attachment 1. The applicant is looking to reduce his side yard setback to 3'. A building permit was denied because Mr. VanChance will not meet the 10' side setback requirement. We are here to decide on that tonight. We did a site visit on Saturday, March 2, 2013. At this time, I would like to open the public hearing to the applicant and comments from the neighbors. If you would like to come up to speak, please do so. Please state your name and address for the record and speak clearly into the microphone.

Mr. VanChance commented that he is requesting a variance to add an addition onto his home at 272 Upper Newtown Road. The addition being proposed is 28' x 30' which was shown on a survey map presented to the Board at it's last meeting. The addition when built will be 3' to the property line. My neighbor, Mr. Greene is here tonight.

Mr. VanChance commented that the reason for the variance is to create another bedroom and living room. This will square off my house. Mr. VanChance stated the west side of the house would be the only convenient place to put an addition. The east side of the house is setup with two bedrooms. My septic system and leach lines are on the east side of the house, so that would not work either. Currently on the west side of the house there is a kitchen and a smaller living room. We want to expand the house due to our growing family, we need to add another bedroom and a living room and we are asking to come within 3' to the property line. My neighbor, Mr. Greene granted me permission to be within 3' to the property line. His letter was filed with the application.

Chairman Rose asked if the Board members had any comments or questions?

Mrs. Jordan commented that the reason why Mr. VanChance couldn't build on the east side of his house was because of your septic field. Is this correct?

Mr. VanChance commented, yes. The septic fields are right across the driveway. If I do the addition on that side of the house, I would be impeding on the septic system and would also loose my driveway. I believe the setback for a septic field is 30'.

Chairman Rose asked if there are any further questions? A letter was submitted to the Board with the application from Mr. Greene. Mr. Ronald Greene, 217 Fellows Road stated that John came to me and asked me if he could build an addition to his home within 3' to the property line and I have no problem with that.

Chairman Rose closed the public hearing at 7:10 p.m.

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

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

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

Mr. Hansen commented that he doesn't believe there will be an undesirable change to the neighborhood. Mr. VanChance is improving the house and it is consistent with other homes in the area. I don't see any change there at all.

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

Mrs. Smith-Law commented that she didn't think there is any other way to achieve what the applicant is looking for. On the side of the house not facing the road you have the driveway and another building so then you would have the addition right on top of the storage/garage building. Then there is the issue of the septic. There is nowhere to go on the front of the house, you would be right on the road. I don't really see any other alternatives. Chairman Rose commented that he would tend to agree with that.

- "Whether the requested area variance is substantial."

Chairman Rose commented that just in general, I have a comment on that. The area variance is substantial in nature because it is very close to the property line. Taken into account the overall conditions of the site and the distance from the other house (Mr. Greene), it leaves it to the point where it is a detriment to his house and property and he is willing to go into this with his approval on record. That kind of mitigates that test. Mrs. Smith-Law commented to Mr. Greene that she hopes he has thought through the process. If you were ever to sell your home it may be a barrier to sell with someone's house being so close to the property line, or even if you ever wanted to subdivide your lot.

Mr. Greene responded that he would never subdivide his property and yes he did think about all of that.

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

Mr. Hansen commented that it wouldn't have an adverse impact. It's just a single-family home and they won't be doing any business there or anything. I don't see why it would have an impact on the neighborhood.

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

Mrs. Jordan commented that it is self-created, but there is no one factor that's the determining factor here so it should not stop him from having the variance. Mr. Rose also commented from visiting the site that while it is self-created, there is no other option that makes sense looking at the economic hardship you might have reconfiguring your whole house to switch it to the other side to achieve your goal. I think we would be putting an undo hardship on you for doing that. Mrs. Smith-Law commented that she would agree.

Motion was made by Mrs. Smith-Law to grant an area variance for Mr. John VanChance of 272 Upper Newtown Road to allow his addition to be 3' to the adjoining property line. Seconded by Mrs. Jordan. Motion was carried.

Chairman Rose commented that we have one piece of business next month with the Werner Road applications.

Mrs. Mikol commented that Mr. Zaccarelli contacted me Thursday, February 28, 2013 and wanted to be on the agenda for tonight's meeting. Mr. Zaccarelli sent a copy of the Engineer's Report that we had been waiting for to Clough Harbour & Associates for their review and comment. Once we hear back from Mr. Bianchino we can put this item back on the agenda. In the meantime, I will resend everyone the minutes from this proposal and also a copy of the Engineer's Report. I will let you know as soon as I can if they will be on the agenda for April 1, 2013.

Chairman Rose commented that he was not sure where we left that in process. We did have the public hearing. Did we table action and the clock is running?

Mr. Chauvin commented that the public hearing was closed and the Board asked for more information.

Chairman Rose commented that if the report is not ready, it would on for the May meeting. Mrs. Mikol would you please track that for us and let the Board know? Mrs. Mikol replied, yes.

Chairman Rose asked that if new information were brought forward, would we want to re-open the public hearing?

Mr. Chauvin commented, no. You don't have to. There is no obligation to do that. This is information that the Board has requested. Unless the application has changed, then you can schedule a new public hearing.

Chairman Rose commented that we could make the decision once we hear the new information.

Mrs. Jordan commented that what we ask them is what the report is and the result of all the public comments.

Mrs. Mikol asked if we should contact some of the neighbors to let them know that Mr. Murphy is on the agenda? It's been a long time and they stopped calling to see if it's on the agenda.

Mr. Chauvin commented, no it is not your obligation or your regular practice to call people. It is up to the residents to check the bulletin boards, make phone calls, and check the town web site to see what is on the agenda.

Mr. Polak introduced Mr. Roy Casper to the Zoning Board of Appeals as our new Planner. Mr. Casper said he was a graduate student at SUNY Albany in the Masters Regional Planning Program. He also stated that he is active with Clifton Park's trails committee and would like to get involved with the trails committee in Halfmoon. Mrs. Jordan asked him if he was looking for a new home in Halfmoon and Mr. Casper said, yes, of course I am!

Motion was made by Mrs. Smith-Law to close the meeting at 7:30 p.m. and was seconded by Mrs. Jordan. Motion was carried.

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

