

Town of Halfmoon Zoning Board of Appeals  
Meeting Minutes  
August 2, 2010

Chairman Hansen opened the meeting of the Town of Halfmoon Zoning Board of Appeals at 7:05 p.m. on Monday, August 2, 2010 at the Halfmoon Town Hall with the following members present:

Members: Mrs. Jordan, Mr. Rose, Mr. Brennan  
Alternates: Mrs. Smith-Law and Mr. Burdyl - will be voting tonight  
Town Board Liaison: Paul Hotaling  
Planner: Mrs. Zepko  
Secretary: Mrs. Mikol

Motion was made by Mr. Brennan and seconded by Mr. Rose that the minutes from the July 5, 2010 meeting be approved. Mrs. Jordan abstained from voting. Motion carried.

**Mastercraft Equipment Company, Woodin Road**

Chairman Hansen opened the public hearing at 7:08 p.m. Chairman Hansen explained that the applicant is applying for an area variance to construct a single family home on the corner of Woodin Road and Grooms Road with 280' of frontage in an R-1 Zone. Under the current zoning with private septic and well, you are required to have 40,000 sq. ft. The lot in question has 32,807 sq. ft. that is why an area variance is being requested.

Duane Rabideau was present from VanGuilder Associates. The applicant is here tonight for an area variance of 7,193 sq. ft. to meet the area requirement of 40,000 sq. ft. in the R-1 zone. Mr. Rabideau showed photos of the lot from the County's GIS System to the Board Members. Mastercraft would like to build a single-family residence with on site well and septic. The proposed plot plan shown had the house location on it meeting all the setback requirements. That is our request.

Mr. Burdyl asked if the driveway would be located where the current access road is located? Mr. Rabideau replied yes, that is correct. Mr. Burdyl asked that if a car were sitting there would there be a site issue? Mr. Rabideau replied no.

Mrs. Jordan asked about the septic system location and walked the land on Saturday. Is the exact location of the septic system where the junk is being stored? Mr. Rabideau said the septic system would be farther into the lot than the debris pile. The debris pile is about where the house would be going. The south line of the parcel has an old fence line that runs along the lands of Rickard. Basically, the land on this side is about a foot and a half higher than the lands on Rickard's side. It does get wet south of this parcel. Where the septic system is going it's about a foot and a half higher.

Mrs. Jordan commented that with the type of plantings growing it's the type of foliage that grows in wetlands. Mr. Rabideau said the vegetation there were some currants but there are upland currants also but it was a sandy soil it was definitely uplands. There is some wetter soil and standing soil south of our lot. Mr. Rabideau commented that the one indication of upland soils is the white pines, which are indicative of upland dryer soils.

Chairman Hansen asked if the Board Members had any other comments?

Mr. Brennan noted that in the minutes from the last meeting we asked Mr. VanGuilder to bring with him other connections with directional drilling. Mr. Rabideau commented that we looked into the cost of a directional bore it's a cost factor. We could get a well on the site for about \$2500.00 and a directional bore would start of \$3,000-\$5,000, plus the cost of the easement if it could be obtained.

Mr. Brennan noted that in the minutes it also refers to the water connection from Mr. Tironi for the closest connection that could be made and/or comments from the neighbors allowing or refusing water connections through their property. Mr. Rabideau commented that he did not talk to Mr. Tironi but one idea that was talked about was to tie into the water main on Cambridge and run a lateral along Woodin Road into the lot, but apparently anytime a water extension is done within the right-of-way of the road, Mr. Tironi wants an actual water main to be installed. That is also cost prohibited.

Mrs. Smith-Law asked about the septic system location and would all the existing trees be removed from the site? Mr. Rabideau commented that the trees will be removed the septic system being installed cannot have trees in that area.

Mrs. Jordan asked if studies have been done or just your say so on the soil that it is safe for the septic system? Mr. Rabideau commented that studies have to be done and a deep bore test and a perc test, which is acceptable for a septic system however, it has not been done yet.

Mr. Brennan asked if the perc test would have to pass in order for the building permit to be issued? Mrs. Mikol replied yes, an engineer would have showed the perc test on the stamped plan before a permit is issued.

Chairman Hansen opened the hearing to the public.

Mr. Paul Rickard of 443 Grooms Road my property goes down Grooms over Woodin and abuts with Tony's. I came home from vacation on Saturday and found the certified letter from the Town, went to pick it up today, and found out that I no longer had an agreement with Tony to provide him with 10,000 sq. ft. of property and split the cost of utilities including forced main and water. Up until this point, I have been dealing with Tony since 2006 trying to see what we can do in order for me to get an access out to Woodin Road. It would allow me, in the future, to develop it more readily if I decided to do so. While I haven't done anything like that I still want to put the improvements in. I also have a map which was made by VanGuilder it was basically a swap where I would get some woods on one side and Tony would get land going out to the road so Tony wouldn't have to worry about a variance or setbacks that he has to worry about now. My goal was to make my property more marketable; I had no inkling that there was going to be anything other than this agreement ruling the process.

Mr. Rose asked, please clarify what you just said. Have you offered the applicant a chance to sell him property? Mr. Richard replied I am not selling it to him I was giving it to him.

Chairman Hansen asked Mr. Rickard to clarify what the swap would be. Mr. Rickard commented that Tony would get 10,000 sq. ft. and I would get 2,000 sq. ft. Chairman Hansen asked how would that improve your access to Woodin Road? Mr. Rickard commented that he would access to an area shown on the map and would have to put in the road when I am ready to do anything. Mr. Rickard commented that it would actually allow him to go through the field that is there now and come out on Woodin Road.

Mr. Rose commented that the land you gave him you would have a legal easement allowing you to access your property onto Woodin Road. Mr. Rickard replied yes that is correct.

Mrs. Jordan asked Mr. Rickard if he was coming down the driveway? The driveway would actually become the road. Mr. Rickard commented that they could move the house if they had more land that was the reason why the land was being offered.

Mr. Burdyl asked Mr. Rickard if he was picking up the cost or sharing the cost for the water line and force main? Mr. Rickard commented split the cost of water and sewer. We would share the cost of about \$8,000.00 each for water and sewer. Chairman Hansen asked where the connections would be made? The water main would come from the other side of Grooms Road and the sewer is at Grooms Road as well. Mr. Rose commented that they would share the costs of the utilities and you would also be giving him enough land so that a variance would not be required? Mr. Rickard replied yes.

Mrs. Jordan asked Mr. Rickard for what purpose do you want access to Woodin Road? Mr. Rickard replied that at some point he will come before the Town and ask for a chance to develop that corner to make it PO-R like a small medical offices there that look like a home.

Mr. Burdyl commented that you mentioned \$8000.00 each rough estimate would cover the directional drilling for both water and sewer for each of you. Mr. Rickard replied yes.

Mr. Rose asked Mr. Rickard to provide the Town with the estimate copy of the \$16,000.00 for water and sewer. Mr. Rickard replied yes I could e-mail it to you. Mr. Rose asked if Mr. Monticup has executed the agreement? Mr. Rickard replied no, Kevin Daley, my attorney presented it to him last month. Mr. Rose commented that he had 30 days to view this contract. Mr. Rickard said we have been back and forth with this since 2006 but this contract for just 30 days.

Mr. Rabideau commented that he has a time line with regard to negotiations with Mr. Rickard. Is there an agreement? No there is not one it has not been signed.

Mr. Rose said the reason for my questions, not to be obscure, is that one of the tests for an area variance is if a variance can be obtained or the solution can be obtained via another method so I asked questions regarding that test for the record. Mr. Rabideau commented that part of the criteria for that test is cost.

Mrs. Jordan commented that it almost seems to her that ok there is no agreement but that you haven't even talked further about this issue. Mr. Rickard commented that the basics of the agreement were changed in 2006 when we started talking about the road and as far as service then, directional drilling with one estimate and also talked to Bob Lashway who was going to get back to me but I will call him again. Mr. Rickard didn't realize that we were under time constraints. Mr. Monticup said he was running out of time. Mr. Rickard is happy to move it along its not an issue.

Mrs. Jordan asked if this something is something you will still talk about? Mr. Rickard replied oh sure. Chairman Hansen commented that it sounds like you still have something to talk about and work on with this.

Mr. Rickard commented that he and Tony will continue to work on the agreement to expand the land he is going to use and we will try to split the cost because we both want sewer and water on our properties which would give him 40,000 sq. ft. to work with.

Ann Marie Koza, 6 Cambridge Avenue asked if they do come to an agreement would we know about it? Chairman Hansen commented that if they come to an agreement and the new lot becomes 40,000 sq. ft. he can apply for a building permit and he could put in a well and septic system on it. If he puts in water and sewer on the existing lot he could go in for a building permit too, in either case he wouldn't need a variance. Mrs. Zepko commented that if Mr. Rickard and Mr. Monticup exchange any land they would have to go before the Planning Board for a subdivision and the adjoining landowners would receive a letter in writing for the public hearing. A deed would need to be filed in the County Clerk's Office describing the new lots.

Connie Reynolds, 10 Cambridge Drive asked as to whether or not the land behind her is wet or not, the back ¼ of my lot is nothing but moss and marsh because there is a natural spring that runs behind there, the land has always been wet and soggy and I don't understand how his land will not be soggy because there is more ferns and moss and marsh growing beyond the hedge row onto his lands. If you walk back there your feet will sink even after a dry summer.

Chairman Hansen asked which specific house she owned on the plan. The house was shown in relation to where Mr. Monticup plans to build.

Jack Thomas, 18 Cambridge Drive commented that he agreed with Mrs. Reynolds there is a natural spring and the wetlands is constant even when you think it would be dry its wet. We had to cut the bottom of our fence off because the fence would be sitting in standing water for 6 months of the year. Mr. Thomas showed his house location on the map and further stated that all along the property line there is a natural stream that runs.

Mr. Rose commented that Mr. Rabideau asked where the wetland area was on the map.

Mr. Rabideau commented that he has walked Mr. Monticups' lot and does wetland delineation for VanGuilder Associates and there are not wetlands. It is uplands. There are wetlands on Mr. Rickard's side for some reason the south line of Mr. Monticups' lot is the old farm line with a delineation of a foot and a half.

Mr. Brennan asked the Chairman as a point of clarification as far as the discussion of whether it's wetlands is probably a fine point of what we are talking about as far as Army Corp of Engineer Wetland to what point does this hearing continue on tonight at what level does the Zoning Board of Appeals have authority on as far as determining the variance based on wetlands in there? It ties into my question regarding wetlands and the perc test and the septic is this part of our pervue or is this part of our decision.

Chairman Hansen commented that it really isn't part of our decision in the exception of if we were to consider granting a variance here we would have to have some assurance that it was in fact possible to put a well and a functional septic system on the lot before we granted a variance for it. Mr. Rose commented that test number 4 allows us the latitude of information, which includes the adverse impact of the environment and or the physical neighborhood; it's a broad test.

Mr. Monticup commented that clean fill must be brought in for the septic system and a new foundation. That takes care of any water problems. My foundation will not be a full cellar I plan on doing a slab.

Bill Koza, 6 Cambridge Drive commented about the water issues whereby we had some trees removed last year and the year before and both times the trucks sunk and had to be towed out. The trucks were in up to their axles, that is how wet it is back there. This was in December and the water is still there yearlong. SEQRA should be done for this to ensure the quality of life around the proposed development. North of the access road being proposed is Cambridge Drive and if a traffic study is done you will find that it's impossible to get out and I don't think the Town would approve any more development in that area.

Mr. Rickard commented that he understands the concerns people should know that before they move there and that before I moved there it was all heirloom fields and crops were being raised there by the Rybaltowski's. When I moved there I let the fields grow out that is why it is moss and woods instead of corn. Years ago I had it graded and had a ditch put in the center and by in large I find that water will gather along the old fence line if it's been real wet but the ditch carries almost everything off. I don't know if you could declare that as a wetland. The ditch holds water after a rain and then its gone but that area is intermittently wet but the bottom line is that it was farmland before and was farmed before and it could be farmed again. The property is high enough and I am sure it could support residential development.

Chairman Hansen asked everyone to keep in mind tonight that we are not talking about subdividing a new lot this is an existing lot and the application is asking for permission to build a single family home on this lot given its size. As indicated before they proposed and got approval for a subdivision. The subdivision approval even though it's required does not go through the same process as the variance does. A variance is asking for just that a variance from the requirements of the zoning law. A subdivision is straightforward as far as the size of the lot is concerned. If they propose to create a lot, meaning the size required by the district there isn't a whole lot of leeway that the Planning Board would have to reject that unless they could show that the lot is not buildable at all and I don't think that is the case here. That is not up for us to determine but, I do think the direction to go is, without casting motion at this point, if it doesn't appear feasible for them to consider this agreement between Mr. Rickard and Mr. Monticup, to move forward with altering lot lines, creating a conforming lot, and putting in water and sewer. That alone would elevate the concern of a septic system there if there were any drainage issues. As a Board, we should consider tabling any decision on this until they have a chance to further negotiate this and come up with a workable agreement between them. If they come to an agreement it will go a different route and the neighbors will still have the opportunity to speak when the land is subdivided by public hearing.

Beth Thomas of 8 Cambridge Drive asked where the utilities would come from, the Woodin Road side or Cambridge Drive side? Chairman Hansen replied that the utilities would come under Grooms Road. They will not need permission from Saratoga County to touch the road if they do direct drilling under Grooms Road. Grooms Road is a County Road.

Peter Smith of 4 Cambridge Drive asked when was the 40,000 sq. ft. lot size put in effect? Chairman Hansen replied the standard lot size in an R-1 Zone if you have water and sewer available is 20,000 sq. ft. If you have water or sewer, one utility, it's 30,000 sq. ft. If you have neither its 40,000 sq. ft. minimum. The purpose of that was to make sure that there was adequate room to put a well and septic on the lot without them being too close to each other to make sure they have the right separation on the property.

Peter Smith of 4 Cambridge Drive said that if this works out there is a 20% reduction in lot size that is a huge amount. Chairman Hansen said yes it could be depending on the circumstances. If the restrictions are about wetlands and I am not saying that they are here, but if you have that kind of condition it may limit the lot area that is usable and that is why the 30,000 sq ft may be over kill on a lot of lots but sometimes you need that much usable space on the lot.

Motion was made by Mrs. Jordan and seconded by Mr. Brennan to close the public hearing at 7:58 p.m. Motion was carried.

Mr. Rose asked if the Bradt Family was notified of the hearing? Chairman Hansen said yes they were notified and they live at 2 Cambridge Drive.

Chairman Hansen commented that if we don't approve it or disapprove it or table it tonight it would go to a future meeting. If it is a future meeting you will not get individual legal notices in the mail you would have to keep track of it. We are only required to contact you once of a public hearing. You are welcome to call the office between 8am and 4pm to check on agenda items. The Board meets once a month except for Monday holidays, and then it would be on a Tuesday at 7pm. The Board only has a meeting if it has any applicants.

Mr. Brennan asked Chairman Hansen if there is a substantiated reason to table this meeting tonight. Is there a limit on the length of time that we can table a meeting until it becomes decided? Chairman Hansen replied generally we have 62 days from the public hearing to make a decision. I just want to make sure we are clear on that.

Chairman Hansen commented that hopefully we would get an agreement between both parties because it would be in their best interest to do that. Mr. Rose commented that maybe we should table it for 30 days until the next meeting and revisit it then? Mr. Brennan said someone should state a specific reason why we are tabling it? Mr. Rose commented that what I am hearing is that both parties are in agreement to work together during this 30 day window and come back to tell us what their decision is within this window whether they are seeking to go exclusive or go with a mutual arrangement? Does that sound fair or accurate?

Mrs. Jordan made a motion to keep the public hearing open and adjourn the hearing to the next meeting to allow Mr. Rickard and Mr. Monticup to possibly find an alternative to an area variance. Seconded by Mr. Burdyl. Motion was carried.

Motion made by Mr. Rose and seconded by Mrs. Jordan that the meeting be closed at 8:15 p.m. Motion was carried.

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