

**Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, April 3, 2023
7:00 PM**

Chairwoman Curto called the meeting to order at 7:00 PM on April 3, 2023 this meeting is being held in person and via Microsoft Teams following members present:

Members- Chairwoman Curto, and Kevin Koval, Frank Griggs, Leonard Micelle (absent), Dave Maxfield
Planner - Paul Marlow
Town Attorney – Cathy Drobný

Mr. Koval made a motion to Approve the March 6, 2023 Zoning Board of Appeals minutes, Mr. Maxfield seconded, Minutes Approved.

Public Hearing:

Hickok Duplex, 4 & 6 Lansing Lane- Area Variance & Use Variance

Mr. Paul Hickok presented the application. The applicant is before the Board seeking approval to construct a new duplex on the two vacant parcels at 4 & 6 Lansing Lane. They intend to consolidate the two parcels into one lot and construct a new duplex. The applicant was before the Planning Board at the January 23, 2023 meeting to present the application; they were subsequently denied as the proposed use is not permitted in the C-1 Commercial Zoning District. They are before the Board seeking a Use Variance as it relates to the proposed duplex as well as two area variances. The area variances requested are Lot Width Section 165, Attachment 1, and Schedule A: Requires a minimum 150-foot lot width. The proposed lot width is 115-feet, thus requiring a 35 foot variance; and 3.Lot Area: Section 165, Attachment 1, Schedule A: Requires a minimum lot area in the C-1 zoning district being 25,000 square feet (SF). The lot area will be approximately 15,246 SF or 0.35 ac thus requiring a variance of 9,754 SF. The proposed duplex would be likely utilized for family at this point. He noted that this parcel, at one point maintained single-family home.

Susan DeVito, 16 Stone Quarry Road asked if the lot was large enough for a duplex; Mr. Hickok noted it was not, and that was the reason for the variances.

Chairwoman Curto closed the Public Hearing at 7:10.

A site visit occurred on February 18, 2023 at 9am.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Maxfield commented: They've exhausted their options, they cannot do something allowed in the zoning
 - a. Mr. Griggs noted this is a primarily residential area, there are homes all around this area; using it as residential is not out of character;
- 2) Mr. Maxfield commented: It is unique, to the area to the right is residential and the area to the left is commercial. Even though it is a C-1 property, it is a property between two zoning districts. There are no issues with building a home here with the understanding it would be constructed next to commercial businesses;

- 3) Mr. Koval commented: No, the area is mostly residential;
- 4) Mr. Koval commented: No, it is an old property, he was there prior to zoning;
 - a. Mr. Maxfield noted it was previously a home, they want another home and for the parcel to remain commercial. This will remain a C-1 property and all associated rules and regulations will remain.

Mr. Koval made a motion to approve the Use Variances as proposed, seconded by Mr. Maxfield. Motion was carried

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Koval commented: No negative impact;
 - a. Mr. Griggs noted there are old home on smaller lots in the area;
- 2) Mr. Maxfield commented: there is no other way to do it without being out of place;
 - a. Mr. Koval noted it is the best use for the site, better than a commercial option, commercial would be more of a detriment to the nearby homes;
- 3) Mr. Koval commented: No
- 4) Mr. Koval commented: No, there is no impact
- 5) Mr. Koval commented: No, because it was originally residential there.

Chairwoman Curto made a motion to approve the Area Variances as proposed, seconded by Mr. Griggs. Motion was carried

New Business:

Tang Duplex, 20 Stone Quarry Road- Area Variance

Chairwoman Curto noted that the ZBA that the applicant would like to subdivide the parcel and construct a new duplex, but clarified that the ZBA's authority does not cover the duplex, only to make a determination on the flag lot.

Mr. Marlow noted that the ZBA would be making a decision on granting a waiver from the requirement to have a minimum 150-foot road frontage for the parcel.

Mr. Koval clarified for the public that they cannot approve the subdivision or duplex, but only whether or not to allow them to have less than the required amount, by Town Code, to subdivide the parcel.

Mr. Pat Jaroz, Gil VanGuilder Land Surveyors presented the application. The applicant is seeking approval to subdivide the existing 2.26 ac. parcel and construct a new duplex. The parcel is currently 2.26 acres and contains an existing duplex. They wish to subdivide a flag lot in the rear and construct a second duplex on the new parcel. If approved, the lots will be Lot A= 0.9182 acres, Lot B= 1.34 acres. The subdivision request leave the existing duplex lot (proposed Lot A) short on road frontage. The Town Code requires a minimum 150' minimum lot frontage for a duplex lot. Following the subdivision, Lot A would be approximately 131.5'. Therefore, Lot A would be made non-conforming if the subdivision is approved. The applicant appeared before the Planning Board at the February 13, 2023 meeting and was subsequently denied as the lot would not meet minimum front yard lot-width requirements. The applicant is before the Board for the following variance: Lot Width Section 165, Attachment 1, Schedule A: Requires a minimum 150-foot lot width. The proposed lot width is 131.5-feet, thus requiring an 18.5 foot variance.

He indicated that should the applicant be granted approval, they have committed to addressing the existing drainage issues. He indicated that the natural course of drainage is to the northwest of the property, the topography of the proposed duplex will drain north. The wet area in question, four properties to the west contribute water to it, in addition to 20 Stone Quarry Road.

Mr. Griggs asked for clarification why the four lots on the west were draining towards this area; Mr. Jaroz noted that everything slopes to the back between all the lots.

Mr. Griggs asked if it was on the west side or both sides; Mr. Jaroz noted the west side slopes to the east and east side slopes to the west.

Mr. Griggs asked if all slopes to the back; Mr. Jaroz stated between those lots, it generally goes to the back. The lot where the proposed duplex will be is higher and it quite a drop to the north to the creek. All the draining for the duplex could be diverted to the back, so there should not be much impact to the front.

Mr. Griggs asked if they would need to modify the grades to put the duplex in; Mr. Jaroz stated he believed the grades would be modified somehow just for grading around the house but you could easily drain to the rear. The proposed duplex is on the top of the hill, so it will likely go to the back. You could do it all to the front but it would make more sense to go to the back.

Mr. Maxfield asked if there would be a basement; Mr. Jaroz was not sure but assumed it would.

Mr. Koval noted that this subdivision would make the lot substandard and how that relates to the lots in that area. There are quite a few lots that are a lot smaller in frontage, that is something I look at, and how it fits in with the area.

Mr. Jaroz noted the adjacent parcel is a flag lot currently.

Mr. Koval noted the three lots on Plank Road from Stone Quarry up are less than 150-feet. He noted that the Board was provided with a map showing lots in the area with duplexes and frontages less than 150-feet.

Chairwoman Curto noted those houses may have built prior to zoning and anything new should be brought in to code.

Mickey Bessler, 18 Stone Quarry commented the road is proposed to be built in the dip of the grade, through a pond; the water will get into the septic systems unless lots of regrading is done.

Charlie Keys, 34 Plank Road commented that their property abuts this and not all the water will go north and east; lots of water does west towards my property. This will create a nuisance, there is no outlet for drainage. At one point there was one under Stone Quarry Road, but the Town approved a duplex and the outlet was removed. The only way the water leaves the pond on my property is through evaporation. The driveway along the property line will change the character of the area, more vegetation will be removed and drainage issues will be created. The Board needs to walk the property to look at the geography of the property. A water study needs to be conducted if this is approved. We always have water in the basement and we do not want any more water. The proposed driveway will only make the situation worse. The current duplex meets the Town Code, this subdivision makes it non-conforming. They will be violating the Town Code, I am opposed and it should be denied.

Helen Castanzo, 26 Plank Road commented that they never had a swamp, but now they do. She is not in favor of the application; there is already large amounts of water in the basement, I do not want any more.

Chris Hebert, 26 Plank Road- presented recent photos of the area with standing water on the west side of 20 Stone Quarry Road, to the Board for their review. He noted there needs to be a significant amount of work done to fix the drainage problems. It can't be fixed unless they bring the water from Stone Quarry to the creek at the bottom of the hill. The drainage pipe in front of 32 Plank Road constantly flows, it is a natural drainage ditch. We paid for drainage improvements and the Town removed it. It cannot run north, unless major drainage systems are installed. Raising the land will cause water problems in the area. Unless there is a large plan, I can't see how this could work. I am against the application.

Pete Devitto, 16 Stone Quarry Road stated he does not but this but has water problems; and he is at a higher elevation. We still have problems with water in the basements, there is a pond across the street with trees that are in the middle of it. He questioned why someone puts a duplex behind an existing duplex.

Thomas Van Velkinburgh, 18 Stone Quarry Road commented the applicant intends to put the driveway on the eastern property line, it goes against my welfare, impacts my property value, changes the character, creates more traffic and noise. It is a dangerous area, there are no lights or sidewalks for pedestrians. It will open the window for a construction zone with other problems. The variances would cut 20-feet off the existing parcel and would be 12% of the Town Code requirements that is a substantial consideration. This was bought in 2016, after the requirements were put in place. The application was proposed and shot down by the Planning Board, the representative acknowledged they'd need a variance to get past that specific part of the rules. It will cause an impact to the quality of life, it already has made me nervous, I've had to think about this more than I'd like. Its already concerning and causing me stress; it's already impacting my personal welfare; welfare does include happiness and prosperity and this could have an impact on both. It's already caused me some unhappiness, it will not increase the value of my property. I am strongly opposed, this was self-inflicted, they were aware of the rules and the need for a variance and the Special Use Permit for the duplex.

Mr. Marlow clarified for the record that the application had to be denied in order to come to the ZBA. Mr. Van Velkinburgh stated he understands its part of the process, but it was something that happened. They acknowledged they would need a special variance for this. The applicant should have known this before.

Gerald Landry, 16 Plank Road commented that he is the lowest property in that area, all the water comes into the creek in in my yard. Everything from Guideboard Road drains through my yard. The property does not have the frontage, doing this will destroy the pond with the frogs.

Mr. Maxfield asked if the Town has driveway setbacks; Mr. Marlow noted that there is no setbacks, there may be an apron radius requirement at the road, but no property line setbacks.

Charlie Keys, 34 Plank Road asked for clarification on driveway setbacks; Mr. Koval noted the Town does not have a setback requirement for driveways.

Linda Pardus, 14 Plank Road stated she has a swamp now, does not need more water and is opposed to the project.

Mr. Griggs asked if there are any established wetlands on site; Mr. Jaroz stated that he was not aware of any; I do not prepare the maps, the surveyor does.

Mr. Griggs noted we should know if there are wetlands or not.

Mr. Griggs if the driveway location was in a gully, how can you make it work; Mr. Jaroz stated they may not make the driveway the full width of the right-of-way, typically a driveway is 12-feet wide.

Mr. Griggs noted he is more concerned with the grade needed to make the driveway viable; Mr. Jaroz stated they will likely have to do some grading to make it work but he is unsure what the applicant intends to do specifically

Mr. Griggs noted that they will need to raise the grade; Mr. Jaroz agreed they would have to, but water generally flows that way to begin with.

Mr. Griggs asked where the 20' requirement comes for a flag lot; Mr. Jaroz noted it is likely a zoning requirement.

Mr. Marlow noted it is part of the Town Code; a duplex is required 150-feet, so when you subtract the 20-feet needed for the flag lot it gives you the 18.5-foot variance.

Mr. Jaroz noted the drainage for the duplex itself can be directed to the north; the driveway drainage direction will be directed to the North-West because that is the natural flow of the drainage as it is currently.

Mr. Griggs noted that the pictures provided show potential wetlands, the water that is there has been there for some time, it is not transitory.

Mickey Bessler, 18 Stone Quarry Road stated there is always water there, it has been since we moved four years ago. It will not go anywhere unless they do something about it.

Susan Devitto, 16 Stone Quarry Road commented that this is one person who wants to build something verse everyone here who does not want it built. How can one person overrule so many people who have been here for years just so they can build a duplex to make money? Rules were made, they need to stick by them. They should have to live with the driveway traffic and extra water, people will suffer, for one person who wants something.

Chairwoman Curto closed the Public Hearing at 7:50.

A site visit occurred on March 25, 2023 at 9am.

Pursuant to Article XIV Section 165-79 the following resolution was made:

- 1) Mr. Koval commented: Yes there will be an undesirable change, lots of development, likely over developed that has likely lead to the existing water issues. It would have a further impact on the area
 - a. Mr. Griggs noted that he agreed; a flag not would not be the rule in that area, there is one next to it but that is the exception.
- 2) Mr. Koval commented: there is no other way, but he knew the rules when he purchased, this is strictly for financial gain;
- 3) Mr. Griggs commented: Yes, it is out of character. There are not a lot of flag lots in the area, and the area is overbuilt;

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- 4) Mr. Koval commented: Yes, it will have a negative impact on the environmental conditions, it is an already wet area, deforesting the lot will there won't be vegetation to hold the water there, it will allow it to flow even freer;
- 5) Mr. Maxfield commented: Yes it was self-created, there was concerns over the water table in this area and the impact it will have on the seven properties that this project surrounds.

Chairwoman Curto made a motion to deny the Area Variances as proposed, seconded by Mr. Koval. Motion was carried

Chairwoman Curto made a motion to adjourn the meeting, seconded by Mr. Koval. Motion was carried.

These are summary minutes and are not word for word at the request of the Zoning Board of Appeals.

Meeting adjourned at 7:59 PM.

Town of Halfmoon Zoning Board of Appeals