

**June 6, 2005
Town of Halfmoon
Zoning Board of Appeals
Meeting Minutes**

Chairman Hansen opened the June 6, 2005 Town of Halfmoon Zoning Board of Appeals meeting at 7:32 PM with the following members present: Chairman Hansen, Mr. Tedrow, Mr. Ouimet and Mr. Rose – Zoning Board Members. Mr. Williams – Zoning Board Coordinator

Chairman Hansen asked the Board if they have had enough time reviewing the March 7, 2005 Zoning Board of Appeals meeting minutes. Mr. Rose made a motion to approve the May 2, 2005 Zoning Board of Appeals meeting minutes condition on suggested corrections being made. Mr. Tedrow seconded. Motion carried.

Chairman Hansen explained the ZBA meeting process to the audience.

Joseph and Joan Van Alphen, 31 Cambridge Avenue, Area Variance

Mr. Hansen opened the Public Hearing at 7:35 PM. Mr. Hansen explained that the applicant wishes to place a 15' x 30' above ground pool to the side of their house which would encroach on the front yard setback line. Mr. Hansen stated the lot is oddly shaped with a sweeping arc for the front yard boundary line. Mr. Hansen asked the applicant why the proposed location for the pool is desired. Mr. Van Alphen stated that when they moved in a couple of years ago they always desired a pool and in fact received a permit but never constructed the pool. When they revisited the Building Dept. this year with the new pool design, the need for a variance arose. The desired location of the pool would allow the maximum amount of sunlight, a good visibility from the existing back porch for safety reasons, the proposed location would not impact underground electric wires or the sprinkler system, the proposed location would not impact the landscape that they have placed and the location would be far away from the neighbors tree line as not to additional maintenance of having to clean out fallen leaves. Mr. Van Alphen stated the proposed deck would not encroach the front yard setback line but the pool would encroach the front yard setback area by 15'. Mr. Hansen stated that several neighbors have submitted letters stating they have no objection to the proposed location to the pool. Mr. Van Alphen handed the Board an additional letter from the neighbor at 1 Suffolk Lane stating there was no objection to Mr. Van Alphen's requests. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 7:44 PM. Mr. Rose asked the applicant why they could not move the proposed pool back another 10 ft or so. Mr. Van Alphen stated by doing so the pool would be closer to the house and wanted to leave adequate separation to maintain access to the rear yard. Mr. Van Alphen stated there is also underground electrical and sprinkler system control box that would be impacted. Mr. Rose asked if the deck would go over the control box and not the pool. Mr. Van Alphen stated probably but could make it difficult to access. Mr. Ouimet asked if the deck and pool are a pre-fabricated package. Mr. Van Alphen stated the deck is from Home Depot and the pool is from a pool company. Mr. Ouimet asked the applicant if they looked at alternative locations. Mr.

Van Alphen stated that they have and the proposed location is the best due to the previously mentioned reasons. Mr. Van Alphen stated there is also a hill that would need to be dug into if the pool was moved back since the deck is 7' off of the pool's back edge. Mr. Ouimet asked where is the source of electricity for the pool. Mr. Van Alphen stated from an existing lamppost. Mr. Ouimet asked when they bought the home and desired to place a pool, did the ZBA grant a variance or what Town Department granted the permit. Mr. Van Alphen stated that the Planning Department (note: I believe it was the Building Department-jrw) granted the permit of which he paid the fee. Mr. Van Alphen stated the Building Department has honored that fee paid for this proposal.

Mr. Ouimet made a motion to approve the area variance as presented given character of the lot regarding the arcing front yard boundary; the applicant has looked at alternative locations and there are no objections from the neighbors. Mr. Rose stated that the area variance being granted is only for the pool and not for any other structure to encroach the front yard setback line. Mr. Ouimet and the Board accepted Mr. Rose's comment. Mr. Rose seconded. Motion Carried.

Tech Electric, 570 Hudson River Road, Relief from Town's Local Law Sprinkler Ordinance

Mr. Hansen stated the applicant is before the Board to ask for relief from the Town's Local Law requiring any building over 2,500 SF of area with public water available to install fire sprinklers in the building. Mr. Hansen stated the Deputy Town Attorney has asked for a postponement in order to research the issue further. Mr. Hansen stated to the applicant that the Board could hold the hearing and postpone a decision to a later meeting or postpone the Hearing until there is a legal opinion rendered on the issue. Mr. Cherrier, the applicant, asked if the Deputy Town Attorney could make the decision without the ZBA's having to take action. Mr. Hansen stated the Deputy Town Attorney requested the Board not to take any action on this item until a legal interpretation is made. Mr. Hansen stated he is not sure which way the decision will go being for or against. Mr. Rose asked if this would be considered a use or an area variance. Mr. Hansen read Section 8 of the Local Law Sprinkler Ordinance of 1990, which states the ZBA has the authority to review and grant relief if the Board deems the request is warranted. Mr. Berger P.E., representing the applicants, stated he would rather postpone tonight's Public Hearing as not to waste the Board time and would rather wait until a legal opinion has been made.

Mr. Rose made a motion to postpone the June 6, 2005 Public Hearing for the Tech Electric application. Mr. Tedrow seconded. Motion Carried.

Thomas and Diane Conley, 8A Fairway Drive, Area Variance

Mr. Hansen opened the Public Hearing at 8:01 PM. Mr. Hansen explained the area variance being requested is to construct a sunroom, which will be 7ft. from the side yard boundary line. Mr. Frank Rafilik, contractor representing the Conleys, stated he has constructed several sunrooms in the Fairway Estates Development. Mr. Rafilik stated the proposed sunroom is consistent with others constructed in the development. Mr. Rafilik stated that a re-location of a golf cart path created the lot line to be closer to the existing townhouse associated with 8A Fairway Drive. Mr. Rafilik also stated that if the sunroom was placed on a different portion of the townhome, the exiting roof lines would create problems with snow falling from the roof. Mr. Hansen stated a letter from Mr. Tanski,

the developer of Fairway Estates, has been submitted expressing no objection to the proposed location of the proposed sunroom but the sunroom should be of style and color matching the Fairway Estates development. Mr. Conley stated that hole #9 of the executive golf course associated with the Fairway Estates development was relocated due to the presence of wetlands. Mr. Conley continued that the relocated hole #9 caused the need to relocate the golf cart path closer to 8A's property line, in fact, a portion of the cart path is on Lot 8A. Mr. Hansen asked if there was a Home Owners Association for the Fairway Estates development. Mr. Conley stated no but there are some restrictive covenants. Mr. Hansen asked if anyone wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 8:11 PM. Mr. Tedrow asked if there were any restrictions within the Fairway Estates Planned Development District legislation that the Board should be aware of. Mr. Hansen stated the Building Department denied the Building Permit due to the proposed sunroom not meeting the 10ft side yard setback. Mr. Tedrow made a motion to approve the area variance as presented noting that the uniqueness of the lot with regards to the relocated cart path causing the side yard boundary to become closer to the 8A town home, the fact that the cart path increases the separation space from the next residential townhouse, the proposed sunroom does not alter the character of the neighborhood, the proposed sunroom cannot be relocated due to the snow load coming from the existing roof line and the requested area variance is minimal by asking for a 3ft. difference. Mr. Ouimet seconded. Motion Carried.

John Lucarelli & Sons, 117 Vosburgh Road, Expansion of a pre-existing, Non-conforming Use

Mr. Hansen opened the Public Hearing at 8:21 PM. Mr. John Lucarelli stated they wish to construct a 40' x 80' building to store seasonal equipment. Mr. Lucarelli stated that the building would be used to store their sanders, plows and other winter equipment during the warm months and vice versa in the winter months. Mr. Hansen stated that when the members visited the site it appeared the proposed location for storage building was in a different location than what is represented on the site plan map. Mr. Lucarelli stated the building would be placed as represented on the site plan map and that the proposed location may appear differently due to a pile of topsoil. Mr. Hansen asked if the proposed storage building would resemble the existing accessory buildings on the site. Mr. Lucarelli stated yes. Mr. Hansen asked if anyone from the public wished to speak. No one responded. Mr. Hansen closed the Public Hearing at 8:33 PM. Mr. Ouimet asked if the applicant was denied a Building Permit. Mr. Hansen stated the applicant was denied by the Planning Board and would need to seek the Planning Board's approval if the requested variance is granted. Mr. Tedrow stated the building would be used to store the equipment currently outdoors and would assist in cleaning up the site. Mr. Lucarelli stated yes. Mr. Rose mentioned that the Lucarellis' are buying Mills Land. Mr. Lucarelli stated they are in the process to do so. Mr. Rose made a motion to approve the expansion of the pre-existing, non-conforming use due to the proposed building location is in the rear of the site, it will not alter the character of the neighborhood and that the proposed building will assist in tidying up the site. Mr. Ouimet seconded. Motion Carried.

A Discussion:

Mr. & Mrs. Connolly of 1490 Crescent Vischer Ferry Road were present and approached the Board to seek a change in their current zoning from Professional Office/Residential to Commercial. The Connolly's stated that there is an existing quadplex on their property, which was appropriately placed back in the late 70's as their property was, zoned Residential (R-3). The Connollys wish their parcel to be zoned Commercial due to the Commercial district is adjacent to their parcel. Mr. Hansen explained to the Conolleys that the ZBA does not have the jurisdiction of changing the zoning districts. Mr. Hansen explained that the Town Board brings about any zoning changes. Mr. Hansen explained that the Town is in the midst of creating a new Comprehensive Plan and with that there would be zoning district changes to occur. Mr. Williams asked the Connollys to visit the Planning Department to further discuss the issues.

Mr. Ouimet made a motion to adjourn the June 6, 2005 ZBA meeting at 8:46 PM. Mr. Tedrow seconded. Motion carried.

Respectfully Submitted,

Jeff Williams, ZBA Coordinator