

**Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, February 3, 2025
7:00 PM**

Those present at the February 3, 2025 Zoning Board of Appeals meeting were:

Zoning Board Members:

Debra Curto –Chairwoman
Kevin Koval- Vice Chairman
David Maxfield (absent)
Leonard Micelli
Steve Kucskar

Coordinator- Building, Planning and Development: Richard Harris

Planner / Stormwater Management Technician: Hanifa Khatibi

Deputy Town Attorney: Cathy Drobny

Debbie Curto, Chairwoman: Good evening. This is the February 3, 2025, Zoning Board of Appeals meeting. Call for the meeting to order at 7:04. There's a couple of housekeeping items to take care of. Our first, we welcome two new board members. Michael Morand to be confirmed on Wednesday as alternate to the Zoning Board of Appeals and Steve Kucskar was confirmed by the Town Board on the January 15 meeting replacing Frank Griggs. So, welcome aboard. And, for the record, David Maxfield is excused tonight so Steve will have full voting authority. We have a review of the January minutes.

Kevin Koval: I make a motion to approve the minutes.

Leonard Micelli: I'll second that.

Debbie Curto: All in favor.

All: Aye.

Debbie Curto: Motion carried.

Debbie Curto: Our first item on the agenda tonight is a Public Hearing for the Deccico Subdivision at 99 Button Road. So, I will open that Public Hearing at 7:05. The Applicant is seeking approval to subdivide an existing parcel into two lots. The existing parcel is approximately 2.61 acres and contains a single-family home. They wish to subdivide for the purpose of constructing a new home on one of the lots. Following the subdivision, the lot will be Lot A at 1.67 acres and Lot B at 30,084 square feet. The Applicant appeared before the Planning Board in November, and it was denied due to the minimum lot width, excuse me. I invite the Applicant to approach the Board and give us any additional information if you'd like.

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Pat Jarod: Hi, good evening.

Debbie Curto: Good evening.

Pat Jarosz: Hi. Good evening. So, my name's Pat with VanGuilder Associates. I'm just here tonight on behalf of the client. We're requesting a little over a 4' front lot width variance. That's the only thing we're short to make this a buildable lot. We did have a site visit on the 18th with one of the members of the Board and, pretty cold that day if I remember right.

All: It was.

Pat Jarosz: But anyhow, so, we walked it. We had everything staked out. Everything seems to fit. So, I think you would agree with that from what we saw on site. So, that's pretty much it, unless you have other questions.

Debbie Curto: Any questions from the Board?

Leonard Micelli: I don't have any because I was there, obviously.

Debbie Curto: For the record, we have received two letters on this project. One from Tom Koval and the second one was from Mr. Whalen who was in favor of the project. Tom Koval commented, poor drainage, which is not something that the Zoning Board of Appeals will review. That's for Planning Board. So, those two letters will be submitted with the official minutes.

Pat Jarosz: Ok.

Debbie Curto: Any other comments from the Board?

Kevin Koval: Nothing from me.

Debbie Curto: Yes. You can come up to the podium and please state your name and address and your relationship to the project.

Nicole Lockwood: I'm Nicole Lockwood. I live at 101 Button and my property is directly next to the Deccico's. I'm not here to dispute the 4', but their new proposed spot for their house is directly next to my horse barn and I do want to go on record stating that I do have zoning that allows me to have horses. I intend to continue having horses. The area that they want to put their houses directly off the back of the barn where we tend to pile the manure when we clean the paddocks and the stalls. It's slightly uphill from where the new house is. It rolls downhill. It smells, it's unsightly. I would hate to see them build a house there and then in the future call me back here because they're unhappy that they have to see and smell the manure pile and deal with the bugs. So, I just wanted to state that for the record.

Kevin Koval: I strongly suggest that if it's approved here and it goes to Planning that you bring your concerns to the Planning Board. That's more of a planning issue than a zoning issue.

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Nicole Lockwood: Okay, thanks.

Richard Harris: And I just want to mention if this Board approves it and it goes to Planning, the Planning Board has to have a separate Public Hearing.

Nicole Lockwood: Okay

Richard Harris: So, just like, you got a notice for this, you'll get another letter.

Nicole Lockwood: Okay

Richard Harris: Just so you know. A separate Board, a separate process.

Nicole Lockwood: Okay

Richard Harris: You could always submit anything in writing too.

Nicole Lockwood: Okay

Richard Harris: Before then.

Nicole Lockwood: Thank you.

Debbie Curto: Thank you for your comments.

Debbie Curto: Any other information you'd like to provide for us?

Pat Jarosz: Not really, I mean I could address the drainage, if you want.

Debbie Curto: No, that's a Planning Board Issue.

Pat Jarod: Yeah, not really. I think everything's pretty cut and dry.

Debbie Curto: Alright, you can have a seat while we go through a series of questions. I'll close the Public Hearing at 7:11.

Debbie Curto: In making our determination, the Zoning Board of Appeals shall take into consideration the benefit to the Applicant if the variance is granted. As a weight against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider, 1- whether undesirable change will be produced and the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Leonard Micelli: I don't see any problem with that because there's already two homes there. So, I would say no.

Steve Kucskar: Isn't there already a cluster of homes there?

Debbie Curto: Number 2, whether the benefits sought by the Applicant can be achieved by some method feasible for the Applicant to pursue other than an area variance.

Kevin Koval: With the layout of this lot there's no other way to extract a separate lot from it and still meet the Town Codes.

Steve Kucskar: I would agree with that.

Debbie Curto: Number 3, whether the requested area variance is substantial.

Kevin Koval: I don't think that it's substantial. It's 4' on what would become a flag lot. On that flag will more than likely never be used because there's already a, there's already an easement for the existing asphalt driveway.

Steve Kucskar: I would agree with that.

Debbie Curto: Number 4, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Leonard Micelli: Just go back to question number 1. The same answer. No.

Debbie Curto: Number 5, 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.

Kevin Koval: I think in this case it is self-created because the lot was purchased as a single lot with a condition of no further subdivision, but again, I don't think that that would prevent us from denying this or I don't see why we would deny it because of that.

Steve Kucskar: I would agree with that.

Debbie Curto: I'll make a motion to approve the subdivision granting the 4.8 feet. I need a second.

Steve Kucskar: I'll second that.

Debbie Curto: All in favor.

All: Aye.

Debbie Curto: Opposed. (None.) Motion carried.

Debbie Curto: Next item on the agenda is 1 Bexley Lane, 3 Bexley Lane and 5 Bexley Lane for an area variance.

Richard Harris: One of the plans shows all three houses but not with all of the variances and setbacks so I don't if you want to discuss them. Maybe, discuss them separately would probably be the easiest. Even though the issues are related across all three.

Joe Dannible: The justification's identical for all three.

Richard Harris: What's that?

Joe Dannible: The justification's for each answer is identical for all three.

Richard Harris: I'll do one Public Hearing notice if you set a Public Hearing, but I'll list all three rather than waste Mr. Belmonte's money on three separate certified letters to the same people. Trying to save you a little.

Debbie Curto: Good evening. You should state your name and relationship to the project.

Joe Dannible: Sure. Joe Dannible, I am the consultant for Belmonte Builders in this case WW by Belmonte LLC is the Applicant and owner of the property. We're here tonight looking for variances on three lots within the Winsor Woods subdivision. Lots 1, 3 & 5 Bexley Lane. Somewhat of a unique situation. This subdivision was approved in 2012 and all the lots within the subdivision, including these three lots were 100% compliant, stamped and filed in the County Clerk's Office. The subdivision of the main body in the subdivision where the new public road is was built out over time and this section of the site was built with the road, utilities, the private driveway. The utilities were all extended, but they never built the houses. We will note that these three lots were actually approved to have twin homes for duplexes on each one of the lots. So, much substantially larger footprint than we are currently proposing. Fast forward to earlier this year, late last year, Mr. Belmonte submitted building permits for each of the three lots to be able to build them, which was ultimately denied. First item that came up in 2019, I think it was, a wetland setback was passed by the Town that required a 50' separation. So, we could not know, we no longer need that requirement when we did in the original plans. A new law came into effect. We didn't meet it, so we are here seeking the variance for that. We are looking at a variety of area variances for side yard and front yard and rear yard setbacks. I believe when it was approved, the Bexley Lane was considered the front yard and all setbacks were measured from that being the front yard and then the north south lines were identified as being the side yards. As we, again, submit it for building permits, there's been a change in interpretation where the code is now being understood where all of the lines that are parallel or generally parallel with Vosburgh Road are going to be identified as the front yard setback. The lines that are behind each lot will be the rear yard and then Bexley Lane and the northern property lines will be the side yard setback, which certainly creates conflict with our plan when we were planning to have side yard setbacks of around 20' and now we needed a 50' side yard setback. So, one of the things we've done to minimize the need for these area variances is, again, as I said, we were approved for duplex lots. Duplex units on each one of those lots which has a much larger footprint than the single-family homes that we are currently proposing. So again, we reduced,

minimized it, shrunk the footprints of these units to the maximum extent practical in order to still make them buildable lots. Again, we still are here looking for variances. I can read them off if you want me to. They're all listed on the forms. That's the general gist of what we're here looking for tonight. Ya know, we look at the criteria. Is this a change to the neighborhood. I think we're actually complying more with the neighborhood now because we went from duplexes to single family, and I think single family is the predominant build nature of the subdivisions and residents along Vosburgh Road in this area. We have no other method of achieving buildable lots on this. Again, we thought it, when it was approved it was 100 percent compliant. It's almost like a pre-existing, nonconforming type of a variance is the way I see it. I've identified that we don't believe the variances are substantial. We've reduced the scale and scope of this project. Basically, cut the density in half of what was approved in the original. And then there is no significant impact, physical environmental features. We are not impacting the wetlands. We don't need any permits for any work associated within or near the wetlands. We're not within regulated buffer areas. We're just within a step back that was recently passed by the Town and then we don't believe the alleged difficulty was self-created. Again, we believe we really have a pre-existing, non-conforming where change of interpretation and new laws have come into effect after these lots were approved. Thank you.

Leonard Micelli : So, I'm looking at page 3 where 1, 2, 3 on the lots, that's all the information right on the setbacks side view? All the footage that you're short.

Joe Dannible: Say that again.

Leonard Micelli : On page 3 on the top where it says the front setback variances, all that information is all given there on the shortness of all the proposed sites.

Richard Harris: I put that together.

Leonard Micelli: Oh. Ok.

Richard Harris: Yeah. So, those three are from 3 Bexley, 5 Bexley's just those two.

Leonard Micelli : Ok. Thank you.

Richard Harris: Yeah. No problem.

Richard Harris: I do a summary for them.

Joe Dannible : Ok. I don't have a page 3. I'm not sure.

Leonard Micelli: Sorry about that.

Joe Dannible Not a problem.

Kevin Koval: So, Rich, what was the intention with these codes were changed in 2019? What was the intention behind changing the setbacks on the wetlands?

Richard Harris: Yeah. At that point from around 2013 to 2016, 2017 the Town had a like a citizens zoning committee. I'm forgetting the name we called it. It wasn't to redo the Comprehensive Plan and do an update like the Town has spent the last couple years. But it was a group of citizens, and they looked at different things in our ordinance for three, four years, off and on. And the results, finally in 2019, some of the setbacks enacted came about from that citizens committee where the people on that committee, and I was staff to it, but participated in the meetings, thought that we needed greater separation between neighbors. Particularly side yard and rear yard. So, in 2019, the Town increased side yard setbacks a little bit but rear yard went from 30 to 50 and that was a direct request from the committee. Wetlands, that came about, not just through that committee but through our Town consultant at that time where we had some conflicts in town where people had stormwater areas and wetlands and neighbors were complaining that they filled in the wetlands and so the idea was to create greater separation and give people, I guess, bigger backyards then they would have if wetlands could be right up against the house, which Army Corps wetlands could. So, the Town enacted a 50' setback to any wetlands. In just the AR, R1 and POR district for residential properties. So, it doesn't apply in any other zones and only to residential. 50 it matched the front yard setback. I guess that's probably about the best justification for how they got to 50 from 30.

Kevin Koval: So, with this, taking the wetlands out of the equation, if Bexley Lane was still considered the front yard setback would it still have to go in front of us?

Richard Harris: Well, if they didn't have the wetlands problem, for example, on 1...so I'm going to, Kevin, I'm going to use the arrow up on the screen just so you know. So, back in 2012, Joe and Peter, correct me if I'm wrong. So, this was considered the front yard, here, at that time and I think you would have had, you probably would have had this house back further so that you met a 50' setback here. Is that correct?

Joe Dannible: 50' would have been measured from the actual property line, not the easement line of Bexley Lane.

Richard Harris: Well.

Joe Dannible: That's how it was set up on the approved plans.

Richard Harris: But you considered Bexley Lane as the front yard. You had mentioned that earlier.

Joe Dannible: Yeah. So, Bexley Lane was the front yard, but you can't measure the setback from the easement line. It was being measured from the property line.

Richard Harris: Oh. I got ya.

Joe Dannible: Which gives you 50'.

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Richard Harris: Ok. Right. Thank you. Yeah. So that is well more than 50'. So, they were measuring, this is the front yard which honestly is kind of an oxymoron because if that's the front yard, you use Bexley Lane as the front yard but there's no road there. But the Planning Board agreed. So, I can't deny that. We started interpreting the front yard as the public street so your front yard on one is fine. You've got more than 50. But now this makes this the rear yard, and you've only got

Joe Dannible: 39

Richard Harris: 41 I think this says at the closest point.

Joe Dannible: So, the reason why I'm asking these questions is because getting to what the spirit of what changes were the town code was giving people separation

Richard Harris: Yes.

Joe Dannible: you know, their side yards would still meet the current town code. And it looks like, if there's no intrusion in backyards, there's nobody behind them

Richard Harris: Right.

Ken Koval: So that's kind of what I was getting to.

Richard Harris: I agree with you, if that matters. For intense purposes this house's backyard is going to be here. But when it comes to if this is the front yard, the opposite's the backyard, it is going to function as a side yard. Functioning, nothing changed with these guys and actually you make an excellent point that it's less of a footprint than a duplex.

Joe Dannible: Just to that point, each one of these houses are basically two, on the same lot.

Richard Harris: Right.

Joe Dannible: That was two houses that side and they were really, they were really tight on that approval.

Richard Harris: Yeah. So, this would've needed, if the old rules still were pre-2019, no variances. And if I interpret it, this is the front yard, it would've needed no variances. This one wouldn't need it anyway, if I interpreted it, this is front yard because it's huge.

Joe Dannible : So, with the intent of the change it doesn't, with the intent, it doesn't really have an impact because there's still plenty of front yard and there's plenty of backyard and side yard.

Richard Harris: Yeah. I mean I don't know if you want to look at the other ones too.

Joe Dannible: If you look at 5 Bexley Lane, that's the one that has all three proposed houses on the survey.

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Richard Harris: Three. Oh, yes right, the last. Yeah, so you can see this is 3 Bexley, this one. Ya know, you get tighter here regardless of where you make the.. they don't have a lot of room to do a lot here because of the wetlands.

Joe Dannible: They do actually have a pretty big backyard. It just, a quarter of their backyard is wetlands and then half of their rear yard's wetlands, half of it is up land and it's still probably a 50' x 100' area of a backyard which is pretty large this day and age for the lots I've been seeing approved.

Ken Koval Functionally, they'll have a huge 5.2-acre lot.

Richard Harris: And, like they said, if we didn't have to change this in 2019 and if we still interpret it, the front yard is over this way, it wouldn't need any variances for all three.

Kevin Koval: Ok. I'm good. I'm good.

Leonard Micelli: I'm good

Debbie Curto: As far as a site visit is concerned, I think we can all just do a drive by. I don't think it's necessary that we actually see anything where we have the maps to get in there. So, we will for go a site visit. We can each individually do that on our own.

Leonard Micelli: Absolutely.

Debbie Curto: I will set a Public Hearing for Monday, March 3rd at 7:00 pm. Are we good on that?

Ken Koval: Motion.

Debbie Curto: Thank you. Any other business for the Board?

Leonard Micelli: I don't have any.

Debbie Curto: I make a motion to adjourn at 7:28.