

12/1/25

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**Town of Halfmoon Zoning Board of Appeals
Meeting – Monday, December 1, 2025
7:00 PM**

Those present at the November 12, 2024, Planning Board meeting were:

Zoning Board Members:

Debra Curto –Chairman
Kevin Koval- Vice Chairman
David Maxfield
Leonard Micelli

Planning Board Alternates:

Michael Morand
Steve Kucskar

Coordinator- Building, Planning and Development:

Richard Harris

Planner / Stormwater Management Technician:

Theodore Chesnes

Town Attorney:

Lyn Murphy

Deputy Town Attorney:

Cathy Drobny

Zoning Board Liaison(s):

Eric Catricala

Town Engineers:

Joel Bianchi

Chairwoman Curto: Good evening. This is the December 1, 2025 Zoning Board of Appeals Meeting. We'll call the meeting to order at 7:02 p.m. For the record, Kevin Koval is not in attendance this evening.

Kevin Koval: I'm here. I made it.

Chairwoman Curto: Oh my I didn't see you there. So sorry.

Kevin Koval: I snuck in at the end.

12/1/25

DRAFT

Chairwoman Curto: You snuck in. Were you on the Northway with me?

Chairwoman Curto: Alright, we have full attendance this evening. A review of the November minutes. Any changes or comments?

Leonard Micelli: I didn't have any.

Steven Kucskar: I didn't have any.

David Maxfield: Nope.

Chairwomen Curto: A motion to accept as presented.

Leonard Micelli: I'll make a motion to accept the minutes as read.

Kevin Koval: I'll second.

Chairwoman Curto: Alright got a second here. All in favor (all were in favor). Motion carried. This evening's agenda includes two Public Hearings and one agenda item. The first Public Hearing is the Ayotte. My apologies if I'm pronouncing that incorrectly. They're seeking to construct a porch located at 60 Beach Road. I'll open the Public Hearing at 7:03 p.m. The applicant is before the Board for two variances, a lot width variance and an area variance. The area variance requested is 27.4 feet. The property doesn't meet current requirements. A site visit occurred on November 22, 2025 and I invite the applicant to approach the podium. Good evening. For the record just please state your name and your relationship to the project.

Denise Ayotte: Denise Ayotte, I own the property.

Chairwoman Curto: Denise, do you have any additional information you would like to present to the Board?

Denise Ayotte: No.

Chairwoman Curto: Any questions or comments from the Board?

David Maxfield: None.

Leonard Micelle: I don't have any.

Steven Kucskar: I don't have any.

Chairwoman Curto: Anybody on line?

Ted Chesnes : Nope

DRAFT

Chairwoman Curto: Ok. No questions online. Alright, seeing no questions, I'll make a motion to close the Public Hearing at 7:04 p.m. and you can have a seat as we go through the area variances.

Denise Ayotte: Thank you.

Chairwoman Curto: The Zoning Board of Appeals shall have the power upon an appeal from the decision or determination of the Zoning Enforcement Officer to grant an area variance as defined herein. In making our determination, the Board of Appeals shall take into consideration the benefit to the Applicant if the variance is granted as weight against the detriment to the health, safety and welfare of the neighborhood or the community by such grant. In making the determination, the Board shall consider.

Number 1: 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.

Kevin Koval: I don't see any problem with it. There's other homes where the porches, including the one that I own at 134 Beach at only 10' off of the road.

David Maxfield: I do not believe this proposal will alter the character of the neighborhood or create any detriment to nearby properties. Many homes on Beach Road already feature front porches and several existing homes without porches are positioned even closer to the road than what is being proposed. In my view, the addition of this porch would be consistent with the existing streetscape and would likely enhance the overall appearance of the neighborhood.

Leonard Micelli: I would agree with that. I don't see any change.

Steven Kucskar: Yeah. I don't see any issues.

Chairwoman Curto:

Number 2: Whether the benefit sought by the Applicant can be achieved by some method feasible for the Applicant to pursue other than the area variance.

David Maxfield: I don't feel there is no other feasible alternative that would allow the Applicant to construct a front porch while meeting the current setback requirements given the configuration of the property and the Town's regulations. The requested variance appears to be the only reasonable option.

Chairwoman Curto:

Number 3: Whether the requested area variance is substantial.

Kevin Koval: I don't think it's substantial based on the neighborhood and the other homes in the area.

Chairwoman Curto:

12/1/25

DRAFT

Number 4: Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.

David Maxfield: I do not anticipate any adverse physical environmental impacts resulting from this proposal. As previously noted, front porches are common along Beach Road and the proposed addition aligns with the establishment character of the area.

Leonard Micelli: And, I would agree with that.

Chairwoman 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 don't feel it's self-created. The home was built before the existing codes were in place.

David Maxfield: I agree. I do not believe the difficulty itself created at the time the home was originally built. The Town's requirements were different. Changes to the regulations over time have created the need for variances. The Applicant is simply seeking to make a reasonable improvement to the property while remaining consistent with the neighborhood and avoiding any negative impacts.

Leonard Micelli: I agree with that.

Steven Kucskar: I agree with that.

Kevin Koval: Motion to approve as proposed.

Chairwoman Curto: We need a second on that.

David Maxfield: I'll second it.

Chairwoman Curto: Who was second?

Leonard Micelli: I think Dave was.

Chairwoman Curto: Dave second.

Leonard Micelli: Ok.

Chairwoman Curto: All in favor (all were in favor). Opposed (none were opposed). Your variance has been granted.

Leonard Micelli: Congratulations.

David Maxfield: Have a nice holiday.

12/1/25

DRAFT

Chairwoman Curto: If you want to comment you just have to come up to the podium because we record everything

Denise Ayotte: I just want to thank you all so much I waited a long time for this porch, its my Christmas present

Chairwoman Curto: Well, we're very glad you could do it now.

Denise Ayotte: Then, it's my Christmas present.

All: Happy holidays.

Leonard Micelli: It was our pleasure and it was nice meeting you.

Chairwoman Curto: The second Public Hearing tonight is for Kincaid Capital Partners for a vacant lot adjacent to 81 Woodin Road. The Applicant is seeking to construct a single family dwelling on the vacant lot. The plans indicate that the front yard setback would be 31' and the rear setback would be 45'. This does not meet the current 50' minimum front yard and rear setback requirement. The Applicant is looking for a front yard setback of 19' and a rear yard setback of 5'. We'll open the Public Hearing at 7:11 p.m. The site visit occurred on November 22nd. I invite the Applicant to approach the podium and please state your name and relationship to the project.

Nathan Abrial: I'm Nathan Abrial, the Operations Manager for Kincaid Capital.

Chairwoman Curto: Nathan, do you have any additional information you would like to present to the Board?

Nathan Abrial: No additional information.

Chairwoman Curto: Any questions from the Board?

David Maxfield: None.

Leonard Micelli: I don't have any.

Kevin Koval: None.

Chairwoman Curto: Do you know how long ago this property was acquired?

Nathan Abrial: It was acquired just a few months ago.

Chairwoman Curto: Okay, and was the property acquired as a result of a subdivision?

Nathan Abrial: No.

Chairwoman Curto: Anyone online? No questions from the Board? Any public comment?

Paul Kelly: Yes.

Chairwoman Curto: You can approach the podium. When you come up to the podium, please state your name and your address.

Paul Kelly: My name is Paul Kelly.

Chairwoman Curto: I'm sorry, your name is

Paul Kelly: My name is Paul Kelly.

Chairwoman Curto: Paul Kelly?

Paul Kelly: I am trusted to the property adjacent to the lot at 3 Breski Lane. I also own 5 Breski Lane.

Chairwoman Curto: Okay

Paul Kelly: Can I speak.

Chairwoman Curto: Oh. Absolutely please

Paul Kelly: Historically, this area floods in the Spring and holds water for three weeks. The flooding will only be made worse by installation of additional and impervious areas and the driveway and Excess run-off water damaging existing leech fields, basements and creating new issues which currently do not exist at 3 Breski Lane. Quick story, we moved into

Chairwoman Curto: Can you just speak a little louder or closer to the mike so we can pick up

Paul Kelly: We moved in 1964

Leonard Micelli: I want to hold that close. I can't **inaudible**

Chairwoman Curto: I just want to make sure that your comments get recorded properly.

Paul Kelly: As I mentioned, this is historically a flooded area. In the 70's, as a child, I moved in 64 with my parents. We used to get our canoes and rowboats and go from 3 Breski Lane to 5 Breski Lane to Woodin Road. Those three properties, starting at the start, all the way and back. We used to, actually, row out there in 1' of water and this still exists.

Leonard Micelli: Are you in back of the star as we're looking at this, where it says 278?

Paul Kelly: Yeah. North of that star is 3 Breski Lane backyard.

Leonard Micelli: To the left or right?

Paul Kelly: Straight back. Gotcha. Okay

Paul Kelly: Right under the road area is 3 Breski Lane backyard and that's where it would flood. It would flood into the start and going north.

Leonard Micelli: Okay

Paul Kelly: Into 5 Breski Lane. We have leach fields in both properties. Our sub pumps, six months of the year are on the frequency of 1 ½ times per minute. One time per minute and one-half. Three months averaging five times. One time every five minutes, I'm sorry. Three months of the year, only when it rains it pumps. Six months of the year, every minute and one half that sub pump goes on. We have existing leach fields. There is no property water runoff stormwater from that property except for the adjacent lot, 3 Breski Lane. There's no stormwater runoff. My questions are, where will the stormwater runoff go. Where will the sump pump water go, gutter water, where is that being flowed to? The only place on here, because of the landscape is into 3 Breski Lane backyard where there are currently leach fields.

Kevin Koval: That's all sand over there isn't it?

Paul Kelly: Excuse me.

Steven Kucskar: Is the soil all sand over there?

Paul Kelly: I believe so. I believe so, but there could be clay down there, but, as I mentioned, in the Spring it's flooded, still of 6 inches and we do have water problems.

Leonard Micelli: Sitterly's considered a wetlands?

Paul Kelly: I don't know.

Ted Chesnes: It's not considered, I'm telling you right now, it's not considered wetland by DEC or Army Corps. of Engineers

Leonard Micelli: Or Army Corps. No, it's not.

Paul Kelly: We're pretty much pumping at max rate and stormwater in the driveways and roof will be running, more water will be running to my properties. I do believe that requirements are there for a reason. By putting in a house in a lot that's not a requirement. The requirement is the larger lot and taking a house, putting it --- making it bigger. I believe the house should stick to the requirements. Making the house larger means more water runoff.

Leonard Micelli: No matter, either way, you go like you're explaining to the Board is that you're going to have a water issue no matter what.

Paul Kelly: No matter what, no doubt.

12/1/25

DRAFT

Leonard Micelli: From gutters and from your, their, sub pump.

Paul Kelly: And to ask for something to be larger than the requirement makes it worse.

Leonard Micelli: Well, it doubles the volume, sure.

Kevin Koval: But you're not adding any additional water there. I mean it's still the same amount of rainfall, it's still the same amount of surface water.

Paul Kelly: No. Because of the roof and driveway, that water's impervious. It will run off there and the soil underneath the house, roof and the driveway doesn't come into. So, everything will be.....where the grass was, there's no more grass. There's no more absorption in those areas and that's a large house and driveway. I don't know how much area it takes up. Maybe a third of the lot. A quarter of the lot. That's a lot more water. We can't take the water that's there now where

Leonard Micelli: I just want to know the thoughts on the Board. Do we have to vote on this, this evening? I mean, can we table it or, I mean

Chairwoman Curto: And you would table it for what purpose?

Leonard Micelli: For, maybe investigate more on the issue with the water. I mean, I don't know. I mean it's like an and there we go again it's like a catch 22. I mean, those are my thoughts.

Chairwoman Curto: After he makes his point, yes, and there's also someone else that has their hand up and then, so we'll let, two people with their hands up. So, once they've made their comments then you can come back to the Board for comment. Mr. Kelly, any other comments?

Paul Kelly: No. Simply, without the grasping there with the roof and the driveway, there will be more water runoff into my yard. Questions are, if this house is to be built within the requirements, what is the plan for gutter runoff, sump pump runoff, stormwater runoff. What kind of sewer system will there be. Will there be sewer or will they hook up to the public, low pressure sewer system line on the road?

Kevin Koval: Mr. Kelly, can I ask where your runoff goes to. Does it impede on that property?

Paul Kelly: So, in the front of our yard. My yard is a ditch which eventually leads to a culvert which goes down to the woods.

Kevin Koval: Okay

Paul Kelly: Both properties.

Kevin Koval: Okay Thank you.

12/1/25

DRAFT

Leonard Micelli: But, in theory, like Ted had said that the Army Engineers and the Environmental Conservation, then basically the ZBA we're just concerned about the area variance. I mean, I could be wrong on this so, are we getting involved with water runoff or

Chairwoman Curto: Well, we certainly can take that into consideration as a comment.

Leonard Micelli: I mean.....correct

Chairwoman Curto: and have it recorded.

Leonard Micelli: Ok. Just for the record, obviously. Ok.

Kevin Koval: This would still need to go in front of Planning Board.

Leonard Micelli: Exactly.

Kevin Koval: And just because we, if we approved it, that doesn't mean it's rubberstamped for a go.

Leonard Micelli: Right.

Kevin Koval: That just means that we've addressed the setbacks.

Paul Kelly: Correct. So, kick it back up to Planning if we have to.

Chairwoman Curto: Yes.

Paul Kelly: And, also, will the area, I assume, I don't know what the basement, if there's going to be a basement. Apparently, they will dig. Is that soil going to come out and build up their property even more, at more of a slant? It's all slanted to 3 Breski Lane. Where will that soil be going? If, indeed, for some reason, this is approved can there be a berm made so that that property's water stays there?

Leonard Micelli: Well, that would be up to the Planning Board.

Kevin Koval: In further consideration, I don't think this would go back to Planning Board, but because it is just a building permit, it would, there are Town Codes in place that do not allow runoff from one property to another.

Leonard Micelli: Okay

Kevin Koval: We run into this all the time in my business where we can't discharge water onto a neighboring property.

Leonard Micelli: Gotcha.

Kevin Koval: But, that being said, I don't know if this piece of property would lend itself and not doing that either.

Paul Kelly: Right. Correct.

Chairwoman Curto: Any other comment Mr. Kelly?

Paul Kelly: No, I don't. Thank you so much for listening to me.

Chairwoman Curto: Thank you. We appreciate your comments.

Kathleen Kowsky: Good evening. My name's Kathleen Kowsky. I live at, well, I lived at 132 Dunsbach Road I'm now at 133 Dunsbach Road but that's my driveway that comes out almost to the point so, if you come across from Breski Lane, come across the road, you'll see a right-of-way. That's my north driveway off my property. As I am rebuilding my home because of the fire, I will tell you six feet down, there is red clay and it holds the water and I almost lost a backhoe this time, and last time I lost a bulldozer when I built in 1977. The properties blow sand on top, but it's clay underneath and it holds. Now, as for the water drainage there, they had a ditch put at the, let's see, it would be the, to the left anyway. On the picture, there was a drainage ditch that went behind all the properties down to Marchione property and they dumped all the water on her property because there is a swamp between her, on her property that goes right into Timberwick.

Steven Kucskar: What number are you. What number house are you, ma'am?

Kathleen Kowsky: Excuse me.

Steven Kucskar: What number house are you? What's your number house?

Kathleen Kowsky: Which, 9, 9 Breski Lane. So, it goes behind the McQueens, it goes behind the Kelly's, it goes behind, I forget her name, it goes right to the Marchione's and it makes the swamp a swamp. Now, when we first built, when those were subdivided, now, my first question is, what is the square footage of that lot? Because in the Town of Halfmoon you were to have 20,000 sq. ft. 100x200. If you didn't you were in trouble. Even for the PDD's, I guess you call them, they are smaller lots. This is not a smaller lot. If you see those PDD's on Ponderosa Drive, the kids are always in the road because the lots are too small. There's no room to play. But, what's the square footage on that lot?

Chairwoman Curto: I don't believe this is in a PDD.

Kathleen Kowsky: No, therefore, it should have 20,000 sq. ft. What is the size of that lot? Because I went around with the gentleman that owns the corner of Breski Lane years ago and he was struck down then by all the neighbors. Most of those neighbors have died to come up against him. We've got setbacks but I want to know what the square footage is, because it's tiny.

Leonard Micelli: Well, it says it started out as 20,000 sq. ft. and then it dropped down to 17,601 sq. ft. So, it's smaller.

Kathleen Kowsky: It's not a standard; it's not a standard lot. Correct? And that's why he's come to the Zoning Board of Appeals.

Chairwoman Curto: Correct.

Kathleen Kowsky: And I will tell you right now that that is a problem with drainage all the time and it does, there's just enough of a grade from Woodin Road going back to the back of Breski Lane, that everybody gets it going back and it's been the problem since he, Mr. Shafer sold the property in the early 60's. My family's been this area for over 100 years. That used to be part of a strawberry field and a raspberry field, but there is a big problem with drainage. Now, we weren't allowed to have any smaller lots because we needed a well and we needed the septic. My question is, what are you connecting to? There's sewer going by, but we were told we couldn't connect because that's the Krause project and it was going into the other development as a drain as your secondary drainage. So, where are, where's the septic's going? If they want to build, where's the septic going? Because all the other houses, Mr. Kelly, still have septic, don't you?

Paul Kelly: (inaudible)

Chairwoman Curto: I'm sorry. Excuse me, if you'd like to make a comment, you have to come up to the Board because they are recorded. So, if you comment from there, we are not going to acknowledge you.

Paul Kelly: I haven't been there in a while, but they're all septic and they flood.

Paul Kelly: We do have septic, and we were quoted over \$20,000 to pipe into the existing public sewer that goes down the road.

Kevin Koval: So, sewer is,

Chairwoman Curto: So, public sewer is available there.

Kathleen Kowsky: No. The sewer was put in but it was told that it was not available, well, for a couple years and I don't know if that time element

Kevin Koval: It may have just not been put into service yet, at that time.

Kathleen Kowsky: Correct. We were told that the line between the pumphouse on Dunsbach Road and the connection to the other development, Shelbourne Estates or whatever they went into was not available for Public Service for a specific amount of time. There was no hook-in.

Kevin Koval: And it could have been because it wasn't put into service yet, but because of this project, we do have people living there now.

Kathleen Kowsky: They gave us a year. They gave us so many years. But that is a problem. You'll have sewer bubbling up. I just don't know how they subdivided the one big lot. Because of right now, neither one is probably legal. Not the 20,000 sq. ft.

Leonard Micelli: Well, they dropped the square footage but and then they, you got involved in the setbacks. That's why we're here at the ZBA. But it originally started out at 20,000 sq. ft.

Kathleen Kowsky: Yeah. When the stakes went up when they were doing the surveying, the survey stick was 5' off of that guy's, on the corner, his foundation, which is illegal. It has to be at least 10.

Kevin Koval: When was it subdivided?

Kathleen Kowsky: My question is square footage.

Kevin Koval: Does anyone know when that property was subdivided?

Paul Kelly: Yeah. I know. It was subdivided in 1968 and that was prior to the adoption of the zoning ordinance.

Kevin Koval: Ok. So, it wasn't recent then.

Paul Kelly: No. It was 1968. From our understanding, the letter that I submit, because it was subdivided in 1968, prior to the code being created, it's a buildable lot even though it's under the 20,000 sq. ft. minimum requirement.

Ted Chesnes: Yeah. It's called a pre-existing, non-conforming. So, if it was just sitting there and didn't do anything to it, it would be fine. It's when you do something to it is when it has to go before ZBA.

Kathleen Kowsky: The guy on the corner decided to put his house facing Woodin Road. His original lot was supposed to be facing Breski Lane and was 100x200. So, I wonder where all the square footage is coming from.

Chairwoman Curto: Thank you for your comments. Any other comments? You may approach the podium. Good evening.

Michael Holohan: How ya doing? I am Michael Holohan. I own that corner lot. 81 Woodin Road. That is my lot. That's that pool you see in the back. I am the one that sold this property to Kincaid. It's very simple. It's a buildable lot. It has been a buildable lot. I get these folks have been here a long time, but they have talked about standing water, all these retention.....water retention issues. I've been there 14 years. Sandy, or whatever the storm was, was the only time we had standing water, and it was gone within 24 hours. You tell me somewhere in Halfmoon that drain that water faster than 24 hours, you'll certainly surprise me. She talks about clay. You see that pool? Concord Pool dug and got nothing but dirt. Went through it like butter. The water it comes in that whole area, the water comes. It's gone within days. I get Mr. Kelly; he's here for his father who lives behind the property. He is the property then further. I get it. They don't want the house, but Kincaid bought the property knowing it was an existing lot. It is a buildable lot. We are here simply for one thing. He wants to encroach on the setback, 5'. That does not give the right of Kelly or anyone else, I'm not sure who this woman is across the street, to say anything because it's 5'. That's what we're talking about. Encroaching 5' on the setback. That does nothing to the Kelly property. That does nothing to that strip that she's talking about

across the street. Kincaid should be allowed to build the house that they want to build and encroach 5' of a setback.

Kevin Koval: 19'.

Kathleen Kowlsky: The setback is for the rear yard setback is 5'. The front yard setback is 19 feet.

Michael Holohan: Yeah. Correct, but we're talking about Woodin there. There is a dip that comes off the road which I know he's going to deal with, with in terms of building it up to get the driveway to come up to Woodin. I'm simply here to advocate for him. I sold the lot in good faith to him because it's a buildable lot. I spoke with the Town of Halfmoon before I put the property up for sale because I was here 8 years ago trying to sell the property for half the price, but at that point, it needed septic. Since then, Krause's development has brought in the sewer. The sewer is there. It is available to him. Yes, it's a grinder pump system. It's more expensive for him, unfortunately. But it is accessible for him. We're not talking about the, bringing up septic is irrelevant. He's going to hook into the sewer. So, talking about septic is irrelevant. Talking about water retention and water, standing water is irrelevant. I've been there 15 years. I also grew up with the original owner, Janises, who owned the property since 1967. I am 48. I've been in that house for 40 years. They brought in a lot of fill to that land. The last 14 years, again, the major storm that came through some years ago, there was standing water for less than 24 hours.

Leonard Micelli: When did you sell the property?

Michael Hlohan: I sold the property to him just this past spring, June.

Leonard Micelli: Because when we went to the site visit, he did say that they were tapping into the sewer.

Michael Holohan: Yes. Yeah, absolutely. I wouldn't have sold him the property if that sewer wasn't there. I would have never, because, again, I was in front of your Board 8 years ago and unfortunately, multiple people showed up. I think a lot of the same people here and talked about standing water. They got the Engineer from the Town of Halfmoon to somehow agree with them that there was some kind of standing water issue. There is not. There has not been standing water on that property for 15 years. It's just not true.

Chairwoman Curto: So, eight years ago you came before the Board

Michael Holohan: To sell it but then, back then, we were proposing that we would be putting a septic system in the back, left corner and because that was going to be a raised bed system, septic system, there was an issue with the folks about standing water, again, I made my point to the Board. It was tabled and then on the side, someone from the Board said listen, Krause is building a development down the river, a sewer's going to come up, just wait. So, I did and she unfortunately had a lot of setbacks, financially. She's been in front of you guys, probably, God knows how many times, but those apartments are now up. That sewer's now there. It's very costly. If Kelly's and these other folks don't want to hook into it because it is extremely expensive, I'm going to be hooking into it at 81. I've already got my quote, it's \$18,000. It's going to be very expensive, but they're going to be doing it. They're going to be building

a beautiful house. It's going to be just fine. It's going to be hooked into the sewer system. So, I'm not sure....I just want it on the record that we shouldn't, you guys shouldn't be thinking about or talking about standing water because there is no standing water issue. Again, they don't want the house there. I get it and I understand that change is hard or change is difficult. They just took down the tree that was in the yard and that was sad to see to go, but this is a buildable lot. Legally buildable. I would not have sold it for the amount of money I sold it to this fella if I hadn't come to the Town, done my due diligence and said, they're going to be able to put a house here, correct? I was confirmed, yes. It is a buildable lot because of the set.....because of when it was separated in the 60's, there's nothing that many

Leonard Micelli: You didn't have any issues with your pool, right. Anything at all ?

Michael Holohan: Absolutely not. When they built the pool, they dug down, like I said, they hit no clay, they hit no rocks. They hit nothing. They cut through like butter and it went right in with nothing. Side note, Concord was hard to deal with but that's neither here nor there, but it's.....we're talking about issues that are not present and I get it. We're talking about these issues because they see to think these issues were better in the 80's and the 70's. Those issues are not there now.

Kevin Koval: To be clear, Sir, it might have the square footage to be a buildable lot, but if it was buildable, as is, you wouldn't be in front of us tonight.

Michael Holohan: He's in front of you tonight because he's asking to encroach on the setbacks.

Kevin Koval: Which means that it's not legally a buildable lot.

Michael Holohan: So, he can build a smaller house but I, I'm here to support him in the fact that it's a buildable lot and he does want to encroach on the setbacks. I'm the next-door neighbor. I'm the one, I'm not trying to sound arrogant or to be curse word. I should be the one that would fight. And again, Mr. Kelly's behind, but again, he's back so far. I'm the one that should be complaining saying "no, I don't want this house encroaching on any kind of setbacks". And, I'm here to say that I'm not because I've seen his plans, it's a beautiful house and there are no issues encroaching on a setback, the limited amount of square footage or the area of feet that he wants to encroach on is not a hardship to me nor is it a hardship to the Kelly's behind the house or this woman across the street. That affects her actually, not at all. So, I'm just here to support them and the fact that they should be able to do this.

Chairwoman Curto: Thank you.

Michael Holohan: Do you have any other questions?

Chairwoman Curto: Nope. Thank you.

Leonard Micelli: I don't have any. Thank you.

Michael Holohan: Alright. Thank you

Chairwoman Curto: Yes. You need to come up to the podium. And then, just for the record just restate your name.

Paul Kelly: Paul Kelly. We absolutely had standing water in our backyard this past Spring/Summer. We had ducks living there for three weeks. There are dead zones in our grass where the water was laying for so long. The road stands heavily; it's tapered to the end of it could be 4' higher than the land going to the backyard. As this gentleman spoke before, they're building up that area too, with to support a driveway coming into the road. Most of the problem may not be on top land but 90% of the problem is underground water. I told you that the pump, every minute and a half for six months straight. So, most of the water problems are underground. Putting a house with a roof in the driveway will force more water to come into our yard and we may see even more problems than we have now. Thank you.

Chairwoman Curto: Thank you. You may approach the podium. Excuse me, if you speak from the audience, we can't record you so, it's mute. If you have a comment you come up to the podium and speak and this gentleman here in the gray, was here before you. So,

Michael Holohan: He's talking about, Michael Holohan, 81 Woodin Road. He's Kelly, behind, he's talking about standing water because he's built a firepit in the back of that property, raised it and how the circle around the firepit is now dipped because of his firepit and that's where the standing water occurs. So, that is of his own volition. He did that. It is not natural. That fire pit was not there. When I moved in 14 years ago that firepit was not there. That firepit is now there and there's now a natural growing moat around his firepit and that's where his standing water is. So, that is of his own issue. He did that.

Chairwoman Curto: Thank you. Just a moment. The gentleman in the gray is next.

Nathan Abrial: Nathan Abrial, the Operations Manager for Kincaid Capital. I just wanted to comment on a few things that were shared earlier. We do plan on tying into public water and sewer at the house. It is available across the street on Woodin Road. So, we do not plan on putting in a septic system. The house that we would like to build only has a footprint of 1,035 sq. ft. and a garage. So, it's consistent with the neighborhood. It's not a large house. The reason why we're requesting front yard and rear yard setbacks is because the lot is a little bit smaller than the standard 20,000 sq. ft. buildable lots in the area. And so, in order to build a house that's consistent with the houses in the neighborhood, we had to request some front yard and rear yard setbacks in order to build. Obviously, we don't plan on building a house.....we're not planning on building up the land so that it creates any water issues for any neighboring properties and we don't plan on having any drainage, like, directed at the neighboring properties either. So, I just wanted to share those things.

Chairwoman Curto: Thank you.

Nathan Abrial: Yup.

Paul Kelly: Paul Kelly. The gentleman that spoke about my firepit, that soil was dumped there in the late 60's. My father had one load of soil leftover from where he was filling in the back and asked Mr. LeQue if he wanted it. That was dumped there in 1968 or 1969 and I have never touched it. I moved into this house three years ago. My wife and I came up from Florida to take care of my 90-year-old

parents and when they go to a better place, I'm moving away. So, I really, if there's a beautiful house in that land, good for that, but I'm worried about the water problem.

Chairwoman Curto: Thank you. Any other comments?

Nathan Abrial: Again, Nathan Abrial, the Operations Manager with Kincaid Capital. As part of our buying process, we did do a Phase 1 Environmental Site assessment and the assessment did determine that the land is capable of being built on and, in addition to that, we did research the DEC maps and we included the page from that survey in our submission to the Board here and it is well outside the 100' buffer for any wetlands. This land is not wetlands and it's very far away from nearby wetlands.

Chairwoman Curto: There are no designated wetlands in that area are there?

Nathan Abrial: That is correct.

Chairwoman Curto: Thank you. Any other comments or questions?

Kathleen Kelsky: Kathleen Kelsky, 132 Dunsbach. One thing you've got to know about this area is underground springs. It never dries up. I just had to redo my whole basement. I spent over \$10,000 in gravel because I have three natural springs that come right through where my foundation is, and I have very intricate system of drainage to keep me from floating away. That also is the problem at 133 Dunsbach across the road. That is the problem of the duplex. Up at 141 Dunsbach. We're all floating. So, that is natural. You can't fight that. So, yeah, there's water and in the springtime it....Woodin Road is just a little higher and it goes right back towards Timberwick and that swamp gets filled in all the time, but there is a lot of water in the ground.

Chairwoman Curto: Thank you.

Leonard Micelli: Thank you.

Chairwoman Curto: Any other comments?

Leonard Micelli: I don't have any.

Chairwoman Curto: I make a motion to close the Public Hearing at 7:40 p.m. I'm going to make a motion to deny the front yard setback and the rear yard setback. Can I get a second on that motion?

Kevin Koval: Don't we still have to go through the tests?

Chairwoman Curto: Yes. We do. That's right because I was looking at non-conformances.

Kevin Koval: Non-conforming use?

Chairwoman Curto: If it's underneath the lot size. Nope. We still have to go through the area ones as well. You're right.

Kevin Koval: Well, there was only...the only variances submitted though for this were for setbacks, not lot size.

Chairwoman Curto: Right.

Ted Chesnes :Yeah. Rich thought we would run into a problem

Kevin Koval: It meets the lot size because there's sewer, city sewer and water there. If it was septic it wouldn't have met the lot size.

Chairwoman Curto: Ok. That's right. That's right. My apologies. Alright, going through the area variance. In making our determination we'll take into consideration the benefit to the applicant, if the variance is granting as weight against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

Number 1: 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.

Kevin Koval: Being somewhat of an expert in wet basements and underground water, I don't feel that another home there will further exacerbate the water problem in the area. It's still the same amount of water there.

David Maxfield: My comments, I have is I do not believe the proposed construction will produce any undesirable change in the character of the neighborhood or negatively impact the adjacent properties. This is a residential area, and the Applicant is proposing to build a home that will blend approximately with the surrounding residents, all of which are situated in close proximity to one another. Unique shape in the layout of this parcel adjacent to 81 Woodin Road, SBL 278.19-2-34 presents additional challenges, however, it's worth noting that the neighboring property, 81 Woodin Road sits on a smaller lot with setbacks that appear to be more constrained than what is being proposed here. Overall, the new home would be consistent with the existing neighborhood character.

Chairwoman Curto:

Number 2: Whether the benefits sought by the Applicant can be achieved by some method visible for the Applicant to pursue.

David Maxfield: Yes. Sorry to cut you off. Yes, I believe there is a way. I believe they can build a smaller home to meet the required setbacks.

Chairwoman Curto:

Number 3: Whether the requested area variance is substantial.

Kevin Koval: It is, in my opinion, somewhat substantial. But I do think it still fits with the neighborhood.

Leonard Micelli: Yes. I'd have to agree with that.

Chairwoman Curto:

Number 4: Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood.

Kevin Koval: Again, I don't think that there will be a further environmental impact with the neighborhood. I don't think it would add any water to the neighboring properties further than what they already experience. I do own a home right down the street there as well and deal with a wet basement but, that's my problem, not, it doesn't further impede on the neighborhood.

Leonard Micelli: I would have to agree with that. Even if there was more water, I mean, this is a mother nature situation and, I mean, you guys seem like you're all equipped with sub-pumps ready for anything basically. And, if this was to add a little bit more I don't know where he's going to put the gutters or where his sub-pump and where that's going to drain so, I mean, I would have to agree with what Kevin had said.

Chairwoman 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 do feel this is somewhat self-created. There could be a smaller home built on the lot. There could be no home built on the lot. But I don't think that it necessarily would preclude building any home there.

Leonard Micelli: And, just a comment to the neighbors, not to be rude in any respect, but if maybe in the future you might or want to reach, and then try to put a berm up or something like that to try to resolve some of the water issue and maybe do tap into the sewer system like the new owners is planning on doing. I mean, that's up to you to decide that in the near future and that might eliminate a lot of the water issues. That's just my thoughts on it.

David Maxfield: And I also feel that the Applicant purchased a uniquely shaped parcel that makes meeting the Town's current requirements challenging. Constructing a home on this lot will enhance the appearance of the neighborhood by replacing a vacant, difficult to develop parcel with a modern residence.

Chairwoman Curto: My motion still stands to deny. I need a second. (No second)

Kevin Koval: I make a motion to approve, as proposed.

David Maxfield: Second.

Chairwoman Curto: We'll do a rollcall. Dave

Dave Maxfield: Approved.

Leonard Micelli: I'm going to have to approve it and, like I said, to the reason of approving it, I don't think the Zoning Board of Appeals is designed to control water issues, which is in some other past cases with lighting on homes and stuff like that so, I'm looking at that perspective and, like I said prior to that, if there is a water issue and in your facility to try look, reach out to try to do a berm and try to resolve it. So, I just personally can't see holding up a project because of sitting water. That's my opinion.

Chairwoman Curto: Steve.

Steve Kucskar: Based on site visit, everything that I've learned to date, I would agree with a lot of what Kevin has said and I would agree to approve.

Chairwoman Curto: I am still voting against it and it's not the water issue, it's that it's not a buildable lot. So, based on 4 to 1 the motion is carried. Your project is approved. Thank you.

Chairwoman Curto: Our next item this evening, new business. Yes. You may comment.

Paul Kelly: Thank you all very much. I appreciate your time, consideration and we also appreciate you expedited the process to review this so that we could get gas in there so thank you very much. You all have a great holiday.

Leonard Micelli: You too.

Chairwoman Curto: Best of luck to you.

Paul Kelly: Thank you.

Michael Holohan: Michael Holohan, 81 Woodin Road. Just again, yes, I also appreciate you guys listening and just for peace of mind, 13 years ago I refinished my basement. Bone dry. Rugs, everything downstairs so you guys made a good decision. It'll be fine and it's going to enhance the streets and enhance the area. The only issue I would say, which I'll bring up with him, is numbering the house. There's an 81, 81A, B, C, D. I don't know what he's going to be called, but.

Leonard Micelli: Thank you Mike. Appreciate it.

Michael Holohan: Thank you.

David Maxfield: Thank you.

Chairwoman Curto: Thank you. New business is the Dudek Subdivision at 129 Brookwood Road. A minor subdivision. The Applicant is proposing to subdivide an existing 16-acre parcel into two, single family home lots. The new home would have public water and private septic. The lot approved would result in the following:

Lot 1: Would be reduced from 16.0418 acres to 2.7386 acres and

Lot 2: Which would be the new lot would be 13.3032 acres.

Chairwoman Curto: I invite the Applicant to approach the Board.

Fred Metzger: Good evening, Fred Netzger, Land Surveyor here this evening for Mr. & Mrs. Dudek.

Chairwoman Curto: I'm sorry, I didn't catch your name.

Fred Metzger: Fred Metzger here this evening for Mr. & Mrs. Dudek regarding their proposed two-lot subdivision. They've got the 16-acre parcel located at 129 Brookwood Road with all the existing improvements: house, home, garage a couple of different garages and barn or two on there. They're looking to do a two-lot subdivision, as you mentioned. One with all the existing structures and then the vacant one for the child(inaudible). The child would be my age, but. The kids feel the build a new single-family home, as you mentioned, with tying into municipal water and have a septic system. But, in doing so, it triggers with this particular zone being in an R-1. Residential secondary structures are not allowed in the front yard and then, this particular case, the barn/storage area, which was built back in the early 1940's and has been there for almost 85-100 years, is triggering that portion of it so it's, we need, we're seeking a variance this evening to be able to get the subdivision approved while having the garage/storage area. And, again, obviously built back in the days when storage and barn areas were built close to the road to facilitate storage and/or loading and unloading trucks for delivery and so on and so forth. So, in it's existing structure it's in great condition and, again, been there for probably 75, 85 years so obviously it's not something building. It's just something that's been there forever but, being that they're looking to cut off the acreage, triggering the not having or not allowing, or not for having second structures in the front yard. That's why we're here.

Kevin Koval: I don't have any questions on this one.

Leonard Micelli: I don't have any questions.

Steve Kucskar: I don't have any questions.

Chairwoman Curto: Dave.

David Maxfield: None. Thank you.

Mike Morand: Alright. I have one question.

Fred Metzger: Yes, sir.

Mike Morand: It's Mike Morand. On the application, and it wasn't included, that page is missing in our paperwork today, but on the application, question 12B, Bravo. You checked a box yes and that says, "is this project site or any portion of it located in or adjacent to an area designated as sensitive for archeological sites in the New York State Historic Preservation Office site inventory".

Fred Metzger: Yeah. Generally, those are handful. So, when you go to the on-site to do these and you put in the particular address, they do fill in a handful of their own. So, that was something that came back checked by them, not by us. So, I don't change those, not knowing. But, generally, as they state, something adjacent, and there are some, some water courses that run through there. So, generally, if it's something with that as we've had these before so it might be something adjacent with this particular one. But this is just the old farm field that's had corn growing in it for the last 30, 40, 50 years. But there is, when you get to the rear of the parcel and you get down off the hill, it does go down into a creek or a stream. So, it might be something to do with that. But, again, that was something that was checked by the website itself, not from us.

Kevin Koval: And that's quite far away from the garage.

Fred Metzger: Yes.

Kevin Koval: It's in the front yard.

Fred Metzger: Yes. No where's near the garage, up in the front yard.

Mike Morand: Thank you.

Fred Metzger: You're welcome.

Chairwoman Curto: Any other comments from the Board? (No one had questions). What we'd like to do next is do a site visit.

Fred Metzger: Sure.

Chairwoman Curto: On, Saturday, January 3rd at 9:00 a.m.

Fred Metzger: Sure.

Chairwoman Curto: And if you could meet us at the property then.

Fred Metzger: Absolutely.

Chairwoman Curto: We'll take a look at it.

Fred Metzger: Okay

Chairwoman Curto: And then we'll set a motion to set a Public Hearing on Monday, January 5th at 7:00 p.m.

Leonard Micelli: Just one thing Madam Chair. On this property, does anything have to be staked out or

Kevin Koval: No. Because the garage is already there.

Leonard Micelli: It's there so we just got to, ok.

Fred Metzger: Yeah.

Leonard Micelli: It's good enough.

Chairwoman Curto: Yeah. I'm thinking, does the Board not want to do a site visit there?

Kevin Koval: I mean, it's pretty, if you drive by it, we don't need to take their time, it's pretty obvious.

Leonard Micelli: Well, it would be like that Mobile Mart. Just go by on 146 and see what.....that makes sense.

Chairwoman Curto: Just do a drive by on your own. (All, yes.) The barn is existing, it's there.

Kevin Koval: It's pretty clear.

Chairwoman Curto: So, we will not do a site visit. We will independently drive by and do our own

Fred Metzger: Sure.

Chairwoman Curto: But, we will have a Public Hearing on January 5th at 7:00 p.m.

Fred Metzger: Gotcha.

Chairwoman Curto: I need a second on that.

David Maxfield: Second.

Chairwoman Curto: Thank you.

Fred Metzger: I'll second.

Chairwoman Curto: Thank you.

Fred Metzger: Thank you.

Chairwoman Curto: Happy Holidays.

Fred Metzger: Have a nice holiday.

Fred Metzger: Thank you.

Chairwoman Curto: Any other business before the Board? (None). A motion to adjourn at 7:55.

12/1/25

DRAFT

Kevin Koval: Second.