

A meeting of the Town of Moreau Planning Board was held on August 15, 2016 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

G. Peter Jensen	Chairman
Linda Riggi	Planning Board Member
Reed Antis	Planning Board Member
John Arnold	Planning Board Member
Erik Bergman	Planning Board Member
Jerry Bouchard	Alternate Planning Board Member
Ron Zimmerman	Planning Board Member

Also present: Atty. Malcolm O'Hara, Attorney for the Town; Jim Martin, Zoning Administrator; Tricia Andrews, Planning Board Secretary

Not present: Dave Paska, Planning Board Member

Chairman Jensen called the meeting to order at 7:00pm. Motion was made by Mrs. Riggi to accept the minutes with some corrections: p. 1925 Mr. Antis says "Va Buren Street" changed to Van Buren. Bottom of that section, No roll call "cote" changed to "vote." p. 1923 halfway down Mr. Bouchard said it was taking 10 minutes to get 20 cars through, should not say 20 minutes to get 10 cars through. Mr. Antis seconded. Motion passed unanimously with no roll call, Mr. Arnold & Mr. Bergman abstaining.

#1 Stewart & Bovee Developers Public Hearing

Mr. Zimmerman motioned to reopen the public hearing and Mr. Bergman seconded. All in favor with no roll call. The applicant is proposing to create three commercial lots on Old Saratoga Road near the Route 9 intersection. No development on the lots is proposed at this time, and anyone who purchases a site will have to come back to the Board for Site Plan Review for their project only. The Chair set the ground rules for a public hearing.

Mr. Stewart presented his site map.

Wayne Reddick with resident Margaret McNaughton of 749 Old Saratoga Road: The company purchased all the land around her. Mrs. McNaughton is concerned about what's going in around her and if it is zoned Commercial and she is going to be surrounded by commercial developments.

Chairman Jensen explained that this hearing is just about these three lots, which are commercial. The Board can't change that the development will be commercial, but isn't going to tell her to move out, either. Mr. Reddick was around when Wolf Road was developed and residential houses were pushed out.

Mr. Antis said he believes the land she is on is zoned commercial.

The Board turned its attention to the EAF.

Mr. Stewart presented endangered species and archaeology reports.

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The environmental report states that this is a habitat for wild lupine and karner blue butterflies as well as certain bats, and reported on their search for those on the report. Items left unmarked on previous review of the EAF were then marked no, and Part 2 was reviewed. All items were marked “no, or small.”

Mr. Arnold asked about Part 1 #13 and whether the wetlands are on the site, which Mr. Stewart explained is across the road (Route 9) on a parcel north of this parcel. Mr. Stewart said that was walked through and this site was as well.

Kathleen Field complained about not getting a letter until recently and hasn't had an opportunity to look at this map. She asked about the location of the exit driveways and looked at the map.

The Chairman explained that there was a question about whether this was legally advertised, and it went out again this month. It was properly posted.

Jason Hughes: Last month the agenda was posted prior to, and it wasn't posted this month so he would like to know why (on the website), and when he called the Town Clerk's office she could give him no answer about tonight.

Mr. Martin explained that Kathy Perez was on vacation.

The public hearing was closed at 7:20pm.

Mr. Bergman motioned to make a negative declaration regarding SEQR and Mr. Bouchard seconded.

Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion carries 7-0.

Mrs. Riggi motioned to grant preliminary subdivision approval for Stewart & Bovee Subdivision and Mr. Zimmerman seconded. Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion carries 7-0.

Mr. Zimmerman motioned to waive requirement for separation for preliminary and final approval, seconded by Mr. Bergman. Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion carries 7-0.

Mrs. Riggi motioned to grant final approval to Stewart and Bovee Subdivision and Mr. Bergman seconded. Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Bouchard, Yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion carries 7-0.

Motion that the Chair and one other member sign the mylars when they are submitted made by Mrs. Riggi and seconded by Mr. Arnold. Motion carried unanimously with no roll call.

#2 McKenna, Gerald

Site Plan Review

Mr. McKenna appeared. The parcel is at 22 VanBuren Street which is in a UR Zone just outside the Village limits. Public water and sewer are on site.

Mr. Antis wanted a better site plan map.

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Mr. Arnold: This lot is 16,552 sq ft.? The Code says for each unit he needs 5,000 sq ft and so he needs 20,000 sq ft. for a four unit building. Mr. McKenna said that it's a pre-existing undersized lot and he had been to ZBA for a Variance on the setbacks, where he was told he didn't need a Variance for the size.

Chairman asked Atty. O'Hara for an opinion.

Mr. Arnold explained that the lot size is buildable, but only for three apartments, not 4.

According to 149-55a, Atty. O'Hara said it could be considered as compliant. The Chairman explained that the proposed structure exceeds what is allowable by Code, even though the lot is allowed to exist.

Atty. O'Hara said it appears to fall into that exception under 149-55a.

Mr. McKenna stated that he is under the lot coverage ratio, and that he has to build 4 to make it economically viable.

Mr. Antis said that this is not the legally required Site Plan.

Mrs. Riggi said that there's usually a map that shows where in Town a lot is.

Mr. Antis said that he wanted a survey.

The Chairman said that this is not a subdivision and a survey is not required.

Mr. McKenna argued that these requirements are not in the Code.

Mr. Arnold asked for clarification about what he got from ZBA. The Variance is on the side of the unit.

The boundary is 6 ft. from the driveway on the other side. Mr. Arnold wanted to know why the driveway was 18 ft. wide. Mr. McKenna said that came from the Zoning Administrator's opinion.

Mr. Martin explained that there will be a sidewalk to the building.

Mr. Arnold wanted to know where that would be and the applicant explained.

Mrs. Riggi said that .25 inch should equal 10 ft., and it doesn't make sense, but Mr. Martin explained that the +/- looked like a 7, on the bottom of the map (667 ft.).

Chairman Jensen said that the Code requires for a preliminary setback application, a 1" to 50' scale map, an area map showing streets, easements, etc., topographic map, name and address of applicant, water courses, location of planned use, height, length and width, proposed improvements, drainage, etc. He asked what is missing from that list and Mrs. Riggi restated that she would like an area map and a larger scale drawing and a map showing the required setbacks. This is not dimensioned adequately for her to understand it.

Mr. McKenna asked if she wanted it typed instead of handwritten, a standard engineering drawing. Mr. Antis still thinks it needs to be a survey.

Mr. Arnold asked for parking spaces to be shown and Mr. McKenna stated that it's not in the Code, but he will do it.

The Chairman explained that if the Town had a full time building inspector, the issue would probably have been identified sooner.

Mr. Bergman pointed out that neighboring property owners were also required to be shown, within 500 ft.

Mr. Zimmerman pointed out the part of the Code where it also references parking, snow and lighting plans, trash removal and a finished layout. Mr. McKenna says he just wants a fence. He asked whether they wanted traffic patterns shown, did they want in and out lanes? Yes. There is no driveway across the

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street. Mr. Arnold asked what the driveway material would be, and it will be gravel. The Chairman directed Mr. McKenna to ask for a copy of **pages** 149-40 and 149-39 from the Code.

Mr. Martin said to come and see him and they could get it all on an 11"x17" sheet.

Mr. Arnold asked for guidance about the 5,000 sq ft per unit. We are not referring this for further guidance? Chairman said that they had an opinion from counsel. Mr. Antis said that the Board didn't have to accept that advice if they don't want to and he thinks that the density is too high.

Mr. McKenna says that he's under density, but Mr. Arnold said that he's under the lot coverage ratio. The applicant says that 3 units doesn't work and is harder to build.

Mr. Martin said that the Code is poorly written. You can allow a single family home on an undersized lot, why not allow a larger apartment building than what the Code calls for.

Mr. Arnold argued that Zoning says they must have 5,000 sq ft. The difference is that you can't reduce a single family home to half a home, but it is possible to say that you must build a smaller building.

Atty. O'Hara pointed out that one formula can't deny the use of the property.

Mr. Arnold: If the Zoning Administrator tells him the Code only allows 3 apartments, he's not being denied the use of the property, he's just being denied the permission to build larger than what's allowed.

Atty. O'Hara feels that the Code abrogates the formula because of the part about undersized lots.

The Zoning Admin asked for a request for interpretation by the ZBA, rather than have this decision be his. If he were the applicant, he'd want to be on sound footing.

Mr. Arnold said he would rather refer it, because that rule allows 12 units if it's interpreted broadly.

Chairman asked the Board to assume that he were approved by ZBA and what else they would need.

There's nothing that would trigger a SWPPP. Mr. Bergman asked for Emergency Services to look at it.

Mr. Martin will forward it.

Mr. Antis asked that the referral to and response from Emergency Services be well documented.

Mr. Zimmerman asked whether this was Sketch Plan, and it is the first visit.

Mr. Arnold motioned to refer to ZBA for interpretation on Density in the UR Schedule of Requirements and 149- 155a, and Mr. Antis seconded.

Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes, Mr. Bergman, No; Mr. Bouchard, Yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion carries 6-1.

Mr. McKenna asked for clarification on the motion. Mr. Arnold asked whether that had to be legally notified, and Mr. Martin said it didn't, so Mr. Arnold said to try to get it heard by the ZBA on the 24th of August to avoid any hold up.

#3 Schermerhorn Apartments

Travis Mitchell appeared. This issue is not on agenda, but he wanted to talk about what had happened since last month. This is a Site Plan Revision from plans approved in 2006. It could be built tomorrow the way it was approved. The applicant agrees to write revisions, such as the driveway exit. It will be shifted 30 ft. so that it's between 2 homes. His point is, it was approved with a full traffic study, he spoke

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with the person at Creighton Manning who did it and she remembers it because of how extensive it was. The new proposal is for 32 fewer units. At the time, there were no significant traffic impacts identified. There were concerns about background growth in the area. Subsequent projects were studied with knowledge of this project and of background growth. Last month he understood that they were asked to confirm that the background growth numbers used were correct. They also wanted to check whether any other standards had changed, and asked should Mr. Faith also write a letter to confirm his agreement. Mr. Mitchell thinks he (himself) ought to go to Creighton Manning, with confirmed request, and show that to Mr. Faith. Mr. Mitchell would like to know whether he can use the subsequent studies to look at the growth rate, whether they need new trip counts. He would like to avoid a whole new traffic study, and wait for the school year to start, etc.

Chairman said the Board has Mr. Faith to review and advise on whether the documentation is adequate, and Mr. Faith will say what needs to be done. The Board shouldn't tell the consultant what has to be done. He'd like to leave it up to Peter Faith.

Mr. Mitchell: That's fair. Do I understand that it's the Board's intention not to redo the whole thing. He wanted to make sure he understood correctly.

Mr. Martin said he'd had extensive correspondence from Mr. Faith and Bluebird Trace, etc., and he's also not looking for a full new study, but that the Board needs to be able to answer the public's questions about specific intersections, etc.

The Chairman reiterated that the Board can't decide that, the Town's consultant has to.

Mr. Arnold asked for information on traffic studies. When you are talking about background growth, is that beyond the proposed projects?

Mr. Mitchell: There's a standard, around 2%, that you use. Because this wasn't built, the Board has made sure that this project was also included in.

Mr. Arnold: That was my next question. Also how do they capture something like, suddenly a road in another area becomes impassable and now people come another way? Anything beyond car counts to capture that?

Mr. Mitchell doesn't think so, just background growth.

Mr. Martin: They will go strictly by counts for existing conditions, for proposed conditions they will have a calculation for background growth and local change.

Woman: How can you get a true account when places aren't built?

Mr. Martin: They factor in other studies.

Mrs. Hughes, who lives across from the original entrance. It worries her that another building on Van Buren is going in behind her. The fact that no agenda was posted, and people were looking to her to send emails, flyers etc but she didn't know that this was going to take place. People are very worried about a 4th complex on this road .25 miles from the elementary school. Of course that study should be taken during school times. The original study apparently was further up the road, between two short blocks of Harrison Ave., but she'll let the Board know where the actual counters were.

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Mr. Zimmerman: At the time, Peter and I were here; that was an extensive traffic study and it looked at all the intersections people are concerned about. Who did the 2014 study?

Mr. Martin: OSPA from Clifton Park.

Mr. Zimmerman: It has layered in all the traffic and overstated this one, because it's now smaller. Now we are trying to validate the engineering that was applied. The key steps are to look at the intersections, which we agreed at the time were correct places to look, and to check the growth rate. Have the standards changed? Those are the things we're looking at. These things have layered up. They look good on paper but people are coming up and saying they don't. The original was also done in May, which was during the school year.

Mr. Martin: This also included Sisson Reserve.

Mr. Bouchard: Based on a count done in 2014, or 2006?

Mr. Mitchell: Well, no. They looked at different things, and some of the same things, in 2006 and 2014, etc. What we're trying to do is take a project that did counts and make sure that as it moved forward in time, that the projections were valid.

Mr. Arnold: There's a phrase they use, is it "no disparate impact." They can't say no impact, but they say is there one that requires remediation. We know there's some impact.

Mr. Martin: Levels of service drop from B to C, etc, Harrison Ave westbound drops B to D.

Mr. Arnold: They make assumptions about how people travel. If I were planning a study of my wife's trip to work, I wouldn't map it the way she goes...

Chairman Jensen: But the counters capture that.

Mr. Arnold: How do we get a more actual picture? You don't know what people will do. Can we check the count? Can we do a spot count?

Mr. Hughes: The thing I am concerned about is yes I understand these are layers but these things have not been completed. It's still theoretical until the place is completed and we see what people do.

Everybody could do something totally unexpected. We should wait to see what the impact is. Harrison Terrace has no one in it. Harrison Place isn't full. Until this new unit gets built and we see how things flow, couldn't we just wait? We don't know.

Mrs. Riggi: You want them to just wait?

Mr. Arnold: You'll never have that.

Mr. Hughes: Something to back up the data.

Mr. Arnold: We may have a good picture now. But we want a fuller one. They do have a right to build this as planned, it's approved.

Mr. Hughes: Why wasn't it built? Doesn't that expire?

Mr. Arnold: There is no limit, that's why they've always included this in other studies.

Woman: You understand why people are concerned, and this was 10 years ago. What if they don't sell them?

Mr. Arnold: Two different things going on. One is concern about the large number of apartments going in. That's an acceptable use in the Code. If you don't want that, the Code needs revision. That's

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something the Town Board does and they are looking at a rewrite of the Code. That's where that gets done. As far as this, we could say that no other projects can come in until we see what's up...but how would an individual feel if we wouldn't let him build a house? These traffic engineers know more about how people travel than you'd like to think.

Mr. Hughes: We don't know when he's going to start leasing the ones that are almost finished. With these concerns, and more public would be here if the agenda had been published. When someone's not there to do their job, someone else needs to do that job.

Mr. Arnold: Do you know where we are at with the traffic study?

Mr. Mitchell: Mr. Zimmerman put it best. Right intersections, validate background growth, maybe by trip counts, maybe not, and has the science changed?

Mr. Antis: I still want to know why VanBuren Street wasn't included.

Mr. Mitchell: Which study...that's one from another project.

Mr. Martin: Fresh counts or no?

Chairman Jensen: We want the consultant to decide if we need new trip counts.

Mr. Mitchell: Before I kick off applicant's consultant, I am going to have Creighton Manning talk to Peter Faith and all get on the same page.

Mr. Arnold: Verify your assumptions are close.

Mr. Bouchard: Maybe count the D and C intersections. That's an inconvenience and it's not insignificant.

Mr. Arnold: It's relative. Used to be at certain times you just didn't turn Left on route 9 20 years ago. Now I live where I don't have to stop at the end of my driveway. It may fall into different than your normal, but still considered acceptable. We need to make sure that the predictions we're making are accurate in the real world.

Mrs. Hughes is concerned about how wide the road is. She measured it at 23.5 ft. wide where her house is. The front of her house is 34 ft. from the road, and if they widen the road, it affects her.

Chairman Jensen: Road width is the travel lane, not the pavement.

Mrs. Hughes doesn't want to lose her front lawn.

Chairman Jensen: No one is arbitrarily widening roads.

Mr. Arnold: The Town owns 25 ft. from the center of the road, where I live. That right of way would be where sidewalks go. It's there, whether they use it or not. You have a building setback of 25 ft. You're still within that if they take 9 away. Of course you don't want the road closer, but the Town has always had that right.

Mr. Mitchell: Thank you for your extra time.

Mr. Arnold: There was a lot of concern, please keep that in mind.

Mr. Martin: Creighton Manning will update the traffic analysis?

Mr. Mitchell: No.

Mr. Martin: Validate background growth. As far as I know there has to be an escrow to pay Peter Faith, and a written scope of services. We need to understand what he's doing and how much he's going to cost.

Mr. Mitchell: I will get Creighton Manning to talk to Peter about what we're doing so he can do that.

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Mr. Antis: You were gonna review about the previous site plan and what was required that he was supposed to do.

Mr. Martin: I found nothing outstanding.

Mr. Sporrer: When a proposal comes before the Board, do any of you go and look at the site?

Mr. Arnold: We use drive-bys, area maps, etc. Sometimes they are so large a drive-by doesn't give you the idea. I do try to put myself in the place of people in the community.

Chairman Jensen: keep in mind we can't stop apartments from coming in because we don't like them. The only entity that can do that is the Town Board.

Mr. Arnold: You wouldn't believe some of what's sitting in the books and has never been done.

Mr. Martin: It's odd that this Town doesn't have a sunset clause.

Woman: What would you recommend if you were asked?

Mr. Arnold: They will ask us. We do get something to say about the revisions.

Chairman Jensen: It does you no good to disagree to us. We follow what the Town Board has established.

Mr. Arnold: They write it, we get the book. It's all moved by the addition of water and sewer. That's what made it possible. Maybe it will get to the point where they don't get full.

Chairman Jensen: My Zoning map was received 1991. That's how long it's been in.

Mr. Sporrer: The Code was written in '81.

Chairman Jensen: That was the original. Sections have been added.

Mr. Arnold: Major changes to whole sections, require a full Code revision.

Motion to adjourn was made at 8:49 pm by Mrs. Riggi and seconded by Mr. Antis. All in favor. Motion carried.

Respectfully Submitted,

Tricia S. Andrews