

A meeting of the Town of Moreau Planning Board was held on April 17, 2017 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

Ron Zimmerman	Chairman
Jerry Bouchard	Planning Board Member
Reed Antis	Planning Board Member
John Arnold	Planning Board Member
G. Peter Jensen	Planning Board Member

Also present: Jim Martin, Zoning Administrator; Tricia Andrews, Planning Board Secretary

Planning Board Members absent: Mike Shaver, Erik Bergman

The Board reviewed the minutes of the March 20, 2017 meeting and made the following corrections: First page Mike Shaver was added as a “Member” not a meeting. On p. 2013, Mr. Arnold 4th line up 1 lot after 1 lot, not acre after acre. On p. 2015 Mr. Jensen asked to clarify “it swung the ZBA.”

Mr. Arnold motioned to accept the minutes of the March 20, 2017 meeting with those corrections and Mr. Jensen seconded. Motion passed unanimously with no roll call but one abstention. 4-0-1.

#1 Vittengl, Donald
Top Notch Self-Storage
Public Hearing
Site Plan Review

Mr. Rourke has added contours on the survey, giving more details on the berm which he had been directed by the Zoning Board not to touch. Lighting plan is archaic, but it is the same lights they used before and he brought the spec sheet, they are high-pressure sodium on the wall, mounted between every other space. Not too obtrusive. Third item outstanding was SWPPP. Mr. Vittengl reached out to Dave Gasper, who is the Regional SWPPP Coordinator. This one has not been updated since 2004 and since then they have added a building and extended the stormwater proportionally. They intend to do the same thing on this side, extend the plan that’s working on the other side. But since this is less than an acre of disturbance, Mr. Gasper had advised Mr. Vittengl that he doesn’t think he has to do one. Mike McNamara at EDP also said that this plan is not required to have a SWPPP, the narrative is sufficient. Because the slabs are the low point of the neighborhood, they cause no runoff in the neighborhood and this shows on the contours on the plan. It is working well. Route 32 flooded in the last couple years and that added water to their property, this has been addressed.

Public hearing was opened at 7:10pm. There was no other public comment.

Mr. Arnold said he didn’t want to request a rewritten stormwater plan and his comments must have been misunderstood. He can see one drywell on the plan but not the other. This information is sufficient.

Concern was raised for fire accessibility last month and Mr. Arnold and Mr. Vittengl agreed that the Fire

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Dept would, if necessary, just let it burn as it was not residential. This item was referred to the County and Fire services and Mr. Martin has not heard back from either of them.

Mr. Arnold said that the 21ft alleys were acceptable to Fire in the past, so there's no reason to think that will change.

Mr. Martin said that the Town's Engineer can look at the stormwater plan if desired but it may not be necessary.

Mr. Arnold said that the surface there is already considered non-permeable (gravel), so this will not change much.

Mr. Martin's assessment was that everything was satisfied.

Mr. Arnold asked why this building is shorter than the one next to it, and Mr. Vittengl responded that he doesn't want to disturb a drywell that's built there.

Mr. Jensen felt it would be in appropriate to ask for further engineering on this stormwater plan. Moreau soil drains very well.

SEQR Part 1 was reviewed.

#8b& c should be yes, there are public transportation and bike routes nearby. #10 the house is connected to sewer, but for this action, NO. Part II: no comments.

Public Hearing was closed at 7:29pm

Mr. Arnold motioned to make a negative declaration on SEQR and Mr. Antis seconded. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Jensen, Yes; Mr.

Zimmerman, Yes. Motion carries 5-0.

Motion to approve the Site Plan for Topnotch Self Storage was made by Mr. Arnold and seconded by Mr. Bouchard. Mr. Arnold noted that County had not responded and wondered whether that should be made pending, though there was not much concern that they would have a comment. However, the Board had a Supermajority and decided to approve. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Jensen, Yes; Mr. Zimmerman, Yes. Motion carries 5-0.

Mr. Bouchard motioned that the Chair and one other member sign the mylars when presented and was seconded by Mr. Arnold. All in favor, motion carries with no roll call. Mr. Martin asked Mr. Vittengl to bring two copies of the mylars.

#2 Brummer, Daniel

Site Plan Review

Mr. Brummer of 25 North Road, South Glens Falls explained that his business is located at 1281 Saratoga Road (next to Saratoga Bobcat), and he would like to move 2 Nolan Road. They don't plan to do anything except add some gravel that has been plowed away.

Mr. Brummer won't own the property, and the business that is leaving doesn't own the property. Mr. Arnold wanted to know whether plantings and other things on the previous site plan ever happened.

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Mr. Brummer said he thought there were trees and mulch beds that seemed like recent additions. There is a paved apron.

Mr. Brummer had a sketch based on the survey. Mr. Antis asked where the trailers would go. There is space for 15 trailers at any one time? He asked Mr. Martin whether it qualified as cars. Mr. Martin said it was business servicing highway traffic. Mr. Antis argued that it is in the same venue as a vehicle. Mr. Bouchard disagreed. Mr. Martin said he has made the best determination he can, and the Board is welcome to ask the Zoning Board for review. He thinks automobiles and things attached to automobiles fall into the “primarily servicing highway traffic” category. He chooses to treat this clause very inclusively with regard to retail business.

Mr. Jensen also agreed that this fits with the intent of the “commercial” zone.

Mr. Martin said that they needed to explore the parking versus the number of trailers that will be available on site.

There are no employees besides Mr. and Mrs. Brummer. The sketch shows a potential for 28 trailers. Mr. Zimmerman asked and Mr. Brummer said that he has about 30 onsite now and they are wedged in. Mr. Martin asked and when he is busiest he has three customers on site at once. It is usually one at a time. The trailers come assembled but he jacks them up and checks them over. They come on equipment trailers. He doesn't have equipment to unload them from a stack. 3 or 4 come at a time. The block part of the building is for prepping the trailers. It's not a showroom. The office part will just have a desk. The sign he will move from his current place, is 4 by 4. It is backlit but the backlit part doesn't travel. Mr. Martin told him to come in for a sign permit.

Mr. Zimmerman brought up the debris and old bedliners that have been seen behind the building. The landlord wants it cleaned up too per Mr. Brummer's report so Mr. Zimmerman reminded him that the Board will hold him to that.

Mr. Antis had concerns about the slope towards the road and potential for erosion. He would like more details about where the trailers will be and would like to see how the delivery vehicles are going to be able to get onto the property. He wants that shown on the map.

Mr. Arnold said that a lawn could be planted on the front to address the erosion concern as well as the concern that previous person didn't do the plantings. The paved driveway goes all the way up to the building. Mr. Brummer anticipates delivery will be beside the building and he can move them around onsite. Nothing will be on Nolan Road.

Mr. Bouchard asked how many trailers he wanted. Mr. Brummer feels crowded where he is, he would like to spread out what he has. If he could get 35 trailers in there, he would be happy.

Mr. Zimmerman asked where they would be added.

Mr. Antis asked whether the zoning says he can have 40% lot coverage.

Mr. Martin said that 40% is just for the building.

Mr. Arnold asked him again to look at the old planting plan from 2011 and see what improvements were supposed to be made.

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Mr. Jensen pointed out that erosion is only a concern if there is disturbance, and Mr. Antis argued that moving trailers in and out will cause problems. Mr. Arnold pointed out that no trailers are shown parked there and Mr. Antis wanted to make sure they stuck to that. Mr. Martin said to put that in terms of distance from the building, and to label a certain distance as acceptable parking and display area.

Mr. Brummer said that the intent is not for traffic to drive around the building. It is currently a mud pit, he intends to put down crushed stone. Mr. Arnold said that if traffic isn't supposed to drive around the building, that has to be blocked. Otherwise drivers will naturally do it. It might be good to park trailers in such a way that prevents driving on site. He likes using the building for a point of reference, but the Nolan Road side display is a large distance so if that were carried through on all sides, it would be too much.

Mr. Bouchard said that the setback is already 50ft. there.

Mr. Arnold said that this type of this should not have to be reviewed, it should just be held to the previous Site Plan that was set up if there is no change. Mr. Bouchard argued that the Board can't know whether anything changed. Mr. Arnold is concerned about renters being responsible for sites they don't own.

Mr. Martin said that a person can call up the surveyor and get what he needs. It's a balance between getting the necessary information and not costing so much that no one can develop a new business. Mr. Bouchard suggested a statement could be signed, possibly by a surveyor, that a map was still good.

This lot had site cleanup issue before, and the Board has no way to know whether that was taken care of.

The Board is asking Mr. Brummer to provide the old site plan, turning radius for deliveries, the number of staff, customer parking spaces, number and configuration of trailers all shown to scale, and traffic access around the building being blocked. Mr. Arnold would like to avoid having an engineer come in, as the changes are not substantial, but they need a better look than this sketch. The survey he has from the owner does not have topography.

Hours of operation are M-F 9-5:30. Lighting: There are lights on the building. He plans night vision cameras and they work better without light. He might change to something more energy efficient.

He is hoping to move in in June. Documentation would have to be in on May 1st for the May 15th meeting, if he can't make it, it will be tabled. But he won't not make it, because he has to be out June 1st. This has to go to County. Mr. Zimmerman polled the Board and Mr. Antis expressed concern about erosion, and Mr. Arnold said he likes the use. Motion was made by Mr. Arnold to schedule a public hearing for this at 7:01pm on May 15th, Second Mr. Jensen. All in favor no roll call.

#3 Smith, John
Absolute Auto Credit
Site Plan Review

Mr. Smith is the owner of Smith Industries, which owns the land, as well as being the owner of the business. He has acquired vacant land and put cars on display there which he doesn't have a Permit to do.

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It is .3788 acres on the right side of the map. It is flat, has gravel, he doesn't plan lights or signage and it doesn't need drainage.

Mr. Arnold argued that the area has a grade, but Mr. Smith thinks it's flat. He is concerned that there are a large number of vehicles stored under the power lines. He asked whether those are waiting for repairs, and Mr. Smith said that some are waiting to be repaired. Other are used for parts. Mr. Martin said that the original plan says that 88 cars were shown on the gravel at the back. Nothing was shown below the power line.

National Grid is coming in this year to clear brush and they commented that no one would complain about the cars parked there because it was kept clear of brush.

Mr. Antis pointed out that he still has an agreement with the Town that says he doesn't have cars there, he just has an easement that allows travel on it.

Mr. Martin says if he wants to do that he can, but he has to get permission from National Grid, and that's hard to get.

Mr. Arnold pointed out that the gravel access drive isn't on the easement, but Mr. Smith said it's 'proposed' and that it was put there pending National Grid agreement to move the easement.

Mr. Arnold still doesn't like the cars there for parts, it's too close to being a junkyard. Vehicles to fix up are one thing but getting dismantled is another thing.

Mr. Smith doesn't think there was a conversation about whether he could have cars there, and Mr. Antis stated that the designated parking spaces are where cars are allowed, and cars are not to be parked elsewhere.

Mr. Arnold asked whether fluids were drained and or leaking from cars that have been in accidents. Mr. Smith says that will already have been handled before it went through auction and came to his lot.

Mr. Antis asked how buying salvage vehicles related to Town Code and whether it was a junkyard.

Mr. Arnold asked if they were salvage title vehicles and the majority are.

Mr. Martin said there were 50-60 vehicles on the property when he visited. The number of vehicles on the easement has varied but there have always been some.

Mr. Zimmerman asked whether it would be a hardship to move the vehicles to their intended location. He is supposed to have space for 88 vehicles. Mr. Zimmerman agreed that is what the Board intended.

Mr. Arnold said that a vehicle with a salvage title on it is junk. It is unregistrable. You can put three junks together and get one registrable vehicle.

Mr. Martin stated that's what the nature of the business is, and Mr. Arnold said that's a junkyard and it's not allowed in the Town. He would have to put those someplace else to dismantle them. Mr. Arnold asked and Mr. Smith stated that would be a significant problem for him because that's the flux of what they do. Since salvage title vehicles are junk by legal definition, this business is not allowed in the Town's Commercial Zone. Mr. Arnold has no problem with his display area being increased although it could stand to be better organized.

Mr. Antis stated he is also uncomfortable with the tires and crushed front ends that are out there that are not on places designated for vehicles, they are in fact where the dumpster is supposed to be.

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Mr. Arnold asked whether the Town has taken any action on the vehicles parked outside the area. The first approach is to try to achieve compliance. This meeting came after a long discussion. If it doesn't get resolved, enforcement action will have to be taken. To apply for a junkyard permit, you have to be 100 ft from anything, so that doesn't allow much but a bowling alley down the middle for junk. Mr. Arnold added he didn't think the Town Board would go for that. Mr. Martin didn't think this met the requirement for the commercial zone. A junkyard is anything (quote from Code) unlicensed or unregistered and not in condition for use and partly wrecked etc...

Mr. Smith thought that would put any body shop out of business.

Mr. Arnold said he just hadn't realized those were salvage, and he does believe they leave in great shape, but that this is still a junkyard.

Mr. Smith said he started with 3 employees and now has 20, and the business model has changed over time. He doesn't like the term junk vehicle for something that is being repaired. He doesn't see the difference between a car that comes in to be fixed and a car that he intends to use to fix others.

Mr. Martin asked how many vehicles were there as parts cars. Mr. Arnold thought that could apply to any, and Mr. Martin said that financially didn't make sense.

Mr. Smith said 60-80 vehicles are parts cars, which to him means he has no intention of repairing. Mr. Arnold asked what percentage of the vehicles on the back are those and Mr. Smith said that's the majority, and the ones on the easement are the one's he's fixing.

The majority of the cars on the 2.6 Acres back part he has no intention of fixing. They might be headed to auction.

Mr. Arnold felt that this was all still a junkyard, even though he wasn't selling parts- he is after all, selling cars made from those parts with value added. He wondered if Mr. Smith could do all this with his junkyard located someplace else. Mr. Smith stated finding a location would be difficult, and that he can't bring it back because the car he's working on is still junk, but Mr. Smith said if it were in the process of fixing it, it's not junk. He sees a car in a state of repair as different.

Mr. Arnold said that 5% of cars might be defensible, but this is a large percentage.

Mr. Martin brought up the reason behind the junk yard law, which is aesthetic, as a parts car deteriorates. That is the violation in his mind. Other places do store cars while repairing them. But the ones that are clearly parts cars either have to go, or have to be specifically permitted.

Mr. Bouchard argued he could apply for an 85 ft. wide junkyard of cars in line for repair, based on the Code.

Mr. Martin said that is the next option Mr. Smith has if he wants to store those parts cars there.

Mr. Zimmerman asked how that could be enforced. He said he can't approve this.

Mr. Arnold asked how many useable bays he has. 7 on the service side. Half is mechanical, 1,000 is retail and the rest is ...

15 bays, 15 potential cars, that is the limit in Mr. Arnold's mind. 60 is definitely a junkyard no matter what you say you are doing with them. Mr. Arnold appreciates that Mr. Smith has been honest.

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Mr. Smith still doesn't see the difference from 15-40, it is a production line. He has a three month turnaround. It usually takes 3-4 days to get a car in and out. He will specialize in a certain car and body type for a few months and crank out a bunch of them all at once. The set may take 5-6 weeks. Then he will do another set of cars. He needs the backlog to keep the production flowing. Generally he would buy one parts car to fix three.

Mr. Arnold said that automobile repair is allowed, but not with a junkyard attached to it in this way.

Mr. Smith wanted to know that repairing was ok, and Mr. Arnold said that ones he intends to fix are ok, but probably should not be stored in site until they are ready to go into the shop.

Mr. Zimmerman said that in accordance with the Code that is the way the Board has to interpret this.

Mr. Smith said that all autobody places do this, and it might be a question of number.

Mr. Bouchard said that the size may have something to do with it.

Mr. Arnold has a neighbor with an illegal junkyard, but even he doesn't have cars there just to cannibalize.

Mr. Zimmerman said that since the Board can't move forward with the Site Plan, and some additional action needs to be taken. That could include a junkyard application, which would change the Site Plan. If he doesn't get that, Mr. Smith still has to bring in a Site Plan they can approve. Otherwise, enforcement action will begin. Mr. Bouchard said that he could also appeal to the Zoning Board as to whether this was a junkyard. Mr. Arnold didn't feel that setting precedent to allow junkyards was something the Zoning Board would like to do.

Mr. Bouchard said he appreciated Mr. Smith coming in and that this couldn't be easy to hear, and that he would like to find a way to make this work, but the Board is constrained by the Code. He thinks a visit to the Town Board for either a junkyard permit or a change in ordinance is Mr. Smith's best bet. Mr. Smith asked whether the definition was a Town Code and Mr. Martin explained that in Moreau, Zoning is a separate category from other regulations. In that setup, He doesn't think an Appeal to ZBA will help, because the junkyard is a separate chapter and only the Town Board can do anything with it. A viable junkyard permit could be made with hard work. Fencing, landscaping might help.

Mr. Arnold pointed out that it is within 500 ft of the Hudson River.

Another option is an offsite yard, a change to the business model.

Mr. Smith feels a deciding factor here is whether a vehicle there to be repaired and no parts vehicles are on the premises, he could live with. Mr. Arnold felt that bringing in salvage vehicles to repair could be approved, but storing parts cars could not, that might pass the Town Board.

Mr. Smith is blindsided.

Mr. Bouchard directed him to Chapter 87 in the Code online to understand the definition in play.

Mr. Arnold referred him to some lovely lots in the Industrial Park where salvage might be acceptable. He also referred to a neighboring business that was recently told they could not park in that easement, yet can see that this business is doing that.

There was some discussion about whether Mr. Smith had been told to move the cars from the easement and not done it and Mr. Martin said he had told him that it would be an issue, but had not ordered him to move them. Mr. Smith said he would have moved them if he'd been asked to.

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Mr. Martin said that a timeframe needed to be worked out so that this wasn't let go, but Mr. Jensen said it might be more appropriate for the Town Board to do that, with Matt Dreimiller. This Board sometimes puts time frames on site plan pieces, but they are not going to do that in this case.

Mr. Smith asked for clarification: he's supposed to either ask for a junkyard permit, or ask for a change in the junkyard definition and also change his business operations.

Mr. Martin said he would talk to the Town's Attorney about the difference between a car under repair and a parts car, but that parts cars need to go away.

Mr. Smith said that the difference is quite clear.

Mr. Bouchard said Mr. Smith is looking for a line he can come up to but not cross, and Mr. Arnold said that's a function of the amount of time and the number of cars. Mr. Smith should make it clear that he doesn't want cars to sit there.

Mr. Martin said that the situation would change a lot if he came into compliance with the site plan, cleared the easement, and didn't keep parts cars on location. Some of what's going on there that's not on the site plan can be dealt with reasonably.

Motion to adjourn was made at 9:54 pm by Mr. Antis and seconded by Mr. Bouchard. All in favor, motion carried with no roll call.

Respectfully Submitted,

Tricia S. Andrews