

**A Meeting of the Zoning Board of Appeals for the Town of Moreau, Saratoga County, State of New York was held at the Moreau Town Hall, 351 Reynolds Road, Moreau, NY 12828 on the 24th day of February, 2016 at 7:00 PM.**

**ZONING BOARD MEMBERS PRESENT:**

Kevin Elms, Acting Chair

Scott Fitzsimmons

Richard Kubis

**ZONING BOARD MEMBERS ABSENT:** Chairman Gerhard Endal ,  
John England

Also Present: Ben Marcantonio, Code Enforcement Officer; John Wright, Attorney for the Town; Tricia Andrews, Recording Secretary.

Acting Chairman Kevin Elms called the meeting to order at 7:05 p.m.

Shawn McKenna's Appeal was held over from October into November but the October minutes had it as closed, so the October minutes are being revised.

The Board did not review the minutes of the January meeting due to lack of quorum of people who were there.

**New Business**

**Appeal No. 763**

A request of BKM Properties, LLC of 179 Old Saratoga Road, Gansevoort, NY 12831 for a Special Use Permit pursuant to Chapter 149, Article V, Section 149-29 and the Schedule of Regulations in a C-1 General Commercial District. Applicant is requesting to construct a 60' x 100' building to accommodate several tenants engaging in the sale of automotive accessories and boutique automotive sales. This property is located at 13oute 9, Gansevoort, NY 12831 and is designated as 77.1-1-21 on the Town Assessment Map.

**Appeal No. 764**

A request of BKM Properties, LLC of 179 Old Saratoga Road, Gansevoort, NY 12831 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 and Town law 276-b. Applicant is requesting to construct a 60' x 100' building that will not meet the required front yard setback in a C-1, General Commercial District. This property is located at 1330 Route 9, Gansevoort, NY 12831 and is designated as 77.1-1-21 on the Town Assessment Map.

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Mr. Elms explained that there was some debate at the last meeting about having multiple uses on the same site. Town's Attorney and Assistant Code Enforcement have agreed that interpretation that only one business is allowed per acre is incorrect. However, if Mr. Mackenzie gets the requested Special Use Permit, it locks him into the principal use for Automobile Sales, Service & Fueling which is not an accurate label for what he hopes to do.

Mr. Mackenzie: I will have more than cars, and it is not a used car lot. I've already gotten in trouble once for selling something.

Mr. Elms: If we give you the setback variance and you go to the Planning Board, you could talk to them about the Route 9 corridor, in my opinion, it has a lot of cars for sale. If you went to them and you want to allow two spaces for one or two cars for sale, and they might consider that. But I can't say they would or wouldn't. But if we give you the Use Permit, you are going to be locked into something you are really not doing. I think it helps the ZBA that this determination has been made, it's a beautiful building you want to build, it will be no problem for anyone and an improvement. I just know that what the Code says is if we give you that, you are locked into it.

Mr. Mackenzie: If we use it as a display area, and don't sell, it will still draw people.

Atty. Wright: The principal use that Ben is suggesting your project fits into is "business that services highway traffic." You could pitch that you primarily service highway traffic, but you would like to have one or two vehicles for sale. They could condition your site plan approval on one or two cars, knowing that you sell truck bed liners, stereos, etc...making this an accessory business. We don't know that they would go along with that. You might get one or two. If you go with that determination that classifies you as a business that primarily services highway traffic, you don't need anything from this Board. You wouldn't need setback variances or any other variance, you can go directly to Site Plan Review. You can still do a barber shop, too.

Mr. Mackenzie: I can still do the retail sales, too?

Mr. Marcantonio: Yes, the Special Use Permit limits you but this doesn't.

Atty. Wright: If you get to the Planning Board, and it is not in favor of what we are talking about tonight, you could withdraw and come back for that Special Use Permit if you decide that the display of vehicles is paramount. You could come back here for it if you try the Planning Board under this broader canopy and they don't allow it.

Mr. Marcantonio: I know you wanted as much you as you could, and the Special Use Permit really limits you.

Mr. Mackenzie: It puts me in a category that I don't want.

Mr. Elms: We want to see you in there and happy. I think and hope they would entertain what you are talking about, it's not an unreasonable request and I think it's an asset to the community. The Town's attitude has been that you can't have multiple businesses in one, and we've cleared it up, so take advantage of it. You have opportunities before you.

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Mr. Mackenzie: I guess I will do that.

Mr. Elms: Please state that you want to withdraw.

Atty. Wright: It's up to the Board and the Applicant. You could withdraw or just table it in case he does decide to come back. He can send a note to withdraw if he is successful at Planning Board.

Mr. Elms motioned to adjourn the meeting and Mr. England seconded. Meeting adjourned at 7:19p.m.

Respectfully submitted,

Tricia S. Andrews