

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 22nd day of February, 2017 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Kevin Elms, Acting Chair

Scott Fitzsimmons

John England

ZONING BOARD MEMBERS ABSENT: Richard Kubis, Chair; Gerhard Endal

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

The Board did not review the minutes of the December 21, 2016 meeting as there was not quorum of members present at the December meeting. As new Chairman Richard Kubis was not present, former Vice-Chair Kevin Elms volunteered as Acting Chair for this evening. Mr. Fitzsimmons and Mr. England agreed.

Appeal No. 787

A request of Donald J. Vittengl of 74 William Street, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59(A). Applicant is requesting to construct a self-storage unit to an existing facility that will not meet the required front yard setback. This property is located on the corner of Route 32 and William St. in a C-1, General Commercial Zoning District and is designated as 50-1-3.11 on the Town Assessment Map.

Mr. Martin clarified that this is a large building and not a single unit. This site has been heard in the past. Three previous actions were Area Variances, the last one being 2008, and a Site Plan on the residence. Mr. Vittengl has modified the request since it was seen before.

Mr. Vittengl was present with his lawyer Mark Delsignore.

The previous application was too close to a different property line. Mr. Elms asked whether the berm was ever built between this and Cardinale's property. It was not, but Mr. Vittengl said that there's a 4-foot drop there, which makes a natural berm. The

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Berm on the Gansevoort Road side would be left in place and the building would not have doors on the east side, so it will look the same as it does now, fence, berm and roof of building. There is a cemetery across the street. In terms of changes, since the Town has grown rapidly there has been great demand for storage units. It would have virtually no impact on traffic, would add 21 doors. A car or two a day would be added as most people only visit their storage unit 2-3 times a year.

Mr. Martin pointed out that this is 210ft where the previous application was 270ft. It will be parallel to the previous ones, parking and access will not change. In 2005, the building on the hardware store end was approved. Even then, the Board felt that 80 ft is excessive because this is not a warehouse of the size envisioned by the guidelines, so general commercial guidelines of 15ft should be applied which would not require a Variance.

Mr. Fitzsimmons asked whether a building was requested and not built on the back, but it was built and is now the one closest to the hardware store. The issue then had to do with the corner lot having two fronts.

Mr. Vittengl pointed out that the one on the hardware store side and the proposed unit are different because no doors on 32. Existing buffers should be sufficient.

Fitzsimmons asked and there would be 10-15 ft. between the back of the proposed building and the fence.

Mr. Elms asked why 80 ft. were mentioned and Atty. Delsignore clarified by reading from the Code, warehouse for enclosed storage of goods and materials, side setbacks are 80 ft.

Last time, it was established that this is not a warehouse per the intent of the Code. Mr. Martin said that the lack of access on the berm side is the distinguishing feature.

Mr. Elms noted that the place is always kept clean. Mr. Martin noted that the number of apartments in Town makes the increase in storage units necessary.

Mr. Fitzsimmons asked and the buildings are all 21 ft. apart, and the new one will be as well.

Mr. England asked about the drainage basins, and Mr. Vittengl said that he would add at least 2 drywells, the ones on the drawing are all existing since it was paved this summer.

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Mr. Elms mentioned to the applicant that since there are only three Board members present, he has the option of tabling and waiting for a full Board to vote, since approval would have to be unanimous.

Mr. England said he felt it was excessive, but Mr. Elms argued that the warehouse standards didn't apply here. It is 46ft of relief. Atty. Delsignore pointed out that the Board said exactly that in precedent. Mr. England asked whether the berm had to stay there, as he was concerned that it would be taken out, and it is on the Site Plan.

Mr. Martin explained that this is the first step in the three-step process because he has to get a Special Permit from the Board as well as go to Site Plan Review at the Planning Board. Applicants agreed to have that stipulation on any and all paperwork.

Mr. Martin recommended that the Board ask for it to be placed on the plat.

Mr. Fitzsimmons said that since it was granted once before he did not have an issue with it. Mr. England said that keeping the berm in place was his only concern.

Acting Chairman opened the public hearing at 7:23 pm, heard comment from reed Antis of the Planning Board, and closed the public hearing at 7:27. Mr. Antis pointed out that boat and trailer storage should be addressed as it has come up.

Mr. Vittengl stated that his original plat says he can't have it, and he has no intention of changing it, but it is an eyesore so he has no interest in changing it.

Mr. Martin recommended that this also be restated on the new plat.

Mr. Vittengl was asked about a change in the fence and explained that the State had installed a drywell on the property last year because there was some localized flooding that needed to be addressed. Mr. England reminded the applicant that roof overhangs are included in the setbacks.

Mr. Fitzsimmons motioned to grant appeal No. 787 for an Area Variance for 47ft. relief from the required 80 ft. setback with the stipulation a note be placed on the plan stating that there be no changes to the existing berm and stating that there is no outside storage of boats, etc. allowed. Mr. Elms seconded the motion.

The Board reviewed the requirements for granting an Area Variance and found as follows:

1. That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant, especially as this property has two

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fronts and does not meet the expected conditions of a 'warehouse'.

2. How substantial the requested variance is in relation to the requirements, that it appears to be substantial but that this property had already had a similar variance due to conditions stated in 1.
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.
4. That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.
5. That the variance would not be materially detrimental to the purpose of this chapter or to property in the district in which the property is located or otherwise conflict with the description or purpose of the district or the objectives of any plan or policy of the town and that the variance requested is the minimum variance which would alleviate the specific practical difficulty found by the Zoning Board of Appeals to affect the applicant.

Roll call vote resulted as follows: Mr. England, Yes; Mr. Fitzsimmons, Yes; Mr. Elms, Yes.

Appeal No. 788

A request of Christine Cerro of 16 Marion Avenue, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59(A). Applicant is requesting to construct a second principal dwelling unit on an existing lot. This lot is located at 198 Burt Road and is approximately 13.17 acres in an R-5, Agricultural, One and Two Family Residential Zoning District and is designated as 64-1-17.12 on the Town Assessment Map.

The proposed structure would utilize the same driveway. There is a possibility of subdividing in the future. Ms. Cerro represented herself and was accompanied by her mother.

Mr. Elms asked about the issues. He thought that applicants always had to subdivide. Mr. Martin said that there is enough property for frontage and lot size for a conforming subdivision, so Mr. Elms asked Ms. Cerro why she didn't want to do that. He explained that she wouldn't have to divide the whole thing, just carve out the lot she wants to develop now. Mr. Elms explained that the house couldn't be sellable in the future if it

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was on the same lot as another. As far as Town Code is concerned it makes more sense for her to come to the Board for a subdivision.

Ms. Cerro would live in the house and take care of her mother. She asked how this would affect the taxes. Mr. Elms said that it might but the Board can't know. Mr. Martin said that the assessment would also increase with two improvements on the lot, and that Peggy Jenkins, Town Assessor would be able to provide information on what the implications of subdividing would be, including possibly losing the Enhanced STAR exemption. Mr. Martin said that a boundary survey would be required to strike a new line for the division, and that was a cost to anticipate. Mr. England pointed out that if the houses used the same driveway, an easement for access would have to be written into the deed. Mr. Martin said that if the lot they decide to create meets all the requirements and the land has not already been subdivided in the last 7 years, he can do the subdivision administratively and they won't have to come back before the Board. Mr. Martin encouraged the applicant to come in and see him if she had any questions. Mr. Elms offered to table the application so that she could still come back next month if she stays with her original plan. Ms. Cerro agreed to table the Appeal.

Motion to table was made by Mr. Elms and seconded by Mr. England. Motion passed unanimously.

A discussion of the Comprehensive Plan followed as Mr. Martin was asked how the potential sewer plan would affect the Plan.

Mr. Elms motioned to adjourn the meeting at 7:54pm and Mr. England seconded. All in favor no roll call.

Respectfully submitted,

Tricia S. Andrews