

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 October, 2018 at 7:00 PM.

**ZONING BOARD MEMBERS PRESENT**

Gerhard Endal, Chair

John England

Kevin Elms

Matthew Manning

Not present: Scott Fitzsimmons

The Board reviewed the minutes of the September 27, 2018 meeting. The incorrect date on the header was changed, and on page 1 Mr. Martin said 'the proposed action does not preclude access to the back yard.' Motion to approve with corrections was made by Mr. Elms and seconded by Mr. Endal. All in favor, motion carries with no roll call and Mr. England abstaining.

**APPEAL NO. 811**

A request of Christopher Music of 71 Harrison Avenue, South Glens Falls, NY 12803 for a Special Use Permit pursuant to Chapter 149, Article V, and the Schedule of Regulations in an R-5, One and Two Family Residential and Agricultural District. The applicant is proposing to open a camp and/or recreational vehicle park, with bed and breakfast lodgings located at 342 and 352 Gansevoort Road, Gansevoort, NY 12831 and designated as 78.1-3.2 and 78.-1-3.12 on the Town Assessment Map.

Mr. Music has recently brought a park model RV with log cabin siding to his farm and would like to use it as an Airbnb location for guests.

Chairman Endal asked why the explanation says that he wants an RV Park or campground and Mr. Martin explained that that's where it fits according to the Code and would then require a Special Use Permit, and that's why he's here. He already has a small farm there.

Mr. Music explained that it's a really nice cabin and it's only considered an RV because it is on wheels.

Mr. Martin explained it is transient-stay lodging and it is a recreational vehicle.

Mr. Elms asked about the future plans he talks about in his application.

Mr. Music explained that other sites not yet built would be more primitive and low impact, such as a lean-to or tent site. His application mentions 3-4 non-permanent structures. More or less a lean-to like at state camp sites but with a creative feel to it, more luxurious.

Mr. Martin had provided topography and other maps. There is a wetland and a 100 ft buffer around the

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wetland that should be noted. He feels that there should be a DEC permit or a statement of how they feel about activity in that area. Mr. Music bought this last year from someone who had previously subdivided it for housing, so he pointed out they were already approved for housing. The two lots are 15 acres each and he has another 40 acres behind these two. The one in question is to the North. He also has his personal RV there now, which would be an additional revenue source until this one gets up and going.

Chairman Endal asked Mr. Martin if he had questions and he indicated that he does. Mr. Martin believes it boils down to two things. This may appear to be an innocuous use, but this is a somewhat marginal site and this type of use requires a lot of shared information. He would like to see a survey, with a boundary of the wetland in relationship to the planned uses, the nature of the disturbance and whether it is permitted. There is a lot of Site Planning to be done here and while it would be nice to keep the costs down, information is needed.

Mr. Elms expressed concern about the entrance, which Mr. Martin echoed as it is in a curve, and finally there are concerns about the character of the neighborhood as it is in the middle of an agricultural district with residential homes as well.

Mr. Endal asked Mr. Martin to read into the record two statements from neighbors that will be filed.

Marie Nass of 200 Sweet Road was opposed. Barbara Holcomb of Gansevoort Road was also opposed.

Chairman Endal said that this is an allowed use, by Special Permit, so that it's already established that it is allowed because it fits the Zoning. The Permit process does cause it to be reviewed more carefully.

One of Chairman Endal's concerns is that the applicant wants to start small, but without a clear plan for the whole thing it is difficult to approve an idea. Mr. Manning agreed and stated that the maps they were given don't match in shape or size. He is also concerned about waste, etc. as those amenities aren't planned for. How many people are going to be on-site, there is no site plan telling what his idea is.

Mr. Music explained that he just answered the questions on the application to the best of his ability.

He just received the questions from Mr. Martin tonight.

Mr. Music thought he could revise the plan just for the RV and leave the rest out of the application for now.

Mr. Martin reiterated that there are technical questions. He thought that when the plan was formalized it ought to be referred to the Planning Board because they are more experienced in dealing with these things.

Chairman Endal wasn't sure they could approve it with the single RV because then it's not a park, but Mr. Martin thought that since it's on wheels and is transient use, it still fits. Mr. Martin wanted the applicant to address power, septic, water lines, maintenance, and maybe the Board should start an annual or bi-annual renewal to make sure it's being kept up. Garbage removal, trash collection should be addressed.

Chairman Endal wasn't sure one RV was worth all the work that would be necessary.

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Mr. Music disagrees, stating that this project is really simple. National Grid will run electricity from the road, and he can run water from his existing well.

Mr. Manning pointed out that more detail is needed. What amperage would the power be? The location of access will be a big deal- Sweet Road is closed nearby because that curve is bad. There is a big process to adding a curb cut on Route 32, you don't just throw a road in, the County or State has to be involved.

Mr. Martin asked him to look at the review criteria in the Code as reference and in the staff notes he was given, and it would give him insight into what's required, and to also look at the Site Plan Review requirements, which are technically oriented.

Mr. Music asked about the traffic concerns and Mr. Endal said it is one of the main concerns. Mr. Music said that people have been coming and going for horseback riding, etc, for years and this is only a small change.

Mr. Martin said that even if he uses his established driveway, it was built for a farm not for daily trips in and out. DOT needs to be asked to review the change of use. They may think it's fine, but Mr. Martin doesn't know that. Mr. Manning pointed out that the turn radius is not good if you are towing a trailer. Mr. Music said he has horse trailers coming in and out all the time and doesn't believe it's a problem, but he doesn't plan to have RVs come in and out.

Mr. Martin asked whether there would be a landscaping plan. The issue of character of the neighborhood would be a big one.

Mr. Music said he intends it to blend in and even be in the woods, so it would be very low impact.

The Chairman opened the public hearing.

Dan Hutchins of Gansevoort Road stated he found out about this two hours ago and he's interested in it and also disappointed that he had no mailing, nothing, just a citizen told him about it. Mr. Martin explained that the mailing goes to property owners within 500 feet, but the lots are so large that not many are on the list.

Mr. Hutchins wants the Town to open that up to other people. This is very vague and he isn't even sure whether it's a log cabin or a lean-to. This is not what we want in our neighborhood. The applicant has a lot of hurdles, he needs to fine tune his plan so they can all know what to expect, as this is just babble.

Can't have that. More people up and down the road are going to be interested.

Chairman Endal said that Mr. Hutchins should feel free to invite others, but the town notifies who it has to.

Mr. Martin offered to do email notifications if neighbors wanted to be kept informed.

Mr. Hutchins wants to be sure that Mr. Music is held to whatever he gets approved.

Mr. Elms explained that is why they want the plan to be more detailed.

Mr. Hutchins asked if he was developing all 30 acres. Mr. Music answered that it is one RV on 15 acres.

Mr. Martin explained that he has already operated his Airbnb and is here because of an enforcement

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action.

John McAllister 363 Gansevoort Road stated that it is a swamp back there and Mr. Music was sold a bill of goods. RV park, lean to or tent, there is no way an infrastructure plan can be in place to remove waste, it's too easy to throw it out in the woods. His big concern is his property value. He lives across the street. His plans for his garage addition were more detailed than what's being presented. It's all swamp. An RV park and tenting back there will draw in summertime campers who will smoke pot, drink and be noisy at 2 am. Mr. McAllister has been denied for his own chicken farm and other ideas. This would ruin property values in the area.

Resident of 327 Gansevoort Road, Ron Zimmerman stated that Zoning and Planning would be interested in what's going on there today, and how that will dovetail with the plan. There are other RV's on the property today; two roadside and one in the woods. He would like the Board to consider the whole area cleared and debris left behind from that.

Adele Kurtz who lives in the Town and has friends living in that area asked are they all R-5? They are. Her great concern is that a camp or RV park in the Town Code has four or more campsites or vehicles. He only wants one, so he doesn't need a Special Use Permit. If he has a Site plan for 4 or more it falls into that category, but he just said he only wants one. There is a cottage on there now that is not mobile. AirBNB is really hot right now, but it is not regulated. It's not appropriate in an Ag District or a neighborhood. He sounds caught between a leased property and an R-5 district. The Board should consider whether this application is even appropriate.

Mr. Martin explained that in the form it came to him it did have four, but that it might not meet the definition if he asks for only one site.

Mr. Music asked what he needs to do if he only does 1.

Mr. Martin explained that the Zoning doesn't allow an RV unit parked in a yard for transient use. No one can park a camper and live in it on their lot.

So Mr. Music asked if he has to make it 4 to do it.

Mr. Martin explained that he could apply for a Use Variance, which is a different standard that might be difficult to meet.

Chairman Endal explained that to get a Use Variance, you have to have a unique property that can't be used any other way. And Mr. England pointed out that all the other work he was asked to do would still have to be done.

Chairman asked him if he wanted to table this.

Mr. Music agreed and said he would get in touch with a surveyor.

Mr. Martin explained that if he has 4 sites they can continue with Special Use, if he does less it's a different application.

Mr. Music wants to keep it low impact and he disagrees with the comment that his property is a swamp,

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there is a nice stream. The survey would show that. But if it were true, did that make it unique and give him that flexibility to get the Use Variance?

Chairman Endal told him it's a very difficult test.

Motion to table for two months was made by Mr. Elms and seconded by Mr. England. If the meeting stays on Dec 26<sup>th</sup> his submission date would be Dec 12<sup>th</sup>, and he can submit a progress letter if he's not ready.

The Board then discussed that the December meeting would need to be move to the 19<sup>th</sup>, so the submission date would be the 5<sup>th</sup>.

### **Appeal No. 812**

A request of Samantha Richardson of 40 Connecticut Ave., Queensbury, NY 12804 for a Special Use Permit pursuant to Chapter 140, Article V and the Schedule of Regulations for an R-2, One and Two Family Residential District. Applicant is proposing to open a Daycare Center at property located at 195 Fort Edward Road and owned by Valbrook Holdings. This property is designated as 50.-2-68 on the Town Assessment Map.

Tabitha Jarvis presented. The building currently is offices. Samantha Richardson is her daughter. This will go to Planning Board next month, it's been surveyed.

Mr. Martin stated that the State license has to be in place. The State monitors the staff levels and other requirements per the age and number of children.

George Denny, Controller at Valbrook Holdings was present, and stated that they will continue to own it. V & H occupies the building to the north. There was a church meeting there. They couldn't maintain it. It was used as an office space after that. There is an instructional space, which was a community room where the carpenter's union did classes. Daycare is allowed in the Zoning. They will also have Site Plan review and they will go before the State. They can't get their State license until after all that is done.

The Board's approval is not predicated in the size of the daycare. Valbrook will work with the Town to do whatever they need to get this done. They did designate Ms. Jarvis and Ms. Richardson as agent so they could speak with the Town.

They are planning for 15-30 kids based on square footage. They are adding doors, fencing. The building itself will not change. The fenced area will not go beyond the footprint. It is out of the traffic pattern and is on the South side.

There is a designated egress because of the speed and sight lines on that area, it is a one-way. Owners will take it upon themselves to maintain the sight line for the railroad bed. School buses turn around in there all the time.

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Mr. Elms asked Are they sharing with D & H, and they are. They have 5 employees and have equipment behind a fence. They will have more than adequate parking.

The daycare will have 6 staff with the 15-30 kids.

Mr. Manning felt the use was appropriate to the neighborhood and that daycare hours were usually daytime. It will be 7-9 am drop off and 4:30-5:30 pickup. No nights or evening hours.

Chairman Endal pointed out it's a busy road.

They plan to inform the customers about the traffic plan.

Mr. Elms recommended approaching the Town for signage.

Mr. Martin asked whether the septic could accommodate, and Mr. Denny said they were confident.

Mr. Elms advised the State will want good detail on that. It would have been addressed when the Union increased it. They do not have to install sprinklers because they are adding doors.

Mr. Martin recommended that the Board defer SEQR to the Planning Board. It is an unlisted action.

Motion was made by Mr. Manning to approve Appeal No 812 for a Special Use Permit to operate a Daycare Center at 195 Fort Edward Road on the condition that one-way access traffic pattern be maintained and a play area fence be added. The establishment must comply with all State regulations, and the Zoning Board will defer Lead Agency Status for SEQR to the Planning Board. Mr. England seconded.

Roll call vote proceeded as follows: Mr. Manning, Yes; Mr. England, Yes; Mr. Elms, Yes; Chairman Endal, Yes. All in favor, motion carried.

The meeting was adjourned at 8:20pm,

Respectfully submitted,

Tricia S. Andrews