

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 26th day of February, 2020 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Kevin Elms
Scott Fitzsimmons
Justin Farrell
Matthew Manning

Also present: Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary
Board Members absent: Gerhard Endal, Chair

Chairman Endal called the meeting to order at 7:01 pm. The Board reviewed the minutes of July, September and October 2019. Mr. Fitzsimmons motioned to approve the minutes of the July and October meetings as written and Mr. Farrell seconded. All in favor, motion carried. The September minutes were not approved due to lack of members who were present at that meeting.

APPEAL NO. 822

A request of Stewarts Shops Corporation of PO Box 435, Saratoga Springs, NY 12866 for an Area Variance pursuant to Chapter 149, Article X, and the Schedule of Regulations for the C-1, General Commercial District. The applicant is proposing to construct a new convenience store with gasoline sales with a canopy over the gas pumps at 1311 Route 9, South Glens Falls, NY 12803 and is designated as 77.1-1-61 on the Town Real Property Tax Map. The edge of the gas canopy will not meet the required front setback of 80 feet for the gas canopy in the C-1 District.

Chris Potter appeared representing Stewart's. The Area Variance has to be addressed first. This will be three variances, one for each canopy. This is a corner lot, front yard is 80 ft and side yard 15ft. It has two front yards and two sides. The front canopies will be 52 feet and 53 ft away and 5 ft setback is requested for the diesel station canopy on the south.

Mr. Elms stated that he likes the way they are directing traffic away from the intersection and believes it will be a great improvement. This is a 3,975 sq ft convenience store, currently 3,600

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sq ft. They are proposing two canopies for regular gas and one small diesel station, parking, an outdoor dining patio, access doors on the sides as well as the front, and additional employee parking in rear. They are adding green space, currently 2% is green, going up to 21%. A landscaping plan will be presented at a later date. Currently it is a sea of blacktop, this will be an improvement.

Mr. Elms asked and the 30 ft entrance on Route 9 will be in and out. It is subject to DOT approval.

Mr. Farrell asked whether hi-flow diesel is for semis and whether there is space for that, and Mr. Potter stated that there is. Mr. Martin advised him that Planning will want to see that drawn in.

Mr. Elms expressed concern about the lighting on the canopies, and a plan will be provided to the Planning Board. They are LED, fully recessed. They also have pole lighting. Mr. Martin asked him to consider the lights used at the Health Center next door in order to have consistency. Mr. Potter asked whether those are LEDs, and told that they are, he stated that they could match the color of light, but that they stock their own fixtures and don't want to buy different ones. Mr. Martin thought that would be acceptable. He was concerned about lights being so bright that drivers can't see. The lighting plan will show foot candles over the entire site.

They will be doing new underground fuel storage tanks, and the above ground diesel tank went away today.

Mr. Fitzsimmons asked whether the Board was comfortable with the fact that the Variance is greater than 50 percent. The current canopy is closer than this is proposed to be, and there had been no complaints about it. Mr. Martin advised the applicant that the Planning Board will want landscaping.

The canopy is 17ft tall.

Mr. Manning thought that since they are going further away than what is already there, it should be an improvement. He doesn't have a problem with the side yard setback, and the one on the Route 9 side is just nicer than it has been.

The net retail space is about 2,000 sq ft. They have 38 parking spaces planned.

Mr. Fitzsimmons asked whether there is enough room for two-way traffic at the back, and Mr. Potter says that there are 30 ft. The requirement is 20 ft and 24 ft is preferred, according to Mr.

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Martin.

SEQR review was not required because this is an Area Variance

Mr. Manning thought that if the requirements were strictly applied, they would have to eliminate half of their gas pumps. Mr. Elms pointed out that it is a canopy, not a solid wall, so it doesn't impair sight.

Mr. Martin also recommended applying for the driveway access permit as soon as possible.

Mr. Potter thought they could file this week, and DOT has been responding quickly.

Mr. Elms closed the public hearing at 7:23pm. No correspondence was received regarding this appeal.

The meeting was adjourned at 7:20pm.

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, including cutting the number of fuel pumps in half;
2. That the variance is substantial, but that this is a canopy rather than a solid structure impeding sight lines, and replaces a canopy that is even less compliant and has been in place since 2006;
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue and is made more difficult because it is a corner lot;
4. That granting the variance would not cause substantial change in the character of the neighborhood or a detriment to the adjoining properties, as there is already a canopy there;
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. The changes are considered an improvement to the existing lot.

Mr. Fitzsimmons motioned to grant Appeal No. 822 for an Area Variance granting 65% or 52 ft. relief from the required 80 ft setback on the Route 9 front, 66% or 53 ft relief from the required 80 ft. setback on the Spier Falls Road front, and 33% or 5 ft relief from the required side yard

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setback. Mr. Manning seconded. Roll call vote resulted as follows: Mr. Farrell, Yes; Mr. Fitzsimmons, Yes; Mr. Manning, Yes; Mr. Elms, Yes.

Appeal No. 823

A request of Stewarts Shops Corporation of PO Box 435, Saratoga Springs, NY 12866 for a Special Use Permit pursuant to Chapter 149, Article V, and the Schedule of Regulations for the C-1, General Commercial District. The applicant is proposing the to construct a new convenience store with sales of fuel. The sale of fuel in the C-1 District is subject to approval of a Special Use Permit from the Zoning Board of Appeals. The property from which fuel sales will occur is located at 1311 Route 9, South Glens Falls, NY 12803 and is designated as 77.1-1-61 on the Town Real Property Tax Map.

Mr. Martin explained to the Board that the convenience store is allowed, this Permit application is only for fueling operations.

Mr. Potter explained that fueling is already sold there. They are increasing the number of pumps slightly. They are decreasing the diesel. The septic design hasn't been done yet. They will install connections, but interim septic. Mr. Elms asked if there is room to do that and Mr. Potter said that they expect to have just enough room for that and stormwater. Mr. Martin asked Mr. Potter to talk to the water department. They plan to use a tap on Spier Falls road that is existing. Mr. Martin stated that Mr. Fish has a preference for Muller valves and a certain fire hydrant.

They are essentially adding two fuel stations compared to the number that are there now.

Mr. Martin asked what their schedule is for refilling the gas. It is usually every 3-4 days, but they are not a set schedule and it's any time of day. Mr. Potter explained that it will block traffic for a few minutes in one space. But tractor trailers will be going through to fuel up anyway.

Mr. Farrell asked whether the fuel equipment has to meet State mandated standards and they do.

They get a permit for the tanks from DEC. Mr. Elms explained that there are inspections of gauges, alarms, etc for underground fuel tanks.

There will be oil separators on all of the drains. Those are checked, and if there is oil on them it is pumped off. Mr. Potter stated that they expect to find some contamination on the site that they will have to remedy.

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The public hearing was closed at 7:36. Mr. Manning motioned to grant Appeal No. 823 for the sale of fuel and Mr. Elms seconded. Roll call vote resulted as follows: Mr. Farrell, Yes; Mr. Fitzsimmons, Yes; Mr. Manning, Yes; Mr. Elms, Yes.

Mr. Martin explained that the Planning Board will want a public hearing, so that will be at least a two-meeting process.

APPEAL NO. 821

A request of William Smith of 13 Chestnut Road, Lake George, NY 12845 for a Special Use Permit pursuant to Chapter 149, Article V, and the Schedule of Regulations for the C-1, General Commercial District. The applicant is proposing the storage of automobiles that are stored on site and moved to another location for sale. The storage of automobiles in the C-1 District is subject to approval of a Special Use Permit from the Zoning Board of Appeals. The property where the automobiles will be stored is at 1714-1718 Route 9, South Glens Falls, NY 12803 and is designated as 49.44-1-17 on the Town Real Property Tax Map.

Mr. Smith explained these are wholesale cars that Carriage Traders has purchased, and they are not for sale to individuals. The wholesalers buy them from there. The cars would leave on a truck. It all happens online. There will be no need for a sign or lighting, it is just a parking lot. These had previously been stored on Carriage Traders' lot, but they were congested. When he owned Mr. Bills he had kept it for extra parking. He has had this lot on the market. Mr. Bills had rented it.

Mr. Martin explained that the Town has recently dealt with car sales that became salvage, boats, RVs, etc. Would Mr. Smith mind if they specified that this is cars and trucks only?

Mr. Smith said he would not. Mr. Elms agreed that would be necessary.

Mr. Farrell expressed that he doesn't like the way that the lot looks now.

Mr. Manning thought that this is a main intersection in Town and he doesn't think this is a good use of the area. Would they make any improvements to the lot?

Mr. Smith said that he doesn't expect to make any improvements. He was given a permit for sheds that was not a problem.

Mr. Elms thought that the cars stored there make it look like Mr. Bills is busy.

Mr. Farrell thought that it is fair to allow Mr. Smith to use the lot to make some money. He

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wished that it could be dressed up somewhat.

Mr. Smith pointed out that there are junk cars right around the corner on William Street, and these are nice cars. Carriage Traders is not a fly-by-night operation.

Mr. Farrell thought that Carriage Traders is just bringing in more cars, and wishes they could improve the spot.

Mr. Manning expressed concern that they are adding traffic to an already busy intersection. He asked whether there had been a traffic study. There has not.

Mr. Martin was asked and said that if this is granted, it will go to Site Plan Review. They could address the looks of the site.

Mr. Elms stated that there is not going to be traffic, it is one truck going in and out.

Mr. Farrell stated that looking at the Code, there is no reason to deny it, legally.

Mr. Smith stated that he understands curb appeal.

Mr. Manning stated that this is the Route 9 corridor and to think about whether this fits with the master plan, as that extends to this area.

Mr. Martin stated that the Zoning re-write has just begun and will take a year.

Mr. Smith has a plan by Mr. Rourke for how many cars fit there and its about 100 cars. Mr. Smith stated that Carriage Traders would like to buy this property down the road, but he can mention it to them now that the Town would like it improved.

No sign, ni lights, cars and pickups only, no cars for salvage, landscape plan, 100 car limit,

Mr. Fitzsimmons thought that it is beneficial to move this out of the busy area that Carriage Traders already uses. Most of the time trucks probably go South, away from the intersection towards the Northway. They used to load in the bowling alley intersection.

Mr. Manning disagreed. At the bowling alley, loading was away from the door, now it is right on the road. He didn't think he had enough information to make a decision that might impact traffic.

No correspondence was received regarding this appeal.

Mr. Elms didn't think that this was a business that would qualify for a traffic study. One truck four times a day is not the same as cars going in and out all the time.

Mr. Farrell wasn't sure there was enough information, and stated that he had heard negative feedback. What if everyone wants to make an extra buck opening up their space for used car lots?

Mr. Smith pointed out that this is a C-1 zone. This is a quieter use that a restaurant with a bar and lights. He asked what would they rather have. Mr. Farrell stated he would prefer the

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restaurant.

Mr. Fitzsimmons mentioned the restaurant across the street. If that opened up again, and Mr. Bills was open, it would be a highly trafficked road. That is to be understood, especially with the sewer coming through. Mr. Manning said he could be satisfied with some restrictions, but that he still thinks it is a detriment to the neighborhood. A lot full of cars is better than a vacant one. the public hearing was closed at 8:04 pm.

Mr. Elms explained to Mr. Smith that there is not a full Board tonight, and that he is entitled to table it if he would like to. He would need to have three yes votes.

Mr. Smith elected to table it and said that he would be a lawyer and the representative from Carriage Traders with him.

Mr. Martin stated it would be helpful to be clear about what the remaining concerns are, so that the applicant knows what he can do to address it.

Mr. Elms thought this could be looked at as an expansion of an existing business that is a decent looking, long standing business in the Town. Mr. Farrell added that if he owned that lot he would want to do the same thing, he just wants to be on the record that it doesn't look nice or add to the neighborhood.

Mr. Manning listed the concerns again and added a possible restriction on the number of deliveries, pickups of cars. No sign, no lights, cars and pickups only, no cars for salvage, landscape plan or improvements, 100 car limit, limits on deliveries or a schedule for deliveries. As long as they are not for salvage, there are no DEC concerns. Mr. Elms thought a barrier or curbing could be used to limit the entrance and push it further from the intersection, as it is wide open all the way across now.

Mr. Martin pointed out that the Board and the applicant already agree on most of the points, so a landscape plan and the schedule are the important items, possibly resurfacing. There is probably no need to go to the expense of a lawyer.

Mr. Smith explained some of his concerns with the lack of sewer, which will not come there. There are not many alternative uses for this lot, and there isn't much business south of it, only north. There was discussion of putting the taller trucks, etc in the back and sorting the cars a little so that the site looks neater. Mr. Smith pointed out there are houses behind it.

Motion to table the Appeal until the March 25th meeting of the Zoning Board at the applicant's request was made by Mr. Fitzsimmons and seconded by Mr. Manning

Mr. Martin informed Mr. Smith that the submission deadline is March 11th in case he would like to submit a landscape plan, optional, to support his current application.

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The Acting Chair adjourned the meeting at 8:20pm.

Respectfully Submitted,

Tricia S. Andrews