

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 27th day of May, 2020 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Gerhard Endal, Chair

Kevin Elms

Scott Fitzsimmons

Justin Farrell

Matthew Manning

Also present: Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary
Board Members absent: None

Chairman Endal called the meeting to order at 7:01 pm. The Board reviewed the minutes of the September 2019 meeting. Motion was made to approve the minutes of the September 2019 meeting as written. All in favor, motion carried. The Board reviewed the minutes of the February 26, 2020 meeting. Motion was made to approve the minutes of the February 2020 meeting as written. All in favor, motion carried.

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 was present over the phone along with Mike Romeo, who represents Carriage Traders who will be using and eventually purchasing the property. Mr. Smith stated that at the last meeting there were two Board members who were fine with it and only one who was not, and no members of the public had expressed opposition at that meeting.

Mr. Martin reminded the Board that the list of conditions discussed at the last meeting were that there be no sign no writing, no heavy duty trucks or tandem trucks, things of that nature, heavy equipment, or cars for salvage. a 100 car limit was discussed as well as a schedule of when cars

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would be brought there and taken away as there was a traffic concern. Then there was some discussion of the condition of the lot itself. Not necessarily paving the lot but dressing it up to some degree.

Mr. Smith stated that Mike had agreed to put gravel down to enhance the moving of vehicles to keep down the grass. The cars are kept in rows. He doesn't think they look bad.

Mr. Elms stated that he goes by there several times a day and doesn't think they look great. He does not think it is an eyesore. He doesn't think it is a problem.

Chairman Endal asked for a description of the turnover of the cars, whether it is several times a day, weekly, etc.

Mr. Smith stated that they are turned over daily, but it depends on when the customers come to get them. Nothing would be there longer than 30 days.

Chairman Endal stated that he thought there should be a limit, so that if a car isn't being sold, it should be removed at some point.

Mr. Romeo stated something about the online auction and being sold.

Mr. Elms stated his concern that there would be cars sitting with flat tires and looking bad.

Mr. Romeo said that they don't have cars there that are over 60 days old. Mr. Elms agreed that they have always run a nice looking business, and he would like to assume that they would do the same thing with this site.

Mr. Romeo stated that it is usually a three car hauler that comes to pick the cars up, and they are on site for about 20 minutes to half an hour and they park between the rows. There is no loading on the road. He stated that they are sticklers about that. They also load behind the bowling alley.

Mr. Elms asked what can be done with the entrances to make sure that there is an established traffic pattern. Mr. Romeo stated that there are already dividers that the Town put there some years ago.

Mr. Manning asked and they have no plans for beautification or a sign and Mr. Smith agreed that is correct because this is a transport lot.

Mr. Smith pointed out that if you take a right at that corner you have smashed up cars and everything else sitting there and the Town has not said anything about that. If an entrance and exit will appease the Board he will do it, but it doesn't make sense. There are no customers over there so there is no reason to dress it up with aesthetics. It was a vacant lot before and had sheds, and there were no issues when he put the sheds in there.

Mr. Manning stated that sheds are put on the grass.

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Mr. Romeo stated that it wouldn't look a mess. They are getting ready to do a quarter million dollar project on their main lot, they are going to put all stone down, it's gonna look sharp, and if the Board has a problem they know where to find him.

Mr. Manning stated that he is not concerned with Mr. Romeo but with this lot and what happens to it twenty years down the road.

Mr. Romeo stated that the land was going to be his and asked Mr. Smith to confirm that they have an understanding, which he did.

Mr. Fitzsimmons asked if the Board asked him to put some gravel down on that grassy area, how long it would be before they could get that down. Mr. Romeo said that it would be awhile because they are focused on their own lot, the transportation lot they would prefer to just do crushed stone. The time frame for their renovation is about three years, and he doesn't want to guarantee anything. Mr. Manning asked if he was planning and 5-6 year crushed stone situation and Mr. Romeo agreed because they are paving 30-50,000 sq ft.

Mr. Smith stated that the shed on the property is not his, and he plans to move it in the next couple of weeks. He has to have somebody come and pick it up. The green space there goes all the way over to the insurance company. They haven't had cars over there or gone that way.

Mr. Romeo stated that they are backed up with cars and what they have there now is probably the max the Board will ever see. It's been touchy with the regulations in place between different states and stuff. By June 1 everything should be going full bore. They've got 14 guys out buying cars, 80% of them go through that lot at some point. That's why they had to purchase this lot.

Chairman Endal asked for further questions and stated that his understanding is that this is going to end up with a Special Use Permit, and for that reason this Board won't get into a lot of the aesthetics because that will happen at Site Plan, but the Board could condition it. Chairman Endal brought up the idea of a traffic study which had been raised at the last meeting.

Mr. Elms didn't see why that would be necessary and Mr. Manning said his concern as more with dressing it up.

Mr. Martin advised the Board to do what they have done with Special Use Permits in the past, concentrate on the use, their execution of it, lighting, hours of operations, that kind of this is appropriate, and then if you want to advise the Planning Board that you'd like a landscaping plan you can do that. But for Special Use Permit they should consider mainly the use of the Site.

Mr. Elms observed that there is no signage or lighting planned.

Mr. Manning stated that it is not his intention to make this a burden on the business owner, but his comments are based on some feedback he had received. He liked the idea of a paved area

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with a sign that says this is a business, is better than just a lot.

Mr. Elms explained his understanding that the applicant doesn't want a sign because he doesn't want people to go in there, it would be doing more harm. The fact that it's not constant traffic, Mr. Elms has a comfort level with, regarding traffic.

Mr. Manning thought that it would be easier for the Town to service, and would keep it from being dusty. Even with Mr. Bill's operating there were issues with dust on the road. He is concerned with Route 9, but he is willing to make a recommendation to Planning.

Mr. Fitzsimmons stated that there's not much to be done with the lot. It's not a standard buildable lot. There's no sewer, there's not much he can do.

Mr. Elms agreed and stated that if it goes to Site Plan and they feel that way, that Board can do it. He does want to see a limit of no more than 100 cars.

Chairman Endal agreed and reviewed conditions; that there should be no retail sales and no salvage.

Mr. Elms motioned to defer to the Planning Board for SEQR Review and Mr. Manning seconded.

Motion to Approve Appeal No. 821 with the following 7 conditions was made by Mr. Elms and seconded by Mr. Fitzsimmons.

Conditions are: 1. No exterior signage, 2. No exterior lighting, 3. Only automobiles and light-duty trucks are to be stored on site 4. Only 100 vehicles on site, 5. Resurfacing the lot with fresh gravel, 6. No salvage vehicles, 7. No retail sales, 8. Recommendation for submission of a landscaping plan to Planning Board for Site Plan Review.

Roll call vote resulted as follows: Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Mr. Farrell, Yes; Mr. Manning, No; Chairman Endal, Yes.

APPEAL NO. 824

A request of Kelvin and Tonya Darnley of 13 Marine Drive, South Glens Falls, NY 12803 for an Area Variance, pursuant to Chapter 149, Article X, Chapter 149-59A, and Town Law 267-b. Applicant's are proposing to construct a two car garage that will not meet the required side yard setback in an R-1, One Family Zoning District. This property is designated as 49.41-1-9 on the Town Assessment Map.

Chairman Endal asked and there was correspondence regarding this Appeal.

Tonya Darnley was present virtually. There was a letter from Kevin Higgins at 7 Marine Drive

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that was in favor which Mr. Martin read into the record, and Dawn Getman of 15 Marine Drive had called in and also commented that she was in favor.

John Goodwin of 12 Marine Drive also wrote, and Mr. Martin read that letter into the record.

John Marcantonio, 9 Marine Drive also wrote in favor and that letter was read into the record.

Mrs. Darnley explained that they would like to add a two car garage. They currently have a one car garage which they would convert to a family room or mudroom. They have an irregular corner lot and won't have the setback because they have two fronts. They will have a setback of 3 ft 6 in. The septic prevents them from putting it on the other side. The width of the proposed addition is 22 ft.

Chairman Endal noted you couldn't get much smaller than that for a two car garage. The side setback requirement is 15 feet.

Chairman Endal asked whether the applicant had spoken to the resident at #11 because they would be the most impacted. He got a letter from the Town, but Mrs. Darnley had not spoken to him. There is also concern about access for a fire, but there is room.

Mr. Martin noted there are two things going on here, the tapering lot and the two fronts.

Chairman Endal noted it is just the way that the house is set. The onus is on the neighbor to maintain access to the back for fire.

Mr. Elms didn't like them being that close to the lot, and reminded the applicant that the setback would be to the eave, not the garage.

Chairman Endal asked the applicant if she understood the 22 ft was to the eave and she agreed that she did.

Mr. Marcantonio was on the line and stated that the house across from him has been the site of a lot of police activity and this won't change anything for the worse. His house in Glens Falls was one foot from the property line, and it did not impact relationships with neighbors or quality of life issues. Anyone who moves into the neighborhood would take it as a given that the house was that close.

Mr. Rudolph of 11 Marine Drive stated that he resents the remark about the police car. He has a bedroom with a ten by ten screened porch next to that side and he doesn't want a garage right next to it. The applicant has plenty of space in the back to build things. Just because his daughter is in prison, people don't have to make comments about that. This will affect his property and he will have no air flow on his porch.

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Chairman Endal asked Mr. Rudolp if it is his contention is that this will block his porch.

Mr. Rudolp stated that the other neighbors don't object because they aren't the ones that are affected.

Chairman Endal didn't see how that would be blocking the porch, stated it's hard to tell.

Mr. Farrell agreed it was not clear how this would detract from his enjoying his porch. He respects Mr. Rudolph's feelings, but this is going to be set forward. There is foliage.

Mr. Martin brought forward a map and demonstrated for the Board.

Mr. Farrell observed that the house, where it is now is a little bit tight. If it was him, he'd like his neighbor to understand that he has no other options, but can't tell Mr. Rudolph what to feel.

Mr. Manning asked and it is just a garage, no basement.

Mrs. Getman wanted to point out that she's on the other side and there is emergency access from her side.

The Board asked Mrs. Getman whether she feels that this would devalue Mr. Rudolph's property. Mrs. Getman said she walks frequently in the neighborhood and there are houses closer, she doesn't think it affects the value of the house. It will increase the Darnley's property value and if one goes up, they all go up. Mr. Farrell agreed.

Mr. Rudolph noted that they have a huge acreage behind the house where they could put a garage and he shouldn't be disregarded because his daughter's in prison.

Chairman Endal asked if the speakers could stick to comments about the property. He didn't see it being that close to the screen porch. The house is closer now the proposed addition will be. This kind of a setback is a problem, but putting a garage in the back corner would detract from the property value and doesn't make sense. The Board doesn't ask people to move their septic tanks. The setback is justified by the curve, even though they are asking for a lot of relief. This garage is being built quite a bit forward of the house. All the houses in the neighborhood are close together at the front of the lots. So it's not a substantial change.

Mr. Farrell noted that he understands Mr. Rudolph's feelings, but that they have to weigh the whole neighborhood. It is not a practical solution to build on the left side of the house.

This is a type II action, no SEQR required.

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.
2. That the variance is substantial.
3. That the difficulty cannot be alleviated by some practical method feasible for the

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applicant to pursue.

4. That granting the variance would not cause 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.

Motion was made by Mr. Fitzsimmons and seconded by Mr. Farrell to grant 11 ft 6 inches relief from the required setback to the eave.

Mr. Martin asked for an as-built to be submitted at the time of completion. Mr. Elms stated that he agreed with that because it's a huge amount of relief. Mr. Martin stated that it was because we have a neighbor in direct opposition.

Mrs. Darnley asked for an explanation of as-built.

Mr. Martin explained that when they set the foundation, the building and the eave, they come to the site to verify that it's in the right place.

Mrs. Darneley said it has been surveyed twice.

Mr. Martin explained that the same person should come back when they are digging the foundation and will show it on a survey where it is in relation to the property line and to make sure things are lining up and not find out when it's already up that they are off by 2 feet. He will explain it when they come in for their building permit.

Mrs. Darnley stated that was fine.

That condition was added to the motion.

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

APPEAL NO. 825

A request of Ronald Kowalski of 8 Christie Lane, Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59A, and Town Law 267-b. Applicant is proposing to place a pre-built shed on his property that will not meet the required side yard setback. This property is located on a corner lot, in an R-2, One and Two Family Zoning District and is designated as 77.6-1-20 on the Town Assessment Map.

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Mr. Kowalski was present virtually and explained that his intention is to purchase an 8 by 8 shed on the eastern side of his property line for the wood that he has cut down from his property. That particular piece is close to where he would like the shed he has a corner lot and has a quarter acre. This allows easy access to the wood for heating parts of his house and will make the property look better because he has 40ft of wood stretched along the property line. Chairman Endal noted that he is looking for 100% relief.

Mr. Kowalski has 216 ft of property line.

Chairman Endal asked why he couldn't put it 15 ft from the property line, and Mr. Kowalski didn't want it ten feet from his house and it would impede runoff from the roof. This position puts it on a high spot, he has had to raise his existing shed 6 inches and installed pumps to move water away from that area for two winters. The whole area gets flooded towards Cashmere Dr. It needs to stay dry. It will also make the area look nice.

The pictures he has provided are the actual shed he has put a deposit down on.

Chairman Endal asked if there were any other sites.

Mr. Kowalski said he could put it near his other shed but he would have to raise it and pull out shrubs.

Mr. Martin stated that there were neighbors on the line, and that he had correspondence.

The Chairman opened the public hearing at 8:19pm.

Mr. Martin read the letter into the record.

JF: In light of the future plans the DiBellas have brought up and the concerns with water, could a compromise be reached so that the shed can be closer to the house and he could avoid pulling up shrubs and impacting his sprinklers.

Mr. Kowalski said it would need six inches of crushed stone to keep it out of the water in the proposed alternate site. The property line from the shed to Cashmere is flooded 95% of the time in the spring, so that eliminates that area which is also too far away for him to carry wood.

Chairman asked how he felt about compromising and putting it a little further from the property line. They might want to build a fence.

Mr. Manning pointed out that if they did he wouldn't have room to access the back of the shed for maintenance. A zero setback is not going to work.

Chairman Endal asked if 7.5 ft would work.

Mr. Kowalski said he would prefer 5 feet and would like a survey to show where the line is.

He would accept 7.5 if that was all that he could get.

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Mr. Farrell pointed out that there is significant distance between the houses.

Mr. Elms stated that there needs to be a justifiable reason to change the setback.

Chairman Endal asked the neighbors about 7.5 and Mr. DiBella stated that no fence was going up any time soon and they like their neighbors and don't want to make it difficult for them, they are happy to meet halfway and do 7.5 feet.

The applicant was reminded that a building permit is required even though it is prefab.

Mr. Elms motioned for 7.5 ft setback, 50% relief from the required side yard setback. Mr. Fitzsimmons seconded. Roll call vote resulted as follows: Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Mr. Farrell, Yes; Mr. Manning, Yes; Chairman Endal, Yes.

Mr. DiBella asked how the property line was going to be determined. This will be an agreement between Mr. Kowalski and the DiBellas, as will the actual location of the shed, and Matt Dreimiller should be there to confirm the position of the shed.

The Chair adjourned the meeting at 8:36pm.

Respectfully Submitted,

Tricia S. Andrews