

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 July, 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 7:00 pm. The Board reviewed the minutes of the June 24, 2020 meeting. Motion was made by Mr. Fitzsimmons and seconded by Mr. Elms to approve the minutes of the June 24, 2020 meeting with those corrections. All in favor, motion carried with Chairman Endal abstaining.

Appeal No. 828

A request of Timothy Rich of 122 Fort Edward Rd, Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59 (A) and Town Law 267b. Applicant is proposing to construct a garage that will not meet the required side yard setback in an R-3 – One and Two Family Residential/ Agricultural Zoning District. This property is located at 64.2-11 on the Town Assessment Map.

Mr. Rich just wants a personal garage in which to park and to work on old vehicles. He moved in about a year ago and that is all that was missing from the house. He has four vehicles at the moment. It is not a business, just a hobby. There is a septic tank on one side and a ravine with a brook. It's an old military road, he was told, that goes to the river.

To clarify, there was a Special Use Permit application attached to the application but that is not needed for this.

This is a 9.2 ft variance from the overhang. The next property is not residential it is GE property. The applicant said he had spoken to his neighbor who had no problem.

Mr. Martin stated that the hearing was properly noticed and no correspondence was received.

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Mr. Rich wants an attached garage. He can't do that over the septic tank. It is a fairly large garage, not huge by any means but to take off 9 feet would be small. His vehicles have large tires. To make the garage any smaller would not be practical.

Chairman Endal noted that the request is for 46% relief. That is lower than the guideline for substantial. Regarding the character of the neighborhood, Chairman Endal stated he had not visited but thought there were garages on many houses, and Mr. Elms agreed there are, and they are big ones.

Mr. Martin stated that this is a Type II action and no SEQR Review is required. The public hearing was closed.

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

(1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.

(2) That the requested Variance is not substantial.

(3) That the difficulty can not be alleviated by some practical method feasible for the applicant to pursue.

(4) That there will not be 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.

None of the people who were on the Zoom meeting online were present for this issue.

Public hearing was closed at 7:10pm. This does not require SEQR review.

Motion to grant Appeal No. 828 for 9.2' or 46% relief or from the required R-3 side yard setback to the drip edge, if present, to affirm all of the findings on the staff notes, and to require as-built inspections by the building inspector, was made by Mr. Elms and seconded by Mr. Fitzsimmons. Roll call vote resulted as follows: Mr. Fitzsimmons, Yes; Mr. Farrell, Yes; Mr. Manning, Yes. Mr. Elms, Yes.

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Appeal No. 829

A request of Donald J. Vittengl of 165 Mannis Rd. Queensbury, NY 12804 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59(a) and Town Law 267-b. Applicant is proposing to expand TopNotch Self Storage by constructing a new 25' x 200' building that will not meet the required side yard setback in a C-1, General Commercial Zoning District. This property is located at 50.-1-3.11 on the Town Assessment Map.

Mr. Vittengl was on the Zoom call and explained that he would like to add a 25' by 200' building. It will be on existing space back there. It will make it more private.

Mr. Martin explained that it is an asterisk in the C-1 district that when a Commercial property shares a boundary with a residential property, the setback becomes 50 ft. That is the condition here from which he is seeking relief. He was before the Board 2-3 years ago to add the building that is labeled #5 on the drawing.

Chairman Endal asked whether this is warehousing and Mr. Martin said it is not.

Mr. Elms recalled that when this project was first built it was controversial and there was a lot of public comment, especially from the immediate neighbor. He wanted to make sure that the Board was aware of that.

There were no members of the public on the Zoom call regarding this Appeal.

Mr. Farrell asked Mr. Martin to repeat the information about the Code and Mr. Martin explained that there is a Residential area south of this. Chairman Endal asked and Mr. Martin had designated this as 'business primarily servicing highway traffic', because that is a catchall category for business types not specified. It is one of the things he wants to change when the Code is revised.

Chairman Endal recalled a storage facility that was reviewed as a warehouse because it isn't mentioned in the Code, and Mr. Elms remembered that too. Mr. Martin explained how this differs from a warehouse in his estimation- warehouses are large, brightly lit and have the potential for tractor trailers going through at all hours. They are potentially open 24 hours. Mr. Martin asked Mr. Vittengl whether this facility was open 24 hours and Mr. Vittengl said that it is, but there is rarely anyone in there at night. Chairman Endal stated he would have concerns about fire with a warehouse. These units have limits as to what can be stored. Mr. Vittengl agreed that there is a contract that explains what can be safely stored.

Mr. Farrell asked what side the buildings would be accessed on and Mr. Martin explained Mr.

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Vittengl had said they are on the side facing away from the neighbor, so he will only see a wall. The requirements for the contents are nothing flammable, illegal, anything like that.

Mr. Elms asked whether the Board was comfortable with the turning radius on the new section, because if someone were using their unit and had a car parked in front of it, and another car came down the aisle and wanted to turn, they might not have enough space.

Mr. Vittengl stated that there are about 35 ft between the buildings, which he thought was enough to make the turn.

Mr. Elms stated that is enough if no one else is there, but if someone else is in their unit it is not enough space.

Mr. Vittengl replied that the distance is enough for two cars to get by, and Mr. Elms said that was different than turning.

Chairman Endal asked and if the Variance is received, the plan would go to the Planning Board for Site Plan review.

Mr. Manning thought that they need about 20 ft for maintenance and other concerns on the back side. He asked what the setback would be if it were not impacted by the adjoining residential lot, and Mr. Martin explained that since it is a corner lot, it would have two fronts and two sides, and the setbacks in C-1 would be 15 ft.

Mr. Elms explained that he is concerned about fire trucks making it down there.

Mr. Manning wondered if they could ask the Planning Board to stipulate access along Gansevoort Road through a gate. Mr. Elms stated that it was the Town that had asked for the berm, so it would be a problem to ask for him to take it out and put in a gate, and then who holds the key to the gate. It brings up a lot of issues.

Mr. Vittengl stated that he has been in business for some time and not had an accidents or incidents and runs a safe business.

Mr. Elms asked whether this Board could approve with a condition that it be reviewed by the Fire Dept. and Mr. Martin agreed and suggested it could also be tabled until after Fire Review. He stated the Planning Board would likely ask for turn radiuses to be shown. The Fire Dept might also choose to fight it from the street.

Mr. Elms stated that he has real concerns about the project and questions of access and fire, but he also has to ask what is the hardship? The purpose of a Variance is to alleviate some sort of difficulty the applicant is having if he can't build this building. There were people present when the project was build asking the Board to maintain that 50 ft., and why would they change it now? What hardship is Mr. Vittengl experiencing?

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Mr. Vittngl explained that he is trying to meet the need in the community for storage. The demand is out there. He thinks to use input from a meeting that happened years ago is invalid. Mr. Farrell asked whether the applicant has spoken to those neighbors, but other Board members were aware that the immediate neighbor had passed away.

Mr. Manning agreed with Mr. Vittngl that one person can't dictate Zoning Code, but that another concern is detriment to the neighborhood, which has to be discussed. So he wondered what vegetation or screening the applicant had considered. Mr. Manning wasn't sure whether 6ft arborvitae make the situation better or worse.

Mr. Vittngl stated that the 6 he had planted 5 y ears ago are 30 ft. tall and he could continue that all along the fence. He also said that the top of the new building will be below the existing fence, so out of sight.

Chairman Endal thought the Board could recommend that to the Planning Board. Mr. Manning thought it would mitigate for the neighbors. Mr. Farrell asked and he has not visited the neighbors, they have never expressed any concerns to him and this actually makes it more private. Mr. Manning agreed that in a way it is more private since they won't see anything. It looks like they have 33 ft to the East, 30 feet to the West and 24 ft South. He asked if they were just looking for relief on the South and that is correct.

There were no members of the public present or on the Zoom call with regard to this Appeal. The public hearing was closed at 7:37pm. This is not subject to SEQR.

Chairman Endal stated that the Board has a lot of leeway to weigh the benefit to the community vs the detriment to the neighborhood. Mr. Manning stated that the rules have to mean something. Mr. Elms referred to the intent of the Code.

Mr. Farrell stated that he doesn't see this affecting the neighbor that much because of the nature of the business, it is not a highly trafficked business.

Mr. Elms motioned to approve Appeal No. 829 with the understanding that it would be reviewed by the Fire Department and with recommendation to the Planning Board to review plantings for screening along the border. Mr. Farrell seconded.

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

(1) That the strict application of said dimensional requirements would not result in a specified practical difficulty to the applicant.

(2) That the requested Variance is substantial at 52%.

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(3) That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.

(4) That there will be substantial change in the character of the neighborhood or a detriment to the adjoining properties.

(5) That the **variance** would 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 not 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. Fitzsimmons, No; Mr. Farrell, Yes; Mr. Manning, No; Mr. Elms, No; Chairman Endal, No. Motion fails 1-4.

Chairman Endal thanked the applicant for his patience with the Board.

Appeal No. 830

A request of JAG Group LLC of 175 Broad St. Glens Falls, NY 12801 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59(A) and Town Law 267-b. Applicant is proposing to construct a 2500 sq. ft. storage facility on property owned by RASP Inc, at 8 Dukes Way, Gansevort, NY 12831 that will not meet the required side yard setback in a C-1, General Commercial Zoning District. This property is located at 89.-2-8.1 on the Town Assessment Map.

JAG Group Michael Close, Tim Barber and Mr. Richards were on the Zoom call.

Tim Barber explained that RASP has an existing outdoor storage area that's fenced in with 8 ft high fence with slats on it. They had wanted to put this building in the back corner along the fence line but they realized they are at the setback. So they would like to make it fit up towards the front, keeping 98% of it in the setback and going into the setback 16ft to minimize the impact.

This is wholly in the M-2 per Mr. Martin, and this is an accessory building, the primary use is manufacturing and offices. The adjoining property is also M-2.

North and East are the quarry.

Zoning switches to C-3 after the sand company, Cranesville. That is the property this impinges on.

Mr. Martin stated that they have a campus, with interrelated uses of the buildings.

Mr. Elms stated it has always looked nice.

This will be a pre-engineering steel building and will be inside the existing fenced area. No

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increase in impervious area, it is already graveled which is considered impervious.

This will be going to Planning Board for Site Plan Review.

Mr. Manning asked the relationship between JAG and RASP. JAG is just a design builder that has been hired by RASP to build it, and is applying on their behalf.

Mr. Martin stated they had told him they will store materials they use in their manufacturing process.

Mr. Manning asked if the fence would be moved or taken out and Mr. Barber stated that they only plan to move the corner where the building needs to pass the fence and will take out the part at the front of the building.

Mr. Manning stated that the corner of the building will be visible from the road but is 100 ft from the road.

Ron Richards explained that RASP is an industrial controls manufacturer. Currently the storage area handles some things that can be stored outside but they have other products they would like to store that can't handle the weather.

Mr. Elms stated the Board is happy to hear that they are doing well.

Mr. Martin explained that Cranesville has a DEC mining permit and they can't expand beyond where they are currently.

There was no correspondence regarding the appeal and there are no participants in the Zoom call regarding this Appeal. Public hearing was opened and closed at 7:58pm.

Mr. Manning motioned to approve Appeal No 830 for 16 ft relief from the required side yard setback (required setback becomes 24ft.), incorporating the findings of the staff report, and Mr. Farrell seconded.

(1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.

(2) That the requested Variance is not substantial.

(3) That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.

(4) That there will not be 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

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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. Fitzsimmons, Yes; Mr. Farrell, Yes; Mr. Manning, Yes; Mr. Elms, Yes; Chairman Endal, Yes. Motion carries 5-0.

Mr. Elms motioned to adjourn the meeting at 8:00pm and Mr. Fitzsimmons seconded. All in favor, motion carried.

Respectfully Submitted,

Tricia S. Andrews