

A meeting of the Zoning Board 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 29th day of September 2021 at 7:00 pm.

Town of Moreau
Zoning Board Meeting

Wednesday, September 29, 2021

Zoning Board Members Present:

Justin Farrell	Zoning Board of Appeals Member
Matthew Manning	Zoning Board of Appeals Member
Scott Fitzsimmons	Zoning Board of Appeals Member

Also, Present:

Jim Martin	Zoning Administrator,
Barbara Bartlett	Recording Secretary
Daniel Hutchins	Applicant for Appeal No 839
Lily Nevin	Resident of Moreau – 377-379 Gansevoort Road

Matthew Manning will be acting Chairperson for this meeting.

The meeting was called to order at 7:01pm by Chairperson Manning.

Chairperson Manning I think we need to get the minutes from the previous meeting..

Mr. Martin It would be probably best to wait until we have a full complement, because the minutes we're getting caught up. Do we have all past meetings yet?

Ms. Bartlett I will do the minutes from last time.

Mr. Martin Okay.

Mr. Fitzsimmons I believe from our last meeting we were speaking earlier, it looks like we were going to have three months of minutes to approve. Two months were adjourned last meeting, so we'll have those two plus last months meeting to go over.

Mr. Martin Okay, Yeah I would just wait until we have a full board.

Mr. Fitzsimmons Sure.

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#1 Daniel Hutchins

369 Gansevoort Road, Fort Edward, NY 12828

Area Variance – Appeal No 839

Project Description: Applicant is requesting an area variance for construction of a 30 ft. X 50 ft. accessory storage building on existing 6.32-acre lot. The applicant has requested to place the proposed building within the required setback in the R-5 district, the proposed setback is 24 feet from the front property line and 40 feet is required.

Mr. Martin Mr. Hutchins is here.

Chairperson Manning Typically, we've read through this, You know Jim Martin has made some notes, give them out to the Board. Do you mind just walking us through what you're trying to do, and what the concerns you have are?

Mr. Hutchins Sure, Daniel Hutchins, 369 Gansevoort Rad, Fort Edward. So where to start, like anybody else, you accumulate more cars when you buy a house, lawn mowers, tractors or this and that. I had built a garage years ago on the property we have 6.5 acres there about. Bought the house, two car garage, we had a previous three car garage at the other house, so I built a nice 32 ft. x 32 ft. garage 8 or 9 years ago. I got the permit here when you guys were at the other building and did all that stuff. As time goes on you accumulate more stuff, that 32 ft. x 32 ft. garage is now a 10 ft x 10 ft. with everything in it. The wood splitter, the tractor, the two vehicles, my logging equipment, all the tools and it just shrinks. Everything has got to come out if you want to work in there. So, the way our land is, and I have some pictures also in my phone that maybe you don't.

Mr. Martin I provided the pictures Dan that you sent me to the members, they have them. Of your front yard where the location of the garage that you propose and of the neighbors to give them a flavor of the proximity of the neighboring structures.

Mr. Hutchins Perfect, Thank you. Aside from our house and the newer garage not the one that I'm proposing but the whole area the whole 6.32 acres is all woods and there's a little creek if you will, so the only place as soon as you come off of Gansevoort Road and cut into our driveway 20 feet, thee is an opening to the left that has already been cleared. When we bought the house 9 years ago it was just perfect everything after the house is just trees, and as you come up to the house and the garage, its house, a little bit of grass, garage, and then trees. So, it would cost as much to rent the bulldozer, so this just seemed to be the solution hat would work. As we got into it a little bit more and I asked for a permit and we started the process, we needed our dimensions to find out ho far out we were going to be. So, I'm asking for 16 fee, I'm going to be 24 feet in from my setback, and I hired Don Pidgeon to survey everything just so its better for you guys.

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Mr. Martin And the reason why that's useful is often times when we see these things, people attempt to measure from the center line in the road or proximate the front property line that way, this is a surveyed property line, we know of the exact relief that is being requested.

Mr. Farrell Mr. Hutchins is this proposed site?

Mr. Hutchins Yes.

Mr. Farrell I'm sorry, normally I try to get out there and look myself.

Mr. Hutchins No worries. But again, as I said, when I get to the pictures once you see the trees all the way up the driveway, and past the house on the other side, that's the spot. I don't need any side to side relief just from the road, the front setback.

Mr. Fitzsimmons This is your driveway?

Mr. Hutchins Yes sir.

Mr. Fitzsimmons So Help me out, you're building here?

Mr. Hutchins Yes, So, here's Gansevoort Road or 32 right, and to the right and you turn into my driveway this would come up here and lead to our house, this is the rectangle lot with all the trees on the side and in the back.

Mr. Farrell Is there grading that needs to be done, if you were to excavate that land?

Mr. Hutchins As a matter of fact, if you look at the picture, the way the land goes it actually starts to go that way and it would need it yeah, you'd really be taking out chunks of that.

Mr. Martin The other thing I noted in my notes in terms of feasible alternatives is the appearance of a lot of space in the rear, given the orientation of the house it somewhat limits the side access, you'd probably be doing a lot of clearing just for that access.

Mr. Hutchins What little backyard we have, the propane tank is back there and its just small, and then it crests and goes downhill. I don't know what else. There are a few houses, and again I realize there may have been new zoning requirements, I don't know how late they are but there are a few houses on either side of me that are actually closer to the road than what I am asking for. So, I have pictures of that, there might be a couple there.

Mr. Martin I gave them the one you sent me in an email.

Mr. Hutchins For instance if you look at this photo you'll see that one house is almost on the road, and that's actually right near the curve before where Candy Cane Farms is. If you turn

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though you'll see another house that's almost in front of my house to the right and he has a porch, so the porch is even closer and the next picture would be the gentleman to the right of me and he would be roughly the same distance from the road as I am for the beginning of my storage building.

Mr. Hutchins I also contacted the Department of Transportation they are aware of the situation and they said there are no future plans of doing anything to Gansevoort Road 32, they're not going to widen it and on the other side of the road there is wetlands with cattails and all that, so they're not going to be able to widen that side. So, they're not widening the road or changing the course of the turn before Candy Cane Farm, so they were all good with that and tats how I took the next step and spoke with Jim and Matt and started this.

Chairperson Manning In the application I notice that it included letters from some neighbors who are on board so approving letters, but I didn't know if you received any feedback at this point. Jim did we receive anything.

Mr. Martin Yeah we do have a properly noticed public hearing I think we do have someone who want to speak. We do need to open the public hearing.

Chairperson Manning Yup so we can open the public hearing to se if anyone wants to speak, Do you want to speak tonight?

Mrs. Nevins Where he's putting it looks fine to me.

Chairperson Manning Can you please state your name an address.

Mrs. Nevins My name is Lilly Nevins we own the property that's 377 and 379 Gansevoort Road.

Mr. Martin They're adjoining on the other side, if you look at his map her name is noted, I think its on the northerny side. Nevins, so she's one of the adjoining members.

Mrs. Nevins My only concern is being too close to the property that is outlined. He's already dumped dirt on one side of his garage which approaches our property and I don't know if he's aware, but I have had people tell me that his turn around spot, he's dumped dirt so he can have more turn around spot. That concerns me.

Mr. Hutchins May I speak to her? Butch was well aware of that and he told me a few years ago when we paved our driveway the gentleman that came in and smoothed things off he had many scooped if you will with that small backhoe, he dumped it over there. Butch said it would be okay if I ever had any scraps and pieces to just dump over there so if you were offended by that I apologies and I won't do it anymore. I didn't know, a few years ago Butch comes over we talked we chatted he said that would be no issue. So, I was totally unaware of that,, if that's a concern for you I apologize I won't do it anymore.

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Mrs. Nevins Okay, my concern is, it's on our property and if we are ever going to sell what kind of problem would we have because you're turning around in that spot.

Mr. Hutchins Turning around? I'm not tuning around in that spot.

Mrs. Nevins Okay. You're parking.

Mr. Hutchins Where my garage is, just so we're on the same page My house, the garage I built, and to the right of that I park my trailer there which is still my property.

Mrs. Nevins Mhmm.

Mr. Hutchins just as you go over the embankment the hill was what I was told by Butch is yours because it goes at an angle if that's what we are talking about. Now that being said, and I don't want to go tit for tat I'm not here to argue but a couple of years ago your tree fell and slammed into my pressure washer trailer and caused a little bit of damage. I mentioned it to butch.

Mrs. Nevin He told me there was no damage, and you wanted the tree off of your property. When Butch went over Butch said the main part of that tree wasn't on your property.

Mr. Hutchins Correct, correct, you're absolutely right so what I did and my wife helped me is we cut up everything that was on top of my trailer got all the stuff and I threw it over the embankment because it was your tree and ii cut what was kind of hanging over and we just threw it there. So, if you're worried about me throwing a little bit of dirt over the edge why does he have a couple trees that are just hanging there and are just there. What is the big deal?

Mrs. Nevins The dirt over the property is not a concern, you using it is.

Mr. Hutchins I'm not using it, what do you mean over the embankment. I don't turn around there because I turn around in my driveway, I don't think you understand.

Mrs. Nevins Maybe I don't, butt I'd like that property line redone.

Mr. Hutchins Okay well, you can hire a surveyor just like I did. I'm not turning around there, because that is what you own over the embankment. My pressure washing trailer is right next to my house and I still own another 10 – 15 feet that way before it crests. Anything after that is yours to my understanding but there hasn't been a survey there in a long time and again I apologize to you if you don't want me to throw over there. Like I said when I hook up my trailer and go, I come into my driveway, pull all the way up to my house and back in right next to my garage.

Mr. Martin Just so we can get some baring I mean I think we're a little off topic here regarding this issue but just to get some bearing, it says here on your survey that there is an old wire fence that is on the property line.

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Mr. Hutchins Where are we talking?

Mr. Martin Along the back of your house, along the back of your garage on her property line. The reason why I'm saying that is if it is in fact there as a bearing mark out in the field that old wire fence is on the property line, if it's still there. It says on this survey that it is.

Mr. Hutchins If you are looking at what Don did. He didn't go anywhere near there he was in the front that could have been off an old one or the last one. The original one he asked for a copy of and he just amended it, with the updates in the front.

Mr. Martin Oh I see.

Mr. Hutchins So he did not go ad re-look at anything else.

Mr. Martin So that od wire fence is not there?

Mr. Hutchins I don't believe so an if it is we would have to go way deep in the woods and there might be a piece and a part.

Mr. Martin Okay, what I can offer is I will mention this to Pete our code enforcement officer tomorrow and see if he can take a ride up there and look at the placement of this fill. It's a little off topic but ii do recall seeing an aerial photograph of where your current house and existing garage is and it appears that it is well on you property but we can go up and look at the placement of the fill and see if there are any encroachments either way.

Mrs. Nevins Okay.

Mr. Martin But I can tell you that this proposal tonight for this proposed garage is in the front corner opposite from you.

Mrs. Nevin Yea, I only wanted to see where is was to make sure it wasn't near our property.

Mr. Hutchins Its actually on the other side of my garage where I come in, it will be on the left.

Mr. Martin Towards the Gambles.

Mrs. Nevins Okay, Thank you.

Mr. Martin We'll take a ride out there and look at it for the both of you.

Chairperson Manning Referring to the public hearing, is anyone else speaking tonight, anyone else on?

Mr. Martin Yeah, let me just make sure nobody is on. Nope we have no one on zoom.

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Chairperson Manning Alright I am going to close the public hearing.

Mr. Martin And I would also dually note that this is an exempt action being an area variance from SEQR. To get that on the record as well.

Chairperson Manning Thank you I appreciate that. Besides SEQR w also look at as a board the 5 requirements are met. 1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant. You would have to go what 8 – 10 feet into those tree lines to get the official setback you need?

Mr. Hutchins I would say close to 16 on the other side to push everything there, as I said going down the driveway the whole side of the land goes uphill.

Chairperson Manning Yeah, so you're kind of hesitant on the trees and its less practical then the proposed sight. 2) How substantial the requested variance is in relation to the requirements. You're asking for a 16-foot variance on a 40-foot setback which is a 40% variance which is substantial, we have up to 50% mark in the right circumstance but 40% to me is kind of up there. 3) That difficulty cannot be alleviated by some practical method feasible for the applicant to pursue. Again, the tree clearing is what we talked about and you did your research. 4) That there will be no substantial change in character of the neighborhood or a detriment to the adjoining properties. So, you have three letters that attest that they don't have an issue with it, you showed documentation, so I think you passed that one. 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. So you meet those two criteria the one that is sticking with me is the strict application it is on 32, we are within the setback obviously, you have a survey which I'm a little confused on that parts of this are accurate and parts don't seemed verified.

Mr. Hutchins I'm sorry, everything is accurate. Its just what Mrs. Nevins brough up we were talking about that is totally opposite side and as far back as you can go. It has nothing to do with this.

Chairperson Manning Oh I understand. From what you said it worked outside to the front of the building, so you only really know the 24 from a setback to the proposed start of your 30-foot building. Now on this plan it doesn't show me the house, you've described it pretty well I think I know where it is we're okay with that again we're talking about cutting approximately I would say about 16 feet into these trees which you don't have a picture of and that's what you'd have to do to get the foundation in. That's the difficulty we have. So, we're approaching on a NYS Highway and for what to avoid 12 feet of woods? You're just taking down 15 feet of trees.

Mr. Hutchins Yes but it adds to the cost of the building, um it would be thousands of dollars it would be perhaps hurting the driveway when you bring in heavy equipment and then unloading

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it. I don't want to spend another 6-8 thousand dollars to take out, see and I don't know there's trees, there's stumps whatever you know.

Chairperson Manning I see I understand, 6-8 thousand dollars is the hardship. You have a nice piece of land I mean it's not a flat area which isn't ideal, but again there's ways to achieve it within this plan that don't allow us an area variance and again that's an alternate to give you the 32 understand that you've don't some preliminary research on the immediate plan but 50 years down the road neither of us know and again I don't see and guys feel free to interject, 6-8 grand is not necessarily weighing a 40% variance in my eyes.

Mr. Hutchins Well I think I've explained the reasons why this would be the spot rather than going up my driveway, you'll hit my garage, you'll hit my house and then the land I've got a little bit of grass if you will in the front and back, then we have our propane tank and a pool and other things. I can't just make another road if you will and then after that the land dips down and these another little creek that runs so now you're getting into moving water. There's two one that's in the front that goes underneath the bridge and the other one goes behind the house.

Mr. Martin The question I would pose is there any potential for 18 or 20 feet opposed to 16. You know if there any dimension that we can look at shot of the 16 feet.

Mr. Hutchins Maybe make a compromise, is that what you're saying.

Mr. Martin Well, yeah I'm saying to address the concern you're hearing about the 16 feet being a lot. Is there another dimension that works without getting too far into a deep cost and practical difficulty?

Mr. Hutchins No, I mean..

Mr. Martin Because bear in mind the other thing I should say is the setback is to the edge of the eave not the building wall. So, if you have a 1- or 2-foot eave on this building the setback is measured from that edge.

Mr. Hutchins I understand.

Mr. Martin so is there a dimension that works off of the 16-foot request.

Mr. Hutchins If I could instead of 16 if we could say 12 so that would bring 4 feet and I would go more this way with that.

Mr. Farrell Well to Mr. Manning's point, in the picture it doesn't appear to me and I apologize I haven't been to the property. But it doesn't appear to be really heavily wooded there.

Mr. Hutchins I've trimmed that already, and in that picture that was as I was doing this at the beginning, but in that picture to the right of there those are just branches hanging over I've only

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cut those and trimmed back but that still would. I would need that, what I trimmed that's what I need if that makes any sense.

Mr. Farrell And beyond that..

Mr. Hutchins That's where the heavy stuff starts. So, I mean if we said 12 feet, and I move everything this way, now I'm right there and I would just maybe have to make do with it, would that help?

Mr. Fitzsimmons Yeah I think, and I can't speak for you guys but I'm thinking that's what I'm hearing it's a very fair point

Mr. Hutchins I'm willing to work with you guys.

Mr. Farrell And I appreciate that, but I think to Matt's point, if there is some compromise.

Mr. Hutchins Absolutely.

Mr. Fitzsimmons If we could make that I think it would be in everybody's best interest.

Mr. Martin And takes it from 40 to 30%.

Chairperson Manning Before we go, I just want to check so you're adding 12 feet to your 24 ft. setback which would be 36? You're asking for 12-foot difference your knocking off an additional 4 feet, so you're going for 30%? You'd have to be at a 32-foot setback off of Route 32. Now I feel comfortable with that compromise as far as your bumping back into that extra few feet that's a 20% compromise your 30 something after you got o the road. So, 32 feet would be the setback from the road.

Mr. Hutchins Okay, I'm trying to understand you so in other words, if my post is here and that determines that was the 16 feet that I was asking for you're saying move it 8 feet.

Chairperson Manning 8 feet, if you take the 24 and add the 8 that gives us the 32 feet.

Mr. Hutchins I'm not trying to argue with you but can we do 6, because what I think what I can do is as I told this gentleman, when I trimmed all the branches and basically just got all the stuff away this is where the hill really starts and I think I can do 6 without really starting to hire heavy equipment for cutting down trees and digging stuff out.

Chairperson Manning So if you go with the 32 foot you need a 6-foot variance. What I propose just looking at this survey, the property line comes and kicks back out there is a utility pole marked on the drawing that appears to be the closest point. You have 24 foot in the north near your driveway, there's 24.5 foot to the south side because that pole kicks out. So, I'm going to request you get the hard dimension from your property line to the eave as Mr. Martin informed

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you and make sure that is the full 30-foot off property. That would be surveyed in upon your foundation. Where it kicks back in there, that's is the nearest point to your driveway. This is 24 feet to the corner, this points in and slopes back out which is why it's 24.5 feet. This is the point you can measure from that dimension you surveyed to the 30-foot variance. This is what needs to be surveys for the 30-foot setback, that's the dimension I want to see on this drawing.

Mr. Hutchins There is no foundation, this is going to be a metal building with 6-foot ceilings.

Mr. Martin What we could do Matt is we could ask for the surveyor a 30-foot dimension before construction starts.

Chairperson Manning We could do that.

Mr. Martin We could ask for Don Pidgeon to come out and drive a stake at the 30-foot mark, so we know where the building foundation needs to be and the eave and all that. The eave has to be at the 30-foot mark, the edge of the eave. Would that do t Matt? If we marked a 30- foot dimension.

Mr. Hutchins So from my 16 feet that I was asking for, I'm moving everything 6 feet where the eave would start. Is that what we're saying?

Mr. Martin Right.

Mr. Hutchins I'll call Don and explain what happened.

Mr. Martin You want the setback of 30 feet instead of 24.

Mr. Hutchins Okay.

Chairperson Manning Again I want that dimension from the nearest point.

Mr. Martin So if that is the consensus opinion I would recommend a condition. In the concluding resolution that the dimension to be staked by the surveyor at the proposed 30 foot prior to building.

Chairperson Manning I agree, I like that too that was a good suggestion.

Mr. Martin That way Matt doesn't have to try and guess before the foundation is dug and all that, you know what the dimension is and so does the building inspector.

Mr. Hutchins And again just to be totally honest there is no foundation.

Mr. Martin I understand, you're making a pole barn.

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Mr. Hutchins Exactly.

Mr. Martin Then that's even better, we don't have to worry about the stake being disturbed during the diggings of the footings and things like that.

Chairperson Manning Very Good. Is there a motion on that? No more questions? The public hearing is closed right?

Mr. Martin Yes, and you've affirmed that the SEQR is a type 2 action so its exempt. So yeah, I think your ready for a motion.

Mr. Fitzsimmons I'll make a motion that we approve Appeal No 839 with the contingency that the surveyor comes back out prior to the construction that the overhang of the structure is at a mark in the ground of 30 feet from the front setback.

Mr. Martin Soo we are providing 10 feet of relief.

Chairperson Manning I'll Second that.

A motion was made by Mr. Fitzsimmons to approve Appeal No 839 with the contingency that the surveyor comes back out prior to the construction that the overhang of the structure is at a mark in the ground of 30 feet from the front setback and was seconded by Chairperson Manning.

Mr. Martin Okay just got to call the roll.

Roll call vote resulted as follows:

Mr. Manning	Yes
Mr. Fitzsimmons	Yes
Mr. Farrell	Yes

Three in favor, none oppose. Motion carries.

Mr. Hutchins One quick question, thank you gentlemen. So tomorrow I will call Don Pidgeon and explain what's going on and get that rolling. Can I, or what is best to do here, can I get a building permit for this although they're going to come in a month to do it.

Chairperson Manning You commit now I believe you have to file an official variance

Mr. Martin What happens tomorrow is I'm going to do a notice of decision, about the decision that was made tonight, get is mailed to you, I can email it as well so you can get it immediately and I'll list the condition that has just approved. You can apply for a building permit and that can be under review it's just the construction can't start until the inspector verifies that the stake has

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been placed marking the 30 feet. So you can apply for the building permit and get that underway you just can't start any actual construction until marked and verified.

Mr. Hutchins This isn't going to happen for 5 weeks anyways. Again I'm trying to get everything in order these gentlemen aren't going to be able to get there until the beginning of November.

Mr. Martin The permit is good for a year, and you have the ability to extend as well.

Mr. Hutchins Thank you very Much.

The board thanks and dismisses the applicant.

Chairperson Manning Any further business on the agenda?

Mr. Martin No other information before the board.

Chairperson Manning I call a motion to adjourn.

Mr. Farrell I second the motion to adjourn.

A Motion as made by Mr. Manning to adjourn the Zoning Board Meeting tonight and seconded by Mr. Farrell.

Three in favor, none oppose. Motion carries.

Meeting was adjourned at 7:38 pm.

Respectfully submitted,

Katrina Flexon