

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 26th day of January 2022 at 7:00 pm.

Town of Moreau
Zoning Board Meeting

Wednesday, March 2, 2022

Planning Board Members Present:

Gerhard Endal	Zoning Board of Appeals Chairperson
Kevin Elms	Zoning Board of Appeals Member
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
Katrina Flexon	Recording Secretary
Dominic Caivano	Applicant
Bill Elder	Member of the Town of Moreau

The meeting was called to order at 7:00pm by Chairperson Endal.

Chairperson Endal At this time we don't have any prior meeting minutes to approve.

Mr. Martin We will have them they will just be a while. I believe there's two meetings that have to be put together.

Chairperson Endal Okay we are going to move on to the first and only applicant on the agenda tonight.

#1 Dominic Caivano

19 Redmond Road, Gansevoort NY 12831

Appeal No. 840 - Area Variance

Project Description: Applicant is requesting an area variance for construction of a 14 ft. x 14 ft. shed in the side setback of the property at 159 Redmond Road. The applicant is located within the One- and Two-Family Residential (R-2) District and a side setback distance of 15 feet is

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 26th day of January 2022 at 7:00 pm.

required. The request is for a 10-foot side setback requiring 5 feet of relief from the required setback dimension.

Chairperson Endal reads the project description to the board.

Chairperson Endal Are you Mr. Caivano?

Mr. Caivano Yes.

Chairperson Endal Can you tell us a little bit about what you're planning to do.

Mr. Caivano I'm looking to install an Amish shed on the side yard. The side yard is kind of close where part of the building structure is and I'm just looking to get a little bit more room between the shed I'm going to put in and the house structure. To get a truck back there, I just feel more comfortable having 20-foot space between the house and the Amish shed that I'm proposing to put in.

Mr. Martin He had a survey with the application, I think you saw that, and I also gave you an aerial photograph, two versions and the staff notes. One was kind of zoomed in and if you look at the zoomed in version, he's looking at the area in front of those two cars that are sitting there in the driveway in the photograph.

Chairperson Endal Yeah.

Mr. Martin Well that's the side area that's he's looking to install the shed.

Chairperson Endal The shed would go between the house.

Mr. Martin Yeah, see the white car in the shadow of the building, it's essentially right next to that car in that area right in there. I went out and saw this in November, I think.

Mr. Caivano Yes.

Mr. Martin He had asked me to come out, so I went out to look at it then, and we discussed the idea of maybe putting it in a compliant location but he feels it is too tight for maintenance of his house and so forth, so he wanted to go for the variance.

Mr. Elms In this aerial picture, it shows a house next door. That house is very, very close to the line isn't it?

Mr. Martin Yea. That's a non-conforming house, pre-existing non-conforming, I think they are right on the property line.

Chairperson Endal But the shed wouldn't be up against that house.

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 26th day of January 2022 at 7:00 pm.

Mr. Martin No, there will still be 10-feet of separation between the boundary line, the side yard boundary line, and the eave of the shed.

Chairperson Endal But that's not what I'm asking. The shed isn't going to be up against the neighbor's house, it's going to be up against your house am I right?

Mr. Caivano Yes.

Mr. Elms It will be back further.

Mr. Martin Oh yeah I see what you mean, the neighboring house is close to the road, I think the shed will be pushed back.

Mr. Elms You're going to put it back towards your house is that right?

Mr. Caivano Yes, yes.

Chairperson Endal I'd worry about it right up against that house.

Mr. Martin Yeah, now I see your point.

Mr. Elms Now is it true that we still in areas where the lots are 100-foot-wide that we still stick with the 10-foot setback?

Mr. Martin Yes. In the R-1 predominately because those tend to be smaller lots, and there's less area.

Mr. Elms Right. That was the way it was when those lots were approve. So, in those areas we still have a 10-foot setback.

Mr. Martin That's correct.

Mr. Elms I'm just using that for a point of reference. There are areas in town that it's perfectly legal to have a shed 10 feet off the property line.

Mr. Martin Yes, Joe Patrick did that, and I carry that forward as well.

Mr. Farrell I have a question, I usually try to get out and look at these and I apologize, I didn't. Is there just no other place on the property that you can put it, in practicality speaking.

Mr. Caivano Yes, yes.

Mr. Elms It's these trees that are in the way if you come back any further, and you want to have room from the house to have access I something comes up.

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 26th day of January 2022 at 7:00 pm.

Mr. Caivano Exactly.

Mr. Elms Which I think is a reasonable request.

Mr. Farrell Is it just wooded from the back, I can't tell from the pictures.

Mr. Caivano Yes.

Mr. Martin It is gradually sloping up from the road and then I think it gets a little steeper as you go farther through.

Mr. Farrell So it would require excavation and tree removal?

Mr. Caivano Yes.

Mr. Farrell Thank you.

Chairperson Endal In terms of alternatives, you've got a lot of land. Why do you want this shed right there?

Mr. Caivano The other side of the house has a drywell, septic, and leach field so I don't really like putting stuff over there. This area is closer to the driveway as far as having better access to the shed. I'm looking to put some of my snow removal equipment in the shed, I don't want it up against the driveway because when I use the snow blower, I blow a lot of snow up and when you do that in years where you have a lot of snow you can get very high snow banks along the driveway. So I wanted to set it back just so that wouldn't be an issue as far as burying the shed with snow.

Mr. Manning Based on the location, the way the survey comes we have a 19 x 13 x 10. So, am I to understand this correctly if you were to keep the maintained setback of 15 feet you would still have 14 feet at the end of your house?

Mr. Caivano That is correct.

Mr. Manning You can fit it there, you can easily move it over and fit it in with your home.

Mr. Caivano Yeah, but I would rather have the extra 5 feet, just for peace of mind and as things are unpredictable as far as getting access to the backyard per se where the pool and stuff is. I just think having the extra five feet would be more of a cushion.

Mr. Manning I understand but we are in a R-2 district with a 15-foot setback.

Mr. Caivano That is correct.

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 26th day of January 2022 at 7:00 pm.

Mr. Manning We would be changing this for the length of this property, so again 14 feet, I mean it ample to get into the driveway, it's ample for other equipment, it's not narrow it's 14 foot wide. It's wider than a lane is that right?

Mr. Caivano Yeah, well it's on a kind of incline a bit.

Mr. Manning But if you were trying to get a truck in the back, you could clearly get into that space. 14 foot is plenty of space, vehicles re 8-10 foot wide. You don't need a 14 x 14 shed it could be 12 x 18 or 10 x 25 you could also change the shape of the shed right? There is practical remediation, there are some things that would take care o your concerns and still maintain R-2 district and maintain he setback right? There are definitely some practical solutions here, what would prevent you from doing one of these remediations I just brought up?

Mr. Caivano On the application it does list it as a 12 x 16 with 1-foot stone on each side around the foundation of the shed. So that would reduce it by a foot I guess.

Chairperson Endal The question is why not, why not reduce it?

Mr. Caivano The shed?

Chairperson Endal Yeah.

Mr. Caivano Well to be honest, I have already purchased the shed, the shed is waiting at the facility. I did not realize after doing more research as far as what the setbacks were, that is my fault. I didn't realize it would be 15 feet away from the fence, I was just very surprised that it was that much. If you look at other areas you've got a lot of shed and stuff closer to the fence and property line. I wasn't to move correctly because I didn't know what the consequences would be if I just put it in. Whenever they did a property assessment they would notice that, and they would enforce me to move it some that's why.

Chairperson Endal You're better off doing it this way.

Mr. Caivano Yes, so that's my fault for not checking into it beforehand.

Chairperson Endal The Town's better off too, so we appreciate you doing that. So you already bought the shed.

Mr. Caivano That's correct. I just didn't realize that the setback was going to be that great.

Chairperson Endal Which is a shame but its significant.

Mr. Elms So if I heard you correctly there's going to be stone around the shed?

Mr. Caivano That's correct.

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 26th day of January 2022 at 7:00 pm.

Mr. Elms So was the measurement you were looking for against the stone or against the shed?

Mr. Caivano Against the shed.

Mr. Martin We do have a properly noticed public hearing, properly advertised.

Mr. Elms Was there correspondence?

Mr. Martin No written correspondence came in but, I think we have one person here.

Chairperson Endal Would you like to speak to this?

Mr. Elder I just came to support him, he's my neighbor and I'm in favor of it.

Chairperson Endal Please state your name for the record.

Mr. Elder Bill Elder, I'm at 161 Redmond Road.

Mr. Martin Are you on the near side where the shed is going to be, is that your house?

Mr. Elder Yes.

Mr. Elms Oh, you're the one right next door to him?

Mr. Elder Yes.

Mr. Martin You are the one most impacted.

Chairperson Endal So you have no problem with it?

Mr. Elder None whatsoever. He can put it right on the line if he wanted.

Mr. Elms We like neighbors like you.

Chairperson Endal We have talked about reducing that, but I don't know if that's anything that's going to come about.

Mr. Martin It's going to be in the first draft, that's for sure. It causes I think a lot of problems and it's hard to justify.

Chairperson Endal Are there any more questions from the board?

Mr. Martin So is that the extent of the public hearing? Can we close it?

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 26th day of January 2022 at 7:00 pm.

Chairperson Endal Yes, I think we can close it, I don't think we have anyone else to speak. So let's close the public hearing. I'm going to review the requirements, you've already filled out the form. So, the first requirement is 1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.

Mr. Farrell With some difficulty.

Chairperson Endal Yeah.

Mr. Elms There's difficulties with the level of the ground, and trees in the back. So, it's not 100% difficult but it's some.

Chairperson Endal I'm not inclined to say, "He bought it already so he can use it", but I believe it was bought in good faith. 2) How substantial is the requested variance in relation to the requirements. We are looking at a 33% relief, we don't really have a standard for substantial relief, but we've talked about 50% anything over 50% is unacceptable. That's a pretty old standard we've been using that forever, but you know it is substantial but it's not huge. 3) The next is that the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue. We discussed this and there are some limitations, Jim's notes in terms of the law and I also think in terms of locating you somewhere else, your point that it might make snowplowing difficult makes a lot of sense.

Mr. Elms Oh absolutely no one wants to have to plow and grab a snow blower 150 feet from the yard.

Chairperson Endal Absolutely it should be in a place that you want it and the size that you want it and you already have the size. You can move it closer, I do think you can move it closer to your house and still have adequate space to move through there. I think your argument you want to have good space between your shed and your house is okay, it's not unreasonable. 4) The next is that there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties. I don't think so, the neighbor doesn't think so, I don't know what the board thinks but if anyone disagrees with me say so.

Chairperson Endal 5) The next would be 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. We did not explore the possibility of alternative locations, I think we've satisfied that. I personally feel in terms of alternatives the fact that it's back away from the home is not going to cause problems.

Mr. Elms Yes Absolutely.

Chairperson Endal I think that it's an acceptable location.

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 26th day of January 2022 at 7:00 pm.

Mr. Martin It seems to me from my perspective that the applicant has expressed some desire for the location, based upon his preferences that need to be weighed against the detriment to the neighborhood. You know, is there a detriment with the relief requested and if weighing those two things, and I'm not saying there is not an alternative location, you can technically put it at the 15 foot mark but he's expressed a desire not to do that and that should be weighed against that the detriment might be.

Mr. Manning Okay but we also have to weigh the fact that we are in the R-2 district, it is zoned for a 15 foot setback, which there is ample space and if he moved within that setback he still has almost 15 feet to his house, unless you have two drip edges you're still 12 feet wide. This can be alleviated, so the Chairman read the 5 requirements we go after every time, the same 5 and as far as I'm concerned 2 of them were not met. Number one, strict application would result in specified particular difficulty, I disagree I think 12 feet is more than ample to drive through, more than ample to snow blow, and then also on number three the difficulty cannot be alleviated by some other practical method. We've all discussed that's absolutely possible, so we can alleviate this without breaking the setbacks. This can be alleviated, and I believe can be solved without changing the code. The R-2 district code as assigned in the area for a reason. R-1 is a typical setback, this is R-2 and I don't like the idea of setting precedents that we're going to change the R-2 for sheds in this area. Right now we have rules, we have 5 criteria, I feel he's completed three out of five to me he hasn't quite passed the threshold in my opinion personally because again he literally has 14 feet for the building and the house he's not going to be 2 foot against it. He has ample room to drive a truck through there, I mean Kevin you drive a truck more than I do how big is the average lane? 10 foot?

Mr. Elms well I mean I don't think you'd have a problem getting a vehicle through there but first off, I don't think we're setting any precedents. Each variance that comes before the Board is based on what is presented for that variance. I think you have made points that are reasonable but I also feel that you have to take into consideration what the person that owns the property wants, and what is going to make them feel good, you have to be able to compromise.

Mr. Farrell In fairness of that, it does look like a sizable lot, and the rules are the rules and if you do it in this case, you know it's not precedent, but it becomes an expectation and that's my only reservation. I understand what you're saying the purpose of this Board is to review these situations on a case by case basis, but as Mr. Manning explained, you now I understand Jim has been to the property. If you're telling me it would require a significant amount of tree work and excavation, that's practical consideration. To me the distance from the house, it doesn't seem like if you move it back it would be a huge issue or challenge but it's a case by case basis type so to your point I see both sides.

Mr. Elms I think it depends on how each of us interpret what the goal is. I mean if you want us to stick right to the letter of the code and that's the law, that's the way it is, we can do that.

Mr. Manning I think you're right Kevin, the point is to look at this on a case by case basis and we have many times on the Board if it's an irregular lot, or if it's a practical difficulty again just

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 26th day of January 2022 at 7:00 pm.

recently we had one with cost restraints which is questionable but we go through these on case by case basis. I guess for e it's the distance. You can actually meet the requirements, you can meet your requirements and still have room between the two that's what I'm finding hard. If there's a hardship I'll be somewhat lenient on that but to be honest with you because part of our job is to make those compromised in this instance I'm not feeling the hardship particularly, so, that's just my opinion.

Chairperson Endal How would you feel about moving it over closer to the house.

Mr. Caivano You know I submitted the variance just to have the cushion of the 19 feet versus the 14 feet. I mean it just seems to be, you can never predict the future so more of just trying to look ahead and also with the elevation of the area that I'm putting it in, I really don't want to do a lot of customization, more work and more expense that I have to.

Chairperson Endal My understanding of not just our role but to stay in the state law in terms of an area variance is that they're much easier for an applicant to prove the need for and the criteria there, they don't necessarily need to meet all the criteria, there is a weighing benefit. That's my understanding, it's not a strict interpretation.

Mr. Elms I think the variance is reasonable in my book, I mean everybody is within their right it's a reasonable request and reason why. It's that he wants to have a little extra room between the house and shed I understand that. I feel like if we were to grant this and its 10-foot off the line and you drive down Redmond Road, you'll never notice that. They'll never know that is 10 foot of the line, it won't impact the neighborhood at all. The neighbor that is next door is totally in favor of it and I feel like he's made a reasonable request. He wants to have the snow blower there and he wants to have a little extra room, there's a little bit of difference in elevation and he can make it work where he want to put it, I really don't feel like its that much of an ask, I really don't.

Mr. Farrell It does seem like you are concerned about having that space, and you mentioned down the road, do you foresee in the future having equipment down there to develop that land or to clear any of it or anything.

Mr. Caivano I mean, not at this time.

Mr. Farrell Well is that part of your reasoning for wanting that additional space between the house and the shed.

Mr. Caivano Yes, yeah, I mean it's more about an access issue to make sure that if..

Mr. Farrell If the situation arose where you needed to do something or wanted to do something down the road you wouldn't have to relocate your shed.

Mr. Caivano Yes.

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 26th day of January 2022 at 7:00 pm.

Mr. Elms You've also said you throw snow that way.

Mr. Caivano Yes.

Mr. Elms So the closer it was to the area, it would be more problems for your snow blower.

Mr. Fitzsimmons Can I ask you a question? I don't know if this is going to make a difference to any of us and our review but the 5 feet, if it was offered to you to split that with you, to lower our percentage of relief would that be something of a compromise to you?

Mr. Caivano I guess, you know if 33% is asking too much.

Mr. Fitzsimmons The percentage is not always the factor here. We've heard a lot of different options, comments and thoughts. Based on sitting here, I didn't know if that was something you'd be willing to do.

Mr. Caivano I mean, I definitely would prefer the feet for peace of mind and for the future as far as getting back behind the house doing whatever.

Mr. Martin The other aspect of this while I was there was, and I noticed this on my own yard because I have two sheds in my yard. Once you place the building that is an effective demarcation, it established place is my point. So once the shed goes in, that dimension on the other side whether it be 10 feet or 15 feet in all practical purposes going to be rendered useless, you're not going to go over there. He has an entrance, I believe it's a side entrance, on that side of the house correct.

Mr. Caivano Right.

Mr. Martin so my point is, your yard is essentially going to be that space between the house and the shed.

Mr. Elms That's not all he's going to have for a yard.

Mr. Martin I understand that it's his property. I know that with my two sheds, the area on the other side of the two sheds is no man's land. Once it's built, I never go back there. So for whatever that's worth too, I understand about the access way and all that bit I he wants to put a patio out there someday between the house and the shed, this is the only place he can put that in his yard, that yard is going to be reduced by that amount. Where the shed line ends is going to limit the practical use.

Mr. Elms No I think that's a valid point.

Mr. Farrell Those are all valid points but one situation I could envision is that somebody else bought the house that wasn't you, and that person for whatever reason thought it was too close.

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 26th day of January 2022 at 7:00 pm.

I just think to Matt's point there are other alternatives, but I see your point and I totally understand that too. The reasons are your reasons so I can understand that.

Mr. Elms I don't believe they can change approval from the Town, if someone else bought the house next door. It's just like when the person at 159 Redmond Road bought this house, they couldn't say anything about the neighbor's house.

Chairperson Endal The side setback for this property is still 15 feet, we're just allowing the shed to be placed beyond. It's different, it really is weighing that detriment versus the community.

Mr. Martin Every applicant that comes into the office who happens to want to discuss with me, I say this is not precedent, the board looks at these on a case by case basis based on their own individual merits of the application.

Mr. Elms Right, we've had to do this where the property had two side setbacks.

Mr. Martin I think that if this ever became a legal issue for whatever reason, we look at the records and the minutes. Since I've been here I've seen each and every deliberation and it has been on its individual merits, you know there is no looking back to another case and because we did it there we're going to do it here, that's never discussed.

Mr. Caivano That's comforting.

Mr. Fitzsimmons You're right across the entrance from Evergreen?

Mr. Caivano That's correct.

Mr. Fitzsimmons And everything behind there goes up?

Mr. Martin Now to Scott's point and I think we've done that in the past too, if you can't find consensus on the amount requested, you know would 11 work, would 12 work, or some number in between the request and the requirement.

Mr. Elms He's asking for 5 feet relief and we can offer him 3 foot and still be taking away 2 foot from what he wants to do. If we reduced to 3 foot would that work or you? it's still giving you a pretty good benefit.

Mr. Caivano The space between the shed and the fence is just useless kind of like Jim said.

Mr. Elms I hear you.

Mr. Manning But it will provide the access that you're looking for, you can get around the whole building still, that's more than 15 feet and can provide access to your pool which was one of your primary concerns.

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 26th day of January 2022 at 7:00 pm.

Mr. Caivano Access to the backyard is my primary concern and stuff like that.

Mr. Elms He's got a lot of land that rises up in the back with the trees, the use of the shed back there is not going to be ideal, so its really not asking for a lot I mean I personally feel that this is something that we should be able to do.

Chairperson Endal I'd have to agree, I think a 10foot setback between the shed and that property line is going to fit just in that neighborhood. It's a R-2 and the fact that the neighbor's house is set forward from his house, makes it even less noticeable.

Mr. Elms I concur.

Chairperson Endal Okay if there isn't any further questions I would enter a motion.

Mr. Elms I think we've discussed this thoroughly.

Chairperson Endal I will make a motion to approve the area variance for appeal No. 840 as requested.

A motion was made by Chairperson Endal to approve the area variance for appeal no 840 as requested and was seconded by Mr. Elms.

Mr. Martin There are no conditions right?

Mr. Manning Well only double check it because is it considered the same rules as an accessory building on site, or 15 foot from drip edge.

Mr. Martin Yeah, and I explained that to him, it's measured from the edge of the eave. It's not the wall on the shed, it's measured from the edge of the eave.

Chairperson Endal Any further discussion? There is no need for SEQR right Jim?

Mr. Martin No that's correct and I would acknowledge that in the records this is a type 2 action.

Chairperson Endal Okay will you call for roll please.

Roll call:

Mr. Manning	No
Mr. Fitzsimmons	Yes
Mr. Elms	Yes
Mr. Farrell	Yes
Chairperson Endal	Yes

Four in favor, one oppose. Motion carries.

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 26th day of January 2022 at 7:00 pm.

Mr. Martin You're approved.

Mr. Elms We thank you.

Mr. Martin Just make sure you show that setback on your building permit plot plan. 10-foot from the eave.

Mr. Caivano Thank you for your time I appreciate it.

The board thanks and dismisses the applicant.

Meeting was adjourned at 7:40pm.

Respectfully submitted,

Katrina Flexon