

A meeting of the Zoning Board of Appeals of the Town of Moreau was held on April 29, 2009 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

PRESENT:

Chester Joslin
Kevin Elms
Gerhard Endal, Chair

ABSENT:

Darrell Finlayson-Retired
James Hooper
F. Joseph Patricke, Building Inspector

The meeting was called to order by Mr. Endal at 07:12 p.m.

APPEAL NO. 694

A request of Brandon Bickford of 51 Iris Avenue, South Glens Falls, New York 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 (A) and Town Law 267-b. Applicant is requesting to construct a garage that will not meet the required front yard setback for an R-2, One and Two Family Dwelling Zoning District. This property is designated as 49.19-3-27 on the Town Assessment Map.

Mr. Endal: "Reads the Above." You are presenting?

Mr. Bickford: I'm Brandon Bickford.

Mr. Endal: Can you give me a little background please?

Mr. Bickford: I want to build a Cape-Style garage on the end of my house. Have you seen the property?

Mr. Endal: Yes, I did go down there.

Mr. Bickford: Did you see it when the tape was up?

Mr. Endal: Yes. It will be attached to the house?

Mr. Bickford: Correct.

Mr. Joslin: That will come straight out from the garage correct? The roof line would be here?

Mr. Bickford: Correct. The roof line would be parallel.

Mr. Endal: So you would be 20 foot back from the property line?

Mr. Bickford: Actually 21.3, if you want to be specific.

Mr. Endal: Well yes it does make a difference because it is a variance.

Mr. Bickford: It is 40 foot. I

Mr. Elms: A 40 foot set back.

Mr. Bickford: I would be asking for less than 50%. Originally I wanted 28 foot, but I was under the assumption that if I could get it under 50% it would be possible.

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Mr. Joslin: I have a question on the picture here. The back end of this car is 26 feet from the house, then you have 26 feet from the back of your truck?

Mr. Bickford: Because I moved my truck. If you look at the other pictures I moved the vehicles. I am more concerned with my truck being in the garage.

Mr. Joslin: You have 26 feet to the back of your truck.

Mr. Elms: It is a misprint that is all. It is 26 feet from the back of the house and 26 feet from the back of the truck.

Mr. Bickford: Yes that is a misprint. Sorry about that. That's the property line. You can see I am not going to be right on top of the road if I build this garage.

Mr. Joslin: You cut back on the...

Mr. Bickford: It went from 28 to 26 feet.

Mr. Endal: Are you folks neighbors? Can you tell me your names?

Ms. Virginia Brown: I just wanted to say anything he has done to the property has been an asset to the neighborhood.

Ms. Caroline Brown: I lived with my mom. I just moved back. Even the stuff along the edge of his property is nice. His property is always kept up and is very stylish and well done.

Ms. Virginia Brown: We want to keep him.

Mr. Endal: Have we had any other comments from the other neighbors?

Mr. Elms: No there was nobody here against it. The issue was the size of the amount of relief and the other options available to him. Those were the issues. The relief would be almost 50%. We weren't comfortable with that. What is the need? Is there no other option to build onto the house? Is there no other options than to build onto the house.

Mr. Endal: I can understand that. I am going to assume that you are not going to use your existing garage. You are going to use it for living space? Why not keep your existing garage and build onto it. Can you build on the other side of the house?

Mr. Bickford: The other side of the house I have to build a whole other driveway. It is a very small garage. My wife's van barely fits in it and my truck will not. I have a plow on the front of my truck.

Mr. Elms: Of course the other thing was; Jim was one of the ones who felt it would be better for you to hold this over o there would be four of us here. But Jim is not here. We have to make our decisions based on the criteria that we are given. You know how I felt about it. I felt it was too much relief.

Mr. Bickford: Can I show you some pictures around the neighborhood?

Mr. Elms: Sure.

Mr. Bickford: This house is 1.1 miles from my house. As you can see I don't come anywhere close to this house in the set back.

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Mr. Elms: That was house was built way before the set back. The reason was because houses were like that, that is why they gave the 40 foot set back. You are asking us to revert back to something that the town purposely said we cannot do. We can do that but we have to have the circumstance that you have no other options. You are not doing that. You are saying I don't want to do that. When we have given a fairly large relief it is because someone had a small piece of property and they had no other option. They have come to the board and stated their family is growing and they don't want to move because they have made all these improvements on their house. Most of the time, what we do in a case like this is "why are not taking one of these other options?"

Mr. Bickford: Can you read the criteria again?

Mr. Endal: Yes. The first could be argued that the change in the set back might be an issue.

Mr. Elms: There is an undeveloped plot behind him, I'm sure that will be a house in the future, so that could be an issue.

Mr. Bickford: That would be undesirable?

Mr. Endal: Well because the town has decided that they want a 40 foot set back. But absent a pressing need we need to stick with that. I don't think that is the big one. The big one is the second one, why get an area variance when you can stay within the zoning laws.

Mr. Bickford: It's not feasible for me to put it on the other side of the house.

Mr. Elms: Why is it not feasible?

Mr. Bickford: I have a sprinkler system I'd have to tear up. I have the gas lines on that side. It would cost me \$30,000 to excavate the land to be able to put a driveway in because of the height requirement. The lay of the land is 3-4 feet down in on that side of the house.

Mr. Joslin: Who built them? Basically you have a raised ranch.

Mr. Elms: The garage is in the basement.

Mr. Bickford: I don't want my garage above my floor.

Ms. Brown: If I were to build a house on the other side of the property the view would be flawed.

Mr. Bickford: I almost have 3 front yards.

Mr. Elms: You have a corner lot and that is one of the situations with a corner lot.

Mr. Bickford: Other towns have a 30 foot set back.

Mr. Elms: We understand that. The chairman read the criteria. We generally don't give that much relief. This is really a tough one for us.

Mr. Bickford: It is not feasible to put the garage on the other side of the house.

Mr. Joslin: You can't put the vehicle in the garage now?

Mr. Elms: The property line in the front of the house, it is on this map right? You really can't do anything. Mr. Chairman what do you think?

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Mr. Bickford: I'll make a compromise with you; Last time you asked if I could make it 24 feet, right?

Mr. Elms: Right I did ask that.

Mr. Joslin: Let's start with a whole new picture. You have two cars. You have a garage that isn't big enough. What say we put a 10 foot addition on the garage, so now you have enough room for both cars, right?

Mr. Bickford: I have to come straight out, and my kids already scoot down that hill.

Mr. Joslin: Then that is not a viable option.

Mr. Endal: The cost does not come into play here. Feasible means can it be done. You own a house with a 40 foot set back. Yes you can get a variance on it, but there is nothing that says whether that is a reasonable set back or not there is no guarantee you will get a permit.

Mr. Elms: I was looking at it and he would have to put it on the side or the back.

Ms. Brown: I worked for the handicapped and money was an issue as far as feasibility was concerned.

Mr. Bickford: To build it on the other side would be out of my price range.

Mr. Endal: Unfortunately that is not our issue.

Mr. Bickford: Feasibility is.

Mr. Elms: You could feasibly put a two car garage on the side of the house but it would be detached. Being feasible is do you have space on the property to build a garage? That is feasibility. It means can it be built on the property? Do you have the space?

Mr. Bickford: Then I would have two garages.

Ms. Brown: To put a garage on the other side of the house, this would ruin the balance of the environment.

Mr. Endal: That is not an unreasonable argument. That is much more fixed to the intent of the law than how much it cost. My job is to decide if you have a reasonable alternative. The only thing I'm thinking is what you brought up before about the height of the building.

Mr. Elms: It rolls down to Dogwood.

Mr. Endal: That makes this property somewhat unique in this instance.

Mr. Elms: Unique in that respect.

Mr. Endal: My inclination is that you don't have to have a two story, but that is not unreasonable. If you did that would it be up above your current house. If you built it on the other side.

Mr. Bickford: Actually yes it would.

Mr. Elms: You can see the terrain. You are going right down the hill there.

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Mr. Joslin: If you look at the terrain you don't have too many options. To do what you want to do and conform to the zoning laws it would be pretty hard to do. That slope is much steeper than you think it is. If you really look at that slope right there.

Mr. Endal: It is a substantial variance; there is no question about it. Some time ago we kind of arbitrarily set a 50% standard, but I have never cared for it.

Mr. Bickford: I talked to Jim; I know Jim and he said as long as it was under 50%.

Mr. Endal: Well that helps.

Mr. Bickford: I would actually be willing to go down to 25.

Mr. Elms: If you go down to 25 would that give you enough room to do the overhand?

Mr. Bickford: I don't want to do 24 and then have to shave it all off. Because Joe Fitzpatrick was looking at it.

Mr. Endal: There is no question about it that it is quite substantial. Those are the two issues I have a problem with one is the substantial relief and there may be another method.

Mr. Elms: We have never given a 50%.

Mr. Endal: This doesn't have to meet each and every one of those conditions. We can choose to ignore it.

Mr. Joslin: The issue to me is the feasibility issues.

Mr. Elms: I appreciate the fact that he is willing to give us a little more space.

Mr. Endal: I looked at that property and to me having that driveway go out onto Dogwood

Mr. Elms: Well, we digress. What do you think?

Mr. Endal: My feeling is that we can grant this. I think what we need to do is address the fact that it is a burden on the other side.

Mr. Elms: Okay. We need to give our reasons to all those. We need to make it very clear in our decision. The reasons were;

1. Aesthetics

2. Terrain of the land.

3. Impact to the property owner. It isn't the reason but it certainly can play a part in it.

Mr. Endal: It matters.

Mr. Joslin: Can monetary consideration be in there or not?

Mr. Elms: Well I think when we say the impact to the property owner that is going to involve the issue of how we wanted it on the property and the costs; all of that is going to fall within the impact to the property owner.

Mr. Joslin: The uniqueness of the property.

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Mr. Elms: What we are going to do is make a proposal with a relief of 22.3 set back. So the relief is going to be 17.7. This drops it down to 47% or something. I am going to make a proposal for 17.7% which is going to give you 25 foot from the house to where you can build to. Plus the eave. Are we prepared to make a motion?

Mr. Endal: Yes.

Mr. Elms: I make a motion. In the Area variance 694 that we allow a 17.7 foot relief on the 40 foot set back from Dogwood. Is that correct?

Mr. Endal: Yes.

Mr. Elms: The findings are based on aesthetics, terrain, impact to the property owner and the uniqueness of the property. Is there anything else you want to add to that?

Mr. Endal: I just want to add that the findings are that we reviewed the conditions for granting an area variance and the issue of feasibility of an alternatives have to do with the those aesthetics and the fact that the property is unique because of the ground contours it would not be feasible to build a garage on the other side. We recognize that the area variance is a substantial one.

Mr. Elms: Yes this is a substantial area variance. We make our determinations on what is presented here.

Mr. Joslin: I second it.

Mr. Elms: I appreciate your working with us.

Mr. Bickford: I appreciate you guys taking the time out for this.

Mr. Elms: It has to be substantial. We have to be able to prove why we did it in case it is ever questioned.

Mr. Endal: The town has new zoning laws. We cannot change that, we shouldn't change that, it's not a part of the rules. Is there any further discussion?

Board Members poled:

Mr. Elms	- Yes
Mr. Joslin	- Yes
Chairman	- Yes

Mr. Elms: Now it is official.

The meeting adjourned at 8:25 p.m.

Respectfully submitted,

DeLinda Perry

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