

A meeting of the Town of Moreau Planning Board was held on August 17, 2015 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

G. Peter Jensen	Chairman
Linda Riggi	Planning Board Member
Reed Antis	Planning Board Member
John Arnold	Planning Board Member
Erik Bergman	Planning Board Member
Dave Paska	Planning Board Member
Ron Zimmerman	Planning Board Member

Also present: Stefanie Dilallo-Bitter, Attorney for the Town; Tricia Andrews, Recording Secretary; Joe Patricke, Code Enforcement Officer; Charlene Endal, Alternate Planning Board Member

Planning Board Members Absent: None.

Chairman Jensen called the meeting to order at 7:00p.m. The minutes of the July 20, 2015 meeting were reviewed. Mrs. Riggi motioned to approve the minutes with corrections and Mr. Antis seconded. Motion passed unanimously with Mr. Bergman, Mr. Paska and Mr. Zimmerman abstaining because they had not been present in July. P. 1823 3rd line from start of #1 Mr. Antis “The only thing he’s going to change is under the gasoline **canopy**.”

**#2 KJNZ Enterprises, Inc.
Zeke’s Deli and Catering
Site Plan Review**

Issue #2 was not reviewed as no one appeared to represent this case. Requested documentation for this hearing had not been received from the applicant. Issue #2 was presented first due to that being advertised first. Public hearing was opened at 7:08 and Mr. Zimmerman motioned to table the public hearing. Mr. Arnold seconded and roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes. Motion passed unanimously.

**#1 Atherton’s Auto Sales, Inc.
Site Plan Review**

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Issue #1 was tabled per a letter received by the Planning Board via fax on Aug. 17th. This applicant will be before the Zoning Board on August 26th, 2015 and will appear at Planning Board in the future pending the decision there.

Public hearing was opened at 7:10pm and Mr. Arnold motioned to table the public hearing on Atherton's Auto. Mrs. Riggi seconded. Roll call vote resulted as follows: Mrs. Riggi, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, yes; Mr. Zimmerman, Yes; Chairman Jensen, Yes.

#3 McKenna, Shawn
Sketch Plan Review
Site Plan Review

Chairman Jensen reported for the record that he had had a contractual relationship with Mr. McKenna that had nothing to do with this issue.

Atty. Dilallo-Bitter explained that the map demonstrates a small portion off of Sisson Road and that this is a question of the amount of frontage necessary to subdivide. A follow-up letter was sent to the applicant regarding the issues, after she and Mr. Patricke had met to review the Code. They were advised that a waiver may be obtained from the Planning Board, and that an explanation or documentation would be needed to get that, and that additionally documentation would have to be reviewed regarding easements for National Grid properties and properties of Clear involved in the plans.

Chairman Jensen asked the applicant for the requested reasoning.

Kristen Darrah of Darrah Land Surveying presented the wording of the easements over property of Clear, "purposes of ingress and egress in common with others." This wording has been the same since the lot was created in 1973.

Mr. Antis asked whether Mr. Clear's deed also states that, and Mrs. Darrah didn't know.

Mr. McKenna: Is that a necessary question?

Atty. Dilallo-Bitter: Yes.

Mr. Antis: That extra 50 ft. of easement, since it belongs to him.

Mr. McKenna: Are you requesting that we check that?

Mrs. Riggi: I agree, because if Mr. Clear wants to sell and it doesn't show on that deed you could lose it.

Mr. Patricke: Not lose it, since he doesn't own it.

Mrs. Riggi: Lose access to it?

Mr. Patricke: You've got to show that you have permanent legal access to it, we are not sure you do.

Atty. Dilallo-Bitter: I would recommend a title search before you buy anything. It's unclear because of the way the tax maps align.

Mr. Arnold: That's your insurance, that that's on there.

Ms. Darrah explained the request to the applicant.

Mr. Antis: Nothing you brought mentioned his property, so that's where we need to see the language because that 50 ft is his.

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Ms. Darrah: It was also requested copies of the language from National Grid showing no restrictions, and there doesn't appear to be anything specific. There is a new road going in, there doesn't appear to be anything in there restricting his access. The other question was why this should be considered for this. There are 25ft. of frontage which goes back to before the Zoning was written, that is our reasoning.

Mr. Arnold: Where's that?

Ms. Darrah: A 200 ft. by 25 ft. strip on Sisson Road- (demonstrating for Mr. Arnold).

Mr. Arnold: How do you have a parcel of land that's not connected to another tax parcel? Is that really joined at that one point?

Mr. Patricke: I think that involves the easement and that 50 ft., which is what she's asking for a title search to show that.

Atty. Dilallo-Bitter: The tax map wasn't representing the same. It goes back to a map of Richmond, which goes around the corner, so it's unclear how it got subdivided this way. This was back in 1969.

Mr. Antis: The big parcel- what's the tax deed- 50.2-22.2 you are saying this 50 by 200 is part of that parcel?

Ms. Darrah: Half of it is.

Mr. Antis: What about the second half?

Ms. Darrah: A separate parcel.

Mr. Antis: tax parcel 50.2-2.25.2

Mr. Arnold: Assuming you can have one tax parcel made up of two that join at a dot on a map, you have 2 25-footers next to each other that you are proposing to buy. My question: do you own this?

Mr. McKenna: We are under contract and trying to work something out.

Mr. Arnold: You have land in an M-1 and R-3. What's the minimum building lot in an R-3? I meant to look it up.

Mr. Patricke: 60,000 sq ft.

Mr. Arnold: So less than two acres.

Chairman Jensen: Are you comfortable with the reasoning?

Atty. Dilallo-Bitter: They keep talking about this easement as being in the documentation. Where do you place it? How does that represent this crossing?

Mr. Patricke: We need a map with the easements drawn in.

Atty. Dilallo-Bitter: I pulled this deed when we were looking at it. (Ms. Darrah demonstrated on map for Atty. Dilallo-Bitter). I think you need to get a title company to correct this. There's nothing that allows me to understand that this crosses here.

Mr. Patricke: The summation of the conversation between Ms. Darrah and the Town's attorney is that we need that title search to determine what's what.

Mr. Arnold: The one on page 8 reads like a right to cross, not a deeded right of way.

Atty. Dilallo-Bitter: I would want assurances. I see how the math works but we need to see it in the prior title of the individual it's crossing.

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Mr. Patricke: That's all a second step. If they have 50 ft. We don't know. Before he spends that money he wants some logical progression.

Mr. Arnold: Let's assume you do find proof that this exists. If the other guy's deed says yes, you can cross. If you put them together you have 50 ft. on a public road, that gets you one lot. Now you are asking for two more subdivided lots, technically not even connected to the road or to the easement. So those lots need easement over your property for a driveway to get in there. I am not even sure how you would number these. Those two lots you want to create still don't have connection to a public road. There was some question about that fact that in the 90's, it was ok. It was allowed in the Town. But even when the flag lot was created, there was still a requirement for 40. You would have to build a full public road to get another building lot on there.

Mr. McKenna: You don't allow shared driveways?

Mr. Arnold: We have shared driveways, but each lot still had 40 ft. strips to the public road, we let you not build three driveways, but you still had 40 ft.

Ms. Darrah: This isn't something you can get a Variance for?

Mr. Arnold: On what basis?

Ms. Darrah: Not having 40 ft, having 25ft.

Mr. Arnold: You haven't bought this yet. This is not a hardship. You don't own this, and no one caused this to happen to you. You bought it as is. You can ask Zoning, but I wouldn't think they'd do it. To go forward with it, you have to accept that or prove a hardship.

Mr. Patricke: There is a provision for the Planning Board to grant a waiver. I don't see a basis for a Variance, but a waiver doesn't have the same qualification. 124-42 wouldn't be Zoning Board, it's you. We asked them in the letter to explain why they need a waiver from this Board.

Mr. Arnold: If you had 30 ft. we might say, that's close. If you find a deeded easement connection, it's still not close.

Mr. McKenna: It's a proposed lot. We can alter it any way you want.

Mr. Patricke: I happen to agree, but we have to talk about all the options.

Mr. Arnold: Personally, if it was close, but this can open a whole can of worms of people subdividing land that doesn't have public road. If you got 50 ft. and built a road, you could do it. We don't do private roads. Either a shared driveway with every lot having 40 ft., or you build a public road.

Mr. McKenna: Is an association road a private road?

Mr. Arnold: If it's on someone's property yes. I get what you are trying to do and it makes sense but not on this lot and not within our codes. It's expensive to build a town road. Would you move forward with one lot?

Mr. McKenna: It's \$80,000 to get utilities back there.

Ms. Darrah: In the Board's opinion, are there options?

Mr. Antis: I am more comfortable with it as one lot.

Mr. Patricke: We asked you to come up with a reason.

Ms. Darrah: It was not well received.

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Mr. Patricke: That's what it sounds like.

Mr. Arnold: Could you get some land from the Boucher-Mahoney one?

Mr. Zimmerman: This other strip that you do own, is it 20 ft that you do own?

Ms. Darrah: It's an easement, there's no actual road frontage.

Chairman Jensen: I think the simplest thing to do at this juncture is to poll the Board, since this is Sketch Plan, we can't have regular approval or disapproval but we can poll the Board one lot or three. Would you consider this as a single lot, or are you comfortable with three.

Mrs. Riggi: Three.

Mr. Antis: One.

Mr. Arnold: One lot as proposed.

Mr. Bergman: One.

Mr. Paska: One.

Mr. Zimmerman: One.

Chairman Jensen: The consensus of the Board at this juncture is that informally the Board is comfortable with one lot and not with three. If that fits with what you are doing, you'd better definitely determine if you can have that piece you want to cross. Get your information to Mr. Patricke as to how you would like to move forward. The ball is on your court. You can request many things.

Mr. McKenna: What are my use options as one lot, as far as having a house and a shop?

Chairman Jensen: You have M and R options. Go according to the schedule.

Mr. Patricke: He wants to have a business and a residence on a lot, and we allow one principal use on a lot. If he wants to Appeal that, he'd have to go to the Zoning Board. You'd face the same issue with the title hunt before you go forward.

Chairman Jensen: If you want to go forward you have to spend the legal fees to see if you have a buildable lot. Any questions?

Ms. Darrah: Without options to purchase the other lands, is there any way to make this acceptable. I think it's been addressed.

Motion to adjourn was made at 7:52 by Mr. Zimmerman and seconded by Mr. Arnold. Motion carried unanimously and the meeting was adjourned.

Respectfully Submitted,

Tricia S. Andrews