

A meeting of the Town of Moreau Planning Board was held on March 21, 2016 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Present:

Jerry Bouchard Alternate 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: Atty. Stephanie Dilallo-Bitter, Attorney for the Town; Tricia Andrews, Recording Secretary; Ben Marcantonio, Code Enforcement Officer

Planning Board Members Absent: G. Peter Jensen, Linda Riggi

Acting Chairman Mr. Zimmerman called the meeting to order at 7:07p.m. He welcomed Gerald Bouchard, who is a new Alternate member and sat on the Board tonight in the absence of Mrs. Riggi. The Board immediately adjourned for executive session with the Town's Attorney.

Mr. Paska motioned to resume the meeting at 7:25pm and Mr. Arnold seconded. Motion passed unanimously with no roll call.

**#1 Solar City
Farnan Road
Site Plan Review**

This issue is on the agenda because there were issues that Garry Robinson wanted to see addressed. The approval was made complete because they met the conditions.

No action was taken.

**#2 Cerrone Subdivision
Old Bend and Paris Roads
Sketch Plan Review**

Mr. Tom Center of Nace Engineering and Atty. Mike O'Connor of Little & O'Connor spoke for the applicant. There had been a concern about runoff from Lot 1, so they met with the Town Highway Superintendent and discussed options. They decided upon a stone swail, check dam, and 2 8-ft. drywells at the bottom of the hill which will be maintained in the Town right of way. They have visited during rain events recently and feel this will address the concerns. Mr. O'Connor is here to speak to the issue of the

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tree cutting. He reports that Mike McClarty from Finch, Pruyn said they cut the parcel in 2014 to a 50 sq. ft. basal area, which is not considered a clear cut, because that's defined as a basal area of 30. It has to do with the total number of trees per acre, and is different from clear cut.

Atty. O'Connor: Finch calls this a shelter harvest. They need to open up the land to get sun on the soil, and they leave bigger trees to generate seeds.

Mr. Antis: Is this documented?

Atty. O'Connor: Yes.

Mr. Antis: Does it meet or exceed our Code?

Atty. O'Connor: They had 999 acres in 2014, and the question is really about the parcel that was purchased. It was one parcel when it was cut. So you are talking about a part of what was cut? The lot in question has 9.5 acres that were not cut at all, 15 that were, and 50% density was maintained there.

Mr. Arnold: Then you might not want to tie it into the other. The only thing they avoided before was 100 ft. from the river and wetlands, etc., that they left.

Mr. Center: There's also a 50 ft. buffer to the road and some area on the slope.

Atty. O'Connor: I understand that's a question of interpretation, whether you are supposed to count each stump to ensure 100% compliance. But it comes down to the public health and safety. 124-42 says that the Board may waive the requirements in the public's best interest. There's no purpose to splitting hairs about whether 50% basal is the same as a clear cut.

Mr. Arnold: There are the restrictions between the Town and Finch, Pruyn that says they can't sell it off.

Atty. O'Connor: We went through that with Peggy (Jenkins, Town Assessor).

Mr. Arnold: It's not our business, but it seems to me this is in our Code to keep people from doing a subdivision clearcut right before subdividing.

Atty. Dilallo-Bitter: I don't know why it's in there.

Mr. Arnold: That's all I can come up with- so you can log it this year and then sell it next year. I don't think that's why Finch cut it, but the issue of the taxes is not our thing.

Atty. O'Connor: We sent a letter to DEC to get out of the 480 program. Rich McDermott. We talked to Peggy beforehand.

Mr. Marcantonio: From what I understand it's not even taxes, it's a stumpage fee. So if they opt out, the stumpage fee would be a certain amount.

Atty. O'Connor: We are settled on that. What we would like to do is, do you have any other questions?

Mr. Antis: Lot 2 is 2.8 acres. Lot 1 is 2.5. How much actual territory is actually buildable when you have that swail, that slope, how large is the footprint?

Mr. Center: It's enough to site the house. Based on the plans, survey and water control...I can't tell you off the top of my head.

Mr. Antis: I don't like that first lot. I think it's too small.

Mr. Center: We met all the setbacks.

Mr. Arnold: What percentage is 15 degrees or higher slope? I'd guess 50%. That leaves you 1.25 acres to build.

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Mr. Center: I have siting for the house, the septic and the grading to get around to a relatively flat back yard.

Mr. Antis: That first lot's not good. I think you need to give it more space.

Mr. Center: What square footage of open area do you want?

Mr. Antis: An Acre.

Mr. Center: Excluding slopes greater than 15%?

Atty. O'Connor: We'll answer when we come back. We haven't agreed to change it, but we will take a look. We haven't begun SEQR yet, but we'd like to know if you'll take Lead Agency?

Mr. Zimmerman: We would.

Atty. O'Connor: Will you give notice?

Mr. Zimmerman: We will.

Atty. O'Connor: Health Dept, DEC.

Mr. Zimmerman: What's the distance to the river?

Mr. Center: It's greater than 500 ft.

Mr. Arnold: Are you looking at it because you hope it is, or do you know?

Atty. O'Connor: We looked at that when we were talking to SHIPO, we are sure.

Mr. Arnold: You have endangered species reports?

Atty. O'Connor: Yes.

Mr. Antis: With the additional homes in this area we have a one way in intersection and are increasing the traffic pattern. Not that it's the subdivision's problem, but how do we address that we need more sight line.

Atty. Dilallo-Bitter: You can ask for a traffic assessment to see if there is mitigation that could be requested.

Mr. Antis: Who would we ask that to?

Atty. Dilallo-Bitter: The applicant.

Atty. O'Connor: We are adding 11 homes.

Mr. Antis: I'm not saying you are responsible.

Mr. Zimmerman: But the attorney did just say that it is their responsibility.

Atty. Dilallo-Bitter: Usually on a State Road you would look to DOT.

Mr. Arnold: It's not the 10 lots. I think he should address it to the Town Board that there's a problem, and that more houses are coming and going to create a bigger problem.

Mr. Arnold: When we did the subdivision near Tanglewood we felt that it wasn't for us to go to the Town Board, but the residents should. But then we sent a letter referring to residents' testimony, asking them to look at it.

Mr. Congdon: That intersection is already on the schedule for review, we know it is a bad one.

Mr. Zimmerman: Would the best course of action be a letter from this Board to the Town Board?

Mr. Congdon: It should be some realignment regardless of this project.

Atty. Dilallo-Bitter: I can do that, a memo.

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Mr. Arnold: Nace Engineering's letter addressing concerns has an unclear phrase at the bottom of it.

Mr. Center: We did have a discussion about that.

Mr. Congdon: Did you plan to have a drainage pond?

Mr. Center: No.

Mr. Antis: You have Warren County on some of your maps. We are not Warren County.

Mr. Arnold: Lot One does look like a squeeze.

Mr. Antis: Compared to what it looks like on 2, with level ground.

Mr. Arnold motion for the Board to declare Lead Agency, 2nd came from Mr. Paska . Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mr. Zimmerman, Yes.

This will come back for Site Plan Review next month.

Atty. O'Connor: Put us on for the 18th and if we don't get waivers we will pass for the next month.

Mr. Center: Is this a Full EAF?

Atty. Dilallo-Bitter: Yes.

Mr. Arnold: One more question. We are not sending this to County because it's not near a highway, but what about near County lands?

Atty. O'Connor: The County doesn't do subdivisions.

Atty. Dilallo-Bitter: Correct.

Mr. Zimmerman: We would request peer review from Garry.

Atty. O'Connor: Do you want a waiver on the forestry issue?

Atty. Dilallo-Bitter: I would recommend that he submit it.

#3 Reynolds, Mark
Route 9
Site Plan Review

Mr. Reynolds: We drew to scale a trucking entrance and exit, gave it more green area in the front, and put in an area for the sign.

Mr. Antis: You were asked to show us actual footage on a map.

Mr. Reynolds: My surveyor thought it meant we put in the size of a truck.

Atty. Dilallo-Bitter: What do you mean by footage? Are you asking for turning radius?

Mr. Reynolds: We drew a truck to scale.

Mr. Arnold: How wide is the front lot? You are just missing one number, the remainder for the exit gives us dimensions for the front of the lot. No, we do have it.

Mr. Antis: You are not really showing me proof that a truck can come in and out safely just by putting a truck on the drawing. We have seen others with a nice arc where a truck comes in.

Mr. Zimmerman: That's a piece of information we can go forward without.

Mr. Arnold: A surveyor can mark it too.

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Mr. Reynolds: He was unfamiliar. We didn't try to deceive you.

Mr. Antis: The Town has been burned by previous applicants with trucks backing in on Route 9, so we want to make sure.

Mr. Arnold: 45 ft. at the exit and 50 at the entrance.

Mr. Antis: Trucks are 53 ft.

Mr. Arnold: They are 28 ft wide. They don't go in sideways. There's plenty of swing room here.

Mr. Reynolds: There's a driveway that's all blacktop.

Mr. Arnold: The other thing we asked for that you didn't do it is also easy, that's delineating parking spaces.

Mr. Reynolds: Okay. My surveyor wasn't familiar.

Mr. Antis: He should have talked to Ben.

Mr. Reynolds: I submitted this to Ben three weeks ago.

Atty. Dilallo-Bitter: It's a truck turning radius.

Mr. Arnold: It's really boilerplate.

Mr. Bouchard: I come from Zoning, so I don't know how this works, is this a warehouse? Those have to be 300 ft from the Route 9.

Mr. Reynolds: It's not a warehouse, it's just for storage, it's not in and out.

Mr. Marcantonio: If he's using it for storage, it's a warehouse.

Mr. Reynolds: We are in 23 states...

Mr. Antis: So call it a garage.

Mr. Bouchard: Ok, just trying to understand.

Mr. Zimmerman: Sounds like we're not considering it a warehouse?

Atty. Dilallo-Bitter: If in fact there is a question as to the use and the applicant is calling it a permitted use, make sure you only approve the things that are permitted.

Mr. Arnold: Will you be storing things here that you sell?

Mr. Reynolds: No.

Mr. Arnold: Will you store things that go to job sites for use in your business?

Mr. Reynolds: A little bit.

Mr. Arnold: Is that a prevailing use?

Mr. Reynolds: No.

Mr. Arnold: So a few half empty containers. You're not getting loads of stuff you warehouse until you have a job for it.

Mr. Antis: But we've been told before, answers change.

Mr. Arnold: If this were to start being used as a warehouse, it would be outside the use and it would be enforceable action.

Mr. Antis: Is this C-1?

Mr. Marcantonio: Yes. A private garage is for a vehicle with no business conducted there.

Mr. Arnold: We're not talking about a garage.

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Atty. Dilallo-Bitter: It's the only place it's defined.

Mr. Antis: Reads the permitted uses. None of these are storage areas. You have to go before them for a warehouse.

Mr. Arnold: But a warehouse needs 300 ft. setback he doesn't have.

Mr. Bouchard: So he also needs an Area Variance.

Mr. Arnold: We just okayed the Billington's to park their plumbing van in a garage and make a profit, so does this undo that?

Mr. Brian Mackenzie (present for his own later agenda item): I think we know the Zoning's a little off in the book. 300 ft. offsets are not something we have on our half acre lots. None of my 4 lots are more than an acre.

Mr. Arnold: They do exist.

Mr. Mackenzie: You are making it a fight for people to come into the Town.

Mr. Antis: But we need to be cautious, because we've been burnt.

Mr. Arnold: I motion to propose a public hearing for next month. If it's the case that we can't have a structure within 300 ft of Route 9, there are 20 buildings on Route 9 that shouldn't have been approved.

Mr. Reynolds: My business is no different from Overhead Door.

Mr. Arnold: Don't use them.

Mr. Reynolds: I have all this frontage. We've scaled it. We have a delivery every 2 months, it can pull in and pull out, if need be I have land behind this.

Mr. Arnold: We will know by next month if you can't have a warehouse on that lot, we can stop but I think it's crazy how long we have held you up on this.

Atty. Dilallo-Bitter: I wonder if it's different because it is an attached structure and it's not the main purpose of the site. Going back to you question about the plumber, there's a gray area.

Mr. Bouchard: It's an accessory use that serves the primary –“Any other accessory use customarily incidental.”

Mr. Marcantonio: That's very gray.

Mr. Bergman seconded the motion.

Mr. Bouchard: The determination of whether this is a warehouse or a garage, is it the intent of the motion to determine that by the next meeting?

Mr. Arnold: It will come up at the public hearing.

Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mr. Zimmerman, Yes.

Mr. Arnold: Mr. Reynolds should keep in mind that there's still information missing on the map that will be very important for next month.

Mr. Reynolds: If Ben could send me something.

Atty. Dilallo-Bitter: If you have an argument as to the permitted use, you should include that, it would be helpful.

Mr. Arnold: You can look the Code book up online.

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Mr. Antis: Are we getting a good enough Site Plan map from him?

Mr. Arnold: For what's proposed, yeah. I am concerned a little about the runoff and that's why I asked him to slope it to the back.

Mr. Antis: The maps we usually get are bigger.

Mr. Reynolds: Since I am getting an engineer involved I will have them draw in a drywell.

Mr. Zimmerman: Show any additional lighting you want to put on the building.

Mr. Reynolds: There's gonna be lights, some Dutch dormers.

Mr. Zimmerman: That's the kind of information we would want.

Mr. Marcantonio: We want to see a drawing that's more than 40 inches.

#4 BKM Properties

Route 9

Site Plan Review

Mr. Brian Mackenzie of BKM Properties is proposing a 6,000 sq. ft. 60 x 100 building with up to 5 tenants at 1330 Route 9: The only thing special is we want to display vehicles in front with intent to sell. We will work on trucks, cars, bikes and they will be set out front for display.

Mr. Antis: So it's Auto Sales?

Mr. Mackenzie: It's automotive boutique.

Mr. Antis: You want to have several different businesses.

Mr. Paska: Where is this, I can't picture it.

Mr. Mackenzie: This is right after Diamond 9. We tore an old white house down.

Mr. Paska: This lot is deeper than wide?

Mr. Mackenzie: Yes.

Mr. Antis: Have you been to Zoning?

Mr. Mackenzie: They sent me to you.

Mr. Antis: It's less than an acre and ZBA has to approve ...

Mr. Marcantonio: The previous determination was one acre per business. The Code says one acre for a principal use. You can have an office building with several businesses in it, and they service highway traffic.

Mr. Arnold: The lot is an empty lot. So does it have to approve change of use from old rundown house, to store?

Mr. Antis: Code says one use one acre.

Mr. Marcantonio: The Code does not say one lot one acre.

Mr. Antis: It says one acre.

Mr. Marcantonio: This is a preexisting lot. You need an acre, and he doesn't have an acre, but he's not trying to create one.

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Atty. Dilallo-Bitter: The lot is not being modified, it is a pre-existing, non-conforming lot SIZE. But if he builds a building that doesn't meet the setbacks, he'd need variances.

Mr. Mackenzie: The setbacks are ok.

Mr. Arnold: To me, this is one business, which is "owning a building." That makes sense for a Commercial District.

Mr. Mackenzie: I don't want to be a used car lot. Call it a shop. We have a canopy in the front. It's an automobile boutique. We are looking for a display area out front. The guy from Nolan Road who does truck bed liners is looking to expand, and we will sell accessories, etc.

Mr. Arnold: So it's fancy used trucks.

Mr. Bouchard: It's still used trucks.

Mr. Marcantonio: The reason he's here is I determined it was a business that services highway traffic. You can limit what he puts out there.

Mr. Mackenzie: It could be anything we put out there. A side by side with flames. A hopped up golf cart.

Mr. Antis: Will cars traveling to your business be able to find a barrier between so they are not going into Diamond Plaza?

Mr. Mackenzie: There will be a buffer.

Mr. Zimmerman: What else might you display?

Mr. Mackenzie: Trucks, cars, motorcycles, anything motorized.

Mr. Zimmerman: Stacks of caps or tires?

Mr. Mackenzie: No, real clean front end.

Mr. Antis: What display rules?

Mr. Mackenzie: A year and a half down the road, we get the bullet liner business going, we still need to get others in there, signed lease. We have a detailer interested; we might have a barber shop. It's all automotive.

Mr. Antis: How do we know it doesn't get messy, overwhelming?

Mr. Mackenzie: If you go by and have a problem, Ben can say so.

Mr. Antis: We have to have it down on the plans.

Mr. Bergman: All we have to do is put a diameter on the display area.

Mr. Mackenzie: All I want is two cars.

Mr. Bouchard: I think that's fair, just to define the size.

Mr. Paska: A couple things not on the plan that will come up. What are you going to do with snow?

Mr. Mackenzie: Between those two trees.

Mr. Antis: What kind of berm or barrier with Diamond 9?

Mr. Mackenzie: No barrier.

Mr. Arnold: What's going to tell people in Diamond 9 to go into your spot?

Atty. Dilallo-Bitter: You would have to have inquired about an easement. You can reserve the interconnect on this plan and Diamond Nine would come in.

Mr. Mackenzie: I could go to them and ask for an easement. In the future I might like to buy that.

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Mr. Marcantonio: Connecting is good, because it reduces entrances on Route 9.

Mr. Antis: I don't know what DOT would say about this.

Mr. Zimmerman: How many parking spaces?

Mr. Mackenzie: I think I am over a few from what's required.

Mr. Marcantonio: One per 100 for retail but for the garage portion is different.

Mr. Mackenzie: 11 spaces for the industrial.

Mr. Arnold: There's nothing keeping him from asking Diamond 9 to connect.

Atty. Dilallo-Bitter: Right.

Mr. Arnold: I would recommend that you eliminate 3 spaces there and leave that as a "proposed interconnect."

Atty. Dilallo-Bitter: Ask him to write a letter to Diamond 9 and show he asked them to resolve this and let them know what direction we are hoping it will go.

Mr. Mackenzie: I want it out the back to Fortsville Road.

Mr. Arnold: Sight lines are bad out there.

Mr. Bouchard: What did you ask for at Zoning?

Mr. Mackenzie: Setback variances. My engineer read it differently.

Mr. Bouchard: My concern for it is that automotive sales will send you back.

Atty. Dilallo-Bitter: The whole thing is determined as a "business that serves highway traffic."

Mr. Marcantonio: Mr. Mackenzie doesn't want to be limited to just automobile sales, which is what happens if he gets that permit.

Mr. Bouchard: Could he put in a Laundromat?

Mr. Arnold: That's retail.

Mr. Bouchard: It's an allowed use. Does it mean nothing is off-limits, as long as it services highway traffic?

Mr. Marcantonio: I understand what you are saying, yes, it appears he's providing automobile sales. The mixed use of the building, I look at differently. We don't have anything that addresses a mixed use building, other than a shopping center.

Mr. Antis: You want 5 business, you don't know what they are.

Mr. Bouchard: I just want to make sure we don't have to send him back. It seems to me to not be within the intent that we would permit certain uses by Special Permit and then let people pass if they are part of something else.

Mr. Marcantonio: Other towns if a tenant has a change of use, they have to file a permit, we don't have that.

Mr. Arnold: In our C-1, if someone wants to open a business that doesn't fit the code, and it comes to your attention, it can be addressed.

Mr. Arnold: You are probably right about the automotive sales

Mr. Mackenzie: But that only allows me to be a service garage and nothing else, this is high-end modifications. I also have stuff stored in the back so is it a warehouse like the last guy?

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Mr. Arnold: You could put whatever you want out for display without selling it. You can sell it elsewhere. Have a separate location.

Mr. Mackenzie: I don't want that.

Mr. Marcantonio: Because the building is mixed use.

Atty. Dilallo-Bitter: If I understand correctly, the interpretation was made because auto sales are not the primary use, he's presenting that other auto paraphernalia. If *only* auto sales ends up happening, he would need a Special Use Permit.

Mr. Antis: We're gonna have to put it on the final plans, not just in the minutes to make it official.

Atty. Dilallo-Bitter: Uses are always official. That's what's been interpreted as to why he didn't need a Special Use.

Mr. Zimmerman: So Ben will have a Site Plan that he can use to enforce if something else happens on site. You will have to bear with us, while we make sure we get you what you need.

Mr. Arnold: Everyone agrees there needs to be change but not everyone agrees what to change. This is very attractive, both the building and the purpose.

Mr. Zimmerman: A couple things were mentioned earlier. Diameter of the display area, do you have a sense?

Mr. Mackenzie: I will look into adding that.

Mr. Bouchard: He should make sure he doesn't get too close to Route 9.

Mr. Zimmerman: Do you want to prescribe the number of bikes, etc under the canopy?

Mr. Bergman: He should just be limited to only under there, so people can still get in and out. He should delineate it.

Mr. Arnold: Will you be accepting deliveries?

Mr. Mackenzie: All UPS. The cap business is a very small truck with a 30 ft trailer.

Mr. Antis: He's not disturbing an acre, since he hasn't got an acre. He should show where he's going to put his snow.

Mr. Paska: And a trash dumpster.

Mr. Zimmerman: Referrals?

Mr. Marcantonio: None yet.

Mr. Zimmerman: Have we declared Lead?

Motion was made by Mr. Arnold for the Town to declare Lead Agency and seconded by Mr. Antis. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mr. Zimmerman, Yes.

Mr. Zimmerman: Short EAF is OK?

Atty. Dilallo-Bitter: Yes.

Mr. Zimmerman: Refer to County, DOT.

Mr. Arnold: Endangered species and historical.

Atty. Dilallo-Bitter: For SEQR Review, that's required.

Mr. Bergman: Drainage and drywells.

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Mr. Mackenzie: I will have drains around the building. Single slope roof.

Mr. Arnold: Of course you would not have drains in the floor.

Mr. Mackenzie: Why not, if I have a separator?

Mr. Zimmerman: If you are having drains and an oil/water separator system, we're going to need to see a lot of detail for that. We might like it to just be a slab, and then show us what you have for stormwater.

Exterior lighting?

Mr. Mackenzie: LED downcast poles and under the canopy.

Mr. Arnold: What percentage is impermeable?

Mr. Mackenzie: Permeable pavement isn't working around here. It freezes and breaks up after a couple years. I will do runoff and stuff with my engineers. We've held off until we knew what was going on, I will get it now.

**#5 Stewart, Terry
Mountain Road
Sketch Plan Review**

Jim White representing. The propose a residential subdivision on 27 acres, wetlands in the back. DEC and Army Corp delineations are done. Haven't done perc tests yet because of frost, everything's been good in the area. On-site wells and septics. The big issue is the requirement for 40 ft. of road frontage, but the whole lot has 70 ft. They own additional land next door that could go out on Spier Falls Road, which would give frontage, but not ingress and egress.

Mr. Marcantonio: A driveway can't go from Spier Falls Rd to the property because it would have to cross the wetlands.

Mr. Arnold: There's another piece they own.

Mr. White: That's way up Route 9.

Mr. Arnold: This is a really nice building lot with 70 ft road frontage. It's two flag lots.

Mr. Antis: It doesn't make sense.

Mr. Arnold: You are asking for two flag lots, one with 50 ft and one with 20 ft going back 110 ft. until we get to the main part of the lot.

Mr. Antis: Why?

Mr. Arnold: To get two lots out of it.

Mr. Arnold: Do they own this to Route 9, south of it?

Mr. White: Yes. Effectively all the way out to old 9.

Mr. Arnold: I am uncomfortable with 20 ft frontage.

Mr. White: I don't think he would have come this far without some encouragement from the building inspector.

Mr. Arnold: You encouraged a piggy-back flag lot?

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Mr. Marcantonio: I was present when he talked to Mr. Particke about one lot with 40ft. and possibly a second with 30 ft.

Mr. White: There's already a driveway in there and we made it 20 to keep that intact.

Mr. Arnold: It's still back to back flag lots.

Mr. Antis: 1.49 acres on lot 1, second?

Mr. White: There is a demand for that type of lot. Zoning that requires measuring at the front building line makes you want to do this type of thing.

Mr. Arnold: Have they approached adjacent landowners for some access? Batkay or Chamberlain?

Mr. White: We can establish 40 ft of public highway, but not for access.

Atty. Dilallo-Bitter: You have to access where your frontage is.

Mr. Congdon: If you have two flag lots next to each other isn't the concern that you'd have two driveways next to each other?

Mr. White: It's up for discussion.

Mr. Congdon: You've done that with two flag lots.

Mr. Zimmerman: Each lot had 40 ft. in that case.

Mr. Arnold: Normally even if there are two we will bring them together where they meet the road, we do try to do that. The main idea with the 40ft was a minimum amount of frontage. I don't know if that has to go to Zoning. I don't have a problem with 40 access that's not your access. I might have a problem with two driveways.

Mr. Marcantonio: It's a waiver you can grant.

Mr. Congdon: You are ten feet short?

Mr. Arnold: Don't assume the 40ft requirement was meant to separate driveways. I think it was to ensure that the flaglots had ingress egress.

SBD: "Each lot shall abut 40 ft. frontage which provides actual physical access for emergency vehicles."

That's the Code at 124-24, which is what we used for McKenna.

Mr. Arnold: In that case he had no frontage at all.

Mr. Antis: He had an easement.

Atty. Dilallo-Bitter: He did and he didn't want to use it to access.

Mr. Bouchard: That's a waiver to the subdivision?

Atty. Dilallo-Bitter: He's here for sketch. You're letting him know if you like it.

Mr. Arnold: I'd be more comfortable if you could use the Mountain Road 30 ft. for the driveway.

Apparently the Code doesn't do that.

Mr. White: But you can with a waiver.

Atty. Dilallo-Bitter: If you articulate why the waiver is allowable and doesn't endanger health, safety, and welfare.

Mr. Arnold: Forget this. Make this lot 1 with 70 ft frontage, come over here, for frontage...can you get to there?

Mr. White: It's 500 ft in from Spier Falls.

A meeting of the Town of Moreau Planning Board was held on March 21, 2016 at 7:00 p.m. in the Town of Moreau Office Building, 351 Reynolds Road, Moreau, New York.

Mr. Arnold: Come in here.

Mr. White: That's across the neighbor's property.

Mr. Arnold: I don't want to set a precedent for a thing I am opposed to, and I am trying to help you find something you can do.

Mr. White: In a way it's better, because there's a buffer with a subdivision that goes in on Spier Falls. There are some benefits to that and certainly subdivisions can be designed with a building envelope and say "no disturbance" on that 40 ft., strip, that was an idea that we floated earlier in this design process.

Mr. Bouchard: Local law says 40 ft and you have to use it for ingress and egress. If it was pre-existing, maybe, but subdividing is creating the issue. I can't see it.

Atty. Dilallo-Bitter: If you need a waiver, he has to go through the arguments in 124-24 and note that it talks about emergency vehicles so they'd want to contribute if he goes that way.

Mr. Zimmerman: With Sketch Plan we can only poll the Board and you can get an idea of what direction members are leaning, to give you some direction.

Mr. Paska: I'd say not in favor.

Mr. Bergman: No. If you can't switch it, frontage and ingress, no.

Mr. Arnold: No as proposed.

Mr. Antis: No.

Mr. Bouchard: No.

Mr. Zimmerman: I agree.

Mr. Arnold: I recommend find someone who will allow access. Messy, but it would be nice to see something in there.

The minutes of the February meeting were reviewed and corrected. The Agenda Item numbers were 1, 2, 5, 5, 5, so those were corrected as numbers 1-5. No other corrections were noted. Motion to accept the minutes as revised was made by Mr. Arnold and Mr. Bergman seconded. Roll call vote resulted as follows: Mr. Bouchard, Abstain; Mr. Antis, No; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mr. Zimmerman, Yes. Motion carried 4-1-1.

Atty. Dilallo-Bitter explained to the Board that for Article 78 action, a person who has standing can say that the Town made an arbitrary and capricious decision. It has to be done within 30 days of that decision, and judges act quickly on them because property rights are at stake. If the February minutes are approved, they will become part of an Article 78 action, either in 2 days or in 32, depending on how one reads the regulations.

Discussion was had with Mr. Congdon surrounding a decision made at the last meeting and recorded in those minutes.

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Arnold Antis motion to make the last part of the current minutes an executive session after the fact, because pending litigation was discussed. Roll call vote resulted as follows: Mr. Bouchard, Yes; Mr. Antis, Yes; Mr. Arnold, Yes; Mr. Bergman, Yes; Mr. Paska, Yes; Mr. Zimmerman, Yes.

Motion to adjourn was made at 10:06 p.m. by Mr. Arnold and seconded by Mr. Bergman. Motion carried unanimously with no roll call and the meeting was adjourned.

Respectfully Submitted,

Tricia S. Andrews