

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Chairman Gerhard Endal

Kevin Elms

Scott Fitzsimmons

Richard Kubis

John England

ZONING BOARD MEMBERS ABSENT: None

Also Present: F. Joseph Patricke, Code Enforcement Officer; Stefanie Dilallo-Bitter, Attorney for the Town; Tricia Andrews, Recording Secretary.

Chairman Endal called the meeting to order at 7:00 p.m.

Appeal No. 761

A request of John McAllister of 363 Gansevoort Road, Moreau, NY 12828 for a Use Variance pursuant to Chapter 149, Article X, Section 149-59(b). Applicant is proposing to use an existing building at 196 Reservoir Road, Moreau, NY 12828 for a Food Truck business. This property is located in an R-2, One and Two Family Residential District and is designated as 63.2-2-11 on the Town Assessment Map.

Nothing will be heard regarding this Appeal tonight as Mr. McAllister has not responded to a letter requesting more information.

A member of the public asked if there were time limitations. The Chairman said that they can close an Appeal 30 days after a public hearing, but the public hearing has not been held yet for this matter. The public will be notified when Mr. McAllister's appeal will be back on the agenda. Last month, the Town had agreed to re-notify everyone within 500ft. when Mr. McAllister's Appeal will be on the agenda even though this is not the usual procedure.

The Board discussed the date for the November meeting, because it would be the night before Thanksgiving. They decided to move it to Monday, Nov. 23rd at 7:00p.m.

Appeal No. 758

A request of Shawn McKenna of 570West Road, West Fort Ann, New York 12827 for a Special Permit pursuant to Chapter 149, Article V, and Schedule of Regulations in an M-1, General Manufacturing and

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

Industrial District. Applicant is requesting to subdivide a parcel of land at 19 Sisson Road into three residential building lots. This property is designated as 50-2-25.2 on the Town Assessment Map.

Mr. McKenna's appeal was tabled at the previous meeting. The Board has to go into executive session to discuss information that the Town's Attorney has just brought. The Board adjourned at 7:05pm to go into the Conference Room for that purpose. The meeting was re-adjourned at 7:19p.m.

The Board had neglected to do SEQR Review at the previous meeting. The Chairman explained that it is a formality, but it is important. Atty. Dilallo-Bitter produced the Short Form. The Board reviewed it. Chairman Endal motioned for a negative declaration on SEQR and Mr. Elms seconded. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carries unanimously. Motion was made by Chairman Endal and seconded by Mr. Elms to note that the motion was made in October for an Appeal that was handled in September. Roll call vote proceeded as follows: Mr. England, Abstain; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carries.

Mr. McKenna wants his work trucks on his property. He doesn't want any customers on his property. It is surrounded by a ravine and is not visible to the community. It is already in a Manufacturing Zone. Mr. Elms asked whether the Special Use Permit he had in place changed the Zoning and Mr. Patricke affirmed that it should no longer be looked at as a Manufacturing Area but rather as a Residential Use. Ms. Darrow argued that a garage is allowed as an accessory use. He wants to store business vehicles there.

Mr. Patricke clarified. Mr. McKenna wants a garage before the house. He sold his house and shop and this has not moved as quickly as he had hoped. Mr. Patricke said he didn't think the Board could do anything about that, and that accessory buildings by definition require a principal use before there can be an accessory.

Mr. Elms added that the Use Variance was added based on different access than what he is showing on his map presented tonight.

Mr. McKenna said that they aren't doing what they thought. National Grid is doing something and is adding a 30ft road.

Eric Past of 9 Sisson Road said that National Grid has stated that the earliest they will start on the project is January. They don't have any permits yet.

Tom Mahoney, 7 Sisson Road said that National Grid is using ~~imminent~~ eminent domain to cut trees and build a bridge etc. behind his property. They are clear cutting his trees and he will have to see whatever is behind it. [amended 12/1/2015 lm]

Mr. McKenna: We are going to be 200ft past the property line.

Mr. Mahoney: They are clear cutting and dredging my pond. There is a no trucks sign on the road are you

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

going to drive trucks on that road?

Chairman Endal: If you are going to change the location of the access road, that changes things.

Mr. McKenna: I am not doing anything, National Grid is.

Atty. Dilallo-Bitter: It was always our understanding that it was going this way, and you are saying now it's different.

Mr. McKenna: I don't know why they are doing it.

Ms. Darrah: You didn't say it was contingent on that.

Chairman Endal: We gave the permit based on what we were presented. This is changed. There's a bunch of issues that your neighbors have raised as well.

Mr. McKenna: Their problem is with National Grid.

Chairman Endal: The determination from the Zoning Administrator is that this is not allowed.

Mr. McKenna: What, a garage?

Chairman Endal: A business.

Mr. McKenna: All I have to do is drive down the road, anywhere in Town people have business trucks in their driveways.

Chairman Endal: This is the interpretation, you are appealing it.

Mr. McKenna: I just want the same rights as the rest of the community.

Mr. Elms: You have to present an Appeal.

Mr. McKenna: I thought we were.

Mr. Patricke: That is why we were here. We said at that meeting he was coming back to talk about the Principal Use.

Atty. Dilallo-Bitter: You gave us nothing but this map. You are not arguing that it is an accessory use. All the information you have provided is that you say that. But this has not been advertised so they can't make a decision.

She recommends that it be held over until next month.

Chairman Endal asked whether there would be employees there.

Mr. McKenna: No, I work alone, no employees.

Chairman Endal: I have been on the Board when the Zoning Administrator makes a determination and someone wants to Appeal it, there's a formal process.

Mr. Patricke: I thought that we were saying last month, that that's what we were going to do, and we don't re-advertise.

Atty. Dilallo-Bitter: It's a different action. You got an approval on your first request. Now you have an Appeal.

Mr. McKenna: What I want today is the same thing I asked for 4 months ago. I want a house and a garage like everyone else in the Town has.

Atty. Dilallo-Bitter: If it is decided tonight it would be appealable because of the lack of a public hearing. This is a different application, and a different map than what was submitted before. We saw a subdivision

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

map before.

Ms. Darrah: We did this in the interest of clarity for everyone here.

Mr. Elms: This is a complicated issue. We gave you permission to build a house, and you want to build a garage, and there will be no business conducted there but you want to store your equipment there?

Atty. Dilallo-Bitter: How much equipment do you have?

Mr. McKenna: A couple excavators and a dump truck.

Mr. Elms: Do they go in and out every day?

Mr. McKenna: Everything's on my sites, in the winter it might be stored. I want to be able to lock it up and go away in the winter, I feel it is safe, 100's of feet off the road.

Mr. Elms: Mr. Patricke's letter directs him to follow procedure.

Mr. Patricke: He did what he thought he had to do. He called me every day. I thought we were ready to hear this, if that is wrong it is my fault.

Mr. Elms: But I don't see how we as a Board could act on this without the neighbors knowing about it. The access has changed and the idea that Joe has determined it's a commercial use.

Mr. Patricke: Just as he found people who have trucks with their name on it, he is correct. It happens. I agree that the change in access, using that other road, is not good. We weren't going to approve it at all, without that easement.

Chairman Endal: If you are going to use this other road, you'd at least go to Joe for it.

Ms. Darrah: We need to table it til next month and present it where the road was originally?

Mr. Elms: It makes a huge difference, we can't fairly allow you to proceed and change it without telling them.

Mr. McKenna: National Grid is putting the road in no matter what.

Mr. Elms: He can use it, but we can't approve it that way.

Mr. Patricke: You will have to weigh that, when you look at granting the Special Use Permit. These two gentlemen back here aren't going to be happy with trucks going in and out.

Mr. Poust: My paperwork gives James Greenwood permission to access the land behind me. They never came to me about a permanent road.

Atty. Dilallo-Bitter: They are not building a road.

Mr. Poust: We were told National Grid would use it once a year. Now he's thinking it's a driveway.

Chairman Endal: The issue is more to do with whether this is an accessory use.

Mr. Patricke: You can put a condition on a Special Permit. Where we are, without hearing it, you could condition it that he can't use that as an access road.

Atty. Dilallo-Bitter: I don't think he's presented it to utilize it.

Mr. McKenna: If a tree falls on my road, I have to be able to get out of there.

Mr. Patricke: The public needs to be here.

Mr. Elms: I think the mistake that was made is we didn't discuss this.

Chairman Endal: He was up front about the fact that he had it.

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

Mr. Elms: But that there was a road going in.

Atty. Dilallo-Bitter: They indicate they are going to re-submit because they want to use the improved right of way. They would like to modify their special Use Permit. If you still want permission to build a house here, you have to do it with that change. And you have a question of whether you can use the easement for two principal uses and it's going to cause difficulty. He's identified that this is how he's going to gain access.

Chairman Endal: You have access here, but you told us you are going to use here. You have to use it or the Permit is voided. We didn't grant permission to use this as access.

Mr. McKenna: You don't have to.

Ms. Darrah: If we go back to access Route A, he can still have a house back there?

Chairman Endal: And we still have to talk about the second use. The issue is how much, how big- to what extent you can have equipment for your business in use on your property.

Mr. McKenna: It's a manufacturing district.

Chairman Endal: No, it's not.

Mr. McKenna: But it always has been.

Chairman Endal: This is a residential property.

Atty. Dilallo-Bitter: Unless he abandons that.

Mr. McKenna: It could have been smokestacks and 50 vehicles a day going in and out of there, what I want isn't so bad.

Ms. Darrah: What's the limit on this use? The property is large and deep. Anything that happens is going to be limited in sight. 300ft from the first property line.

Mr. McKenna: I don't want to be seen or anyone to see me.

Mr. Patricke: At 2 in the morning you can hear a dump truck no matter where it is.

Ms. Darrah: This scenario would be difficult to duplicate.

Chairman Endal: That is true. The problem is we are not looking at that. If you asked for a Use Variance, we'd be looking at that, but I'm not sure we could even grant that.

Mr. Poust: If you go back to the other access point I have no issue with that, and I am the neighbor most affected, along with Tom who just left.

Chairman Endal: The question we have to answer is whether it's an Accessory Use.

Mr. Kubis: Are you going to have a shop and do business related work?

Mr. McKenna: No more than any other person would do. Change oil.

Mr. McKenna: Anything that doesn't not relate to vehicle maintenance?

Mr. McKenna: No. Storage.

Mr. England: How many trucks?

Mr. McKenna: A full size dump truck and a small dump truck.

Mr. Elms: What size barn?

Mr. McKenna: About 60x60 or 60x80.

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

Chairman Endal: What size house?

Mr. McKenna: 800 sq ft, because I have to build it first.

Mr. England: You want a barn 12 times the size of your house.

Mr. McKenna: It will become a guest or pool house someday.

Chairman Endal: I am not uncomfortable calling this an accessory building, as it is one person using it, a little maintenance.

Mr. Elms: I would be inclined to agree. I was most concerned about the changing access point.

Mr. England: How does that affect the one principal use theory?

Chairman Endal: We are saying that it's one principal use. I feel this is different from a half-acre and someone putting storage on it.

Mr. Elms: Motion to find that this is one Principal Use and the Accessory Use is Accessory as defined by the applicant with approx. 6 pieces of equipment. Additionally there will be no employees on site, access will be maintained on the Northern end of the property, and this is a continuation from September's hearing. The Applicant plans to reside on the property. He will be allowed no signs, no employees, no customers and no stockpiles of soils and other materials, etc. or other business activity on the site. Mr. Endal seconded.

Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carries.

Ms. Darrah asked whether the siting of the buildings on the lot was decided and Mr. Patricke said that they can still move it.

Appeal No. 762

A request of Saratoga County Economic Opportunity Council Inc. of 39 Bath Street, Ballston Spa, NY 12020 for a Special Permit pursuant to Chapter 149, Article V, Section 149-29 and the Schedule of Regulations in an R-1 Zoning District. Applicant is requesting to operate a Head Start/Early Head Start Classroom at Pine Knolls Alliance Church, 614 Gansevoort Road, South Glens Falls, N.Y. 12803. This property is designated as 50-1-11 on the Town Assessment Map.

Barney Jouse, Head Start director: Head Start wants to run a site at Pine Knolls. It is a child care center which right now is mostly used Sunday mornings. For Head Start they will have 18 kids, 3-5 years old, transported by their parents. Staff will be there 8-4, kids 8:30-2:30. The families are low income, it is a grant-funded free service. 1/3 have special needs. It is the ideal location. Head Start has 17 other sites in the County serving 434 kids. The relationship with Pine Knolls is new.

Chairman Endal: For a Special Use Permit we look at the nature of the neighborhood and traffic issues, and I don't see any. These kids are not bussed in.

Mr. Jouse: 18 cars at most, and not like a typical Sunday.

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

Mr. Fitzsimmons: Anything else going on in the church at that time?

Peter Bondzinski, Children's pastor: I am here with Lynn Figuera from the church. There's a ladies' Bible Study on Tuesdays. We are here to support Head Start. These are low impact.

Mr. Elms: So it's in harmony with what is already going on there, which is one of our criteria. We also have to look at traffic and whether this creates a hazard. You have a huge parking lot.

Mr. Patricke: How many on a Sunday?

Mr. Bondzinski: Cars or people?

Mr. Patricke: Cars.

Mr. Bondzinski: A couple hundred.

Mr. Elms: I believe we've covered the conditions.

Mr. England: Did we get a notification for this some time ago? Is this the only time there's ever been a school?

Mr. Bondzinski: No, I don't think we've been here before.

Mr. Patricke: We have Fishermans' Net that was before you years ago, next door.

Mr. Bondzinski: We had a Christian School use it for a few months, but it was 20 years ago or something.

Mr. England: We saw something with this facility and had a question about the adequacy of the bathroom facilities.

Mr. Patricke: This facility can handle far beyond what they are proposing. This facility is first class. This is far below what it can be used for.

Chairman Endal: You're going to have other inspections.

Mr. Jouse: Yes.

Mr. Patricke: We supply fire inspections.

The public hearing was closed at 8:17pm with no public comment.

Atty. Dilallo-Bitter: We can't decide tonight because it hasn't gone to the County yet, and we can't do contingency approvals.

Mr. Patricke: It's an administrative thing at this point. When were you going to occupy the building?

Mr. Jouse: As soon as we can.

Mr. Patricke: You've got children lined up to come in?

Mr. Jouse: Yes.

Atty. Dilallo-Bitter: It needs County approval.

Mr. Patricke: We need a recommendation from the County when we are within 500ft of a State Road.

Mr. Jouse: Even if the portion we are occupying is further away than that?

Atty. Dilallo-Bitter: They evaluate traffic concerns.

Chairman Endal: Does it make sense to do SEQR?

Atty. Dilallo-Bitter: It's not going to hurt.

Mr. Patricke: I wouldn't finish it til we hear their response.

Mr. Elms: We will have to defer.

A Meeting of the Zoning Board of Appeals 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 28th day of October at 7:00 PM.

Mr. Jouse: We hit the County Planning Board and come back.

Mr. Patricke: You don't have to do anything. We will take care of it from here, you will need to be here on Nov. 23rd, which is a Monday.

Motion to table Appeal No. 762 was made by Mr. Elms, and seconded by Mr. Fitzsimmons. Roll call vote was unanimous. Motion a carried.

Mr. Fitzsimmons motioned to adjourn the meeting and Mr. Elms seconded. Chairman Endal adjourned the meeting at 8:23 pm.

Respectfully submitted,

Tricia S. Andrews