

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 27th day of January, 2016 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Kevin Elms, Acting Chair

Scott Fitzsimmons

John England

ZONING BOARD MEMBERS ABSENT: Chairman Gerhard Endal , Richard Kubis

Also Present: Ben Marcantonio, Code Enforcement Officer; John Wright, Attorney for the Town; Tricia Andrews, Recording Secretary.

Acting Chairman Kevin Elms called the meeting to order at 7:03 p.m.

The Board reviewed the minutes of the November meeting. Mr. Fitzsimmons motioned to accept the minutes and Mr. England seconded. Motion passed unanimously.

New Business

Appeal No. 763

A request of BKM Properties, LLC of 179 Old Saratoga Road, Gansevoort, NY 12831 for a Special Use Permit pursuant to Chapter 149, Article V, Section 149-29 and the Schedule of Regulations in a C-1 General Commercial District. Applicant is requesting to construct a 60' x 100' building to accommodate several tenants engaging in the sale of automotive accessories and boutique automotive sales. This property is located at 130 route 9, Gansevoort, NY 12831 and is designated as 77.1-1-21 on the Town Assessment Map.

This 6,000 sq. ft. building will primarily be used by Platinum Protective Coatings, which is already doing business in Town. 2000 sq. ft. left over, maybe a stereo installer or auto detailers, or maybe a barbershop. Retail will be anything automotive, even t-shirts. It is some used car dealership.

Mr. Elms: So what you are proposing is one building with possibly 2 businesses?

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Brian Mackenzie: Up to 4. Others are looking. 1,600 sq. ft will be retail and remainder garage space. I brought a sketch of the proposed building.

Mr. Elms: If this is not defined as a strip mall, I don't know how to consider it.

Mr. Marcantonio: We didn't consider it a strip mall because of the garage.

Mr. England: Ownerships?

Mr. Fitzsimmons: Has this gone to the Planning Board?

Mr. Marcantonio: No, because he needs the Special Use first.

Mr. Fitzsimmons: You are across the street from Dunkin Donuts?

Mr. Mackenzie: It will be right next to Diamond Plaza, a house and trees have been removed. I did open up back to the neighbors. There were trees and debris there.

Brenda Stark, who owns property on the other side of the fence facing Fortsville Road, was present.

Mr. Elms: We have to look at this very carefully, when we grant variances.

Mr. Marcantonio: This is a Special Use Permit.

Atty. Wright: He is also looking for an Area Variance.

Mr. Elms: This is a C-1 Commercial Area but this isn't listed as a permitted use.

Mr. Marcantonio: The Area Variance is requested because of the auto sales portion which would require 80 ft. setback.

Mr. Mackenzie: We want the cars on the sides and back. Whether it is 6,000 ft with one owner that does all this stuff, or 4 owners, I don't understand what difference it makes.

Mr. Elms: We have had people want to put something in where something else is already working, and they are told they can't. The most we have had share space is two. This is outside the realm of what we've done and I think we've refused it.

Mr. Mackenzie: There is a plaza right next store.

Mr. Elms: That was designed as a strip mall and those are allowed.

Mr. Mackenzie: This is a strip mall with more parking space.

Mr. Elms: We simply have to look at this very carefully before we make any allowances. Is it over 1 acre?

Mr. Mackenzie: It isn't. I own several lots in there and it is always a hassle.

Mr. Elms: We are very limited on what we can allow. The Town Zoning does need some adjustments, we've restricted development on Route 9. We can as a Board working for

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the Town adjust gross discrepancies, but we have to use care. This is a complicated issue, I am a temporary chairman and we only have a three member board tonight, which means that you will have to get a unanimous decision. If you want, you can ask us to hold it over a month until there are 5 of us and we have done a little more research. It might or might not be beneficial to do it that way if you have time.

Mr. Mackenzie: I will lose my builder if I do that. I am already behind.

Mr. Elms: I just don't think we can do that, 4 businesses on less than an acre.

Mr. Mackenzie: We are not sure it will be 4. We had one owner take over 2/3 of the building.

Mr. England: .6 of an acre is not big enough to support one business.

Mr. Marcantonio: Yes, but that is a pre-existing non-conforming lot.

Mr. Mackenzie: I own four lots, none of them are an acre and I don't understand why this applies differently to me than it does to a used car dealer with 800 cars. You are going to have that whole area built up with tiny disjointed businesses.

Mr. Elms: What is your opinion?

Mrs. Stark: I haven't seen the plans. The vacant lot is ugly.

Mr. Mackenzie: Well it looks better than it did with the house there.

Mrs. Stark agreed with that asked if he was going to build a new fence. Mr. Mackenzie said he was.

Mr. Mackenzie also owns Mackenzie Drywall and Commercial Steel Framers.

Mrs. Stark: One of my concerns was that back here would look like it does behind Grout-tech, with junk cars, etc.

Mr. Mackenzie: With one business per lot/acre, that's what you are going to get, because one guy can't afford this building, so he sublets out parts of it.

Mr. England: We can't change the law.

Mr. Elms: We are walking a line we can't cross.

Mr. Mackenzie: Then how does the strip mall do it?

Mr. Elms: They may have been before the changes in Zoning.

Mrs. Stark: I think they got away with something by adding on to an existing building, but it was a long time ago and I don't remember.

Mr. Elms: We do need businesses like this along Route 9.

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Mr. Mackenzie: So can I go as one business, 6,000 sq. ft. with one owner?

Mr. Elms: That would be better.

Mr. Mackenzie: That one business is going to do the same thing.

Mr. Elms: That is legitimate.

Mr. Mackenzie: One guy owns four businesses.

Mr. Elms: If one guy had them and was running them all.

Mr. Mackenzie: Could I have different names on all the signs?

Mr. Elms: That might be an issue.

Mr. Marcantonio: I'd need to do some research.

Mr. Elms: If you built the building, and one person wanted to run it, he'd have to have a sign that names stereos, liners etc, but you can't have four businesses names on that sign.

Mr. England: Fred's Boutique, and everything under that heading.

Atty. Wright: Where are you getting that rule about one business per acre?

Mr. Elms: It says in the Code, one business per acre.

Atty. Wright: You mean where it says minimum lot size one acre?

Mr. Elms: Code Enforcement always told us that meant one business per acre.

Atty. Wright: And the non-conformity with respect to size is pre-existing?

Mr. Marcantonio: Yes.

Mr. Elms: We are only in the business of interpreting the Code if a decision is appealed, usually we leave interpretation up to the CEO.

Mr. Mackenzie: Joe had advised me in the past to go for a strip mall. You are not leaving me options that are financially workable.

Mr. Elms: You can still have a business name that does all of these things.

Atty. Wright: There are many different variables in that question.

Mr. Mackenzie: It'd be 4 LLCs.

Atty. Wright: Ben, have you made a determination about what approval is required?

Mr. Marcantonio: No. We made the determination based on the uses he proposed.

Atty. Wright: Looking at the permitted uses in the Code, an office building is a permitted use. That would many times end with occupation by 2, 3, 4, 10 tenants. Have you ever had that situation and denied it? It may be worth looking at, since one negative

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vote tonight ends it, waiting.

Mr. Elms: When I am concerned about something like this, it is not unusual for me to call Town Board members and ask what their feelings are. We have a new Town Supervisor and we have had a staff change in the Building Department, and waiting would allow us time to find out if that interpretation that we can't have multiple businesses on one lot, is still our instruction. It may or may not benefit you. We don't take these things lightly. We need neighbors' input and the Town Board.

Mr. Mackenzie: How would this work?

Mr. Elms: I would, as I have in the past, call through the Board and relate their feelings. And I go over with the Board what I want to ask them, before I do that. Do you have a problem with that process?

Mrs. Stark: I am fine with that.

Mr. Elms: You will not get a new notice, but the meeting is on the 24th of February and you should just come.

Mr. Mackenzie: We have tried for flea market, food truck, display area, always shot down. The rules are so broad.

Mr. Elms: If you narrow them down too much it becomes difficult too. We do need Zoning updates.

Mr. Mackenzie: Like Mrs. Stark said, it's ugly up in there.

Mr. Elms: I do want you to be able to have businesses in the Town. I think letting us bounce it off the Board is a good idea. So we will hold this meeting open.

Motion to table Appeals #763 and 764 was made by Mr. England and seconded by Mr. Fitzsimmons.

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

Appeal No. 764

A request of BKM Properties, LLC of 179 Old Saratoga Road, Gansevoort, NY 12831 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 and Town law 276-b. Applicant is requesting to construct a 60' x 100' building that will not meet the

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required front yard setback in a C-1, General Commercial District. This property is located at 1330 Route 9, Gansevoort, NY 12831 and is designated as 77.1-1-21 on the Town Assessment Map.

Mr. Elms motioned to adjourn the meeting and Mr. England seconded. Meeting adjourned at 7:40p.m.

Respectfully submitted,

Tricia S. Andrews