

**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 July, 2016 at 7:00 PM.**

**ZONING BOARD MEMBERS PRESENT:**

Gerhard Endal, Chair

John England

Richard Kubis

Kevin Elms

Scott Fitzsimmons

**ZONING BOARD MEMBERS ABSENT: None**

Also Present: Atty. Malcolm O'Hara, Attorney for the Town; Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary.

The Board reviewed the minutes of the June meeting and noted that on p. 2574 4<sup>th</sup> line on record "everything his said." Should say "he said." Mr. Kubis wants his whole note submitted last time put into the minutes. That letter will also be distributed to members. Mr. Elms motioned to approve the minutes with those corrections and Mr. Fitzsimmons seconded. Motion passed unanimously.

**Appeal No. 775**

A request of John Clear of 10 William Street, South Glens Falls, NY 12803 for a Special Permit pursuant to Chapter 149, Article IV, Section 149-52 (D), Non-conforming Buildings, Structures and Uses. Applicant is proposing to construct a two car garage that will not meet the required side yard setback in an R-1, Single Family Zoning District. This property is designated as 50.1-1-1 on the Town Assessment Map.

Neighbor Nelson Charron of 48 Pheasant Way says the applicant always keeps his properties very nice and raises property values. Mr. Charron is in favor of what the applicant wants to do.

Chairman Endal explained that the carport that is pre-existing is too close to the property line, and that is allowed a 50% increase in non-conformity. This is nowhere

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near 50%. The Appeal is for an extension of pre-existing non-conforming building.

As there was no other public comment, the public hearing was closed at 7:06pm.

Mr. Martin wanted to clarify that the Use is conforming, it's just the structure that is too close to the line that makes it non-conforming.

Currently the building is 6'8" from the property line and he wants to go to 5'8", measured to the eaves.

Motion by Mr. Fitzsimmons to grant Appeal No. 775 for 1ft. relief from the required side setback was seconded by Mr. England.

Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 5-0.

**Appeal No. 776**

A request of Arca Ink of 4A Highland Ave, Queensbury ,NY 12804 for a Use Variance pursuant to Chapter 149, Article X, Section 149-59 (B). Applicant is requesting to operate a Screenprinting and Embroidery Business with office space. The property is owned by the Steamfitters and Plumbers Local 773 Apprentice School, Inc., 30 Bluebird Road, South Glens Falls, NY 12803 located in an R-1, Single Family Zoning District and is designated as 49.76-2-15 on the Town Assessment Map.

Howard Dennison realtor for Arca Ink appeared with Rob and Wendy Chadwick, co-owners of Arca Ink. The business has been in Queensbury for 14 years and they thought this building would be a good fit, they live here and kids go to South Glens Falls Schools. They are moving, not expanding. They do screen printing and embroidery on hats, shirts. They were asked of this is retail and explained that people come in to pick up completed orders, but they don't have a storefront where people come in to shop.

Mr. Dennison explained there will be a display room where people come to see options and place orders. They also do wholesale.

Mr. England asked about deliveries and shipping from the store and Mr. Chadwick: explained that in addition to customers who pick up, they also get shipments from suppliers on 1-5 trucks per week which are UPS box trucks, never tractor trailers.

Mr. Martin reminded the Board that a Use Variance was approved on this in the last

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year. It's always been a Commercial use, as far back as comprehensive plan.

Chairman Endal recalled that it has been a grocery store.

Mr. Kubis recalled that the Steamfitters used it for training.

Mr. Elms: I don't think of this as a storefront.

Mr. Kubis: Is there noise on your equipment?

Chadwick: The printing is manual, and we use an electric dryer. Ink cures by heat, items on a conveyor belt.

Chairman Endal: Employees? Just the owners?

Mr. Chadwick: We would like to add 3-5 employees, that's why we need more space.

Mr. Endal: Parking not a problem?

Mr. Chadwick: More than we need.

Chairman Endal: Changes to the building.

Mr. Chadwick: No, it's a perfect fit the way it is.

Mr. Dennison: Landscaping. We'd like a sign.

Mr. Elms: There's a sign there now. On the front of the building. If you use the same space, you'd be all set.

Mr. Dennison. We'd like something out front that's more visible. Not necessary right now, but would like one.

Mr. Elms: We would like to see a good use there.

Mr. Dennison: They plan to be there forever.

Chairman Endal: May 2014 we approved for washer sales/repair. We said that if there were no external alterations there'd be no site plan.

Mr. Martin: There would be nothing to review.

The applicant is purchasing the building.

Mr. England asked if they will vent anything to the outside, and they will not, other than dryers. The Chairman asked if they will have any outside storage, they will not.

The Board reviewed the requirements for granting a Use Variance and found as follows:

- (1) That the strict application of said use provisions of this chapter would result in a specified unnecessary hardship to the applicant which arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district or which results from a

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lot size or shape legally existing prior to the date of this chapter or topography or other circumstances over which the applicant has had no control.

- (2) That the property in question cannot yield a reasonable financial return if used for any permissible use, special permit use or site plan review use applicable to the zoning district in which the property is located.
- (3) That the variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same district possess without such a variance.
- (4) That the variance would not be materially detrimental to the purpose of this chapter or to property in the district in which the property is located or otherwise conflict with the description or purpose of the district or the objectives of any plan or policy of the town and that the variance requested is the minimum variance which would alleviate the specific unnecessary hardship found by the Zoning Board of Appeals to affect the applicant.

The Chairman indicated that these difficulties were adequately addressed in 2014 when the owners had another potential buyer come and ask for this permit.

Mr. Dennison said that they would be happy to have business hours limited to 6 days a week 7am-8pm maximum.

Mr. Antis of the Planning Board remarked that he is wearing an Arca Ink shirt at present and the family is actively involved and a benefit to the community.

Mr. Martell of Steamfitters further explained that in the last 3.5 years the sellers have had a considerable amount of interest in the building, but with exception of the appliance repair shop, never felt it was the right fit for the community. This one did. Steamfitters were there and grew rapidly, overflowing the parking lot 4 nights a week. We try to be a good neighbor, some neighbors got disturbed and that's why we moved. This is a perfect scenario in this community. It has costs thousands to maintain and they are happy for the opportunity to sell.

Lawrence Gonnely, Business Manager and 40 year member of Steamfitters. Traffic was a problem, we had 95 apprentices. It is a financial burden for Local 773. If they sell, they are going to buy property where they are and expand more, putting veterans to work and young people.

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Tina Foglietta, Steamfitters' real estate agent, explained that other potential buyers have not worked. Sheetrock businesses, etc., with tractor trailers, they have immediately told them not to apply. A quiet business sounded good. The other deal (laundry) was a financial issue when it didn't go through because they lost a big contract. We didn't try to push anything through that we knew wouldn't do.

Nelson Charron of Pheasant Way said that the Chadwicks do stuff for the Marathon Dance, they already live here, good community members, like to have them.

Mr. Fitzsimmons also does business with them for rec/softball, they are invested in the Town, wonderful fit.

The public hearing was closed at 7:30pm.

Mr. Elms motioned to approve Appeal 776 for a Use Variance with business hours limited to 7am-8pm Monday thru Saturday.

Mr. Fitzsimmons seconded.

Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 5-0.

**Appeal No. 777**

A request of Barbra D. Delong of 15 Jacobie Road, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 and Town Law 267-b. Applicant is requesting to construct a front porch that will not meet the required front yard setback in an R-1, Single Family Zoning District. This property is designated as 49.51-3-22 on the Town Assessment Map.

Mr. James Sweet who is the applicant's father said that he had removed precast steps on an old porch with a wooden one over it and wanted to put an 8x10 porch on it. A passerby informed him he needed a building permit and so he needed a Variance to get a permit, because he was too close to the line. He measure 106 ft to the back of house, 25 ft of house, 10 ft. porch leaves 25.67 ft. to the road.

Mr. England asked if he had measured to the porch deck or overhang.

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Mr. Sweet had measured to the deck.

Mr. Elms: So with overhang, another foot.

Chairman Endal: So you are requesting 5'2" relief.

No public comment.

The Chairman read the requirements for granting an Area Variance.

- (1)** That the strict application of dimensional requirements would result in a specified practical difficulty to the applicant;
- (2)** That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue;
- (3)** That the variance is not substantial;
- (4)** That there would not be substantial change in the character of the neighborhood or a detriment to the adjoining properties; and
- (5)** That the alleged difficulty is not self-created.

There's no other place to put a front porch. It could be made smaller, but 8 x 10 is not a large porch.

The applicant had not signed the application, because her father submitted it for her, so she signed the one Mr. Martin had in the file. The public hearing was closed.

Motion was made by Elms for 5'2" relief from the required front setback. Mr. Kubis seconded.

Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 5-0.

**Appeal No. 778**

A request of Gerald E. McKenna of B.O. Box 83, Middle Grove, NY 12850 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 and Town Law 267-b.

Applicant is requesting to construct a 4-unit apartment building that will not meet the required side yard setback in a UR- Multi-Family, One and Two Family Residential District. The property is located at 22 Van Buren Street, South Glens Falls, NY 12803 and is designated as 37.3-1-7 on the Town Assessment Map.

Mr. McKenna presented a new map showing parking.

There was some discussion as to whether this was within the Town.

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The Board remembers that in the past an under-sized lot would have its setbacks reduced proportionally.

Mr. Martin reads the Grandfather clause as relating to lot size but not to setbacks.

Atty. O'Hara: You can take that into account, although it's not in the Code that way.

Mr. Martin: This has pre-existing non-conforming status, but the setbacks do apply. It should enter into your thinking that this is a situation he didn't create.

Chairman Endal: We should consider it. This has to go to Planning?

Mr. Martin: Correct. We've discussed the site plan a couple times, there is consideration to be made that this configuration allows for better driveway access and safety.

Mr. McKenna showed what the building will look like. There will be 4 2-bed, 2-bath or 1.5-bath apartments.

Mr. Martin: This provides for dual lane access drive 9 ft. per lane, this is not a public right of way, accommodates sidewalk to enter. It's an efficient design.

Mr. McKenna: 18 ft driveway.

Mr. England: We have to get fire trucks in there.

Mr. Martin: It has extra space for wider truck.

Mr. Elms: Do you have enough room for snow?

Mr. Martin: He has room in the rear.

Chairman Endal: Red lines are parking?

Mr. McKenna: Inner back line is the existing building.

Mr. Martin: Applicant is Zoning Administrator for the Town of Greenfield.

Chairman Endal: What's next door?

Mr. McKenna: Gun club, on the far side of their lot closer to oil place, and they are not touching that place.

Mr. Elms: It's looking sad.

Mr. Martin: I asked the same question, considering screening over there, but given neighboring use...

Mr. McKenna: I do want a stockade fence, there are back patios.

Chairman Endal: How far off line are you?

Mr. McKenna: I presented from the structure and you do eaves, so 5 ft.

Chairman Endal: So 7 ft. relief. It is a 12 ft setback so that's greater than 50%, but it's a

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non-conforming lot. If you look at proportionality, it makes sense to do it that way this time.

Mr. Elms: That property might be sold eventually

Mr. McKenna: I'm gonna check with them about that.

Mr. Antis: I would be curious how close it is to the intersection, and we've had...I understand the Zoning is appropriate, but the public has been coming to the Planning Board about overdevelopment of apartments in that Harrison Avenue corridor. Traffic on VanBuren Street has not been studied. There are a lot of apartments within a mile of that, you are adding more density.

Chairman Endal: I agree with a lot of those concerns.

Mr. McKenna: This lot is 8 lots away from the intersection.

Mr. Elms: This is 4 units.

Mr. England: It adds 8 parking spots.

Chairman Endal: I don't see a concern with this project, even if I have concerns about the area.

Mr. McKenna: There is city water & sewer there too. They want me to run a 6 inch main, so that's why I need to have 4 apartments in there. And a hydrant.

Mr. Elms motioned to approve Appeal No. 778 for Area Variance allowing 7 ft. relief from the required 12 ft. side setback on the west side of the property. Mr. Fitzsimmons seconded.

The public hearing was closed at 7:55pm.

A roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 5-0.

Mr. Martin would like to get started on Comp Plan revision next month and will provide monthly updates on progress. This will lead to revision of the Code. Completed sections will be provided for comment.

Chairman Endal: So time will be taken each month at the end of the meeting for comments & input.

Atty. Phillips' tenure is over and he was impressed by the Board's handling of conflict and enjoyed working with them.

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Mr. Endal motioned to adjourn the meeting at 8:15 p.m., Mr. Elms seconded and the motion passed unanimously.

Respectfully submitted,

Tricia S. Andrews