

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 26th day of October, 2016 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Gerhard Endal, Chair

Kevin Elms

Scott Fitzsimmons

ZONING BOARD MEMBERS ABSENT: Richard Kubis, John England

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

The Board did not review the minutes of the September, 2016 meeting due to lack of quorum.

Mr. Martin will get in touch with Mr. Combs about his tabled appeals and inform the Board what he finds out. Members of the public were present concerning this appeal. Some discussion was had regarding the “grandfathered” status of the presence of a manufactured home park on that property.

Appeal No. 782

A request of Bruce and Sherry Burton of 36 Jackson Road, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article II, Section 149-5, Definitions of Lot & Line, Street and Right-of-Way. Applicants are proposing to subdivide an existing parcel that does not have frontage on a public right-of-way. This property is in an R-2, One and Two Family Residential Zoning District and is designated as 49-1-60 on the Town Assessment Map.

Mr. Martin explained that this Appeal is here by way of an effort to bring it into compliance. Work began on a garage to establish a second dwelling over the garage and a complaint was made. They will need a subdivision with Area Variance to establish a lot that doesn’t have frontage on a Town Road.

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Mrs. Burton: Trying to connect the garage to the house would be unsightly and awkward.

Chairman Endal: The camps on the river, wasn't that Niagara Mohawk land?

Mr. Elms: No, it wasn't, that's a different area.

Mr. Martin: You should strongly consider the public health and safety concern in terms of emergency vehicle access, concerning its dimensions and the strength of the road all year round. Second, this creates enforcement nightmares when there are not properly recorded rights of way on deeds. We need to make sure that there's properly written access in all the deeds and recorded on the subdivisions.

Mrs. Burton: We had the road tested and have an engineer's report, we did that two years ago.

Mr. Burton: Those deeds have all been recorded properly through the State and an engineer. We also took trees down and widened the driveway.

Mr. Martin: I am dealing with stuff now even though it was recorded in 2010 and people consciously thought they were doing it right but they didn't.

Mrs. Burton: We did everything.

Mr. Elms: I agree, everything revolves around deeded access to that property.

Mr. Martin: Not just on their deed, but on every one that it crosses.

Mr. Elms: Who owns everything from the end of the public right of way?

Mrs. Burton: My uncle, Fred Whipple. He is giving me the land so I can add to my garage and I don't have to connect it to my house and my son can live up there.

Mr. Martin: She's making it an acre, so that helps. It should be entirely conforming.

Mr. Elms: So the concern is she has deeds that say she has the right, but does her uncle's deed say so?

Mr. Martin: I recommend that all the deeds be submitted to counsel.

Atty. O'Hara: He can deed the proposed easement, so that's what I would want to see. As well as her deed.

Mrs. Burton: You want the deed to my house?

Atty. O'Hara: Yes, and your uncle's, and the proposed new deed.

Mr. Martin: And I want to save you pain in the future, it should be recorded in the deed and on the plats at the County. Both places, so it's not misunderstood.

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Atty. O'Hara: I would recommend that, too.

Mr. Martin: I would also recommend a letter from the Fire Company and the Emergency Squad that this is acceptable and they can get there.

Mrs. Burton: That report from engineering isn't good enough?

Mr. Martin: It's helpful, but it's a separate piece.

Mrs. Burton: What if it is, but not to the smaller camps that are all the way down?

Mr. Elms: That's a good question.

Mr. Martin: Who plows this in the winter?

Mrs. Burton: We do, it's hired out, everyone pays.

Mr. Elms: I have done the same thing. Everyone chips in.

Mr. Burton: It's always been a community.

Mr. Elms: If you had a contract that shows when they show up and how it's handled, that would be good.

Mr. Martin: It has to be on the record that we looked into these matters.

Chairman Endal: But a fact is, we don't allow building on a property that is not on a public road.

Mr. Martin: Right, so that's why they are trying to show that they have addressed everything that is supposed to be addressed by having a public road. Like emergency service access.

Mr. Burton: Do we need to re-apply for next month?

Mr. Martin: No, but if you bring the letter from the Fire Co. and Rescue Squad, and the deeds for Atty. O'Hara to review.

Mr. Elms: And the snowplow contract.

Mr. Martin: Then we can address it next month.

Chairman Endal: We need to know in writing that it's safe and accessible.

Mr. Martin: I want to help you get there but we need to do all these things to get there.

Mr. Elms motioned to table Appeal No. 782 and Chairman Endal seconded. Motion passed unanimously with no roll call.

Appeal No. 785

A request of Dan Brummer of 25 North Rd, South Glens Falls, NY 12803 for a Special

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Permit pursuant to Chapter 149, Article IX, Section 149-52 D, Nonconforming Buildings, Structures and Uses. Applicant is requesting an extension to his existing garage. Applicant is requesting an extension to his existing garage. This property is located in an R-1, One Family Residential Zoning District and is designates as 49.26-1-4 on the Town Assessment Map.

This Appeal is also here as a result of a complaint. The primary problem is that there is a non-conforming shed in the upper corner which is within the setback. He's been very accommodating, the idea he came up with is to extend the garage. It was built with a Variance 4-5 years ago, and so it requires a Special Permit to expand it so he can put the stuff that was in the shed, into the garage, and get rid of the shed.

Chairman Endal: I thought that expansions were supposed to be for pre-existing non-conforming lots. Isn't this better addressed by an Area Variance?

Mr. Martin: It's not written that way, it just says non-conforming.

Mr. Brummer: I just want to put a shed off the back of the garage.

Mr. Martin: Same roof line?

Mr. Brummer: If I have to, but I'd rather not. It will be enclosed, but not finished off.

Chairman Endal: So it's going to be 16' across and 12' back?

Mr. Brummer: And 16' is the width of the garage.

Mr. Martin: It meets the 50% guidance. A neighbor is here, we didn't get anything in writing.

Mr. Charles Perry: No issues. The shed's over the line, that started it all.

Mrs. Rose Perry: We have a permit to put up a fence, and we can't because his shed is in the way. I'd like to know the time period, because we've had the permit a long time.

Mr. Martin: The agreement, as I understood, is that both wanted a fence, which would have created an alley. Mr. Brummer was going to put up the fence so there would be only one.

Mr. Brummer: And I didn't do it yet because I thought it had to go to Zoning, and just found out I couldn't do it that way.

Chairman Endal: So you've applied for a fence permit.

Mr. Brummer: Yes, and there was just a mistake because I was in here so many times

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trying to work it out.

Mr. Martin: I thought the fence was up.

Mr. Brummer: I have to extend it. The back part of the side is up.

Mr. Martin: And the rear part is on the neighbors', which he is aware of.

Mr. Elms: But you don't object to the addition?

Mrs. Perry: We want it to be done and we would like a timeline as to when we can get that fence up.

Mr. Brummer: Now it's a weather permitting kind of thing and I have to file for another permit when this is done, I may not be able to do it until the ground thaws. My hands are tied.

Mr. Elms: There's a window, you can still get a foundation in. Can we move it along?

Mr. Martin: It might be 3-5 days to issue the permit. If there's concern about ground freezing, the shed could be slid into the center of the yard for the winter.

Mr. Elms: If we were to approve this with a stipulation.

Mr. Brummer: It's literally a corner tiny piece of the property.

Mr. Elms: But you can move it.

Mr. Brummer: Yes.

Mr. Martin: The setbacks there are 12 ft., and so it's not a matter of just getting it off the neighbor's.

Mr. Elms: So you wouldn't have a problem if we said you would move it within two weeks?

Mr. Brummer: Yeah.

Mr. Elms: I think this is a reasonable option for you.

Chairman Endal: The standards don't apply much to this, having to do with traffic, etc. This makes sense to me.

Mr. Martin: I would recommend a finish date, given the sensitivities here.

Mr. Elms: Pushing him to move the shed into the yard where he doesn't want it will push him to get the shed done, I believe that.

Chairman Endal closed the public hearing at 7:48pm.

Motion made by Mr. Elms to approve a Special Use Permit to add a 12' x 16' extension to the existing 16' x 24' garage, with the stipulation that the applicant move the shed out of

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the required setbacks within two weeks of this date. Mr. Fitzsimmons seconded. Roll call vote resulted as follows: Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes.

Mr. Elms motioned to adjourn the meeting at 7:51pm and Mr. Fitzsimmons seconded. All in favor no roll call.

Respectfully submitted,

Tricia S. Andrews