

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 24th day of May, 2017 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Gerhard Endal, Acting Chair

Kevin Elms

Scott Fitzsimmons

John England

ZONING BOARD MEMBERS ABSENT: None

Also present: Jim Martin, Code Enforcement Officer

Tricia Andrews, Recording Secretary

The Board review the minutes of the April 26, 2017 meeting and made the following corrections: the recorder left the “Mr.” off of Elms for the motion at the end of Appeal No. 780.

At the end of Appeal 790, it says “no correspondence was relieved”, this was changed to “received”.

Motion to approve the April minutes as amended was made by Mr. Elms and seconded by Mr. England.

All in favor, motion carries.

Mr. Endal asked for an update on Mr. Combs Appeals. He has to come back for the permission for the additional half trailer and go to the Planning Board for Site Plan Review because it is in a Commercial Zone, but he has not come in for that and he has not attempted to place the homes. So the issue is in a holding pattern.

Appeal No. 791

A request of William Rourke of 299 Reservoir Road, Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59 (A) and Town Law 267-b. Applicant is proposing to do a lot line adjustment that will reduce an existing 5 acre parcel into a 4.9 acre parcel. This property is located at 368 Gansevoort Road in an R-5 Zoning District and is designated as 78-1-3.1 on the Town Assessment Map.

Mr. Rourke had sold Lot 3, which is a 9 or 10 acre lot and the buyer built in the corner. It came to light that either Mr. Rourke or his survey crew put a pin in incorrectly, and it is about 15 feet down the road. The purchaser wants that area for a side yard. He is 26 feet off of the original property line, so his foundation is not on this triangle and adheres to all the setback distances. Since it was Mr. Rourke’s mistake, he wants to give the buyer a triangle that amounts to a tenth of an acre. There’s a 40 acre, a 10 acre, a 14 acre and a 5 acre parcel in this subdivision, and the 5 acre has not sold. This will make that 4.9 in a 5 acre zone. That’s how this happened. So many things can go wrong. The building on Lot one is to the west part of the lot towards Route 32.

Mr. Martin also pointed out that the wetlands also limit what the buyer can do with the rest of the property without the adjustment. Mr. Martin observed that Lot 5 still has plenty of space to build an acceptable house without variances.

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Mr. England wished to disclose a working relationship with Mr. Rourke, who is very active surveying in the Town, but has none pending now with Mr. England now. Mr. Elms said that this applies to him as well.

Mr. Martin felt that the wetland on Lot 1 restricts building on Lot 1. There is also a stream that bisects it. Mr. England asked if the property is flat and Mr. Rourke said it is not. A previous owner had wanted to make 12 lots, but could not get it approved. So he bought it and made 4 lots.

There was no public comment and no correspondence had been received.

The Board reviewed the criteria for granting an Area Variance and found as follows:

1. That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.
2. That the variance is not at all substantial.
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue. A swap of land was not acceptable to the bank.
4. That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.
5. 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 practical difficulty found by the Zoning Board of Appeals to affect the applicant.

SEQR was not required for this action.

The public hearing was closed at 7:14pm. Motion to approve was made by Mr. Elms, for .1 acre relief from the 5 acre size requirement. Mr. England seconded. Roll call vote resulted as follows: Mr. Fitzsimmons, Yes; Mr. Elms, Yes; Mr. England, Yes; Chairman Endal, Yes. Motion carries 4-0.

Appeal No. 792

A request of McKenna Construction and Excavation LLC of 19 Sisson Road, Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59 (A) and Town Law 267-b. Applicant is proposing to subdivide a 3.89 acre parcel into 2 building lots. One parcel will not meet the minimum lot width requirements as specified in Article IV, Section 149-14 and the Schedule of Regulations for the R-2 District in Attachment 2 of Chapter 149. Specifically, the applicant is seeking 5.01± feet of relief from the lot width requirement of 125 feet for the R-2 District. This property is located at 459 Gansevoort Road, Moreau, NY 12828 and is designated as 63.4-4-33 on the Town Assessment Map.

Mr. McKenna explained that he is looking to build two houses there, but trying not to do 2 flaglots. He wanted to keep one house with frontage and one house beside it. Mr. Martin explained that a flaglot is like the second lot. It is a narrow entry off the street, which is the pole, with a large area at the back, which is the flag. The applicant could arrange the lots so that the lot width was compliant by putting the houses in different spots. If he were to do that, the configuration and location of the houses was not as desirable, so they came to ask for this.

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Mr. McKenna said that there was only one pin on the lot, but the surveyor has looked at it now and has some ideas. They would like to know if this would work, but may decide to do something else. Mr. Martin pointed out that long driveways are less preferable, as they are expensive to build and maintain, and this allows for a shorter one and costs less to develop with utilities, etc.

Mr. Elms asked about the other options. If the Board grants this, will he stick with it? Mr. McKenna is willing to discuss other options, but he has not had a chance to look at the prints he just got. More than two lots was one of the options- four lots. Mr. McKenna would still like to get this approval so that the option remains open. The plan he has does not need a Variance, so he could still go back to it, but he has to do his research and look at the math first.

Building a Town road was also considered. Those cost \$250/ft. The issue here is the lot width.

Mr. Endal said that the Board had some confusion about this, and Mr. Martin agreed that it is unclear whether the requirement is 25 ft or 40 ft of road frontage. It is clear that width should be measured where the house is, but not what width is required. They have also discussed Alder Lane and whether that HOA owned by the Michaels Group would allow a road across it. Response to that suggestion was not positive.

Mr. McKenna has only been looking at this lot for about 3 weeks. Mr. Martin thinks that this approach in front of the Board now is pretty typical. They are weighing the benefit to the neighborhood, which is keeping all the houses at similar depths.

Chairman Endal wanted to look at the lot with the residence close to the road. Mr. Martin said that if this were approved he could still run a Town road through the flagpole part and build more houses back there. Mr. McKenna did not think that was likely.

There was no public comment and no correspondence has been received.

The Board reviewed the criteria for granting an Area Variance and found as follows:

1. That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.
2. That the variance is not at all substantial.
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue. Other alternatives have been investigated and do not represent an improvement over this configuration.
4. That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.
5. 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 practical difficulty found by the Zoning Board of Appeals to affect the applicant.

SEQR was not required. An opinion from Saratoga County was not required.

The public hearing was closed at 7:33pm. Motion to approve was made by Mr. Endal for up to 6 ft relief from the requirement for lot width of 125 ft. 119 ft. width will be required on the lot. Mr. Elms seconded. There was no further discussion. Roll call vote resulted as follows: Mr. Fitzsimmons, Yes; Mr. Elms, Yes;

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Mr. England, Yes; Chairman Endal, Yes. Motion carries 4-0.

Appeal No. 793

A request of Tim Paris of 43 Merritt Road, South Glens Falls NY 12803 for an Area Variance pursuant to Chapter 149, Article V, Section 149-59 (A) and Town Law 267-b. Applicant is proposing to construct a shed that will not meet the required side yard setback in an R-1 Zoning District. This property is designated as 49.50-2-40 on the Town Assessment Map.

Mr. Paris presented pictures with the lot line and the proposed shed. He used a survey from 2002. He had a larger survey done by Mr. Rourke and it doesn't agree. Mr. Elms explained that the 3 inch difference between surveys was due to the overhang. There is a vacant lot next door because there was no buildable frontage on it. He has more room to build on that side, but the spot for the shed doesn't work for him. It is heavily wooded on his lot. There isn't room in the back yard and he has a sprinkler system, so the shed is best placed next to the garage. He wants a 12 ft wide shed, which would have to be right next to the garage. He is afraid of mildew/mold if he puts it that close. To connect it to his garage he would have to put footings in, etc. Also he has a trailer he would like to move.

A neighbor, Elise, was present. He would like to put bushes in, close a gate and stop the traffic of kids walking to the school through there. The shed will help with that. He is looking for 4 ft. relief from the 12 ft. side setback requirement.

Elise has been there 40 years and has not had to deal with this before. She wonders if this could be an issue when she tries to sell her house. She doesn't have plans to sell. She thinks this is a nice plan and doesn't have a problem with it.

Mr. Martin wants the Board to consider plantings as something that they could require if it has a positive effect.

Mr. Paris would be agreeable to this. He wanted to know if he could put railroad ties, etc alongside to hold stone in place for a walkway. The Board said that this is not building so setbacks don't apply.

Mr. Elms didn't think a shed 8 ft from the property line would affect the value of the home. The 12 ft. setback requirement has been discussed in the past as extreme for a shed. He thinks the request is reasonable. Chairman Endal also wanted to make sure that there is emergency access to the back yard, and there is, especially on the other side. Mr. Fitzsimmons asked about the height of the shed. Mr. Paris has plans for stone and plywood under the shed and a peaked roof at 13' 7" from the bottom of the floor. It will not be taller than the garage. Public hearing closed 7:56pm. The Board reviewed the criteria for granting an Area Variance and found as follows:

1. That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.

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2. That the variance is not at all substantial.
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.
4. That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.
5. 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 practical difficulty found by the Zoning Board of Appeals to affect the applicant.

SEQR was not required.

Motion was made by Mr. Elms to approve 4 ft. relief from the required 12 ft. side setback with required planting of three arborvitae to screen the shed. Mr. Fitzsimmons seconded. Mr. Martin asked Mr. Paris to show the plantings on the site plan drawing. Roll call vote resulted as follows: Mr. Fitzsimmons, Yes; Mr. Elms, Yes; Mr. England, Yes; Chairman Endal, Yes. Motion carries 4-0.

The Board asked and Mr. Martin has no information about new Board members or appointment of a Chairman. Mr. Endal plans to continue to serve as Acting Chair.

Motion to recommend to the Town Board that Mr. Endal be reinstated as Chair was made by Mr. Elms and seconded by Mr. England. Roll call vote resulted as follows: Mr. Fitzsimmons, Yes; Mr. Elms, Yes; Mr. England, Yes; Chairman Endal, Yes. Motion carries 4-0.

The meeting was adjourned at 8:05pm.

Respectfully submitted,

Tricia S. Andrews