

**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 20th day of December, 2017 at 7:00 PM.**

**ZONING BOARD MEMBERS PRESENT**

Gerhard Endal, Acting Chair

Kevin Elms

Scott Fitzsimmons

John England

**ZONING BOARD MEMBERS ABSENT: None**

The Board reviewed the minutes of the September 27, 2017 meeting. About 2/3<sup>rd</sup> of the way down “anonymous” was changed to “unanimous.” Mr. Fitzsimmons motioned to accept the minutes as amended and Mr. England seconded. Motion carried with no roll call, Mr. Elms abstaining.

**APPEAL NO. 796**

A request of Cerrone Construction, LLC OF 1589 Route 9 Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 (A) and Town Law 267b. Applicant is constructing a Single Family Dwelling that will not meet the required front yard setback in an R-2 District. This property is located at 102 Old Bend Road and is designated as 62.-4-11 on the Town Assessment Map.

Matt Steves, of Van Dusen and Steves Land Surveyors of Queensbury presenting. An honest mistake was made, the application was done with the wrong setback amount (30ft.) which is 40 ft. in the R-2 zone. This is the first house in the subdivision. They want to be at 34.4 feet. There are 10 houses in the subdivision. This is the only structure going on the lot. There is a bank and Butler Road preventing other construction. The house was built per plan, Mr. Endal pointed out, but the plan is incorrect. They will correct the rest of the structures still being built.

John of Cerrone Builders spoke and said that he was there when it was staked and explained why they did it the way that they did.

They still have separation for the house and the septic and well, etc., and the way the asphalt looks it gives the appearance of 40 ft because it is 11 ft. instead of the usual 16 ft. It is otherwise compliant.

Reed Antis 1 Paris Road, disagreed with what Mr. Steves said. Lot 10 was started before. He expressed disappointment because he had asked for it to be measured but it was just walked. He feels the difference is quite obvious.

Mr. Elms said they can't hold the builder responsible because the building inspector allowed the mistake to go through.

Mr. Antis feels things were done spotty. As a Planning Board member and as a resident he doesn't think he should get those 6 feet just because it was a mistake. Mr. Elms said they have a building inspector to prevent these things. For him it falls back to that.

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Mr. Rosebrook, 3 Paris Road, said that as soon as they started pouring it he noticed that it was too close to the road, and he called the Town at that time and left a message about it. He paced it off from the corner to the center of the road and got 55 ft, which would make the setback 30 ft. The requirement is a minimum of 40 ft. Why do they have to push everything to the bare minimum? Box trucks were delivering materials, they could not even back up all the way off the road to offload their materials. He questioned what would happen when there are two cars in the driveway. This is at the bottom of a steep hill that he wouldn't drive on in the winter. If they have people over, where would they park? They would park on a road that is dangerous. He would like to see a condition placed on the variance that a second driveway 40 ft. long be placed on the other side that is available to keep people from parking on the road. The builder's representative stated that from the pavement to the front of the garage is 48 ft. Mr. Rosebrook doesn't believe it. They asked when they had ever seen a delivery truck that couldn't fit there. Mr. Steves said he has been doing this along time and is confident the survey is correct, but sometimes strange circumstances happen such as places off of Exit 21, Route 9L in Lake Luzerne where the Town took a much wider road than usual and the lot now appears to be in the middle of the road when mapped. Mr. Endal asked if the septic system was on the side as shown, but it is in the back, so there is room to add the suggested driveway. Mr. Antis asked if the Board could or was going to make the applicant take down the garage, and Mr. Endal said that they do have that power. That's what Mr. Antis would like to see done. We're making excuses for being so close to the road and it bothers him.

Mr. Endal asked and it is not possible to move the garage and not move the house. Mr. Endal feels they ought to decide it as if it were an Area Variance being requested before the mistake was made- would they have granted it then?

Someone asked whether there is a way to mitigate the safety concerns while giving the applicant more room.

Mr. Steves said that in other municipalities that require a surveyor to come and locate the foundation, and that might help in the future. Houses can look compliant when they are not and vice versa. Regarding the minimum setback, the Boards set them because that is what they want to see in that area.

Mr. Endal said that on his first year on the Board there was an antenna built on Route 9. Building Inspector and others had said it was fine, but it ended up being taken down after a judge decided. It is a shame, but it is up to the builder to comply with the law. That is the precedent.

Reviewing the requirements, Mr. Endal felt that the undesirable change might be concern about traffic. Regarding another means, moving the garage is a possibility but a challenging one, and putting in a new driveway might be an option. This does not exceed the substantial guideline. The vegetation and grading involved in moving the structure would have a negative impact. As to whether it was self-created, Mr. Endal felt that it was, but reminded the Board that this does not rule out granting it. Other Board members pointed out that the builder may have created it but others were responsible along the way for not catching it.

This does not require SEQR or County review. Discussion turned to the driveway. The builder would like

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to come in 20 ft at 20 ft wide, then angle and go towards the garage. It would stay within the 25ft side setbacks. Mr. Antis has no empathy for where they are going to put the house because at Planning Board stage they knew it was an awkward fit and thought they had it all figured out.

They decided to go 12 ft past the garage for extra parking space.

Mr. Antis asked whether there was a stormwater drain being placed on the property and how the extra impervious from a driveway was going to change that.

The builder said that they are not going to have enough disturbance, and less overall than they thought, to have to worry about that.

Mr. Elms motioned to grant Appeal No. 796 for 6.5 ft relief from the required front yard setback with the condition that the parking area be expanded by 340 sq ft. on the left side to accommodate off-street parking. Mr. Fitzsimmons seconded. Mr. Fitzsimmons, Yes; Mr. Endal, yes; Mr. Elms, Yes- was anyone else there?

The meeting was adjourned at 7:49pm.

Respectfully submitted,

Tricia S. Andrews