

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 July, 2019 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Gerhard Endal, Chair

Kevin Elms

Scott Fitzsimmons

Also present: Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary

Board Members absent: Matthew Manning

Chairman Endal called the meeting to order at 7:01 pm. The Board reviewed the minutes of the June 26, 2019 meeting. p. 1 he is trained in Oregon should say “was trained” and on p. 3 1st paragraph “neighbor painting “how” car should say ‘his own’, p. 2728 second paragraph line 1, ‘operator must dispcplse should say ‘dispose’ . p. 2627 Mr. Lobarski just got the part that detailed conditions.

Mr. Elms motioned and Mr. Fitzsimmons seconded to accept the corrected minutes.

The Board reviewed **APPEAL NO. 818**, construct a commercial building that will not meet the required front yard setback

Don Pidgeon and Fred Bartlett explained that they would like to move the building a little closer to the road. Bartlett Enterprises does roofing siding windows, and this is a showroom. The current position doesn’t allow them to see who is coming and going. This is a pre-existing non-conforming use, and they are adding a commercial building. They are asking for a Variance of 20’ to put the building 30’ from the road rather than 50’ because they can’t see around the building if they put it that far back.

Mr. Elms asked why they just couldn’t put up cameras. Mr. Bartlett said that he could, but this is better for him because it allows him to use the space in the back, which he needs, and asked whether the Board had a good reason why he couldn’t.

Mr. Elms explained that they don’t like to contradict what the Town has set up unless there are conditions that limit them.

Mr. Bartlett felt that moving closer would prevent people from parking out front. Mr. Pidgeon pointed out that this would allow access to the back of the building via the driveway, but if it is back, that is limited. There is a garage not shown on the plan that sticks out 6 feet closer to the front yard and makes it hard to go around. It is level with the other side of the house. Mr. Bartlett said that he’d like to grow his business and will need more room for parking than currently allocated.

Chairman Endal asked for more information that would explain why they need to have the variance. Mr. Bartlett stated that he was very cooperative with moving this to the other side of the house so that the

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neighbors would be happy, and they agreed to move it. The whole lot is commercial. He wants to respect their privacy, and is getting it looking nice instead of woodlot with a broken down house on it. Chairman Endal asked and it has already been to site plan review. The approved site plan is before the Variance, the building is at the 50ft setback. Mr. Bartlett said he will have to have it all re-drawn and move back to the other side of the house if he doesn't get the Variance. Mr. Elms said that there are criteria for the determination, such as hardship, which the applicant has to meet. Mr. Bartlett says he can't watch a camera all day and night, he has a lot of supplies back there and people drive in and out all the time with no reason.

Chairman Endal said that they have to comply with the Zoning Law. Mr. Pidgeon argued again that they want the access to the back of the building. Mr. Bartlett said that 13-16 employees come in for supplies and assignments every morning and at night.

Mr. Fitzsimmons asked the distance in the turnaround and Mr. Bartlett said it was closer than it looks in the drawing. Mr. Bartlett said again that he wants it to look nice, it has been a mess.

Chairman Endal referred to the guidelines and asked whether this is the minimum they can be happy with. Mr. Elms asked whether ten feet would work and Mr. Bartlett said it would help, but around the corner is his big thing. Mr. Bartlett said they realized it when they went to put in the corner stakes.

Chairman Endal asked if the need to keep an eye on his equipment was the hardship, and Mr. Bartlett said that he had been stolen from before, though he does plan to lock more things up when the building is done.

Chairman Endal asked and if they get the Variance it will have to go back to Site Plan review.

The Chairman opened the public hearing. He asked the public to address their comments to the Board, to identify themselves and to give their address.

Rita Moran of 199 Reservoir Road bought ten years ago when it was totally residential and didn't know that it was commercial there. She is worried about property values, traffic and the look of everything as people come into her neighborhood. The National Grid lines are behind her property, she is second neighbor. She had made sure no one would build behind her, but didn't know that this one could be developed this way.

Greg McCarty of 201 Reservoir Road stated that this building was already approved and in 2017. Mr. Martin told him the building was being made bigger to house equipment, so if it's all going to be inside, what's the concern with seeing the back of the property? This issue has dragged out for three years and he is afraid it will continue to be detrimental to the neighborhood. There was a 50' wood buffer, and in Feb or March the Planning Board said that there wouldn't be a buffer, it wasn't in the notes. In March they also said it wouldn't be green, it could be decorative planting. All these changes affect the neighborhood. Originally it said there would be no tractor trailers, now there's a turnaround. They make changes without notifying anyone, and the neighborhood bears the brunt.

Chairman Endal said that these concerns are all Planning Board issues. McCarthy agreed, but said that

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any changes will have ramifications. The applicant can get a motion sensor alarm. There's also an issue with traffic coming off the easement. They are asking for a Variance for security purposes- why don't they secure their property in other ways?

Chairman Endal asked for a response from the applicant and he explained that the heavy equipment spotted there was National Grid's. Chairman Endal asked about security and Mr. Bartlett explained that he has already spent a lot of money on the site and has to spend more on beautifying the lawn when the project is built.

Mr. McCarthy said that the house is separate and should not be considered.

Mr. Pidgeon said this isn't just a worksite, it's the applicant's house.

Deborah Sweet of 236 Reservoir Road lives across from this site, and doesn't think it's an issue to put the building where he wants it, he has gone to a ton of work to get the site cleaned up. How would it affect the property values if this is commercial, and she doesn't think it is detrimental.

Carol Santis, of Ella Drive off of Reservoir Road, is wondering if they needed to protect equipment why they took the trees out and why they just don't build a fence. She also suggested he could buy other property that meets his needs.

Frank Burt, of Route 9 stated that he helped clean up the site. The layout looked good on the map, but didn't work in real location. He explained that the applicant couldn't leave the trees, because in a clearing tall pines might fall on the new building.

Pat Laney, 220 Reservoir Road, stated that nothing that was said at the Planning Board meeting happened the way it was supposed to. There are no other Commercial buildings between Route 9 and Route 32, this changes the character of the road. Having it right across the street will change property values. Granting a Variance substantially changes that. Approving a Variance does impact the character of the neighborhood, which is one of the criteria.

Mr. Fitzsimmons asked about putting the garage on the other side, and Mr. Bartlett said it was originally planned to the opposite side of the house and he thought this was a good thing. It will be a \$450-600,000 property with a nice lawn, sprinkler system and is an improvement to the neighborhood. He realizes that this has nothing to do with the building being closer to the road, but he is saying it in response to the comments just made.

Ms. Moran asked how soon it was going to look so good.

Chairman Endal replied that there is no way to promise when.

Mr. Martin stated that it is a problem that there are no rules about how long a Site Plan can take, and that's a loophole that's going to be closed. There are better rules for Variances. In Site Plan review there were several versions of this plan. They did move the building in Site Plan. They are trying to push all the Commercial Use to the west and residential to the east.

Mr. Bartlett said he's ready to put up the building as soon as he has the Variance decided upon.

Once he has a building permit, Mr. Martin pointed out, the Town has leverage because they can withhold

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the CO until the site plan is in compliance. He could extend the building permit a year or two or three, but people rarely do that because they want their property occupied and producing income.

Mr. Fitzsimmons asked why they got away from the NW corner and that was a Planning Board request because they prefer to see the parking in the back. That is in the Comprehensive Plan. Mr. Bartlett stated that he has been cooperative and compliant with requests and wants to be neighborly.

Chairman Endal pointed out that since the Board only has three members tonight and therefore if they vote they have to vote unanimously to approve, or it will not pass.

Mr. Bartlett stated he is eager to start putting the building up.

Mr. Burt stated that people should look at the cones and they would understand. There are no tractor trailers, there are trailers behind one-tons. They will appreciate it when it is done.

Carol Santis asked is this building is just to house equipment?

It is a showroom/retail area as well as storage. So it is half income producing? It is not a store.

Mr. Bartlett explained that most of his supplies go directly to sites.

Mr. Elms stated that the plans show a 400 sq ft showroom.

The building is 60' x 80'.

Ms. Moran asked whether residence, business and showroom are all combined and he is going to work out of his home, and she was told that is correct.

Mr. Martin explained that the residence is the part that is pre-existing non-conforming, and it is allowed because it was already there.

So he is living and working on the same lot.

Mr. Bartlett stated that is beneficial to him to have it look nice. He referred them to 10 Fuller Road if they would like to see how much effort he puts into his house.

Mr. Laney stated that on the drawings, he has room square footage wise. It was designed with a parking lot and no Variances. Mr. Bartlett pointed out that the back of the property is steeply sloped, which also limits him, and he doesn't want to put up a retaining wall.

The Chairman closed the public hearing at 7:50pm.

Chairman Endal stated that the applicant is talking about being able to observe his property, and would accept a lesser Variance. He asked if he was correct that the applicant would like a substantial amount of parking.

Mr. Martin pointed out that Planning conditioned this on no outside storage of materials and equipment.

Mr. Bartlett stated he has a 17 ft pickup with a 24-ft trailer and he needs space to turn it around.

Chairman Endal stated that he also heard the applicant say that he needs access to the house from the driveway. That is just for him not the employees or the public.

Ms. Moran asked whether he would enter off Reservoir Road or Route 9, it is Reservoir Road as he doesn't own any property on Route 9.

This is exempt from SEQ. R.

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Chairman Endal asked for a motion.

Mr. Elms stated that for the sake of character of the neighborhood he would motion to grant 10 ft relief from the required 50 ft front yard setback to the overhang. Mr. Fitzsimmons seconded.

Mr. Martin recommended having the Site staked at 40 ft so they are absolutely certain it is in the right location, and that it be verified by the building inspector before the footing is poured.

That is a condition.

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 substantial
3. That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.
4. That granting the variance would not cause substantial change in the character of the neighborhood or a detriment to the adjoining properties as a 30 ft setback is in keeping with other buildings in the area.
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.

Roll call vote proceeded as follows: Mr. Elms, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes.

Mr. Martin told the applicant to come to Planning Board and amend the plan and advised him that the submission deadline for that is August 5th.

Mr. Elms asked about the group meeting for the Zoning law updates and Mr. Martin said he is planning for after Labor Day to maximize attendance.

Adjourn 8:06pm.

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Respectfully submitted,

Tricia S. Andrews