

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 23rd day of October, 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 did not review any old minutes.

**APPEAL NO. 819**

A request of David Dunn of 39 Oakview Drive, Moreau, NY 12828 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59A. Applicant is requesting to the Board to allow a shed that was built in 2004, that did not meet the side yard setback, to remain there. This property is located in an R-2 Zoning District and is designated as 77.7-2-27 on the Town Assessment Map.

Mr. Dunn bought the equipment to find the stake so that they wouldn't have to pay for a survey, as Mr. DeSantis didn't want to split the cost. So per his calculations, the shed is 39.5 inches from the property line. The back stake was visible, the front one he had to use the metal detector for, and it was offset from the electrical box where they had been digging. He did have to go around some trees that are on the property line.

Mr. Martin stated that they had looked and did not find any record of a building permit having been issued at the time the shed was originally built.

Mr. Russ DeSantis of 41 Oakview said that the survey for the fence shows that everything is squared. All of the lots in the development are exactly the same. The shed is still not legal and it doesn't matter by how many inches.

Mr. Martin stated he felt this was a fairly reliable measure the Board could use. Chairman Endal agreed. Mr. Dunn stated that the pins don't lie. If Mr. DeSantis wanted a survey, he should have helped pay for it.

Mr. Dunn pointed out that the shed was built 15 years ago and he moved here one year ago. This issue should have been dealt with some time ago.

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Mr. Elms stated that the Board is agreeing that the shed is currently set back 39.5 inches. The strict application of the setback of the requirements would result in a practical difficulty. The requirement in this case is 15 ft. for side setbacks. This is a stick built shed that is not designed to be moved. That is relevant.

With regard to whether the requested variance is substantial with respect to the requirement, it is 9.5 ft relief on the previous application, and is now understood to be 12 ft relief. That is substantial. Mr. Martin calculated it to be 78% relief.

With regard to whether the difficulty can be alleviated by some other method practical for the applicant to pursue, the Board could not identify any other method unless Mr. DeSantis wanted to sell some property to Mr. Dunn.

With regard to whether this is a substantial change, the shed has already been there for 15 years, and it has not affected property values.

With regard to whether it is materially detrimental to the purposes of the chapter, it is the minimum Variance possible given that it is a unique situation, as the shed has already been there some time.

Motion was made by Chairman Endal to approve for 78% relief, 12 ft Variance from the required 15 ft. side setback. Mr. Elms seconded. No discussion.

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

Mr. DeSantis suggested that there was corruption in the Town, and Mr. Martin stated that while he can't speak to the past, from 2016 going forward he can state that there is no corruption. Mr. Elms further stated that this never came before this Board at the origin of the situation.

The meeting was adjourned at 7:20pm.

Respectfully Submitted,

Tricia S. Andrews