

The regular meeting of the Zoning Board of Appeals for the town of Moreau, Saratoga County, and State of New York was held at the Moreau Town Hall, 61 Hudson Street, South Glens Falls, NY 12803 on March 25th, 2008 at 7:00 p.m. with the following members present.

PRESENT:

Chester Joslin
Kevin Elms
James Hooper

ABSENT:

Gerhard Endal, Chair
Darrell Finlayson-Retired

Others Present:

F. Joseph Patricke, Building Inspector

The meeting was called to order by Mr. Elms at 07:05 p.m.

APPEAL NO. 694

A request of Brandon Bickford of 51 Iris Avenue, South Glens Falls, New York 12803 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 (A) and Town Law 267-b. Applicant is requesting to construct a garage that will not meet the required front yard setback for an R-2, One and Two Family Dwelling Zoning District. This property is designated as 49.19-3-27 on the Town Assessment Map.

Mr. Elms: Would you like to state your name and reason for this meeting for the record?

Mr. Bickford: My name is Brandon Bickford and I am here because I want to build a garage.

Mr. Elms: This is a substantial relief.

Mr. Hooper: We do give substantial relief, correct:

Mr. Elms: We have. It depends.

Mr. Patricke: We were discussing this before and I don't ever remember, in my 12 years of support, giving that size of a substantial relief.

Mr. Elms: We've wrestled with reliefs.. This is really big. If you look at how much of this garage is going to be built on property which is supposed to be part of the setback, a lot of the garage is setting on that. We have actually had people come in and, I can actually give you cases where they actually had to move the garage and put it on the other side of the house, or make it a stand alone building to be able to get it into the property.

Mr. Bickford: If I thought it wouldn't look right, I wouldn't ask for it. I think it's going to look really nice.

Mr. Elms: We understand that, but I hope you can understand that we really wrestle with these things, the reason this is in the code, is because this is what the town wants. They want that 40 foot setback. They don't just put it there so that we can say, okay they want that but you can go ahead and do what you want. We have to make our decisions based on hardship and what are the circumstances. A lot of the time we have absolutely no other options. We have had people come in and there is just no other place they can fit it into their yard. They may be in some older house with a smaller piece of property, those kinds of things. You still have quite a bit of property here, so it is quite feasible for you to build your garage in a different location. As you said you would have to put in another driveway and there would be more costs involved. It is not what you want, but we have to wrestle with the fact that you do have the

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option to put the garage on your property. Whereas a lot of times when we do these reliefs it is based on the fact that they have no options. They are going to build the garage and we have to give them a little relief on the side setback or

on the front setback or something like that. That is what makes it hard for us. I hope I am explaining it in a way so that you understand where I am trying to come from with that.

Mr. Joslyn: Brandon do you have a drawing yet for what you are going to have built?

Mr. Bickford: No.

Mr. Joslin: How high is it going to be?

Mr. Bickford: It is a cape style so I think it's going to 9X12 with a pitched roof.

Mr. Joslin: Nothing above the garage.

Mr. Bickford: It's going to be storage. Like the packages at Curtis Lumber.

Mr. Joslin: It's a two story.

Mr. Elms: Is it a barn style?

Mr. Bickford: No it's a cape style. Not a barn.

Mr. Elms: Just a higher pitch so you can have a 7 foot clearance? What do you say?

Mr. Patricke: I'd like to point out two things before you go any further. One thing is that this is a seeker exempt project, so if you won you won't have to do a seeker and that is just for the record and the second thing is, and this is for Brandon's benefit, you only have 3 board members here and it takes a unanimous vote.

Mr. Elms: We would have to all agree.

Mr. Patricke: These three would have to agree or it would be automatically defeated.

Mr. Bickford: What's the normal board?

Mr. Patricke: Five

Mr. Bickford: What's the normal to carry?

Mr. Patricke: Three. But when you have only three it takes all three to agree. I only offer that for thought. I am not saying you are going to vote for it or against it, or whatever, I only want to draw his attention to any split at all and it would be an automatic no.

Mr. Elms: No I think you should point that out to him. If he chooses to adjourn it to the next meeting where there is more board members, then you would have a different scenario at least in that respect.

Mr. Patricke: I just wanted him to know because unfortunately, if you were to vote and one would say no, then it would be over and done with and he would be in no position because he couldn't bring it back again.

Mr. Bickford: I cannot bring it back again?

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Mr. Patricke: Not without one of the board members raising it. You can't as an applicant. If you've been denied you can't come back with the same application. That is State law not ours.

Mr. Hooper: Do we expect to have four next time?

Mr. Patricke: I think Gery is back this month. We have one member who resigned and one member who is in Florida for the winter. They are interviewing on the 24th I think at the next town board meeting.

Mr. Hooper: Another thing that could happen is; I feel bad because I haven't been over to see it. You could bring in some pictures to state your case.

Mr. Joslin: I guess I am confused about something here, you take the garage which is 24 feet wide okay, you did change that from 28 to 24, so the garage is square.

Mr. Elms: No he dropped it to 26. Because of the roof line he doesn't want to turn it.

Mr. Patricke: I think he is correct, it would be an appearance thing.

Mr. Joslin: Just a thought because it would give us a little more room there.

Mr. Bickford: I have a really long driveway there.

Mr. Joslin: I realize that, maybe it looks nice and maybe it doesn't, but we have to go by the numbers.

Mr. Hooper: With it being a paved driveway, I think it is unreasonable to ask him to relocate it. It doesn't make sense to have a paved driveway on both ends of his house, so to me if what we have to do is have an exception or a reason to grant the substantial variance. Because in the big scheme of things we have no opposition from the neighbors. Every case is a different case as far as I am concerned, I don't know if that carries any weight. But if I had to I'd say to you, show me where you want this guy to put his garage, so the decision comes down to do we prevent a citizen from having a garage because our zoning rules are there or do we bend them and don't exceed the substantial setback but we grant him the variance knowing that it is substantial.

Mr. Patricke: We don't bend them. We're not going to bend them.

Mr. Elms: No we can give him relief, but we don't bend them.

Mr. Patricke: Anything we grant him will be within the laws.

Mr. Elms: You have the right to do that. As I have pointed out, I have always based my decision on a hardship. Is this person in a circumstance, that we really have to give him this relief to be able to help him out? I understand his blacktop issue. I am not sure I am sold on it being a hardship, he has land there he can put the garage on.

Mr. Hooper: Right now the economy we're in is it fair to ask him to tear up the driveway and put in another one.

Mr. Patricke: Couple of things I want to point out, One is; he currently has a garage, it's in his house, he is removing it and making more living space. The second thing is that I don't know that it has to be a hardship Kevin, I think the standards, if we go look at them, is it going to have an impact on the neighbors.

Mr. Elms: I don't have it marked in my book right here.

Mr. Patricke: I can help you find it very quickly.

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Mr. Elms: Variance is 267-b. (Mr. Elms reads the Town Law.) I mean there is that 15 foot that isn't being used, it is the town property.

Mr. Bickford: I don't think it is feasible to put my garage on the other side.

Mr. Patricke: Is it feasible for you to make the garage smaller by 2 feet.

Mr. Elms: We are supposed to look at how substantial is this variance? Two feet really does make a big difference for us.

Mr. Joslin: Let me ask one question here, you presently have a garage there, how deep is it?

Mr. Bickford: Twenty feet.

Mr. Joslin: Could you make the inside smaller or two feet less?

Mr. Bickford: My driveway goes downhill, so no I couldn't do that.

Mr. Joslin: I was just asking if we could make the garage two feet less.

Mr. Bickford: Two feet makes a big difference for me, I couldn't put my vehicle in there.

Mr. Elms: Either way it makes a big difference on the size of the variance.

Mr. Patricke: We're supposed to make it as small as variance as possible.

Mr. Bickford: I have to have stairs going up into the house. If the steps are 3 feet wide, then the garage is going to be 21 feet.

Mr. Elms: That really assists us in keeping the variance as small as possible. (Reads #4 Town Law) I don't know what your thoughts are.

Mr. Joslin: I am not comfortable with granting a variance that substantial.

Mr. Bickford: What is this 50%.

Mr. Elms: Well it goes back to the setback. 40 feet is what the town says it wants. Going by everything that we have been trained in and went to class for, it would be giving you a substantial relief and it is on a corner with a road; and visibility and how it looks as you go around a corner.

Mr. Hooper: It's a corner of a cul-de-sac. It has a bearing on me, how heavy the traffic is.

Mr. Joslin: Well it has a bearing on the frontage, not the fact that it is a cul-de-sac.

Mr. Elms: There is still traffic there. We always wrestle with this. How much variance do you grant? The town always has this 40 foot setback for a reason.

Mr. Hooper: I know numerous times we have gone up; we have never gone over 50% in my seven or eight years here. We have gone up to 50% numerous times.

Mr. Patricke: I don't believe that. I don't think you've gone to 40%. I'll research it for you if you'd like.

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Mr. Elms: We have never gone to 50%, ever. I have been on the board as long as you have and we have never gone more than 25-30%. When we start pushing above that we really wrestle with that. I think we are way above that now. We are not worried about setting a precedent or anything like that. I agree with you it is different on every case.

Mr. Patricke: It depends on the board. The board before you never went beyond 20%. This board has gone more liberal. It has evolved over the years.

Mr. Elms: Well we are here to represent the members of the community and we certainly want to be reasonable in our decisions, but it does put us in a difficult spot.

Mr. Bickford: It doesn't make a difference whether it is Iris Ave. or the other one?

Mr. Elms: No. Do you want to hold it over for the next month? The Chairman will be here then.

Mr. Bickford: So are you telling me you have already made your decision?

Mr. Elms: No, I'm not telling you how I would vote, I don't know how these guys would vote. It just would give you more board members here to hear your case. Just throwing it out there.

Mr. Patricke: But certainly you have to be close to make a decision. Now is when you would normally make a decision.

Mr. Elms: I could make a decision now. I have stated my case pretty well. I think if you were willing to talk about 24, I think we are really pushing to do that.

Mr. Bickford: I don't understand the issue of 2 feet. You can give me a 24 foot garage, but not a 26 foot garage.

Mr. Hooper: This member doesn't understand it either. Nobody could drive by there and notice two feet, but we are going to make an issue of it and push this guy around.

Mr. Patricke: You can vote to table it.

Mr. Hooper: I make a motion to table it until the next meeting.

Mr. Elms: This isn't about pushing the guy around.

Mr. Bickford: What date is the next meeting on?

Mr. Elms: Change the meeting to the 29th of April.

Mr. Joslin: I second it.

Mr. Patricke: I agree. Brandon one of the things you can do to help is put a couple of stakes out.

Mr. Brandon: Well I'm going to poll the neighbors.

Mr. Elms: You are well within your rights to do that. I make a motion to end the meeting.

The meeting adjourned at 8:05 p.m.

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Respectfully submitted,

DeLinda Perry