

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, 61 Hudson Street, South Glens Falls, NY 12803 on March 27, 2013.

The meeting was called to order by Acting Chairman Kevin Elms at 7:03 p.m.

ZONING BOARD MEMBERS PRESENT:

Kevin Elms, Acting Chairman

John England

Richard Kubis

Scott Fitzsimmons

ZONING BOARD MEMBERS ABSENT: Gerhard Endal

Others Present: F. Joseph Patricke, Building Inspector; Tricia Andrews, Recording Secretary

Mr. Endal is out of Town and Mr. Elms is acting as Chairman.

The Board reviewed the minutes of the November 2012 and January 2013 meetings. Mr. Fitzsimmons motioned that the minutes from these meetings be approved as written and Mr. Kubis seconded.

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

Motion passed unanimously.

New Business:

Appeal No. 733: A request of James and Tracy Warren of 400 Selfridge Road, Gansevoort, NY 12831 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59(A) and Town Law 267b. Applicant is proposing to construct a detached garage that will not meet the required front yard setback in an R-5 Zoning District. This property is designated as 77-2-40 on the Town Assessment Map.

Mr. and Mrs. Warren appeared and explained that they want to put in a garage and there is a utility pole that prevents them from making the setbacks.

Mr. Elms asked about the amount of vacant property to the North, where there is no septic and it is fairly level, indicating that the garage could be placed there. The Warrens don't want to put the garage there because it is the middle of the yard and not on the driveway. The existing shed is going to be moved. They can't move the pool.

Mr. Elms informed the applicant that the Board usually gives a variance based on a real hardship, and is

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held to requirements. As there is an alternate place to put the garage where no variance would be required, the Board has to look at that.

Mr. Patricke asked where the edge of the garage was, the back side, how far it is from the retaining wall. Mr. Warren answered that it foot from the retaining wall.

Mr. Patricke stated that Mr. Warren can't move back because the wall is there, but Mr. Elms said that he could go around the pool.

Mr. Warren said that the wall goes beyond the pool. Mr. Elms asked if there was room around the wall, and Mr. Warren says that there is, but that building would require a Variance there, too.

Mr. Elms said his thought was to turn the garage so that the doors are facing the road. There is some land there and this does make the garage further from the house.

Mr. England supported Mr. Elms in that there are other ways to solve the difficulty. The driveway would have to be extended, but there is a place to put it on the road that doesn't require a Variance. That is not how Mr. Warren wanted to do this.

Mr. Kubis asked about side setbacks in that zone and it is 20ft. on the side, 40 ft. at the front, so 18 ft. is over 50% relief in this case.

Mr. Kenyon, of 410 Selfridge Road, is a neighbor quite familiar with the property who feels that Warren's have room on both sides of their house. He has trailers parked in the woods. 6.75 acres of land, with a little creative thought he can do this without getting to close to the road. He already has a utility shed close to the road and another behind the pool, as well as an attached garage.

Mr. Elms pointed out that the Warrens did not argue that they don't have space. Mr. Kenyon can't see the hardship. It's just an inconvenience; he can easily do it where the Board has suggested.

Mr. Warren asked for clarification of the 50% rule, and argued that he was told the setback was 25ft. when the shed was placed in the same location.

Mr. Patricke said the applicants were given the wrong number when they placed the shed. They did everything right, they applied and were told 25ft. from the front line, which was a mistake.

Mr. Elms told them that the Board still has to go by what the Code is, and it says 40 ft.

Mrs. Warren asked whether that is from the center of the road or the telephone pole, but it is from the property line. They want to build 18 ft. from the property line.

Mr. Warren said that from the line the shed is on at 25ft, the shed sits 16 ft from the telephone pole.

From his current building, it's not 50%. Mr. Elms explained that 22 feet of relief is more than half of 40 required, that is over 50%. He read from Code.

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

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- (1) That the strict application of said dimensional requirements would not result in a specified practical difficulty to the applicant.
- (2) That the requested variance is substantial in relation to the requirements.
- (3) That the difficulty can be alleviated by some practical method feasible for the applicant to pursue.
- (4) That there will be substantial change in the character of the neighborhood or a detriment to the adjoining properties.
- (5) That the variance would 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.

Mrs. Warren referred to the hardship of costs that would be incurred to build the driveway longer and Mr. Warren said that the garage would be in the way when it comes time to fill in the pool when it fails, which he expects will be soon.

Mr. England said that requirements #3 and #4 are inescapable in this case. He looked at the property personally and thought that there were other ways of settling the issues, and that it and would be substantial. It did come to mind that it's close to the road and will affect the character of the neighborhood.

Mr. Elms asked about correspondence from the community and was told that there was none. He explained that it's difficult for the Board to deviate from the plan the Town has, this is a tough Board to come before because sometimes it can't do what the applicant wants. He doesn't feel that there's enough of a hardship to putting the garage there.

Mr. England pointed out that there are other ways to solve the problem.

Mr. Elms said that when he first saw the plan, he was hoping that there was a septic not on the map or something, but looking at the drawing there is no reason there to grant a variance.

Mr. Kubis said that the clause that makes it tough is the concept of hardship. It can be a difficult one, but in this case the applicant has a big open space there that the garage can be put in. He doesn't like to see the applicant not be able to do what he wants with the space.

Mr. England motioned to deny Appeal No. 733, seconded by Mr. Kubis. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes, Mr. Fitzsimmons, Yes; Mr. Elms, Yes. Motion passed unanimously.

Mr. Warren asked whether he has to come before the Board again if he places the garage over 40 ft. from the road and was told that he does not. Mr. Elms thanked him for being understanding.

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The Board heard Appeal No. 734 a request of RASP Incorporated of 6 Dukes Way, Gansevoort, NY 12831 for a Variance for off-street parking pursuant to Chapter 149, Article X, Section 149-47. Applicants are requesting a reduction in the number of parking spaces that are required in a C-1, General Commercial District. This property is designated as 89-2-67 and 89-2-9.1 on the Town Assessment Map.

There was a misprint in the ad and it should read 8 Dukes Way.

Mr. Patricke explained that RASP has gone to the Planning Board for this and that they want to put 2 additions on their building, and were sent to ZBA because the Planning Board has indicated that they support the reduction in the number of parking spaces required. They have to go back to Planning and if they get this reduction, they would move on with the site plan.

Mike Close represented RASP and business partner Ron Richards is not here but Richard Jones, registered architect from Queensbury also represents RASP. Zoning required 64 parking spaces with the proposed additions, and site design shows it, they would like to relocate entrance drives. He showed a dotted area on map. They would like to use this for storm water, etc. The site is designed around those spaces being there but the applicant would like to eliminate some because they will never need that. 10,000 sq. ft. is warehouse for product storage. They plan an office addition on the South side, the center is going to be manufacturing. They make electronic components, not a lot of people or process involved, but a great need for storage.

Mr. Elms asked whether the plan is to eliminate 13 spaces. Mr. Jones said that they want about 30 spaces for employees, visitors and deliveries, will construct 38. They are requesting a Variance for the difference.

Mr. Patricke told the Board that the comment from Saratoga County, required because it's on Route 9, said that they would like it approved and recommend that since this is the third recent review for a parking decrease, the regulations need to be reviewed.

Mr. Jones said that most municipalities give a waiver request, so that process could be put into the Code when it is changed.

Mr. Patricke said that can't short circuit it tonight but he wanted to bring it out.

Mr. Jones said that if the need arises, they are designed to construct the extra spaces.

Mr. England asked what circumstances or conditions the Board might want to add and whether a specific number of spaces would be named. Mr. Jones said that they are asking for 38 based on the layout, which is a reduction from 64.

Mr. Close pointed out that it is a large dollar value to pave, etc. when they don't need it.

Mr. Elms said that if they had the business they would want to build that, but he sees no need for any conditions.

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Mr. Patricke doesn't believe they need any conditions because it is a Planning Board decision, and the Board just has to look at the conditions for the Variance. Other plans do it different ways, but we are locked in at this point.

Mr. Elms told the applicant that the Board likes to see a business in Town expanding.

Mr. Close described the industrial controls, metal boxes made and parts inserted, for the Board.

Motion was made by Mr. Fitzsimmons to approve a reduction from 64 to 38 spaces required. Mr. England seconded. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes, Mr. Fitzsimmons, Yes; Mr. Elms, Yes. Motion passed unanimously.

Motion was made by Mr. Fitzsimmons and seconded by Mr. England to adjourn the meeting at 7:35 p.m. Motion passed unanimously, no roll call vote.

Respectfully Submitted,

Tricia S. Andrews