

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 September 22nd, 2010 at 7:00 p.m. with the following members present.

PRESENT:

Kevin Elms
Richard Kubis
John England
James Hooper
Gerhard Endal, Chair

ABSENT:

Tracy Bovair
F. Joseph Patricke, Building Inspector

Others Present:

Martin Affredou, Attorney for the Town

The meeting was called to order by Chairman Endal at 7:04 p.m.

Board members made mention of the minutes from the June meeting not being received. Secretary, Del Linda Perry assured members the minutes had been typed and forwarded to the Zoning office. Unfinished business would be the minutes not received for June 2010.

APPEAL NO. 709

A request of Larry Allen of 5 Speakman Street, Fort Edward, NY 12828 for Area Variance pursuant to Chapter 149, Article, X, Section 149-59 (A), Town Law 267-b and the Town Sign Law. Applicant is requesting to construct a garage that will not meet the required front yard setback an R-3, Agricultural, One and Two Family Residential District. This property is designated as 64.-2-45 on the Town Assessment Map.

Chairman Endal: I assume that you must be Larry Allen?

Larry Allen: Yes.

Chairman Endal: Can you just tell us what you are doing.

Larry Allen: I am looking to put in a garage in the turn around. My property is like a "Pie". It is a corner lot and I don't have much back yard, so my side yard is like my back yard. There is a water easement line that goes through the property almost half way through it. I don't believe I can put the garage on the other side of it.

Chairman Endal: Right. You are looking for a front setback variance. What is the relief?

Martin Affredou: I think it is 40. He has 22.7 proposed, 17.3' relief.

Richard Kubis: Actually it is less measured at the back corner.

Martin Affredou: Yes you are right. That back corner, I'm not sure what that would be?

Kevin Elms: But that would be closer. See how that road curves? It actually has to be the closest point to the road.

Chairman Endal: It is a pretty substantial variance.

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Martin Affredou: The setback is 40 feet in this R3 Zone.

Chairman Endal: Bringing it back further closer to the house is not a possibility?

Larry Allen: The problem is bringing it back closer to the house, I have the well here. It would kind of ridiculous that close to the house.

John England: How bout moving it to face the street?

Larry Allen: Turning the face the street would be worse because 18 this way.

John England: How bout moving it this way back from the street.

Larry Allen: It would cut into my pool. Years ago to fit the variance we had to do a kidney shaped pool

Chairman Endal: What is that easement line?

Kevin Elms: What is that water line? I am kind of curious about that.

Larry Allen: That is an easement line to the farmhouse; they get water from Fort Edward reservoir. The farmer sold all the land. That was the old farmhouse. That line ties into the one that comes down from Fort Edward

Chairman Endal: It is an active water line?

Larry Allen: Yes it is.

Chairman Endal: How far is your well from the back of the garage?

Larry Allen: It is about 10 feet.

Chairman Endal: Your line from your well?

Larry Allen: Goes diagonal from the house.

Kevin Elms: Why did you not consider putting the garage on the east side of the house? It looks to me like you could put a one car garage over there. When you get 46 feet to the top of the line.

Larry Allen: Yeah, but I don't think it would look good to have a garage sitting on one side of the house and one on the other side of the house. One of the goals is to NOT make it look like it was just plopped on the property.

Kevin Elms: Maybe we should read what the criteria of the Area Variance are?

Chairman Endal: Reads the requirements, reflecting on the second, who states benefits sought by the applicant, could be achieved by some method feasible for the applicant to pursue without an area variant.

Kevin Elms: That really sums it up.

Chairman Endal: I am not clear that he cannot do something else. Putting it on the other side.

Larry Allen: The whole idea of the variance is to make the property pleasing for the neighbors as well.

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Kevin Elms: No, actually, I know what you are saying about the driveway, but the Town sets rules for us to live by and if a person has a circumstance. If the person has an option other than a variance then the town would like them to take that route. If you have another option to build the garage, even if you don't like the looks of it then, sometimes there are times when the person has no other options and in that circumstance a variance would be an area variance. It is when you have no other means to build a garage. Am I mistaken?

Chairman Endal: No you are not. The other question is, is it a substantial variance? That does concern me. When I drive through that neighborhood I don't think there are any properties that have something 24 feet from the road.

Larry Allen: If I could use my whole property then I could understand, but I cannot because of the cut of the property.

Kevin Elms: I drove around and didn't see anything else like that.

Larry Allen: Half of my property is wood lot I cannot do anything with. I have to live on $\frac{1}{2}$ an acre as opposed to a full acre like everyone else on the street. A lot of my property is useless.

Kevin Elms: The biggest detriment to your property is you have that water easement.

James Hooper: Please refresh my memory we usually use as a guideline as substantial is 50%. Usually we haven't gone above 50% right? In other words this is 40 feet and I think the most we have ever considered has been 30, right?

Kevin Elms: I think it depends on the location, frontline or back yard setback. I cannot get past the ability to put the building on the property.

James Hooper: I know it is not easy for you or the plans but look at this and if you take it back 13 feet right to the corner of the house so now you are in the range of 30-35 feet from the road. It looks like you would have to move the line for the well. I know it's not a huge expense, I know I'm not the one having to pay it. You would move the line for the well and then move the proposed garage back 10 feet and leave yourself a 3 feet walk way through now you are within that 50%. At least you might have a better shot, I am speaking for myself. I think a big portion is because you already have your slab there, right?

Larry Allen: Actually no, I am going to take that out. I was just thinking aesthetically.

Chairman Endal: That does make a difference. I don't really know what aesthetically it would be I am just looking in terms of the rest of the neighborhood and they are within 40 feet and that is the rules for the variance.

Larry Allen: It wouldn't be 40 feet because everyone else is closer to the road.

Kevin Elms: No. The codes were changed. Some of the houses predate Zoning. They were grandfathered in. That doesn't mean we wouldn't grant anybody.

Chairman Endal: Not necessarily. If it fit into the neighborhood it would be more likely. None of these things are hard to fact. It is a question of weighing the benefit to you against the detriment of the neighborhood. It is not just a detriment to the neighborhood; it's not just the detriment to the neighborhood through the ascetics it is the Town law. Granting a variance is not a huge deal, but it is still something we need to think about. If there are alternatives then we need to consider them and to ask you to think about them. I would be more willing to consider if we could move it back towards the corner of the house.

Larry Allen: Okay, I'll re-do it.

James Hooper: Am I doing the math right? I know it's not written in the guidelines it is just something we use? Somewhere in the lines if he was 30 feet off the road instead of 40. That is 10 feet.

Martin Affredou: So you are saying off the road or off the easement line?

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Richard Kubis: It drops it down to 25 feet.

Kevin Elms: If he was 30 feet back from the road and the closet part of the garage would be just 30 feet off the road, that's by the eave of the garage, and then it would be a 10 foot variance. That is the other thing, because of the curve of that road. I think that is an excellent thing to point out, because I was kind of fixating on the line, I appreciate that. If you came before us with a change, and then came back, keep in mind it is going to be the eave of the garage to the road.

Larry Allen: When you say the road, what are you saying?

Kevin Elms: The easement.

Larry Allen: There are two easements.

James Hooper: It isn't the easement, is it?

Martin Affredou: Ignore the road.

Kevin Elms: The utility line wouldn't be the easement; it would be the front property line.

James Hooper: What would it look like, if you sort of cocked the garage, kind of make it a little skewed so you could make the setback?

Kevin Elms: I can understand you would want to keep it straight with the house. I have driven past your property and I appreciate the beauty of your property. If you kind of work with it so that the variant wouldn't be so great.

Chairman Endal: I tend to be sympathetic. You do have room on the other side of the house.

Kevin Elms: I know you wouldn't want to walk across the front of the house in the winter time.

Chairman Endal: You plan to build it this fall?

Larry Allen: Yes.

Kevin Elms: Next month to bring it back to us? What would we do to keep it open until the next meeting?

Martin Affredou: Yes you would table it and keep the public hearing open. The applicant could ask for the opportunity to have the matter tabled until your October meeting and we will let the applicant know exactly when that date for the October meeting is. We would have to give him a time date line to submit between now and then when has to submit revised plans or revised sketch so that Joe and Kathy could get that to you in plenty of time. It would seem to me that, that would be the best thing, given what your sentiments are, that would be the best thing for the applicant to do is to take this map see what it is he can live with and come back with a revised proposal for the October meeting. It doesn't need to be re-advertised, it doesn't need to be renoticed or anything like that. Just keep the public hearing open and conclude your business at the October meeting.

James Hooper: Is there a neighbor across the road. Have they been informed? I know it has been published.

Larry Allen: Actually, they all came to me and asked how I made out?

Chairman Endal: So if you are willing to do that it makes the most sense. I am not saying that is how I am going to vote.

Martin Affredou: I think the best thing to do Jim, rather than the board to suggest what he can or not live with, to do is to allow him the opportunity to take another look at this, what he can or cannot live with talk to Joe and come back with a revised proposal. You have been pretty clear what you think is a substantial or not substantial variance concerns. Maybe it goes to the neighborhood concerns. You have been quite clear on what feasible alternatives you think he could look at.

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This will give him the opportunity to say if I move this back, it eliminates some of your substantial concerns, it eliminates some of the neighbor concerns and

John England: As far as the time line goes I think he needs to have it in by the first week of the month.

Martin Affredou: I think you are right. Kathy and Joe ask for is that first week so they can process things. I can talk to Joe; I am going to be meeting with Joe on Friday morning. It seems to be that your ZBA meeting is going to be the 27th?

Chairman Endal: I think two weeks should be the deadline.

Martin Affredou: So that would be October 6th if I am looking at it right?

Chairman Endal: I think it is the 9th?

Martin Affredou: So you want to give the gentleman till Friday the 8th to submit that. You would need a motion at the request of the applicant, a motion to table the matter including keeping the public hearing open until October 27th with the understanding that the applicant will send in a revised sketch to show a different location of the proposed structure by October 8th.

Kevin Elms: I make a motion "to what he said".

Secretary Del Linda Perry: Do we have a second?

James Hooper: I make a second.

WHEREAS, a public hearing was duly held on September 22, 2010 for the purpose of hearing all interested persons for or against this appeal, and

WHEREAS, there was a request for Appeal #709 to be tabled until October 27th ZBA, and

NOW, THEREFORE BE IT RESOLVED that Appeal #709 is tabled until October 27th:

Roll call vote resulted as follows:

| | |
|-----------------|-----|
| James Hooper | Yes |
| Kevin Elms: | Yes |
| Chairman Endal: | Yes |
| Richard Kubis: | Yes |
| John England: | Yes |

A Motion was made to adjourn the meeting at 7:35 p.m.

Respectfully submitted,

DelLinda Perry