

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 28th day of September, 2016 at 7:00 PM.

ZONING BOARD MEMBERS PRESENT:

Gerhard Endal, Chair

John England

Richard Kubis

Scott Fitzsimmons

ZONING BOARD MEMBERS ABSENT: Kevin Elms

Also Present: Atty. Malcolm O'Hara, Attorney for the Town; Jim Martin, Zoning Administrator; Tricia Andrews, Recording Secretary.

The Board reviewed the minutes of the August 24, 2016 meeting. Mr. Kubis motioned to approve the minutes with no corrections and Mr. Fitzsimmons seconded. Motion passed unanimously by roll call vote.

Chairman asked whether the Blondos had met the conditions imposed on them, and Mr. Martin indicated that they had met the immediate requirements, had met with Code Enforcement, and that a letter was written reminding them of the agreement. The deadlines will be tracked by the office.

Appeal No. 780

A request of Maurice Combs of 96 VanDusen St., Queensbury, NY 12804 for a Special Use Permit pursuant to Chapter 149, Article IV, Chapter 149-52 (D). Applicant is requesting an extension of up to 50% of a non-conforming use of an existing mobile home park. This property is located at 2-14 and 16-18 Fawn Road, Gansevoort, NY 12831 in a C-1, General Commercial Zoning District and is designated as 77.1-1-13 and 77.1-1-28 on the Town Assessment Map.

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Appeal No. 781

A request of Maurice Combs of 96 Van Dusen St., Queensbury, NY 12804 for a Use Variance pursuant to Chapter 149, Article X, Section 149-59(b). Applicant is requesting to create four (4) new mobile home sites beyond the extension of the pre-existing non-conforming use on an existing mobile home park. This property is located at 2-14 and 16-18 Fawn Road, Gansevoort, NY 12831 and is designated as 77.1-1-13 and 77.1-1-28 on the Town Assessment Map.

Mr. Combs was not present and Mr. Martin explained that Mr. Combs has indicated that he intends to buy the leased lot (already a portion of his mobile home park), thereby increasing his count of homes to 7, allowing a 50% expansion that adds 3 homes. Mr. Martin also just saw a plan submitted that positions the homes along Fortsville Road. Chairman Endal pointed out that if a purchase is being made, they won't be able to act on it until that's completed, and Atty. O'Hara said that a new application would be needed, if that is the case.

An audience member asked what a grandfather law is. It was explained that if the condition existed before the Code was enacted, they are exempt from the requirements. It was explained that it goes with the land, and not with the owner. Chairman Endal also explained that there's a provision for a 50% expansion one time of a pre-existing non-conforming use. The audience member argued that since Mr. Combs was only leasing he shouldn't have those rights, and it was explained that the provision applies to the land and not the person who owns it.

If the substance of the Appeal has changed, it will be re-advertised as a new appeal.

Motion to table Appeals 780 & 781 was made by Mr. Kubis and seconded by Mr. Fitzsimmons. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 4-0.

Chairman advised the public that because it is tabled the Appeal would not be advertised next month unless a new Appeal is actually filed, so they should check with the office to see what the applicant has done.

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Appeal No. 782

A request of Bruce and Sherry Burton of 36 Jackson Road, South Glens Falls, NY 12803 for an Area Variance pursuant to Chapter 149, Article II, Section 149-5, Definitions of Lot & Line, Street and Right-of-Way. Applicants are proposing to subdivide an existing parcel that does not have frontage on a public right-of-way. This property is in an R-2, One and Two Family Residential Zoning District and is designated as 49-1-60 on the Town Assessment Map.

No one appeared to represent this Appeal.

Appeal No. 783

A request of Jason Wendell of 213 Ferry Blvd, South Glens Falls, NY 12803 for a Special Permit pursuant to Chapter 149, Article V, Section 149-33, Home Occupation. Applicant is proposing to have an office and workshop in the basement of his residence for the Electric Motor Repair. This property is located in an M-1, General Manufacturing and Industrial Zoning District and is designated as 37.-2-10.2 on the Town Assessment Map.

Mr. Wendell does electric motor repair, mainly pool pumps and sump pumps. He does pickup and delivery, so it will not add much traffic. He does plan to go to Planning Board for a sign so people can find it if they want to drop off. He does not plan sales at this time.

Chairman Endal: Would you stay there?

Mr. Wendell: I would like to build a garage with a shop.

Chairman Endal: Why is this coming to this Board?

Mr. Martin: Home Occupation is subject to Special Permit in an M-1.

Chairman Endal: This kind of business is not one of the permitted principal uses, or accessory uses.

Mr. Martin: But I think it can be under a Special Permit as a secondary use.

Chairman Endal: When I go to the definition of Home Occupations it lists but does not limit, and lists barber shops and beauty parlors, and similar businesses.

Mr. Martin: I brought it here because the first part of the definition says an accessory

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use of a service character, and the service he provides is small motor repair. A and B are basically examples, but it still meets the core definition.

Chairman Endal: Is there any issue with safety having a basement shop?

Mr. Wendell: It's a fireproof shop.

Mr. England: What about cleaning fluids?

Mr. Wendell: A little bit of mineral spirits.

Mr. Martin: But motor repair doesn't involve lining anymore, he interchanges parts/

Mr. Wendell: I don't swap oils. It's basic, people need it.

Chairman Endal: Any public comment?

Mr. Wendell: None.

Chairman Endal: Converting your garage to retail later is a different thing.

Mr. Wendell: That's a couple years away.

Chairman Endal: And for a sign you don't need to go to Planning Board, if it is attached to the building. It might be here.

Mr. Martin: It's part of your permit. Sign or nameplate attached to the building, not to exceed 3 sq. ft. in size.

Mr. England: Keep in mind 3 sq. ft. is not very big.

Mr. Wendell: If I wanted a bigger sign I could go for the permit.

Mr. Martin: You are in an M-1 district, signs are allowed, I believe.

Mr. England: He would go through the Building Department.

Mr. Wendell: I'm a manager at EPIC. I do that all the time.

Chairman Endal: You would just need a sign permit from the building inspector, which I would not be opposed to.

Mr. Martin: Reading through the sign code, they are allowed in the Manufacturing District with a permit, up to 40 sq. ft.

Chairman Endal: Part of the confusion, we're not trying to give you a hard time, but it's M-1 and there are many pre-existing uses down there.

Mr. Martin: The bottom line is, come for a sign permit at the office.

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

(1) Such usage will not endanger the health, safety, morals or general welfare of the neighborhood or adversely affect the environment.

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(2) Off-street parking spaces are adequate to handle expected attendance.

(3) The neighborhood character and surrounding property values are not endangered.

(4) Such use thereof will not cause undue traffic congestion or create a traffic hazard.

Motion was made by Chairman Endal to grant Appeal No. 783 and was seconded by Mr. England. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 4-0.

Appeal No. 784

A request of Mark and Bonnie Webster of 260 Clark Road, Gansevoort NY 12831 for an Area Variance pursuant to Chapter 149, Article X, Section 149-59 (A) Lot Area.

Applicants are proposing to subdivide a 9.92 acre parcel into two parcels, one parcel will not meet the required 5 acre minimum in an R-5 Zoning District. This parcel is designated as 90.-1-20.2 on the Town Assessment Map.

Mrs. Webster explained that they want to divide their property in 2, but it is a hair under 10 acres, 1.68% difference. They understood from their realtor that they had to sell the 5 acres, and they have a prospective buyer who wants the 5 acres. The purchaser wants to buy it as a building lot and not as farmland.

Chairman Endal: How far is your house from the side line?

Mr. Webster: It's on the map you have, I gave you 9 copies. I drew it off the survey.

Chairman Endal: Does their house still meet the setbacks?

Mr. Martin: Yes everything else is compliant.

Ed Smith, owner of the dairy on Clark and Selfridge Rds., is the prospective buyer. He wants the land as a buffer for the dairy farm. I have west and south and across the road.

Mr. Martin: The parcel pattern in the immediate neighborhood, even if this were approved, they have two of the larger lots in the area, many are an acre or two in size.

Mr. England: What's the minimum to build a house? Doesn't the one with the house on it have to be complying?

Mr. Martin: There's no way to achieve a conforming lot. This is the way to go so that the setbacks comply on the existing house. Short of the lot size, everything complies.

Chairman Endal: They could ask us to make two non-conforming lots, this is very little.

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It's better to have one non-conforming than both.

Mr. Martin: It's more valuable to let the one for sale be the conforming lot.

Chairman Endal: To make it buildable.

Mr. Martin: They want to make sure they can still sell their house, which would be the case.

Mr. England: When was your house built, approximately?

Mr. Webster: We've been there 22 years...around the turn of the century.

Mr. England: This century?

Mr. Martin: I remember 1929, but I could be wrong.

Chairman Endal: Did we receive any correspondence?

Mr. Martin: None.

Neighbor Gregory Stoddard, of 297 Clark Road stated that he is in favor of the Variance and would like to see it remain agricultural land.

Chairman Endal: If somebody wanted to build there it would be okay, but it is nice to see the farm expand.

Mr. Webster: We were happy with that, but we want to generate some cash.

Chairman Endal: Conditions for Area Variance. Why do we have SEQR?

Mr. Martin: Not a Type 2 and not a Type 1, so it's unlisted. I don't think you will gain anything from it, but it has to be submitted because it's unlisted.

The Board reviewed SEQR. Motion to make a negative declaration was made by Mr. Kubis, and seconded by Mr. Fitzsimmons. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 4-0.

Mr. Webster: The house was built in 1890.

Chairman Endal: Very much prior to Zoning, then.

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

- (1)** That the strict application of dimensional requirements would result in a specified practical difficulty to the applicant;
- (2)** That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue;
- (3)** That the variance is not substantial;

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- (4)** That there would not be substantial change in the character of the neighborhood or a detriment to the adjoining properties; and
- (5)** That the alleged difficulty is not self-created.

Mr. Fitzsimmons motioned to grant Appeal No. 784 and Mr. England seconded. Roll call vote proceeded as follows: Mr. England, Yes; Mr. Kubis, Yes; Mr. Fitzsimmons, Yes; Chairman Endal, Yes. Motion carried 4-0.

The Chairman motioned to table Appeal No. 782 and Mr. Kubis seconded, all in favor, no roll call.

Mr. Kubis motioned to adjourn the meeting at 7:40pm and Mr. England seconded. All in favor no roll call.

Respectfully submitted,

Tricia S. Andrews