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REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, DECEMBER 12, 2018

MEMBERS PRESENT: J. Pinter, J. McEvoy, B. Bergum, M. Connors
EXCUSED: A. Sellers, T. Catalano
ALSO PRESENT: Roberta Rappoccio, Town of Evans Director of Planning & Community Development

Director Rappoccio opened the meeting at 7:00 P.M. The meeting took place in the Court Room of the Evans Municipal Center, 8787 Erie Road, Angola, NY 14006.

Director Rappoccio: I would like to welcome everyone to the December 12, 2018 Planning Board meeting. I am standing in for Ted. He is our Director as he couldn't be with us tonight.

For the record and as previously stated, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda as advertised. No other unrelated items may be brought before the Planning Board at a Public Meeting. That being said, if any resident wishes to comment for or against an action item listed on the Agenda, it is their right to do so when the floor is opened to the public. Please remember to sign in if you do wish to speak.

The only item on the Agenda this evening is:

1. **Special Use Permit** – for 8181 Erie Road for the operation of a Motor Vehicle Service, Repair and Sales facility to be located at 8181 Erie Road, Angola, NY 14006, SBL# 220.15-1-21. Petitioner: Gary L. Toner/ITEC, 7023 Waring Circle, Derby, NY 14047

HISTORY:

- The application for this project was filed on October 12, 2018. This is the former NAPA site.

INTERDEPARTMENTAL REVIEW:

- **Planning Director:** To be continued.
- **Town Engineer, Dave Johnson of Clark Patterson Lee:** Approved. No comments.
- **Code Enforcement:** Approved. No comments.

OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** The 239M Review was sent to the County on October 26, 2018, and approved on October 29, 2018 with no recommendations.

Director: Are there any questions or comments from the Board before I open the floor to the applicant? There being no comments, at this time I will open the floor to the applicant and/or his representative. Please step up to the microphone state your name and address spelling your last name for the record.
Mr. Toner: I live at 7023 Waring Circle right here in Derby.
Director: Ok, so we have your submission in front of us and the Board has some questions.
J. Pinter: The curb cuts. Right now it is my understanding it is all open.
Mr. Toner: It is, yes.
J. Pinter: So what are the future plans here?

Mr. Toner: I didn't have any plans, I was going to wait on the recommendations of the council to see what was wanted and I guess I am open to whatever you choose.
Director: Ok. We just had noticed that when you are driving by its fully open.
Mr. Toner: It is.
Director: So there's an issue with coming in and out, and backing out and coming in.
Mr. Toner: That really bothers me as well, I'm there daily working and people just come flying in there and they whip right out and its U-turns; it's very unsafe. So it is something I wanted to address as well.
J. Pinter: You're talking the parking in front?
Director: In the front.
Mr. Toner: Directly in front of the building right on Route 5.
Director: Yes, that's what we are talking about.
Mr. Toner: People just come whipping in there and cut right back out. It's a real mess.
Director: So you would be open to some sort of barrier like planters or cement barriers, or a landscape island of some kind, something.
Mr. Toner: I owned a chain of restaurants in Buffalo; I'll tell you what I did in the city of Buffalo. I bought huge concrete planter pots I'll call them and I put arbor ivy's in there and they were really beautiful looking.
Director: That sounds like something...
Mr. Toner: Man they were gorgeous and they stopped people whipping into the darn place.
Director: Ok that is something that we would look into.
B. Bergum: Another question is how many vehicles do you plan on having on sight that are serviced at a time? We don't want it to turn into a junk yard.
Mr. Toner: Ya know what? Right I feel the same way. As far as vehicles that have been serviced; not many, I tell my customers to pick them up when they're done I don't want to charge storage because people don't like to pay storage – they're going to get mad at me for that. So however, you pick them up or I'll deliver them for free, I don't need to make the money off the car lot so I am not going to harass or hassle anybody. And as far as vehicles for sale, I'm assuming we'd eventually get there, again not many. There are a lot of car dealerships in the area; I'm not looking to compete with Catalano or anybody else. I think maybe a half a dozen or so is reasonable.

Multiple people talking...inaudible

Director: Like six.
Mr. Bergum: We'll probably set a number.
Director: Yes, we will probably have to give you a number.
Mr. Toner: Based on the size.
Mr. Bergum: Yes, based on the size.
Mr. Toner: I'm currently a licensed dealer in North Collins where I've been for twenty years, I'm also a licensed state inspector so I understand the ins and outs of it and I understand what you're going to look for and what you're going to want and I am totally in compliance with whatever you recommend.
Mr. Pinter: You have a current spot in North Collins you said?
Mr. Toner: I do, yes.
Mr. Pinter: Where's that about.
Mr. Toner: 11555 Route 62 just south of Steve Baldo left side.
Mr. Pinter: Hang on a minute...11555.
Mr. Toner: Yes, Route 62, that's Gowanda State Road if you're going south and you're passing Steve Baldo to the right, I'm on the left. The same thing I did here I bought the building and painted it, put in new windows and made it look better.
Mr. Bergum: You got the neon signs and stuff out front or whatever?
Mr. Toner: I do.
Mr. Bergum: You got that big truck because I think I've seen it over here one time on Erie right?

Mr. Toner: Yes, I custom built that. And of course the big military truck as well. I have lots of lights, I'm a lighting guy, so I got lots of lights.
Director: Now did you have a, because we have the site plan but we don't have it dimensioned. So did you have any, did they do any dimensioning for you, the Bamble architects because I'd like to see how far those existing parking spaces are off of Erie Road, Route 5.
Mr. Toner: I'm not sure what he did but I know picked up the thirteen copies. He said if we need to add anything I'll just let him know. So I can call him and do a request.
Director: Ok. We're going to need some dimensions, that's really what we're looking for especially off that front and you probably have more parking there then you need in terms of code.
Mr. Toner: Oh God yes.
Director: So we can maybe – you don't' have to take away those spots, but maybe move them to the side of the building so that you are not running into circulation off Route 5.
Mr. Toner: I understand, absolutely right. Yes I could push some of those to the side for display or customer pickup vehicles; we could put them along the side of the building where it's somewhat hidden from view anyway and it doesn't look like an eye sore with a ton of vehicles in front of a building. I don't like the way that looks. So I just have a quick question: the dimensions you are looking for is it from the building to the road and the width of the parking lot dimensions.
Director: From the edge of the parking space that are in front of your property to the right away of Route 5.
Mr. Toner: Got it.
Director: Because they are pretty close and I'm sure to current codes they are probably not up to code, but because they are grandfathered in they can stay but I was just curious how far away that is and how we can work with the circulation there just to make it safer and better.
Mr. Toner: Sure.
Director: And we can probably take a couple out.
Mr. Toner: There's no lines there but what I do have is apparently Napa had some concrete parking bumpers we'll call them, to stop the vehicles from proceeding. I have a series of those across the front of the building.
Director: Yes, maybe some of those bumpers here and then you can maybe diagonal them or something.
B. Bergum: But as he said if you put those concrete barriers or whatever you said that you said that you have that's what we are looking for.
Director: Yes, something more...
Mr. Toner: I agree 100%.
Mr. McEvoy: Roberta, did the state DOT comment on this?
Director: No I did not get any comments from state; this actually didn't go as a coordinated review so it only went to the county and it is shown as a state road with the county and they pass it on and I got nothing back so; and they have thirty days. Without thirty days if there's nothing then we proceed.
Mr. Toner: *(at the same time the Director is talking responds with)* So no news is good news then.
Director: Exactly.
Mr. Pinter: We also need dimensions of the buildings.
Director: Yes the building dimension itself and that will help us calculate your actual parking plan.
Mr. Pinter: That's a formula that we plug in based on the dimensions of the building and a couple other things.
Mr. Toner: Ok dimension of the lot and dimension of the building. I'll call the architect tomorrow and get that.
Director: And I will write this all this down for you and e-mail you too Gary. And then the other question we had was the bays in the back, do they go all the way through?
Mr. Toner: They do now. What I did was I took out some of the windows that were rotting and falling down. As you see I replaced much of the building by hand, lots of those bricks and I decided to make

a drive thru because as you pull into the left side of the building it's not accessible to drive in. Back in the 70's when the vehicles were three feet taller that was ok, they sort of swung thru but now they just don't. So I raised the height of the garage doors and put in doors on the other side.
Director: And how many are there now? Is there three that can go all the way?
Mr. Toner: No. What I did was on the left side the north side of the building there's five doors and on the other side of the building, south side I have two doors. I didn't want every one to open because its real costly to do that.
Director: So five here and two down there.
Mr. Pinter: That's interesting.
Director: It is interesting.
Mr. Toner: In my opinion the building wants to be on the south side where you come in, it's shaped like an "L" and you sort of want to approach from that side it gives you the entire yard and lots of space. Cramming everybody on one side just wasn't logistically feasible you shouldn't want to do that.
Director: So they are coming in on the south side to the two bays.
Mr. Toner: That's right.
Director: Ok that makes sense.
Mr. Toner: And my feel is that people will maybe pull in and park out front, come into the reception area, speak with an individual as to what their needs are and then I'll have a tech or myself grab them and pull them in. We're not having customers drive thru the lot and pull into the building there are OSHA regulations I think against that.
Director: Also on the site we'd probably want you to put in some, if the architect can do this circulation arrows showing as that you want to bring them back to the side and then out the other side showing the circulation on the map. So in terms of storing vehicles for whatever purpose, there's some space in the back and along some of the sides, I'm just curious where you are thinking because it doesn't show on here where you are thinking to put some of those.
Mr. Toner: I was actually thinking of all that property there all that land, not the brush I'm not clearing any of that brush...
Director: Right.
Mr. Toner: ...but all the lot space about maybe I could use that, next year not this year, to maybe store boats or RV's or vehicles and charge for that service somewhere along the back.
Director: Ok because you do have on the north side there is the residential lot.
Mr. Toner: There is that's correct.
Director: That will have to be limited on that side, not that you couldn't but you would have to limit it and certainly further in the back so you have a certain distance from the house.
Mr. Toner: Yes.
Director: But the back back, there looks like there some good space back there that you can park those kind of things.
Mr. Toner: It's huge and there's several acres behind it which is brush.
Director: Oh yes, there's plenty. So maybe showing something like that in the plan too. Like how many spaces you can fit, even though I know it's not this year, but this SUP is a two year approval so we would need to see what your plan is for the whole time.
Mr. Toner: Sure.
Director: And it sounds reasonable. I don't think anyone would have a problem with it in the back. It's just something we want to see on the plan, because when we approve a Special Use Permit we are approving the actual plan too that goes with the permit so that's why we need it all on paper.
Mr. Toner: Got it. It makes sense.
Mr. Pinter: Mr. Toner how many employees do you plan on having?
Mr. Toner: You know what? Employees suck so (laughter). I've got 143 employees for a restaurant corporation that I recently sold and it pulled my hair out for decades. I went to school got a degree in criminal law and I was going to do that, my brothers the deputy chief of the state attorney's office; that

was my goal right? Absolutely not so I went in the food service hired a bunch of people, opened seven restaurants and thought yay, but no, I just can't do that so not many. Maybe a couple of techs, I have a receptionist up front and then me. Nobody is going to do it like you do it.
Mr. Pinter: Three, four, five, six maybe?
Mr. Toner: I would say five people is probably going to be the max. If you get any bigger than that, that space won't accommodate that; where am I going to put all those cars, all the tools, all the equipment, all the vehicles for sale.
Mr. Pinter: So it would be you, a receptionist and then a couple techs.
Mr. Toner: Yes, I'd say three techs, a receptionist and myself.
Mr. Bergum: Are you planning on keeping the business open in North Collins as well?
Mr. Toner: No, I'm going to lease that out because I live here. I moved from North Collins, so I'm going to lease that out to a friend of mine that does heating and air conditioning.
Mr. Bergum: And any collision work here?
Mr. Toner: No. There's a lot of laws and rules against the spraying of paint so absolutely not.
Mr. Pinter: Next question; good.
Mr. Bergum: Alright signage. We have a big thing on signage but you said you're a light guy so you got to be careful on your signage we really are restricted on that.
Mr. Toner: Yes, I wasn't sure what I wanted to do with that.
Director: That could be a separate application.
Mr. Bergum: No pole signs anywhere right?
Director: No pole signs but they can on Route 5 you are allowed to have lighted signs.
Mr. Toner: For the pole it's pre-existing, I can put a sign on a pre-existing pole?
I don't think I would, that's tacky to be honest with you, but I don't know what to do with that.
Director: You know I'm not really sure if you can replace or just change, I have to look it up in the sign code. I know they've changed the code a little bit, but you might be able to because it's grandfathered in to change the existing sign, but I'll have to check for you. Because they are no longer allowed, pole signs. But I have to check since it's pre-existing. I can check. But you can do a separate application for that.
Mr. Toner: Sure, we'll address that.
Mr. McEvoy: Where is the pole in relation to Route 5?
Mr. Toner: Directly in front of the building as you approach as you go walking thru the front door of the main showroom, to the left you're probably 15' off to my left, is a 25' pole with a 6' arm coming off of it.

Several people talking...inaudible.

B. Bergum: I was driving by recently and I noticed all the activity but I never noticed the sign; I noticed the base and stuff.
Director: I don't think I can tell you the sign either.
Mr. McEvoy: I think Napa took the sign with them.
Mr. Toner: They had a pole sign suspended from it – like a swing sign.
Director: Yea, that's a thing you know when we do the application for the sign application, myself as the Planner and the Code Enforcement Officer look at that. Because it's pre-existing maybe it's something that we can do.
Mr. Toner: How do you guys feel about flag poles? I'm a real big flag and flag pole kind of guy. Can I put some of those in and up?
Mr. McEvoy: Flag poles?
Mr. Toner: Yes.
Director: Probably, I'm sure there's a code where they need to be, but I don't think that's a problem.
Mr. Toner: So separate applications?
Director: I don't think that's a problem.
Mr. McEvoy: That's going to be a permit issue also.

Director: But it's a permit.
Mr. McEvoy: It depends on what kind of flags.
Mr. Toner: USA flags
Mr. McEvoy: You can't put up streamer flags to advertise car sales.
Director: Like that kind of stuff.
Mr. Toner: None of the pennant like 50' swish flags like the other guys got.
Director: Another thing that the Code Enforcement will have to look at.
Mr. Toner: Ok, I got ya'.
Director: So I think the ... what else we have signage, landscaping. The north side of your property that faces the residential we would ask that it would be screened. If you are going to be storing vehicles, it needs to be screened from the residential property line. That means fencing and greenery, not just one but both.
Mr. Toner: I think the south side actually faces the property.
Director: Oh yeah, sorry. Whatever side is on that residential side.
Mr. McEvoy: The north side that house that's sitting there.
Mr. Toner: The house is with the property.
Director: Oh, you own it.
Mr. Toner: Yesm I do own that house.
Director: Oh are you going to rent it out?
Mr. Toner: My step son lives there because he can live there for free he thinks, so that's where he lives. That's the way it works with step kids I guess. He's eventually going to pay me rent in a few years when he gets a job.

(Laughing, Mr. Toner and multiple people laughing)

Mr. Pinter: Good luck. Maybe he could work for you too.
Director: So it is within the property line now that you look at it.
Mr. Toner: I'll be divorced.
Director: So typically when a Motor Service or a General Business abutts a residential property line we require screening which like I said is usually a fence and greenery so it's just something, I don't know. I mean he owns it.
Mr. Toner: You know I was going to try to separate that property and make them two separates and I was told absolutely not it has to stay one. It's all encompassing in one property.
Director: Hmm...that's weird. *(several Board members agreed)*
Mr. Toner: So maybe that's how they got away with not having a fence there. It would be a little awkward anyway it's only a few feet between the house and the car lot. I don't know where you'd put a fence. But there is a fence and some greenery, before I forget, on the south side where they have an access road and some residential houses to the right of the building there's a big stockade fence and then greenery where the fence has stopped. So that sort of exists there. And my intention was to not touch that old greenery.
Director: Right, right, ok.
Mr. Connors: Any towing?
Mr. Toner: No, I'm not licensed for that I don't do that, I'd probably just have AAA or the customers can just tow it in themselves, that sort of thing. That gets into another area of all my trucks and the fleets of flatbeds and it opens it up for me and that's just a little too much. If you spread thin you sort of lose sight.
Mr. McEvoy: So it would just be general mechanical?
Mr. Toner: That's it.
Mr. McEvoy: Tune-ups, tire changes, stuff like that?
Mr. Toner: State inspections, oil changes I mean I am not going to be ripping out engines and rebuilding them or any of that crazy stuff that's beyond my scope. Just the quick simple stuff.

Director: So we're basically looking for a little bit of reconfiguring of the front parking circulation so we want some of those concrete planters you're looking for that will sort of cut, maybe give you two entrances in; one in, one out.
Mr. Toner: Right. I sort of visualize maybe a south and a north, sort of an approach on each side and then mix in some barriers in the center with some foliage some arborvitaes or something in those barriers and I'm thinking not just one or two but maybe three or four to stop cars from darting in as they chose, as they please. I'm going to direct the flow. I want to supervise that.
Director: Right that's what we need and you should have signage to go with that, like enter, exit.
Mr. Toner: Absolutely, yeah or enter here.
Mr. Pinter: Or did the DOT see this?
Director: Well, DOT hasn't.
Mr. Pinter: Do they need to?
Director: Well this is one big curb cut. Well yeah, if you're going to make two separate curb cuts, it's going to have to go to the DOT for permitting because it's on a state road.
Mr. Toner: We'll do one. We'll just make it simple.
Director: So your architect can help here can help you with that in terms of their requirements for the sizing of the curb cuts and how you have to configure the planters and the in and out, the ingress and egress and what not. And then we need to determine how many parking spaces you will need based on the dimensions you give us of the lot and of the building. I need the full lot dimension and the building which isn't on the plan. And then we need for you to show on the plan where you are going to be staging the vehicles like the display on the side or wherever and then where you are going to do the storage options in the back even though it might not be this year or next year; just where you'd put them, how many you think you might fit back there just for the Special Use Permit.
Mr. Toner: Ok
Director: Anything else?
Mr. Bergum: Lighting? Do we have to worry about lighting on the building?
Director: This pre-existing lighting – they don't show the lighting on the plan either.
Mr. Toner: There really isn't any lighting on the building. Let me tell you another thing that I do. I have a business called ITEC and I've gotten US patents for solar lighting. I was just going to solar the place. In fact the warehouse up front here is filled with solar lighting and I really love that. It costs me nothing, I'm the guy who engineers and designs it, I own a lot of the patents on it and I've got it in house.
Director: So would have like the candle counts for the lights?
Mr. Toner: Oh the lumus and the lux? Oh sure.
Director: Because we have dark sky compliance – it wouldn't be a huge issue on this because you're a commercial site on Route 5 but we do ask that you give us the photo metrics.

(Several people talking...inaudible)

Mr. Toner: I've been to places that are really tough on dark sky policies, I saw a lot too in places in Arizona, so I'm real familiar with dark sky policies.
Director: Yes, so if you can just give us the photo metrics and then show us on the plan where they're going to be your solar lights, this is great, we love that idea, that would be great just to have that on the plan. Just where you want to put them even at some point whenever you know where those are versus where you are going to be storing things and what not, but we will need the photometrics on that. So the photometrics we need, the parking the new parking configuration the curb cuts on the front. Like I said I will give you all of this in an email in a letter in a memo to you.
Mr. Bergum: Was there a curb cut? Because if he's not going to use two he doesn't have to go thru the DOT, so it's a curb cut.
Director: Right, curb cut permit.
Mr. Pinter: I should know the answer to this but I don't. For the bay itself for repair work do we require any type of spillage clean up separators any drainage in there?

Mr. McEvoy: Oil separators?
Director: Well that's usually for, it depends on the size of the properties so I can have the engineer look again at the drainage. I don't think it's going to be, I mean do you have anything on site now that works with the spillage?
Mr. Toner: No.
(Director and Mr. Toner talking at once...inaudible)
Director: I think that's something that we can talk to the engineer about to see if that's something you are going to need.
Mr. Toner: There's drainage there inside the bays. I'm only going to use the four, it's actually three doors but it's a four bay unit.
Director: You're on pavement anyways, so the pavement should be ok.
Mr. Toner: There's drainage in that garage but Steve said to just go ahead and cover them up; concrete them up which I didn't do yet it seemed like such a waste but I will.
Director: Yes, they have to be on, well...
Mr. Toner: Just plug them up and concrete over it.
Director: So there's existing drainage in the bays?
Mr. Toner: There is.
Director: And Steve told you to cover them?
Mr. Toner: Yes.
Director: Steve's our Code Enforcement, if people don't know. Alright so maybe I'll have to have a conversation with him and our engineer to see what they want to really do, like how that works.
Mr. Pinter: That's really almost a wetland area isn't it?
Director: Back in here? I'll have to check the list.
Mr. Pinter: All this in here is just a sensitive area with the flooding.

(Multiple people talking...inaudible)

Director: Is this whole lot from the front that you're showing here is it all paved?
Mr. Toner: It's all black top yes.
Director: All black top, ok.
Mr. Toner: I'd like to redo it, but yes it's all black top.
Director: It's all black top now ok. So we'll just see if we need a spillage or an oil separator based on size.
Mr. Pinter: Similar like what we did at the auto auction place.
Director: Which is huge that's why I'm wondering; it depends on the size because we don't have any dimensions on this, we have no idea how big this is. So that's just something we are going to need.
Mr. McEvoy: Do you know where those drains drain too?
Mr. Toner: I don't I haven't done a mouse to GPS these things so I don't know.
Director: Ok. So, let me see hear. All right. Anymore questions?

So there being no further comments from the Planning Board, I will open the floor to the public. Reminder; comments shall be held to three minutes time limit per person and each person shall be limited one time at the microphone to comment. Is there anyone who wishes to speak?
Mr. Toner: Are you asking me?
Director: Nope you're all set.
Mr. Toner: Oh, I can go?
Director: You can go, you can stay but go. Yes, have a seat *(laughing)*. Have a seat, we are almost done. There being no questions from the public *(no residents in attendance),* are there any further questions or comments from the Planning Board? Ok there being no further questions from the Planning Board, may I have a motion?
Mr. Bergum: I make a motion to table the permit for the operation of a motor vehicle service repair and sales facility to be located at 8181 Erie Road until we get the information we need.

Mr McEvoy: I'll second.

Vote: *All in favor. Motion is carried.*

Director: Ok. And what that means I will send you the email in the morning and tell you the bullet points we need. As soon as you submit that we'll review it with the Engineer and the Code Enforcement Officer and we'll put you on the next meeting. We will try to do it quickly, maybe we can do it at a work session making that into a meeting, we can just discuss that; so that it isn't dragged on too much longer for you, I know you've been waiting. But you still have the Town Board on the 16th so we'll try to get there before that one. *Addressing the Board...*Mr. Toner is already up for a public hearing on the 16th. If we get everything on time from you, from your Engineer and we have time to review it, then we can get you on before that. Alright so I will send the applicant a letter memo letting you know what items we are asking for and we will get in touch with you. Okay Gary? Can I have a motion to adjourn?
Mr. Bergum: I motion to adjourn.
Mr. McEvoy: Second.

Vote: *All in favor.*

Director: Ok, so carried. Thank you everyone for attending our meeting this evening. Good night.

Respectfully submitted by:

Debra L. Wilson
Secretary

Approved: 1/23/19