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Town of Evans

REGULAR MEETING OF THE TOWN OF EVANS PLANNING BOARD WEDNESDAY, AUGUST 28, 2019

MEMBERS PRESENT: A. Sellers, J. Pinter, B. Bergum, Andrew Lloyd

ALSO PRESENT: William Smith, Director of Planning & Community Development
Jeneen Hill, Code Enforcement Officer

EXCUSED: J. McEvoy, M. Connors

Chair A. Sellers 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.

Chairwoman Sellers: I would like to welcome everyone to the August 28, 2019 Planning Board meeting.

Before we begin tonight's meeting we have some housekeeping we need to take care of; regarding minutes from the July 10, 2019 public meeting; are there any additions, corrections or questions or may I please have a motion to accept them as submitted.

B. Bergum: Motion to accept.
A. Lloyd: Second.

Vote: *All in favor; motion carried.*

For the record, 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. Each person is limited to one opportunity to speak and comments shall be limited to 3-minutes. If you wish to comment, and haven't done so already, we ask that you sign up on the sheet located on the table in front of us.

1. **The First item on the agenda tonight is:**

   Special Use Permit – Duncan Motor Sales/Boulevard Garage – Recommend for approval to the Evans Town Board a Special Use Permit for Anthony Martorana for the operation of a used car lot in a defined area and a 180 sq. ft. office space within the existing building, located at 8555 Southwestern Blvd. (a.k.a. U.S. Route 20), Angola, NY, SBL# 221.00-3-16.2. Petitioner: Anthony Martorana, PO Box 25, 1061 Beach Rd., Angola, NY 14006.

HISTORY:

- On July 2, 2019, the Town met with Mr. Martorano and representatives from Duncan Motor Car Sales and Service Inc. to review the requirements necessary to operate a used car lot at the site of Boulevard Garage at 8555 Southwestern Boulevard.
- On August 13, 2019, a complete application with site plan and SEQR short form was submitted to the Planning Department.
- On August 14, 2019, the project was reviewed at the Planning Board Work Session.

- On August 26, 2019, the Town received an Official Business Certificate from the NYS Department of Motor Vehicles authorizing Duncan Motor Sales and Service to operate as a registered dealer at 8555 Southwestern Blvd.
- And on August 27, 2019, revisions to the site plan were submitted based on feedback provided by the Planning Board during Work Session.

INTERDEPARTMENTAL REVIEWS:

Chair: Bill, would you give your review please.

- **Planning Director, William Smith:** Thank you for submitting the revised Site Plan, but just to be clear, the number of spaces shown on the Site Plan is 68 so that is the number of vehicles that can be displayed on the lot at any given time. Also, the landscaping requirements (per Section 200-28 of the Town Code and as shown on the site plan) shown on the plan meet code and look good, but we need to make sure those landscaping requirements are met and maintained in order to obtain the special use permit. In addition, on the Site Plan we see that the plan for the lighting is to use the existing utility poles, so you are going to need approvals from National Grid to do that.

  Mr. DelPrince: I already did. I have signed contracts with them and everything.
  W. Smith: Okay good. We are going to need to see a letter or whatever paperwork you have showing that.
  Mr. DelPrince: I have them in my office.
  W. Smith: Okay great. Also, on the grass area in the front where you're parking the cars, we'd like to see those striped in order to make sure those cars are being parked where they are supposed to be. Where you have the grass area, not in the setback, but where you're parking the cars, where they're being displayed needs to be gravel.
  Mr. DelPrince: I just moved the cars up because the painter was supposed to come today, but he's coming tomorrow, so I was just trying to get them out of the way. So obviously if there's wind, I don't want to get overspray all over them, so I moved them up.
  W. Smith: Gravel or a comparable surface, we don't want to see is a mud pit or grass up to the knees around the cars or that sort of thing. Other than that, the Code Enforcement Office nor the Planning Office have any further comments.

- **Code Enforcement Officer, Jeneen Hill:** At no time shall vehicles be displayed in the grass area within the required setbacks from the road. All vehicles should be parked or displayed on gravel (or other comparable surface other than grass) that is striped appropriately per the approved site plan.

W. Smith: OUTSIDE AGENCY REVIEWS

Erie County Department of Environment and Planning: The 239M Review was sent to the County on August 15, 2019 and returned on August 22, 2019; they offered no recommendation having determined the proposed action to be of local concern, so there are no issues from the County.

Chair: Are there any questions or comments from the Board before I open the floor to the Applicant. I do have one question. There are a number of trailers behind the building; will those stay and what is the purpose of those?
Mr. Martorana: Yes, those will stay. They are used mostly for storage; parts and such.
Chair: But you're not working on cars?
W. Smith: You could come up to the microphone now.

Chair: Yes, I think you need to come up to the mic and give your name for the record.
Anthony Martorana, Owner of Boulevard Garage: They are for storage and also they are to be worked on from time to time and used and rented out sometimes, so they can be moved at any time.
Chair: Do we have any problems with trailers? I'm sorry, I thought you were selling used cars, but not working on the cars.
Mr. Martorana: I'm not selling any cars, that's Mr. DelPrince. I own the garage.
Chair: So, will Mr. DelPrince own the trailers and use them for storage?
Mr. Martorana: No, I own them.
Chair: And you will be keeping them for storage for other things that are not a part of...
Mr. Martorana: Excuse me, it's not part of their deal in other words. It has nothing to do with it because it is not in the section that I lease to them; that we showed on the paper.
Chair: Okay, I understand. Does anyone have anything else.
Mr. Martorana: I have a question. About the landscaping; how much time do they have to get that done?
Chair: Actually, it's supposed to be done before he has his Certificate of Occupancy.
Mr. Martorana: *(Addressing Mr. DelPrince).* See, that means we need to get it done.
Mr. DelPrince: So you want me to put those flowers and plants out there now and potters? I can show you that my father has already started to make the planters, he's made all the stuff for the Town for years, so he started making them, but there's a lot to make. I just don't want to go an throw flowers in there and plants and stuff like that and in another month and a half they are going to, ya' know.
W. Smith: But you're going to have to at least delineate the area. If it's not the season for planting, we need to at least see the delineation of planting beds per the plan.
Mr. DelPrince: Okay, yeah, that's fine.
Chair: And the shrubbery or the trees shown on your plan, those would be planted in the fall I presume, because that would be the planting season.
W. Smith: Basic evergreen shrub is what you show on the plan and the fall is the time to plant those.
Mr. Martorana: That would be the time to do it, in the fall.
Chair: I presume you're going to be careful that those are not deer food.
Mr. DelPrince: I'll find a specialist. I don't know a lot about trees; I know a lot about cars.
Chair: We have seen people put in rows of beautiful arborvitaes as screens and they are just gone in a month, two weeks or overnight. Do we want those plantings to be acceptable to the Planning Office? For him to specify what the evergreens are going to be and that they be acceptable to the Planting Office? He's got two things; he not only has wildlife, he has salt spray from Route 20. On the highway at high speeds the salt spray travels quite a distance, so you have to be sure what you plant isn't going to be killed by salt spray.
Mr. DelPrince: I won't be that close to the road though, we're pretty far away.
W. Smith: He should be fine. He has at least a 20-foot setback.
Chair: Does anyone else have a question? Okay, with no further questions from the Board, I will open the floor to the public. Is there anyone from the public who wishes to speak? There being no questions or comments from the public, I will bring it back to the Planning Board for further questions and comments. There being no further questions from the Planning Board, may I please have a motion regarding recommendation for approval regarding of the Special Use Permit.

J. Pinter: I'll make the motion.
Having reviewed the application and plans, I would like to make a motion to recommend approval of this Special Use Permit to the Town Board based on the following reasons:

- We have found no apparent significant environmental concerns and recommend a SEQR negative declaration.
- This project is in compliance with the intent of the Town's Motor Services Zoning District.
- The nature of this business appears to be within the character of the surrounding area.

It is also recommended that the following conditions be placed on the approval of this action:

- This Special Use Permit shall be for the display of up to 68 vehicles and placed in accordance with the approved site plan.
- All vehicles must be displayed on a gravel surface (or other comparable surface other than grass) that is striped properly per the approved site plan.
- Written approval from National Grid is required for the use of utility poles in the proposed lighting plan, or other acceptable lighting must be provided on the site plan.
- This Special Use Permit shall be for a one (1) year period. Applicant may then apply for renewal.

B. Bergum: I second.

Vote: *All in favor. Motion carried.*

Chair: NEXT STEPS – The Planning Office will send a letter to the Town Board notifying them of our recommendation. Please continue to work closely with the Planning and Code Enforcement Offices as you move forward with this project. Good luck to you as you as you continue through the process.

2. The Second item on the Agenda this evening is a:

Rezone – Catalano Motors/Mickey Dogs –Recommend for approval to the Evans Town Board the rezone of a 0.56± acre parcel zoned Motor Service (MS) to General Business (GB) for the purpose of operating a dog day care, training and grooming facility to be located at 6777 Erie Rd. (a.k.a. NYS Route 5) at the corner of Revere Drive, Derby, NY. SBL# 192.20-6-1.1. Petitioner: Catalano Motors/Michael Argentieri, 8327 Erie Rd., Angola, NY 14006.

Chair: There's a little history. Would you like me to read this history or is it not necessary?
W. Smith: I think Mr. Argentieri knows the history.
Chair: Mike knows the history. Are there any objections from the Planning Board if we skip the history? We'll let Bill do the interdepartmental reviews.

W. Smith: <u>INTERDEPARTMENTAL REVIEWS</u>

- **Planning Director, William Smith:** On the Rezone there are no concerns, as the property was originally zoned General Business prior to its Motor Service and it is consistent with the Comprehensive Plan in promoting an active commercial corridor along Erie Rd in Derby.
- **Code Enforcement Office:** There are also no comments from the Code Enforcement Office regarding the Rezone, but we do have some comments concerning the upcoming Special Use Permit.

W. Smith: <u>OUTSIDE AGENCY REVIEWS</u>

Erie County Department of Environment and Planning: The 239M Review was returned on January 16, 2019; they offered no recommendation having determined the proposed action to be of local concern.

Chair: Are there any questions or comments from the Board before I open the floor to the Applicant? There being no further questions or comments from the Board, at this time I will open the floor to the Applicant – please step up to the microphone, state your name and address, spelling your last name for the record. Again, PLEASE REMEMBER, comments will be held to the 3 minute time limit per person, and each person shall be limited to one time at the microphone to comment.

Michael Argentieri, 639 Sturgeon Point Road, Derby, NY: As long as there are no objections I have no comment. This is for the Rezoning, right?

Chair: Yes, this is for the Rezone. There being no further comments from the applicant, and no questions from the public, I will close the floor and bring it back to the Planning Board. Are there any further questions or comments from the Planning Board? There being no questions from the Planning Board, may I please have a motion regarding recommendation to rezone.

B. Bergum: I would like to make a motion to recommend approval of this rezoning to the Town Board based on the following reasons:

- The action is consistent with the Town of Evans Comprehensive Plan.
- The project will constitute the use of an underutilized property.
- The action is not expected to result in any significant adverse impacts.

J. Pinter: Second.

Vote: *All in favor. Motion carried.*

3. The third item on the Agenda this evening is a:

Special Use Permit – Catalano Motors/Mickey Dogs – Recommend for approval to the Evans Town Board a special use permit for operating a dog day care, training and grooming facility to be located at 6777 Erie Rd. (a.k.a. NYS Route 5) at the corner of Revere Drive, Derby, NY. SBL# 192.20-6-1.1. Petitioner: Catalano Motors/Michael Argentieri, 8327 Erie Rd., Angola, NY 14006.

HISTORY: We all know the history, I think we will skip it. Bill would you please address the interdepartmental reviews.

W. Smith: INTERDEPARTMENTAL REVIEWS

- **Planning Director, William Smith:** I would like to highlight that the recently adopted code for dog day care services was established with design criteria and operating policies for the purpose of protecting neighboring properties from any potential nuisances and ensuring the humane treatment of animals. So those regulations such as the number of dogs allowed on site, the hours of operation, noise controls, and screening of outdoor waste and play areas from adjoining properties are expected to be upheld to the fullest by the applicant. This is a new business type in the General Business district, which is why we established a Code for it. We felt it appropriate thing to do to address a new business type and to establish a definition versus a kennel. This is something we are going to carefully begin to allow within General Business, so it is important that the Code is understood and that those policies are being followed.
- **Code Enforcement Officer:** From Code Enforcement, we looked at the square footage of the building (1,187 sq ft), the Code states 1 dog per 100 sq. ft. is allowed, so the number of dogs occupying the building at a time, should be no more than 11 dogs.

Those are the interdepartmental reviews.

W. Smith: OUTSIDE AGENCY REVIEWS

Erie County Department of Environment and Planning: The 239M Review was sent to the County on January 11, 2019 and returned on January 16, 2019; they offered no recommendation having determined the proposed action to be of local concern.

Chair: Are there any questions or comments from the Board before I open the floor to the Applicant?

There being no further questions or comments from the Board, at this time I will open the floor to the Applicant – please step up to the microphone, state your name and address, spelling your last name for the record. Again, PLEASE REMEMBER, comments shall be held to 3 minutes.

Michael Argentieri, 639 Sturgeon Point Road, Derby, NY 14047: I appreciate that the Town Board is putting this through, the Special Use Permit, the new Code and everything, but I do have a couple of comments. As far as the 1 dog per every 100 sq. ft., it is very limiting as far as my abilities to earn. So it is going to be difficult, but we are going to push through it and see how this works out. I do know from every Town I checked with, no other Town has that rule. PetSmart has a 380 sq. ft. area and they do up to 17 dogs in there and they do fine. I'm a dog lover, I'm a real dog person so this is...
Chair: I know that we've been through this before and I know that you would like more and my best recommendation is you need a bigger building and a different site. And if you are limiting yourself to that building, we have this Code and you will have to live by that Code or move. So if it is not financially feasible, I would advise you to not invest heavily in a building you don't own and look for another site. You do have a wonderful site there on Route 5; you may spend a year and not be able to get 11 dogs; we hope that you are very successful, but I think it is a waste of your time and hours to discuss that because we have reviewed it.
Mr. Argentieri: You said that I have 3 minutes.
Chair: You do, we'll give you another minute.
Mr. Argentieri: I was just putting it on the record. I mean you say that now and in response to that, when I started this project those rules weren't there when I was in the building.
W. Smith: Mike, there is one comment that I would like to say though. There are some Town's around here, very nearby, that you wouldn't even be able to open your business in a General Business district. We are one of the few that are allowing it in the General Business district.
Mr. Argentieri: What Town would that be?
W. Smith: Amherst for example doesn't even allow it in the General Business district, they only allow it in Agricultural districts.
Mr. Argentieri: No, actually I was just there, I have the paper. They allow doggy day care in Motor Service actually, I wouldn't even have to be rezoned if I were in Amherst. So actually, that's not true.
W. Smith: I just read their Code. Mike, our Code is not going to change.
Mr. Argentieri: I thought I was allowed to speak, but apparently, I can't, so I just wanted to put stuff on the record. I'm not trying to cause an argument here, I know nobody is going to change the Code.
Chair: I know we have it on the record, but thank you, and we wish you well.
Mr. Argentieri: I mean as far as, "get a bigger building;" if you get a bigger building your rent is 3-times as high. So I'm trying to be feasible, I'm trying to make a business work. My only other comment on this was that other doggy day cares, I mean this is what I really need to explain. Everybody keeps trying to tell me my building is too small, it's not. My doggy day care area is just as big as Golden Paws area; they don't have acres for the dogs to run. She has like a 600 sq. ft. building and she has 30 dogs in there. I guess basically the rumor going around is his business is too small. Somebody here from Happy Paws came and talked to the Town Board and said his building is too small; it's not too small. My doggy day care area is bigger than what Jamco has, it's bigger than what PetSmart has, it's bigger than a lot of theirs. Now there are many places that have much bigger areas. I'm just saying I didn't see the need for this, I mean I'm going to take care of my dogs unbelievably well, whether there's one dog or 100 dogs. I don't know what I'm trying to say now, but nobody is going to try and put 100 dogs in a tiny area, I'm just trying to run a business successfully that's all.
Chair: Thank you Michael, I will bring it back to the Planning Board. Does anybody on the Board have any further questions or comments? There being no further questions or comments from the Planning Board, may I please have a motion regarding recommendation for a Special Use Permit please.

B. Bergum: Having reviewed the application and plans, I would like to make a motion to recommend approval of this Special Use Permit to the Town Board based on the following reasons:

- We have found no apparent significant environmental concerns and recommend a SEQR negative declaration.
- This project is in compliance with the intent of the Town's General Business Zoning District.
- The nature of this business appears to be within the character of the surrounding area.

It is also recommended that the following conditions be placed on the approval of this action:

- Per Local Law#7 of the year 2019, the Special Use Permit shall allow for the occupancy of up to 11 dogs based on the current square footage of the building.
- This Special Use Permit shall be for a one (1) year period. Applicant may then apply for renewal.

A. Lloyd: Second.

Vote: *All in favor. Motion carried.*

Chair: NEXT STEPS – The Planning Office will send a letter to the Town Board notifying them of our recommendation. Please continue to work closely with the Planning and Code Enforcement Offices as you move forward with this project. Good luck to you as you continue through the process.

4. The fourth item on the agenda this evening is a:

Code Amendment — Recommend for approval to the Evans Town Board additions to Town Code: Chapter 193 Vehicle and Traffic Law Sections 193-1, 193-17, 193-32 and 193-33.

A primary goal of the Town identified in the Evans-Angola Comprehensive Plan is to promote a safe, multi-modal, walkable and well-connected transportation system. To this end, significant investments in sidewalks and shared-use pathways have and will continue to be made. In order to ensure that pedestrian and bicycle infrastructure is able to be used and enjoyed safely, the purpose of this code revision is to prohibit the driving of or parking of motor vehicles on all current and future sidewalks, bicycle lanes and shared-use pathways in the Town. Input and feedback on the proposed local law was provided by Chief of Police Douglas Czora and Town Attorney Tom Farley. The final draft was reviewed at a Planning Board work session held on August 14, 2019.

INTERDEPARTMENTAL REVIEWS:

Planning Director, William Smith: No further comment
Chief of Police Doug Czora: No further comment
Town Attorney: No further comment

OUTSIDE AGENCY REVIEWS:

Erie County Department of Environment and Planning: The 239M Review was sent to the County on August 2, 2019 and returned on August 14, 2019; they offered no recommendation having determined the proposed action to be of local concern.

Are there any questions or comments from the Board before I open the floor to the Public?

There being no further questions or comments from the Board, at this time I will open the floor to the public. Since there is no one here to speak I will close the floor to the public and bring it back to the Planning Board. Are there any further questions or comments from the Planning Board? There being no further questions from the Planning Board may I please have a motion regarding a recommended code amendment?

A. Lloyd: I would like to make a motion to recommend to the Evans Town Board the approval of the following code amendment:

- Amend Town Code: Chapter 193 Vehicle and Traffic Law Sections 193-1, 193-17, 193-32 and 193-33.

For the following reasons:

- The action is consistent with the Town of Evans Comprehensive Plan.
- We believe a safe, multi-modal, walkable and well-connected transportation system provides a valued benefit to the local community and surrounding region.
- The action is not expected to result in any significant adverse impacts.

B. Bergum: Second.

Vote: *All in favor. Motion carried.*

Chair: Is there any other business we need to discuss? If not, may I have a motion to adjourn.
B. Bergum: Motion to adjourn.
A. Lloyd: Second.

Vote: *All in favor. So moved.*

Respectfully submitted by:

Debra L. Wilson

Debra L. Wilson
Secretary

Approved: 11/13/19