REGULAR MEETING
TOWN OF EVANS PLANNING BOARD
WEDNESDAY, May 24, 2023

MEMBERS PRESENT: Chairwoman A. Sellers, J. Pinter, L. Szewczyk, D. Schiedel, J. Wilson, M. Keller, J. Mesi

ALSO PRESENT: William (Bill) Smith, Director of Planning & Community Development
Brittany Penberthy, Town Counsel

Chair: I would like to welcome everyone to the May 24, 2023 Planning Board meeting.

All public meetings and public hearings currently scheduled before the Planning Board of the Town of Evans, will be held both in person and by remote access via Zoom while giving the public the ability to listen in and comment when given the opportunity. If any person wishes to comment on these actions, it is their right to do so when the floor is opened to the public. At that time, we ask that anyone who wishes to speak please clearly state your name and address, spelling your last name for the record. Those attending online may "raise their hand" using the function on your Zoom interface. Each person is limited to one opportunity to speak and comments shall be limited to 3 minutes.

For the record, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda and/or any other business that may be presently before the Planning Board as advertised.

1. The first item on the agenda this evening is a:

Site Plan Amendment – Proposed revision to the previously approved site plan for the Waterfront Mixed-Use Development at 8934 Lake Shore Road, Angola, SBL# 234.16-2-25.1. Petitioner: Grandview Bay, LLC (Ellicott Development), 295 Main Street, Suite 700, Buffalo NY 14203

PROJECT BACKGROUND:

- The applicant was originally granted Site Plan approval at the June 23, 2021 Planning Board Meeting. The applicant is before us this evening seeking an amendment to the previously approved site plan.
- The applicant appeared before the Planning Board at two Work Sessions; March 22 & May 10, 2023 to discuss a proposed amendment which includes renovating the existing Mickey Rat's restaurant/bar and the removal of one of the waterfront homes.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, Bill Smith:**

- No concerns. However, please note that the conditions of the original approval will remain and that any additional changes (as well as the design of the future waterfront homes) will again require Planning Board review and approval.

- **Code Enforcement Officer, John Flading –** No comment
- **Town Engineer, Dave Johnson –** the engineer reviewed the updated drainage storm water pollution prevention plans and has no concerns.
- **Deputy Attorney, Brittany Penberthy –** *No comment*

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County and the following comments were provided. Note that these comments are the same as were provided during the original approval:
    - Ensure the Project complements the future Shoreline Trail and does not impede the usage of the County's right of way.
    - Ensure safe pedestrian crossing on Lakeshore Road.
    - Buildings and other structures located along Fern Brook should not create or exacerbate flooding.
    - Stormwater controls should be used during and after construction.
    - Ensure compliance with the 2019 Evans Angola Comprehensive Plan.
    - Ensure that appropriate buffers (i.e., additional landscaping) exist between the Project and the nearby residential neighborhoods

SEQR: The Planning Board has reviewed the site plan application and have found no significant environmental concerns in regards to the proposed plan amendment.

Chair:

- At this time, I will ask the applicant if they wish to address the Planning Board with any further information than previously submitted.
- There being no further comments from the petitioner 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, I will open the floor for any public comment. Is there anyone else who wishes to speak?
- There being no further comments, I will close the floor and bring it back to the Planning Board for further questions/comments. Are there any further questions or comments from the Planning Board?
- If not, may I please have two motions; one regarding SEQR and an approval motion.

WHEREAS, the Planning Board of the Town of Evans as Lead Agency for the SEQR process for the Grandview Bay project at 8934 Lake Shore Road project has reviewed the proposed amendment to the previously approved site plan; and

WHEREAS, the Planning Board has carefully considered the criteria for Determination of Significance listed in the SEQR regulations and has found that the proposed action is not anticipated to result in any significant adverse impacts on the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby issues a Negative Declaration, thereby concluding that the proposed amendment will not adversely affect the natural resources of the State and/or health, safety, and welfare of the public and is consistent with social and economic considerations.

VOTE RESULT: ADOPTED BY ROLL CALL VOTE

Planning Board Chairwoman Sellers	Aye
Planning Board Member Pinter	Aye
Planning Board Member Keller	Aye
Planning Board Member Mesi	Aye
Planning Board Member Wilson	Aye
Planning Board Member Schiedel	Aye
Planning Board Member Szewczyk	Aye

PLANNING BOARD APPROVAL RESOLUTION

WHEREAS, the Planning Board of the Town of Evans has carefully reviewed the proposed amendment to the previously approved site plan for the Grandview Bay Waterfront Mixed Use Development at 8934 Lake Shore Road and determined that the applicant has met all requirements for site plan approval.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board hereby approves the project with the following conditions:

- Completion of the project shall be consistent with all elements of the approved site plan, and subject to the review and approval of the Code Enforcement Officer, Town Engineer and Planning Director.
- The applicant shall continue to work closely with the Town Engineer and Code Enforcement Officer on the implementation of the approved stormwater plan, including abandonment of the existing underground culvert.
- Any future phases of development, including the design of the four waterfront homes, as well as the demolition and/or construction of any additional structures on the site beyond what is illustrated on the approved Site Plan, shall require further review and approval by the Town of Evans Planning Board.
- Additional landscaping requirements and the final dumpster location will be subject to

further review and approval by the Planning Director and Code Enforcement Officer.

VOTE RESULT: ADOPTED BY ROLL CALL VOTE

Planning Board Chairwoman Sellers	Aye
Planning Board Member Pinter	Aye
Planning Board Member Keller	Aye
Planning Board Member Mesi	Aye
Planning Board Member Wilson	Aye
Planning Board Member Schiedel	Aye
Planning Board Member Szewczyk	Aye

Chair - NEXT STEPS: We will send a letter to the Code Enforcement Office advising them of our action this evening; please continue to work closely with their office as you continue through the building process which is under their jurisdiction. Good luck and best wishes to you.

2. The second item on the agenda this evening is a:

Code Amendment – Recommendation for approval to the Evans Town Board of Local Law #7 – the Adoption of an Application for Certification of Nonconformity for all Districts.

PROJECT BACKGROUND:
The purpose of this application to determine the pre-existing rights to a nonconforming use or structure; the potential change from one nonconforming use to another nonconforming use; the proposed re-use and/or renovation of a previous nonconforming structure; or to extend a period of vacancy due to extensive rehabilitation of a structure.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, Bill Smith:**
    - No concerns. The goal of this application is to avoid the need for multiple variances to be granted on the proposed reuse of a preexisting nonconforming structure, if warranted. Any proposed reuses and/or significant renovations to these structures would still require Planning Board review and approval, just not the variances from ZBA. Case in point…the multiple setback variances required on the reuse of the former SASI office building at 8328 Erie Road.
- **Code Enforcement Officer, John Flading –** No comment
- **Deputy Attorney, Brittany Penberthy –** *Brittany, would you care to comment?*

Chair: OUTSIDE AGENCY REVIEWS:

- **Erie County Department of Environment and Planning:** A 239M Review was sent to the County and response is pending. Any significant comments from the County, if received, will be brought back to the Planning Board's attention prior to the public hearing to be scheduled with the Town Board.

SEQR: The Planning Board has reviewed the project and have found no significant environmental concerns in regards to the proposed action.

Chair:

- Are there any comments or questions from the Board before I open the floor to the public?
- There being no further questions or comments from the Board, I will open the floor for any public comment.
- There being no further comments, I will close the floor and bring it back to the Planning Board for further questions/comments.
- 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 recommendation to the Town Board?

WHEREAS, the Evans Planning Board seeks to adopt the Application for Certification of Nonconformity in order to determine the pre-existing rights to a nonconforming lot, use or structure; and

WHEREAS, the proposed Local Law #7 shall apply to the potential change from one nonconforming use to another nonconforming use; the proposed re-use and/or renovation of a previous nonconforming structure; or to extend a period of vacancy due to extensive rehabilitation of a structure; and

WHEREAS, the Planning Board of the Town of Evans has determined that the proposed code amendment will help address the current issue of pre-existing non-conforming lots, uses and structures in the Town, and not result in any significant adverse impacts to the environment.

NOW THEREFORE BE IT RESOLVED, that the Evans Planning Board hereby recommends adoption of Local Law #7 of the Year 2023 to amend Section 200-30 of the Town Code regulating nonconforming lots, structures and uses.

VOTE RESULT:	ADOPTED BY ROLL CALL VOTE	
	Planning Board Chairwoman Sellers	Aye
	Planning Board Member Pinter	Aye
	Planning Board Member Keller	Aye

Planning Board Member Mesi	Aye
Planning Board Member Wilson	Aye
Planning Board Member Schiedel	Aye
Planning Board Member Szewczyk	Aye

Chair: The Planning Office will send a letter to the Town Board advising them of our recommendation and request a Public Hearing be set, as the Town Board has final approval on all Code Amendments. Please watch The Observer for the corresponding Legal Notice which will confirm the date of the public hearing.

Thank you everyone for joining in on our meeting this evening, whether in-person or remotely. May I please have a motion to adjourn.

Chair: Carried. Good night, everyone.

Respectfully submitted by:
Debra L. Wilson
Secretary