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April 12, 2017

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: A. Yusick, D. Maglich, T. Spada, N. Manges, V. Gugliuzza

Members Absent:

Also Present: P. Ryerse, Building Inspector

Mr. Yusick opened the meeting with a quorum at 6:30pm. The meeting was held in the Municipal Building Court room, 8787 Erie Road, Angola, New York 14006.

Mr. Yusick explained the procedure in which the meeting will be conducted. The procedures are that old business matters are heard first and then appeals are heard according to the order of publication in The Dunkirk Observer. The staff report prepared by the building inspector is read. The board has had your file for a week. We have had an opportunity to review your appeal. The appellant is then given the opportunity to speak, and then those in favor or in opposition are allowed to speak. After hearing the respective matters, the Board will either vote or reserve the right pursuant to our local statue to adjourn to executive session to deliberate. Motions granting and rejecting appeals are voted upon in the public portion of the meeting.

Mr. Yusick spoke about former members Stephen Pericak and Carole Borresen and welcomed new member Vincent Gugliuzza.

Mr. Yusick asked for a motion to approve the minutes from December 14, 2016.

Mr. Yusick made a motion to approve the December 14, 2016 minutes, Mr. Maglich seconded. All in favor, motion carried.

NEW BUSINESS:

VICTOR LIBERATORE, 9073 LAKE SHORE RD, ANGOLA, NY 14006, REQUESTING TO DECREASE THE SIDE YARD SETBACK FOR A DETACHED GARAGE IN VIOLATION OF THE TOWN OF EVANS ZONING LAW 200-10 A (4).

APPLICANT IS REQUESTING TO REDUCE THE REQUIRED SIDE YARD SETBACK FROM 5 FEET TO 2.20 FEET AND REQUESTING THE REDUCE THE FRONT YARD SETBACK ON RIEHL AVE FROM 40 FEET TO 18 FEET.

There was a request from Mr. Liberatore's attorney requesting an adjournment until the next meeting which was granted. Mr. Yusick asked if there is anybody in the audience for the appeal to approach the secretary with their names and addresses.

CHRISTOPHER LOGAN, 1483 BURNS RD, ANGOLA, NY 14006, REQUESTING TO INCREASE THE SIZE OF AN ACCESSORY STRUCTURE FROM 1,200 SQUARE FEET TO 1,480 SQUARE FEET FOR A PRIVATE GARAGE IN VIOLATION OF THE TOWN OF EVANS ZONING LAW 200-8.2 C (8)(b)(3).

APPLICANT IS REQUESTING TO INCREASE THE SIZE OF AN AGRICULTURAL BUILDING (BARN) FROM 1,200 SQUARE FEET TO 1,480 SQUARE FEET. THE BUILDING USE IS FOR STORAGE OF FARM EQUIPMENT, TRACTOR AND IMPLEMENTS. THIS IS A 30.10 ACRE PARCEL.

Present for the appeal was Christopher Logan.

Mr. Yusick asked Mr. Logan what he does for a living. Mr. Logan replied that he works for Verizon. Mr. Yusick asked if he operates a business out of his property. Mr. Logan stated no.

Mr. Yusick asked if the board has any questions and no one in the audience was there for or against this appeal.

Mr. Maglich made a motion to approve based on the stipulation that it not be used for commercial purposes, seconded by Ms. Spada.

All in favor:
Vote: Mr. Yusick, Aye
Ms. Spada, Aye
Ms. Manges, Aye
Mr. Maglich, Aye
Mr. Gugliuzza, Aye

CHRISTINE VAN STRY, 601C BAY POINT AVE, ANGOLA, NY 14006, REQUESTING TO REDUCE THE COMBINED SIDE YARD SETBACK FOR AN ENCLOSED TWO STORY PORCH STRUCTURE IN VIOLATION OF THE TOWN OF EVANS ZONING LAW 200-12 C(f)[2].

APPLICANT IS REQUESTING TO REDUCE THE COMBINED SIDE YARD SETBACK FROM 15 FEET TO 12 FEET. APPLICANT IS REQUESTING TO CONSTRUCT AN ENCLOSED PORCH WHERE AN EXISTING OPEN PORCH CURRENTLY EXISTS. SIDE YARD SETBACK WILL BE 6 FEET ON THE SOUTH SIDE AND 6 FEET ON THE NORTH SIDE FOR A COMBINED SIDE YARD SETBACK OF 12 FEET.

Present for the appeal was Christine Van Stry.

Mr. Yusick asked if there was anyone in the audience for or against the appeal.

Eddie Hahn, 8576 Walk Ave, presented the board letters from himself and other neighbors in favor of Ms. Van Stry's appeal.

Mr. Yusick asked Code Enforcement Officer Mr. Ryerse if the appeal was for an addition or enclosed porch. Mr. Ryerse stated that it was an enclosed porch.

Mr. Yusick read submitted letters from Mark and Wife Zeis, Eddie Hahn, Timothy Kisker, Joseph and Marybeth Weber indicating they are all in favor of the appeal.

Mr. Yusick asked if the board has any questions.

Mr. Gugliuzza made a motion to approve, seconded by Ms. Spada.

All in favor:
Vote: Mr. Yusick, Aye
Ms. Spada, Aye
Ms. Manges, Aye
Mr. Maglich, Aye
Mr. Gugliuzza, Aye

KENNETH BYRD, 7023 WOODCLIFF DR, DERBY, NY 14047, REQUESTING TO REDUCE THE REQUIRED REAR YARD SETBACK FOR AN ADDITION IN VIOLATION OF THE TOWN OF EVANS ZONING LAW 200-10 C (1)(c)[4].

APPLICANT IS REQUESTING TO REDUCE THE REAR YARD SETBACK FROM 35 FEET TO 10.41 FEET FOR A 16X16 BEDROOM ADDITION.

Present for the appeal was Kenneth Byrd.

Mr. Yusick asked Mr. Byrd what the reason was for the appeal. Mr. Byrd stated that he has a growing family and needs the room.

Mr. Yusick asked if the board has any questions and no one in the audience was there for or against this appeal.

Mr. Gugliuzza made a motion to approve, seconded by Ms. Manges.

All in favor:
Vote: Mr. Yusick, Aye
Ms. Spada, Aye
Ms. Manges, Aye
Mr. Maglich, Aye
Mr. Gugliuzza, Aye

JOAN CLEMENTE, 273 STERLING AVE, ANGOLA, NY 14006, REQUESTING TO REDUCE THE COMBINED SIDE YARD SETBACK IN VIOLATION OF THE TOWN OF EVANS ZONING LAW 200-12 C (1)(f) AND REDUCE THE REQUIRED FIRST FLOOR ELEVATION REQUIRED IN A FLOOD ZONE, IN VIOLATION OF THE TOWN OF EVANS FLOOD DAMAGE PRVENTION LAW 113-17 A FOR THE CONSTRUCTION OF A THREE SEASON ROOM AND OPEN DECK.

APPLICANT IS REQUESTING TO REDUCE THE SIDE YARD SETBACK FROM 15 FEET TO 13.74 FEET AND TO BUILD THE FIRST FLOOR ELEVATION AT 584.33', 2.87' BELOW THE REQUIRED 587.12', IN FLOOD ZONE AE.

APPLICANT STARTED CONSTRUCTION WITHOUT OBTAINING A BUILDING PERMIT. A STOP WORK ORDER WAS ISSUED ON 10/18/2016. APPLICANT APPLIED FOR A BUILDING PERMIT AND WAS DENIED. PROJECT REQUIRES ZBA APPROVAL. PARCEL IS LOCATED IN A FLOOD ZONE. WORK CONTINUED AT THE SITE AFTER THE STOP WORK WAS ISSUED. ATTACHED PICTURES SHOW THE BUILDING WITH EXPOSED SHEATHING AND ROOF UNDERLAYMENT AT TIME OF STOP WORK ORDER. OWNER WAS ADVISED TO INSTALL HOUSE WRAP ON EXTERIOR WALLS TO PREVENT DAMAGE FROM THE ELEMENTS. RECENT PICTURES TAKEN ON 4/5/2017 SHOWS THAT THE ROOF, SIDING, WINDOWS AND TRIM HAVE BEEN COMPLETED. THIS IS AVIOLATION OF THE STOP WORK ORDER.

Present for the appeal was Joan Clemente and John Carrow.

Mr. Carrow stated that they were getting water in the porch and it was starting to rot. He spoke to the architect and was told that it needed to get enclosed because they were starting to get mold. Mr. Yusick asked if put they sheathing on that the Code Enforcement Officer recommended. Mr. Carrow stated that he had the sheathing and wrap on but water was still coming in. He spoke to the architect and was told to enclose the porch. Mr. Yusick asked that at the time this was done, did he know that a building permit was required and he had to file an appeal with Zoning Board of Appeals. Mr. Carrow stated that he was under the impression that anything under 100 square feet didn't require a permit and he got a permit for the front so he didn't think he needed one. Mr. Carrow stated that it was a mistake. Mr. Yusick asked him that after the Code Enforcement Officer issued him a work order, why did he continue to finish the porch? Mr. Carrow stated that his architect told him that it was bad inside and needed to be finished and to contact the building department but Mr. Ryerse was on vacation. Mr. Maglich asked if he was aware of elevation issues. Mr. Carrow stated that they were not the porch was even with the rest of the house. Mr. Maglich stated that the reason the code was created was to

protect the homeowner in the event of a flood. Mr. Carrow stated that if there was a flood, he would lose the whole house. Mr. Gugliuzza stated that after reviewing the plans, the architect did provide enough footers in case of a flood but the existing structure did not have enough footers that the architect specified. Mr. Carrow stated that he will put the rest in. Mr. Yusick stated that Mr. Carrow has to do everything to meet the arcitectual stamped drawings and town code. If it doesn't, then it has to come down. Mr. Yusick also wants to state on record that Mr. Carrow and Ms. Clenmente are aware that this is in a flood zone and the board will not be held responsible if something happened. Mr. Carrow stated that they are aware that it is a flood zone. Mr. Yusick recommends that Mr. Ryerse look into filing charges for not applying for a building permit because work continued after a stop work order was issued.

Mr. Yusick asked if there was anyone in the audience for or against this appeal.

Mr. Maglich made a motion to approve with the provisions that the structure be brought up to architectural standards, seconded by Ms. Spada.

All in favor:
Vote: Mr. Yusick, Aye
Ms. Spada, Aye
Ms. Manges, Aye
Mr. Maglich, Aye
Mr. Gugliuzza, Aye

Mr. Yusick made a motion to adjourn to the next scheduled meeting.

All in favor:
Vote: Mr. Yusick, Aye
Ms. Spada, Aye
Ms. Manges, Aye
Mr. Maglich, Aye
Mr. Gugliuzza, Aye

Respectfully Submitted,

Jennifer Renaldo
Secretary