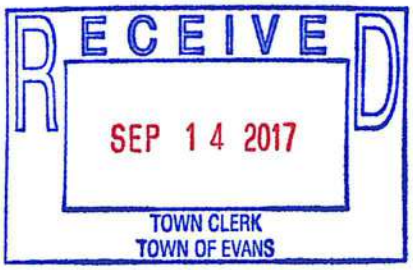
Unapproved minutes filed with
Town Clerk 8/16/17
Minutes Approved 9/13/17
Distributed 9/14/17



August 9, 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 asked for a motion to approve the minutes from July 12, 2017.

Mr. Maglich made a motion to approve the July 12, 2017 minutes, Mr. Gugliuzza seconded. All in favor, motion carried.

OLD BUSINESS:

Victor Liberatore, 9073 Lake Shore Rd. Angola, NY 14006, requesting to decrease the side yard setback for a detached garage at the above SBL # 234.16-1-24, in violation of the Town of Evans Zoning Law, 200-10 C (2) (a) [2]. Reduce the front yard setback 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 to reduce the front yard setback on Riehl Ave from 40 feet to 18 feet.

Present for the appeal was Attorney Marc Romanowski.

Mr. Yusick stated that this appeal was before the board two months ago and at the time of the meeting there were only three members present which was a quorum with two members voting aye and one voting nay and under New York State Law results in a denial of the variance. There was an appeal brought before Supreme Court and a request to the board to consider rehearing the matter which the law provides the board the ability. At the prior meeting there was a unanimous vote to rehear the matter based on the fact that at the previous hearing there was a quorum which was enough to do business and even though there was a majority vote for the positive under the law the vote is a negative so to be fair to have the matter heard in front of a full board.

Mr. Romanowski stated his case. The board has been presented the materials as far as our position on the various conditions relative to whether or not an area variance should be granted and our position is ultimately the decision was based on whether or not it was a self created hardship and that is not a basis under NY law for denying an area variance application. Approving the variance would not create a negative impact on the neighborhood and the condition is already occurring throughout the neighborhood with garages being built close to the property line. Mr. Liberatore constructed the garage and after the garage was built, learned that it was built in error and given that this structure is consistent with neighboring garages, there is no basis that it would have a negative impact on the neighborhood.

Mr. Yusick stated that there were exhibits submitted from previous meetings and marked as "Exhibit A, B, and C". There was also an exhibit from Sharon Bilowus and has been marked also as "Exhibit B".

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

Sharon Bilowus, 9079 Lake Shore Rd, stated that she is concerned about the garage being close to her garage. She couldn't clean her gutters on her garage because of Mr. Liberatore's garage being so close. She's concerned about her garage in the event of a fire or natural disaster. She stated that she should not have to suffer for someone else's mistake. She stated that a neighbor had to change his garage to meet zoning. She has looked at the permit and his survey clearly shows where the garage

was supposed to be and if the garage was put in the right place, he would have to remove a tree and part of his patio. Mr. Yusick stated that Ms. Bilowus' was given a permit for her garage without a variance and that was done in error. Ms. Bilowus stated that it is possible but she built the garage exactly as permitted. She also stated that Mr. Fiels could not be at the meeting but he is concerned about an apartment being built upstairs.

Mr. Romanowski stated that Mr. Liberatore will install fire rated drywall.

Mr. Yusick asked if the board has any questions.

Mr. Yusick stated that the garage next door is too close to the line apparently in an error in the building department years ago but it doesn't change the fact that its there and is 2.5 feet from the property line. He stated that he believes the garage was built in error and making Mr. Liberatore move the garage is extreme and looking at the neighborhood it is not out of character.

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

All in favor:
Vote: Mr. Yusick, aye
Ms. Spada, aye
Ms. Manges, aye
Mr. Maglich, nay
Mr. Gugliuzza, recused

NEW BUSINESS:

Robert Pasinski 9320 Erie Rd. Angola NY 14006, to reduce the side yard setback at the above SBL # 235.00-3-21 for a detached garage, in violation of the Town of Evans Zoning Law section 200-22 C (3).

Applicant is requesting to reduce the side yard setback to a residential property form 50' to 10'.

Applicant is requesting to reduce the side yard setback in order to reconstruct a detached garage that was destroyed in the November storm of 2014. The new garage will be located in the same location, utilizing the original foundation.

Present for the appeal was Robert Pasinski.

Mr. Maglich asked if it's going to be the same size. Mr. Pasinski stated yes but it may be higher. Mr. Yusick stated that it meets the requirements and asked secretary Renaldo if the surrounding neighbors were notified. Ms. Renaldo stated yes.

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 Mr. Maglich.

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

David Garrasi 6953 Brandywine Dr. Derby NY 14047, to reduce the required separation for an accessory structure, at the above SBL # 206.08-8-10 for an above ground pool. In violation of the Town of Evans Zoning Laws, 200-12 C (2).

Zoning ordinances: Applicant is requesting to reduce the separation between structures from 10' to 3"-3".

Applicant was issued a stop work order on June 1, 2017 for a new deck being constructed on the rear of the home without obtaining a permit. Applicant stated he was replacing an existing deck. Applicant's contractor applied for a permit and the documentation provided illustrates a larger deck with extensions to an above ground pool. The permit was granted, work had already been substantially completed.

Upon further review, a permit for the above ground pool was also not obtained. Inspection of the pool location shows the pool is 3'-3" away from an existing roof structure, part of the original deck.

Applicant is requesting to reduce the separation from the existing roof structure to the new pool, 10' to 3'-3" in order to keep what has already been installed.

Present for the appeal was Mr. and Mrs. Garrasi (they did not state their names).

Mrs. Garrasi stated her case. They discussed with the person installing the pool about a permit but they were at work when the pool was installed and mistakenly assumed that he followed through and got a permit. We asked about getting a permit for the deck and were told that they didn't need a permit to replace a deck. Mr. Garrasi submitted photos of the previous structure and what it is now and was marked as "Exhibit A".

Mr. Maglich asked if the contractor that was installing the pool realize there was a clearance issue between pools and structures. Mr. Garrasi stated it was a pool company through Colley's Pools and Spa. Mr. Maglich stated that the town isn't the only town that has this rule and the reason for the rule is so that a person doesn't jump from an overhang into a pool. Mr. Yusick asked that they have had two structures installed without a permit. Mr. Garrasi stated yes. Mr. Yusick asked if they were aware that they needed permits. Mrs. Garrasi stated that they spoke with the pool installer and obtaining a permit was part of installing the pool but they didn't follow up with it.

Mr. Gugliuzza stated that the issue is with the ability of someone climbing on the roof and jumping in the pool. He stated that it may not happen but it could. There are remedies that can be done.

Mr. Maglich stated that the options are move the pool or get a soft cover for the porch instead of an overhang. That is the reason for having a 10 ft clearance.

Mr. Yusick stated that the board has never granted a variance for that 10 ft separation because of the dangers involved in it.

Mr. Maglich stated that he wouldn't be able to sleep at night knowing he granted this variance and it doesn't have to be a family member but could be someone breaking in the yard.

Mr. Yusick stated that he would like a letter sent to Colley's Pool and to the contractor. Mr. Garrasi stated that it wasn't Colley's Pools but someone who works for them. Mr. Yusick stated that he still wants a letter sent to them and the contractor who did the deck that if he does business in the Town of Evans, he needs to be at the building inspector's office to make sure he doesn't need a permit.

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

Mr. Yusick made a motion to deny, seconded by Mr. Maglich.

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

Mr. Yusick stated that the petitioners' need to contact the building inspector's office to come to an agreement.

American Legion Post 928 7353 Erie Rd. Derby NY 14047, to increase the size of a sign, at the above SBL # 206.00-5-53.1, in violation of the Town of Evans Zoning Laws, 200-29 I (1) (b) [2].

Applicant is requesting to increase the allowable sign face area form 32 feet to 70 feet. Table 200-29B

This is a 17.7 acre parcel located on Erie Rd (Rte 5). The sign is located 30 feet from the right of way of Erie Rd. This location will not obstruct the line of sight for vehicles entering or leaving this site.

Present for the appeal were Pete Muscarella, 7202 Townline Rd, Derby and Jaime Allen, 7611 Southwestern Blvd.

Mr. Yusick asked what their position was with the American Legion. Mr. Allen stated he was the sign contractor and Mr. Muscarella stated he was a member.

Mr. Maglich asked if this was going to replace the signs that already exist. Mr. Allen stated yes. He also asked if the sign will have the ability to post notices. Mr. Allen stated yes. The sign will state their name and also post their messages.

Ms. Spada asked how fast the sign will go. Mr. Allen stated that they can dictate how fast the sign will go.

Mr. Yusick asked if there were similar signs in Derby. Mr. Ryerse stated there is one similar in size and a couple years after the sign laws changed significantly reducing the size of a pole sign, trying to get people to build monument signs. Mr. Allen stated that the problem with monument signs is that since they are close to the ground, the snow would cover it.

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

Mr. Yusick made a motion to approve with one condition that what is there now be removed, seconded by Ms. Spada.

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

Mr. Gugliuzza stated that he wanted to add to the record regarding 6953 Brandywine Dr. He stated that even though the owner stated that there was no problem with the deck and in viewing the pictures, it extends to a window which means there needs to be more support and there are now two sets of stairs and he doesn't even know the depth of the post which are a requirement. He feels that the owner needs to work with the building department. He would like Mr. Ryerse to go through these concerns with the owner. Mr. Ryerse stated that a permit was issued for the deck after the contractor received the stop work order. When he went out to inspect the deck, it was then that he discovered the pool. He looked at the survey and there was no pool. The owner claimed the pool was always there. The previous deck was built before the pool.

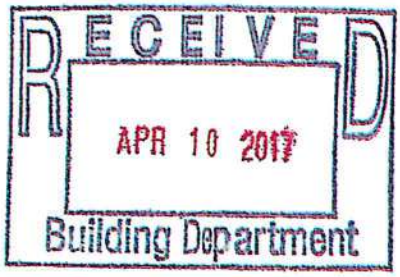
Mr. Yusick made a motion to adjourn to the next scheduled meeting.

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

Respectfully Submitted,

Jennifer Renaldo
Secretary





April 4, 2017

VIA HAND DELIVERY

Town of Evans Zoning Board of Appeals
8787 Erie Road
Angola, NY 14006

Re: Area Variance Application for Victor Liberatore
9073 Lake Shore Road, Angola, New York
Parcel ID No.: 234.16-1-24

Ladies and Gentlemen:

On behalf of Victor Liberatore (the "Applicant"), we are submitting this Letter of Intent seeking an Area Variance for the location of the new garage constructed on his property (the "Project") at 9073 Lake Shore Road (the "Site") in the Village of Angola (the "Village"), located in the Town of Evans (the "Town"). The Town of Evans Code (the "Code") requires a side yard setback of 5', and the existing setback ranges from 2.54' to 2.20'.

EXHIBITS

Exhibit "A" - Site Survey

Exhibit "B" - Area Variance Application Form

Exhibit "C" - Building Permit

Exhibit "D" - Stop Work Order dated February 10, 2017

Exhibit "E" - Photographs of New Garage

Exhibit "F" - Photographs of Neighbors' Structures

The Area Variance application fee ($100) is enclosed with the original application package.

HOPKINS SORGI & ROMANOWSKI PLLC
Attorneys at Law
26 Mississippi Street, Suite 400 ▲ Buffalo, NY 14203
Office: 716-714-5699 ▲ Fax: 716-424-2171 ▲ www.hsr-legal.com

I. PROJECT DETAILS

Applicant:	Victor Liberatore 9073 Lake Shore Road Angola, New York 14006
Local Contact:	Marc A. Romanowski, Esq. Hopkins Sorgi & Romanowski PLLC 26 Mississippi Street, Suite 400 Buffalo, New York 14203 (716) 427-7100
Project Location:	9073 Lake Shore Road Angola, New York 14006
Parcel ID No.:	234.16-1-24
Landowner:	Victor Liberatore
Zoning District:	Residential District 1 (R-1)

II. PROJECT DESCRIPTION

The Project involves a 768 square foot detached garage located at 9073 Lake Shore Road. The garage was constructed to replace a garage located in the same spot on the Site that the Applicant demolished. We represent the Applicant with respect to the stop work order he received in violation of the required sideyard setback. The new garage is located no closer to the Riehl Avenue property line or the West property line than the previous garage. The northwestern corner of the new structure is located 2.54' east of the West property line and the southwestern corner is located 2.20' east of the West property line, as is shown on the Site Survey (see **Exhibit "A"**). The Town of Evans Zoning Code (the "Code") requires a minimum of 5' from the building to the property line (§ 200-10(C)(2)(a)(2)). We are requesting a variance from this requirement, as the new garage was mistakenly built in the same location as the former garage.

III. CODE ANALYSIS

The applicable provisions of the Town of Evans Code (the "Code") are cited in the analysis provided below.

A. Appeals for Variance (§200-44(C)(2))

(a) On an appeal from an order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter or other regulations adopted pursuant to the Town Law where it is alleged by the appellant that there are practical difficulties or unnecessary hardship in the way of carrying out the strict application of any provision of this chapter or regulation, the Board may grant a

variance in the strict application of such provisions, provided that all the following findings are made:

> *[1] There are unique circumstances or conditions peculiar to the particular property and the practical difficulties or unnecessary hardship is created by the provisions of this chapter or regulation in the zoning district in which the property is located.*

RESPONSE: The Applicant mistakenly believed he could build the new garage in the same location as the old garage. An unnecessary hardship would be created by forcing the Applicant to remove the new garage and build a new one 5' from the property line.

> *[2] Such circumstances or conditions are such that the strict application of the provisions of this chapter or regulation would deprive the applicant of the reasonable use of the property, and the granting of the variance is therefore necessary to realize a reasonable use of the property.*

RESPONSE: The new garage, which is approximately 24' x 32', was constructed to replace a smaller garage that was approximately 18' x 20' (see **Exhibit "E"**). The Applicant obtained a building permit for construction of the new garage and built it approximately the same distance from the West property line as the previous garage. Strict application of the 5' side yard requirement would deprive the Applicant of the reasonable use of the property as he would be forced to remove or relocate the new garage. The owners of the neighboring parcel to the West built a frame garage with a similar side yard setback, ranging from 2.66' to 2.69' west of the property line (see **Exhibit "A"**).

> *[3] The variance, if granted, will be in harmony with the general purpose and intent of this chapter or regulation and will not be injurious to the neighborhood or impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.*

RESPONSE: The variance will be in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or impair the appropriate use or development of adjacent property. A frame garage is already in existence on the adjacent property, located approximately the same distance west of the property line as the Applicant's garage east of the property line. The Applicant's new garage is in keeping with the character of the neighborhood and is an improvement to the property and neighborhood. As the attached photographs demonstrate, there are numerous similarly situated garages in the neighborhood (see **Exhibit "F"**). The difference in distance from the property line between the required setback and the provided setback is not significant, as the required setback is 5' and the provided setback is 2.2'-2.59', which necessitates approximately a 2.5' variance.

> *[4] Such practical difficulties or unnecessary hardship is not self-created by any person having an interest in the property through disregard for or ignorance of*

the provisions of this chapter or regulation; provided, however, that where all other required findings are made, the purchase of property subject to a variance grant shall not itself constitute a self-created hardship.

RESPONSE: The Applicant did not have disregard for or ignorance of the Code. He built the new garage in approximately the same location as the previous one, misunderstanding the required setback for the new garage.

[5] Within the intent and purposes of this chapter or regulation, the variance, if granted, is the minimum variance necessary to afford relief.

RESPONSE: The granting of the requested area variance is the minimum variance necessary to afford relief. The new garage has already been built, and the variance is necessary in order for the Applicant to not be forced to remove the garage.

IV. STATE ENVIRONMENTAL QUALITY REVIEW ACT ("SEQRA")

Article 8 of New York Environmental Conservation Law and 6 NYCRR Part 617 ("SEQRA") requires state and local government agencies to consider environmental impacts of proposed actions during discretionary decision-making. Actions or classes of actions identified in subdivision (c) of section 617.5 are not subject to review. Therefore, the Project is classified as a Type II Action as it will not have a significant adverse impact on the environment and is not subject to SEQRA review.

V. REFERRAL TO COUNTY PLANNING BOARD

New York General Municipal Law (GML 239-m) requires that certain types of projects, including rezoning, site plan approvals, and granting of area variances, be referred to the County Planning Board for review prior to local action. Since the Site is within 500 feet the Evans Town Park, referral to the County Planning Board is required for this Project.

VI. CONCLUSION

We respectfully request that the Board of Appeals grant the requested Site Plan Approval so that the Applicant can resume use of the new garage.

Should you have any questions about this application, please do not hesitate to contact us.

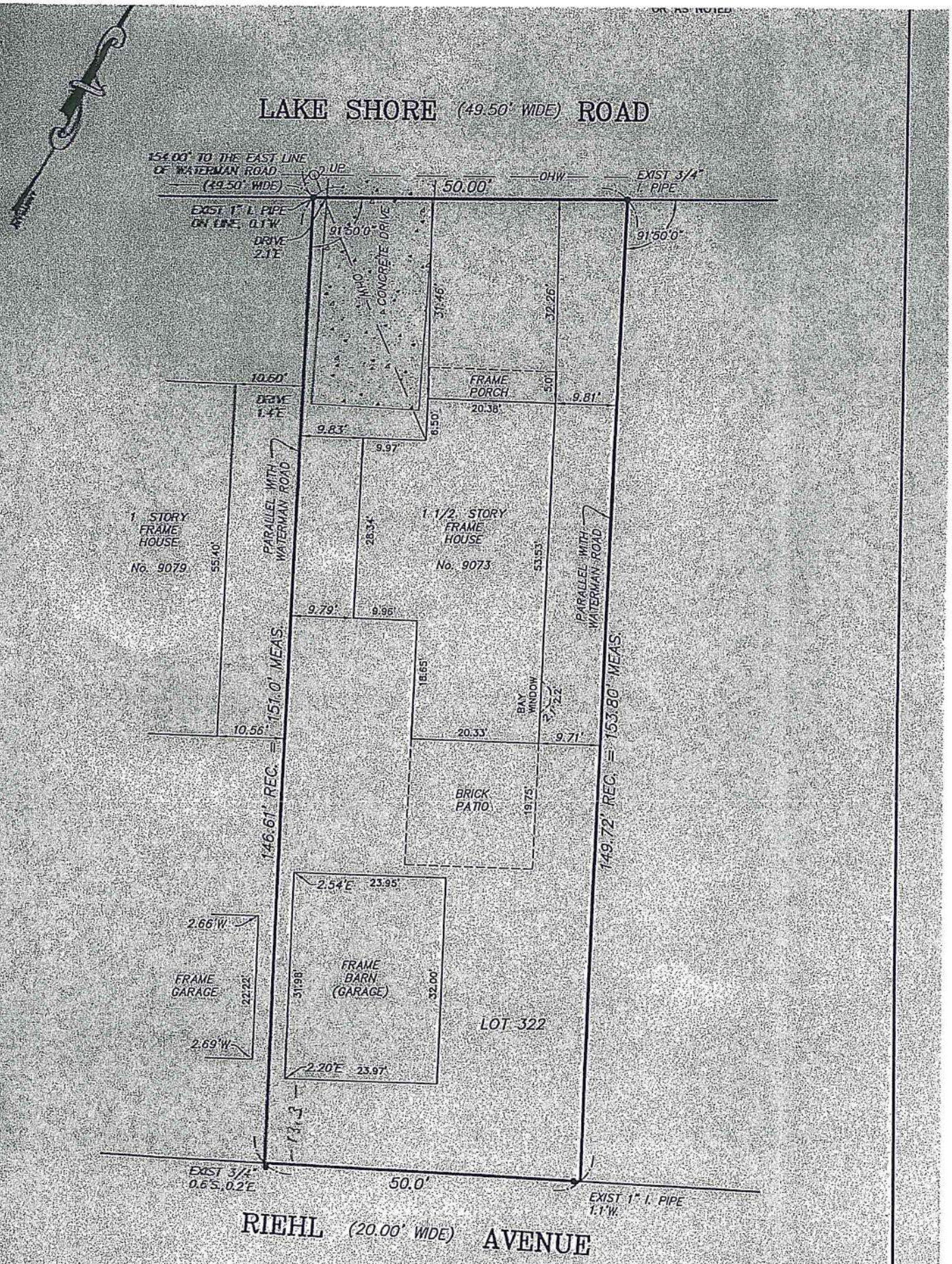
Thank you for your anticipated cooperation and courtesies.

Very truly yours,

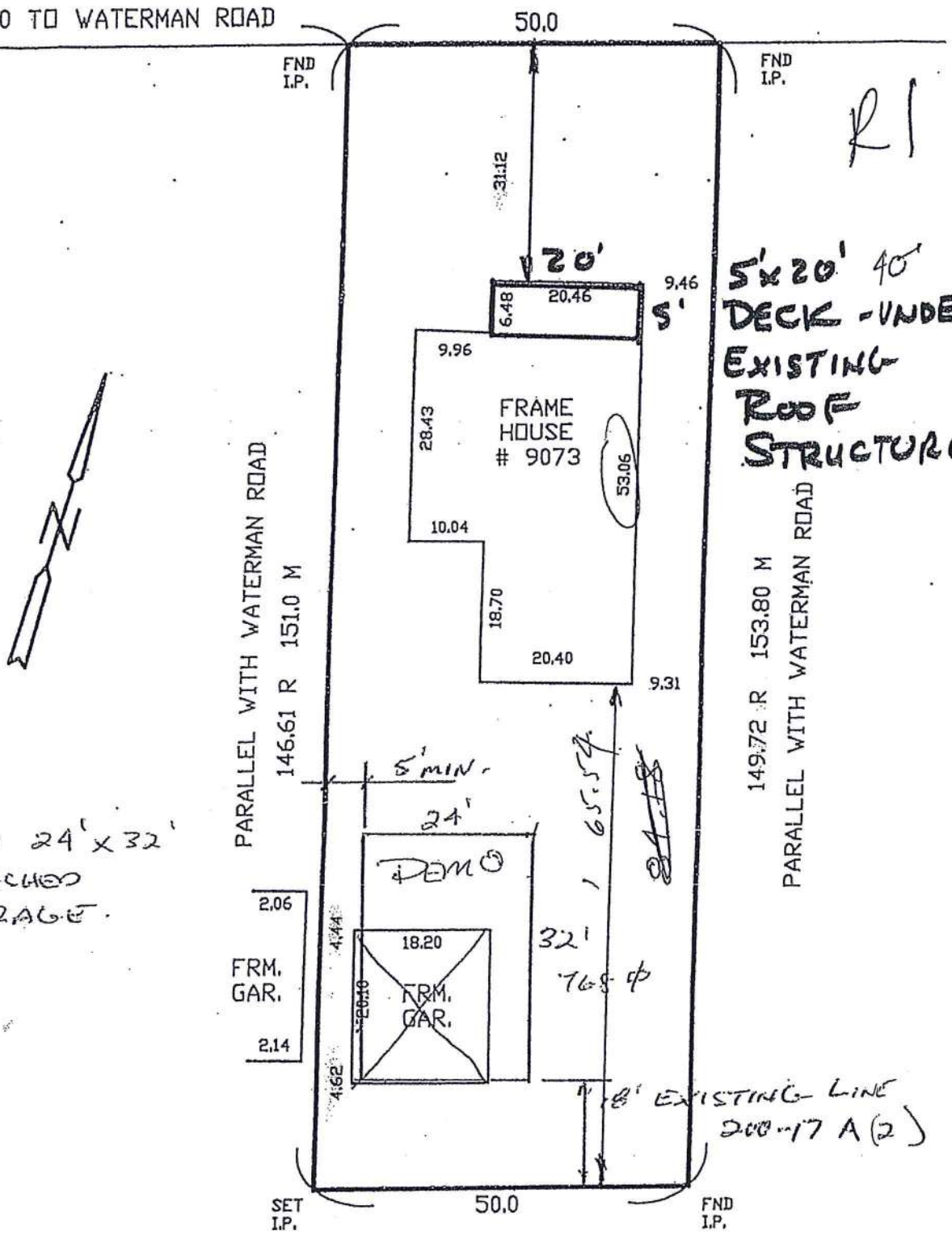
Hopkins Sorgi & Romanowski PLLC

Marc A. Romanowski, Esq.

Exhibit A



SURVEY OF
SUB-LOT 322, MAP COVERS 1141 & 1284
BEING PART OF LOT 82, TOWNSHIP 8, RANGE 9
HOLLAND LAND COMPANY



THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH

UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE N.Y. STATE EDUCATION LAW

THIS SURVEY NOT VALID UNLESS EMBOSSED WITH SEAL 049234

SURVEY

A PART OF LOT 82, TOWNSHIP 8, RANGE 9, HLC
SUBLOT 322, MAP COVER 1141

Exhibit B

TOWN OF EVANS

CODE ENFORCEMENT/ ZONING OFFICE
8787 Erie Road - Angola, New York 14006-9600
(716) 549-5753 - Fax (716) 549-0456

Building Permit : 2017-00009 **Permit Type :** Detached Garage

Property Owner : Victor Liberatore Jr **Property Location :** 9073 Lake Shore Rd **Tax Map Number (SBL) :** 234.16-1-24

Permit # : 2017-00009 **Date Received :** 01/17/2017 **Issued Date :** 01/17/2017 **Expiration Date :** 01/17/2018

Description of Work :
Erect a 24' x 32' x 16' high detached garage. located 5' from West line. Front line remains the same per 200-17 A (2) From Riehl Ave.
Total Square Footage : 768 Sq. Ft.

Permission is hereby granted to the Applicant/ Owner :

Applicant
Name : Victor Liberatore Jr
Phone # : 716-440-4662

Contractor
Name/ Organization :
Phone # :

NOTE : CALL FOR INSPECTIONS AT (716) 549-5753 - 24 HOURS NOTICE REQUIRED

Site Inspection
Foundation Before Backfill
Foundation Before Pouring
Framing, Plumbing & Heat
Insulation
Final Electrical
Final Inspection

Amount	Valuation	Fee type
50.00	20000.00	Detached Garage

1. Town of Evans Building Department based on our limited examination, and with our comments, shall not be construed as indicating the plans and specifications are in full compliance with all applicable codes. Approval by any Town of Evans Board does not relieve the applicant of obtaining other needed approvals from other agencies. This permit is not valid until the Certificate of Insurance is filed with the Building Inspector.

2. All Construction, Erection and Use shall comply with Current Zoning Ordinances, Building Codes, Subdivision Regulations. All construction and use shall meet New York State Building Construction Code Provisions.

3. This Building Permit is herewith INVALID or is subject to a shop order if, subsequently to its date of issue. The structure or 'use' is adjusted to be in serious conflict with provision (s), of current ordinance(s), use, code(s), Sub-Division or other governing regulations.

4. Cessation of activities on subject premises shall become effective with the invalidation of this Building Permit by the Issuing Officer. THE APPLICANT OF THE PERMIT SHALL BE SO NOTIFIED.

5. The undersigned states that this blue print is in compliance with the N.Y.S. Energy Conservation Construction Code, and will be built accordingly.

6. Failure to obtain certificate of occupancy may render invalid any or all portions of this permit.

ACCEPTED : _____ DATE : _____ ACCEPTED : _____ DATE : _____
(Contractor - Builder - Owner) (Building & Zoning Inspector)

Receipt is hereby acknowledge of the sum of **$50.00**, being the permit fee established by the Town of Evans.

ACCEPTED : _____ DATE : _____
(Town Clerk)

AREA VARIANCE QUESTIONNAIRE

1.) **Why will the requested variance <u>not</u> cause an undesirable change to the character of the neighborhood or be detrimental to the surrounding properties?**

The Garage is constructed in the same Location in Front and the side as the Old one which was Demolished. The new Garage is in keeping with the Character of the neighborhood and is an improvement.

2.) **Why can't you do what you want (ex. expand your house) <u>without</u> requiring a variance?**

see item 4 Below, The Garage is Existing

3.) **Why will the variance <u>not</u> have an adverse effect on the physical or environmental conditions of the neighborhood?**

see item 1 above

4.) **If your improvement has already been constructed, state in detail <u>why</u> it was constructed <u>without</u> a permit and/or a variance?**

The Garage was constructed without the Variance Because I was under the impression that as long as the new Garage was Built in the same Location as the old one it was Acceptable. note that a permit was issued for the construction of the Garage

DATE: 2/1/17 **SIGNATURE:**

Exhibit C

BUILDING PERMIT NO. 2017-00009 DATE ISSUED: 1/17/2017

OPERATING PERMIT NO. _____ PERMIT EXPIRES: 1/17/2018

PERMIT

PERMISSION IS HEREBY GRANTED TO

NAME LIBERATORE

ADDRESS 9073 LAKESHORE Rd

THIS CARD MUST BE PLACED IN THE FRONT WINDOW UNTIL A CERTIFICATE OF OCCUPANCY IS OBTAINED

TO BUILD DETACHED GARAGE

CONTRACTOR SELF

By Paul Ryan

NOTE: FOR INSPECTION CALL (716) 549-5753

Building Inspector, Town of Evans

Exhibit D

TOWN OF EVANS

CODE ENFORCEMENT/ZONING OFFICE
8787 Erie Road • Angola, New York 14006-9600
(716) 549-5753 • Fax (716) 549-0456

February 10, 2017

Victor Liberatore
9073 Lake Shore Rd
Angola, NY 14006

Re: Permit 2016-00009 Detached Garage.

STOP WORK ORDER

All work and building activity must cease at once.
Garage is located to close to the West property line. Documentation presented at the time of issuing a building permit clearly stated the location of the structure. The structure must be a minimum 5 feet from the west line, and no closer to Riehl Rd property line then the existing garage.

Structure must be removed, relocated or you may apply for a variance.

70-10 Stop Work orders

A.
Whenever the Code Enforcement Officer has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and suspend all building activities until the stop-work order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission of the construction of such building.

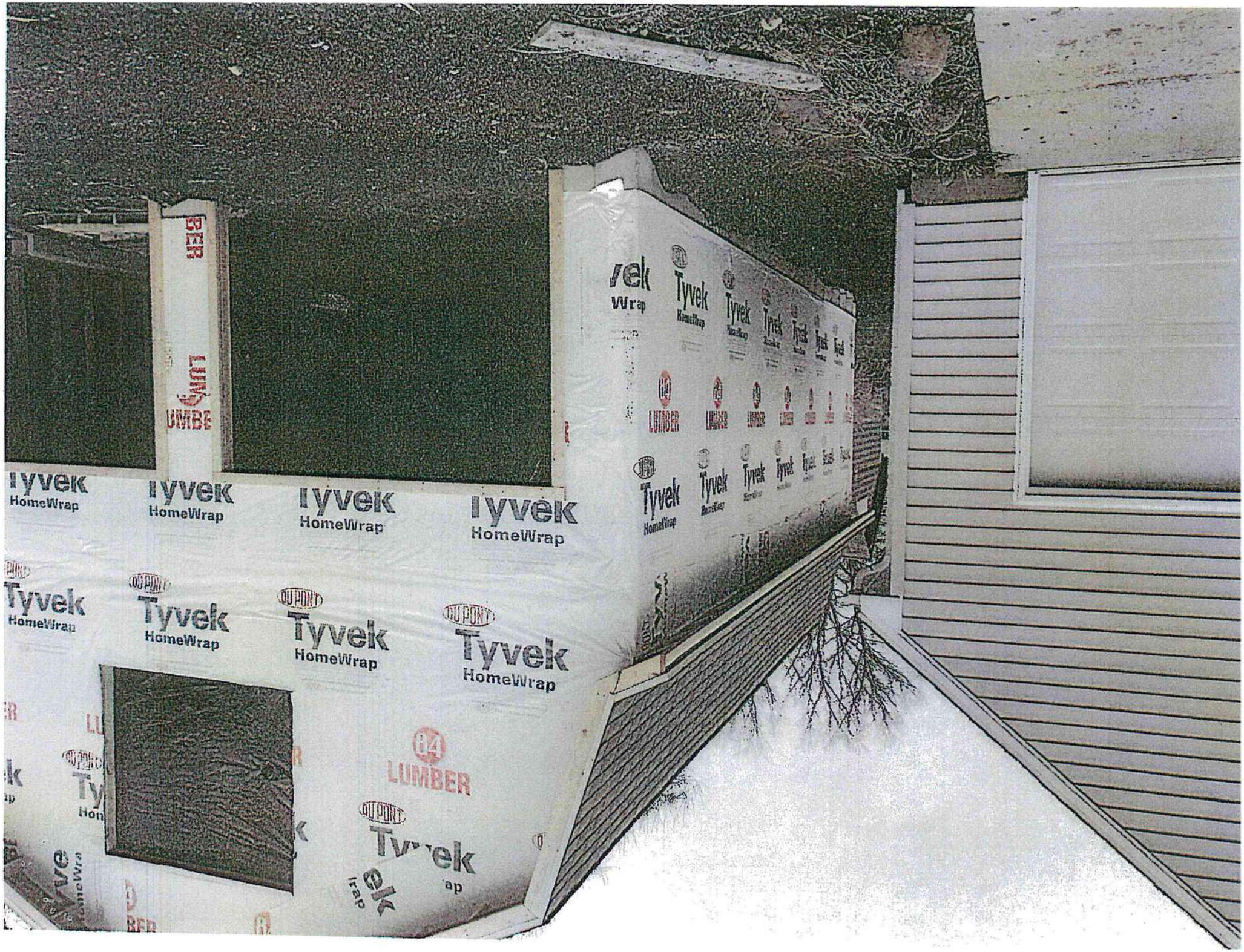
70-9 Enforcement; penalties for offenses

B.
In addition to those penalties proscribed by state law, any person, firm or corporation who violates any provision of the Uniform Code for any rule or regulation of this chapter, or the terms or conditions of any certificate of occupancy issued by the Code Enforcement Officer, shall be guilty of an offense punishable by a fine not exceeding $250 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate violation

Paul Ryerse
Supervising Code Enforcement Officer
Town of Evans

Exhibit E

Tyvek
HomeWrap
LUMBER


Tyvek
HomeWrap
DUPONT
LUMBER


DUPONT
Tyvek
HomeWrap
84
LUMBER

Exhibit F











RECEIVED
MAY 26 2017
Building Department

May 24, 2017

VIA E-MAIL AND U.S. MAIL

Town of Evans Zoning Board of Appeals
8787 Erie Road
Angola, NY 14006

Re: Area Variance Application for Victor Liberatore
9073 Lake Shore Road, Angola, New York
Parcel ID No.: 234.16-1-24

Ladies and Gentlemen:

Pursuant to the Zoning Board of Appeals meeting held on May 10, 2017, it was requested that our client, Victor Liberatore (the "Applicant") submit photographs demonstrating the current and former condition of the property at 9073 Lake Shore Road (the "Site") in the Village of Angola (the "Village"), located in the Town of Evans (the "Town").

Exhibit "A" is an aerial photograph that shows the Applicant's property in relation to neighboring properties and the proximity of neighboring garages to the property lines. **Exhibit "B"** contains photographs depicting the Applicant's former and new garages and their proximity to the neighboring garage. Notwithstanding what is shown on the surveys, the pictures show that the former garage and new garage are essentially the same distance from the neighboring garage.

Should you have any questions, please do not hesitate to contact us.

Very truly yours,

Hopkins Sorgi & Romanowski PLLC

Marc A. Romanowski, Esq.

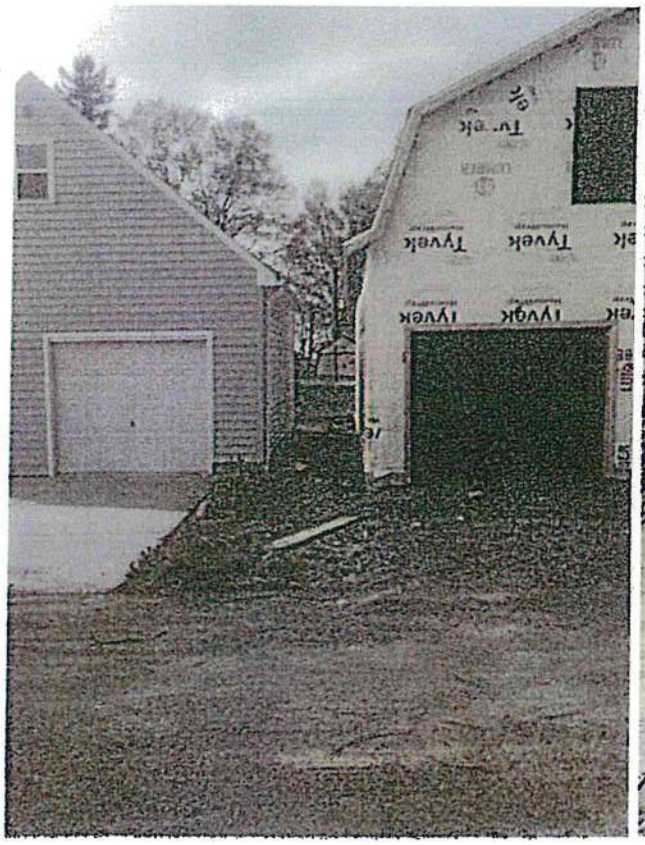
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Attorneys at Law
26 Mississippi Street, Suite 400 ▲ Buffalo, NY 14203
Office: 716-714-5699 ▲ Fax: 716-424-2171 ▲ www.hsr-legal.com

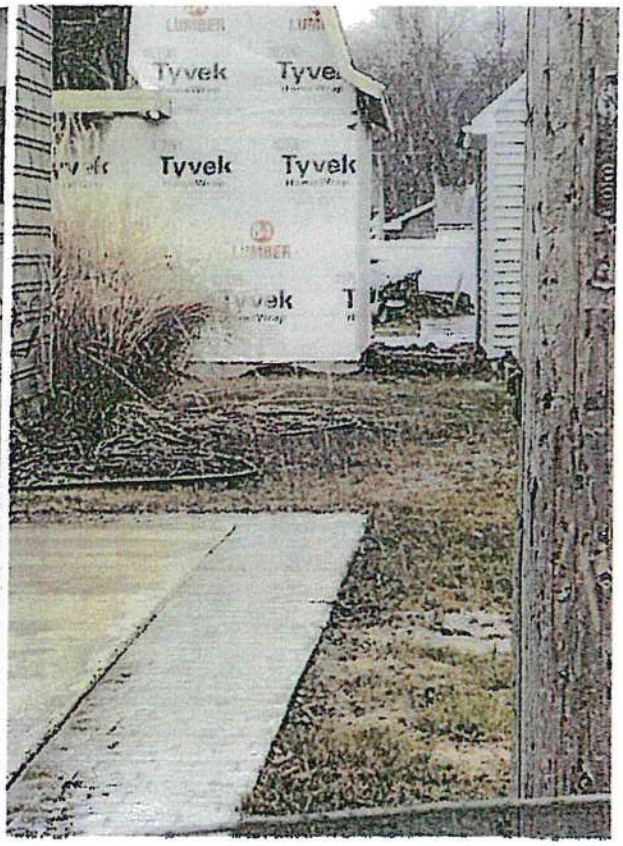
Exhibit A

6705
6806
6806
6806

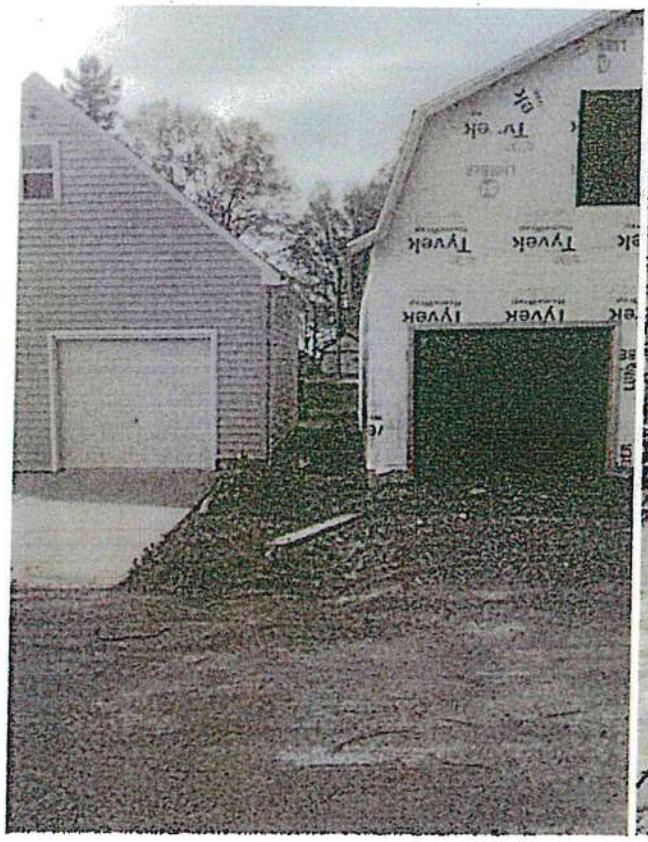
Exhibit B

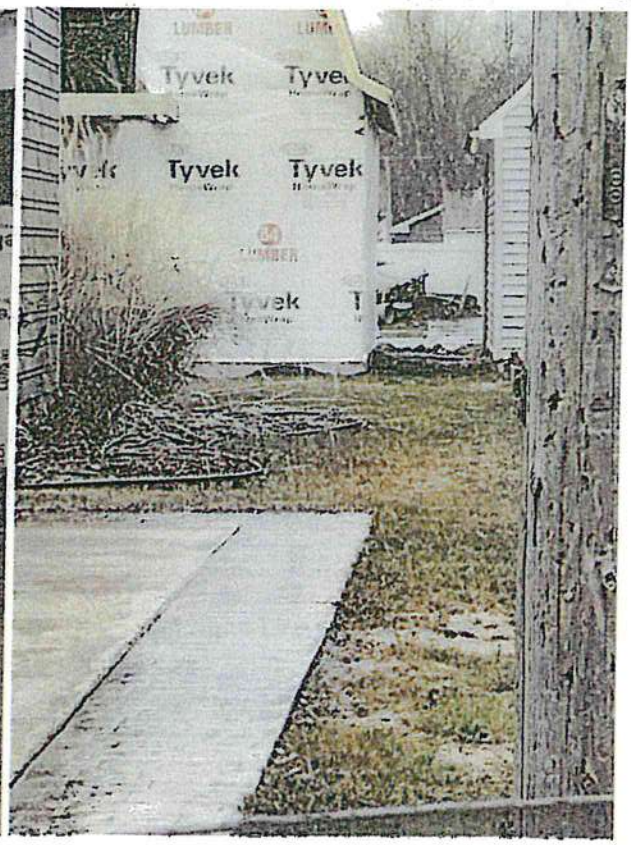

5138 Rieth Rd
Angola, New York
Street View - Aug 2013
Lakeside Market
Google




Tyvek
Tyvek
Tyvek


Google


Tyvek
Tyvek
Tyvek


Tyvek
Tyvek
Tyvek

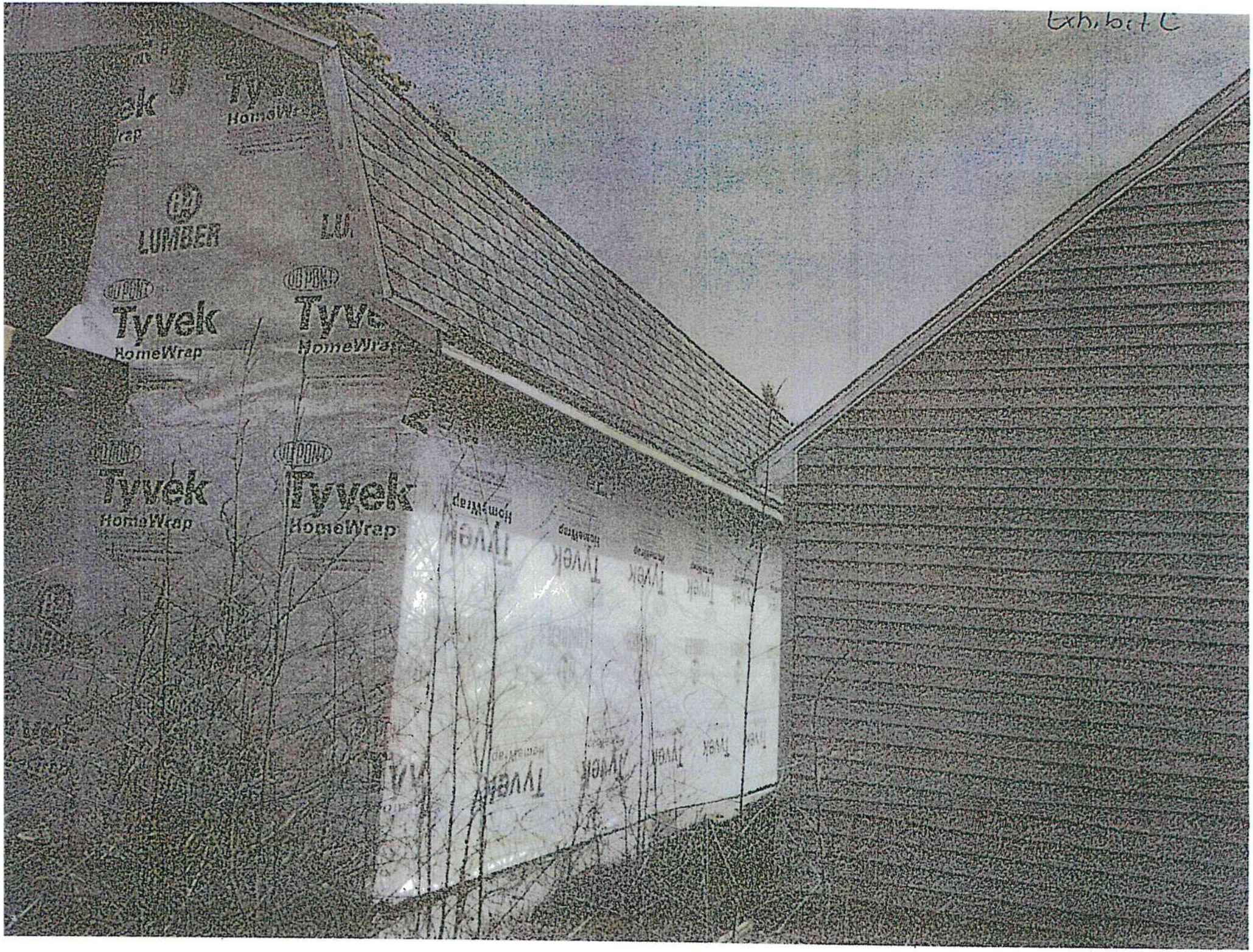
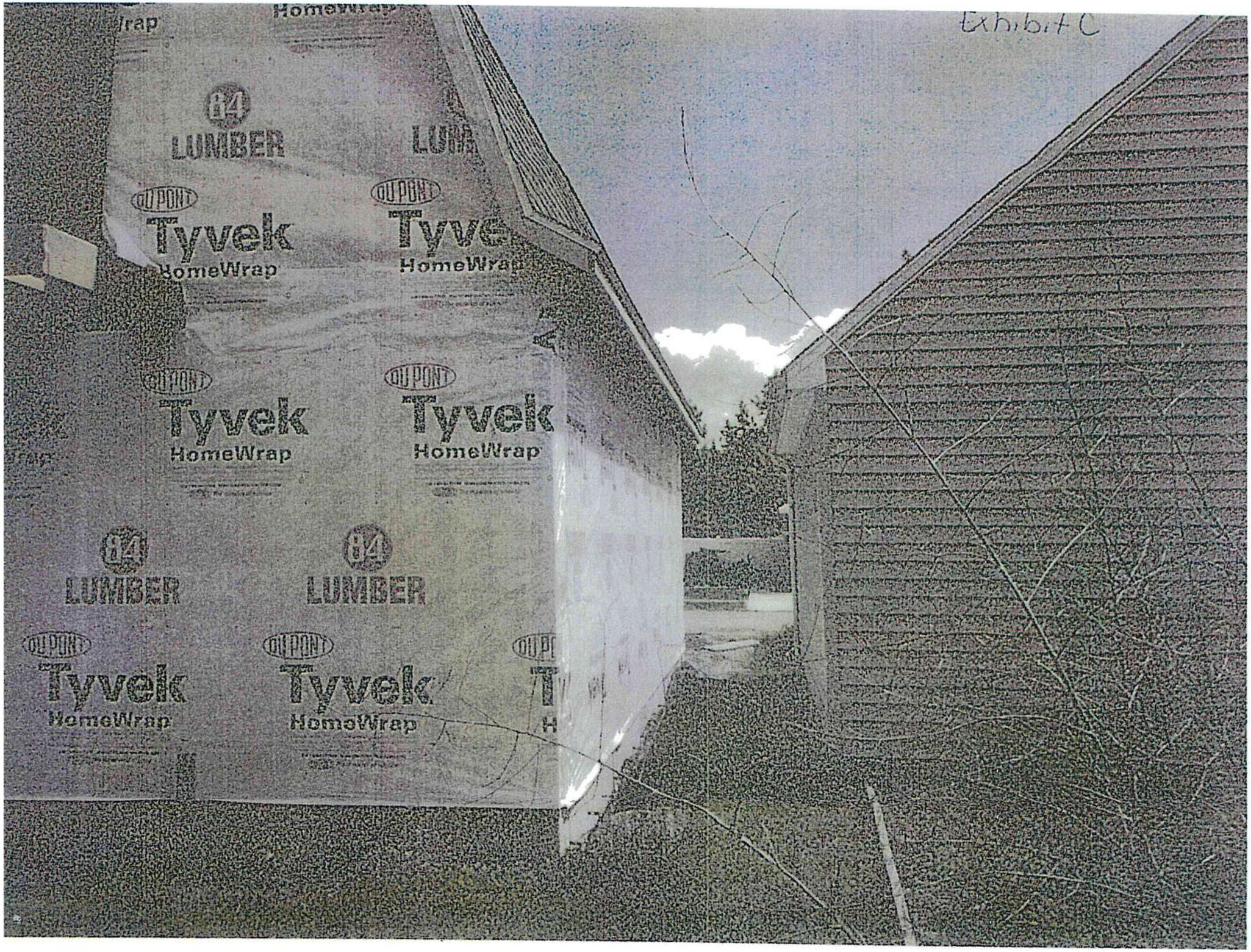

Exhibit C
LUMBER
Tyvek
HomeWrap


Exhibit C
Tyvek
HomeWrap
LUMBER


Exhibit C
84
LUMBER
DUPONT
Tyvek
HomeWrap

Daniel and Sharon Bilowus
9079 Lakeshore Rd
Angola, New York 14006

RECEIVED
JUN - 5 2017
Building Department

June 1, 2017

Code Enforcement/Zoning Office
8787 Erie Rd
Angola, New York 14006

Honorable Board Members,

We are writing regarding Victor Liberatore's request for a decrease in side yard setback.

We request that you do not honor his request.

Mr. Liberatore's failure to adhere to Town of Evans Zoning Law 200-10 C (2) (a) (2) has placed our property in jeopardy. Any snow or ice that would come off the roof of Mr. Liberatore's garage would at a bare minimum take down the gutters on our garage. If we were to have a heavy winter with a quick thaw, snow and ice sliding off Mr. Liberatore's garage roof could damage our garage roof.

There is only a 3 foot clearance between Mr. Liberatore's facia board and our gutters.

We are concerned that if the Mr. Liberatore's garage is not moved prior to winter, we may incur property damage.

We should not have to be concerned about property damage and the financial burden that would cause.

We have included some pictures to illustrate the problem.

Thank you.

Respectfully,

Daniel Bilowus
Sharon Bilowus

Daniel Bilowus
Sharon Bilowus

Exhibit B