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August 8, 2018

TOWN OF EVANS

REGULAR MEETING
OF THE
ZONING BOARD OF APPEALS

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

Members Absent: N. Manges

Also Present: J. Hill, 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 June 13, 2018.

Mr. Gugliuzza made a motion to approve the June 13, 2018, Mr. Maglich seconded. All in favor, motion carried.

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Lynn M. Krajacic
Town Clerk
Town of Evans

NEW BUSINESS:

The Broadway Group, 216 Westside Square Huntsville AL 35801, Site location 6889 Erie Rd. Derby NY 14047, requesting to decrease the side yard setback for parking, dumpster pad and delivery pad at the above SBL # 206.07-2-15, in violation of the Town of Evans Zoning Law, 200-21 C (3), Reduce the number of required parking spaces in violation of the Town of Evans Zoning Law 200-27 E (1).

Applicant is requesting to reduce the required side yard setback from 10 feet to 3.73, 3.88 and 4.22 feet for the construction of a dumpster pad, parking space and delivery pad, respectively.

Applicant is requesting to reduce the number of required parking spaces from 40 to 30.

An existing gas station/repair garage that has not been occupied for many years will be demolished for construction of a new single tenant retail space. Zoning to the East is GB (general business) small cottages exist at this location occupied by non-transient tenants. Zoning to the West is GB (general business) occupied by retail stores.

The existing black top paving and parking spaces are closer than the requested new side yard setbacks.

Present for the appeal was Melissa Ballard from the Broadway Group.

Mr. Yusick asked if the appeal was previously before the board. Ms. Ballard stated yes. Mr. Yusick stated that the board granted the previous variance. Mr. Yusick asked if the request is the same as the last request. Ms. Ballard stated that it is the same. Ms. Ballard stated that there were some issues and the previous variance expired.

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, seconded by Ms. Spada.

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

Barbara Smith, 168 Reeves Road Angola NY 14006, Site location Ryther Road, Angola NY 14006, SBL# 236.00-3-53, requesting to construct a shed on a lot without a primary structure, in violation of the Town of Evans Zoning Law section 200-8.1 B permitted uses.

Applicant is requesting a use variance in order to construct a 32 x 20 shed, in violation of the Town of Evans Zoning Law section 200 8.1 B.

The applicant would like to construct a 32 x 20 shed on her property without a primary structure. The property currently consists of 4 shed type structures, electric, pond and a port-a-potty.

Present for the appeal is Barbara Smith.

Mr. Yusick asked if Ms. Smith was in contact with the Building Department. Ms. Smith stated several times. Mr. Yusick asked if the building department told her that it is difficult to obtain a use variance. Ms. Smith stated yes. Ms. Smith stated that she doesn't understand why can't have a shed. She stated that she has three riding mowers and a golf cart. Mr. Yusick stated that the law is very clear and a shed is considered an accessory structure which means it can't stand on its own, it has to be used in conjunction with a primary use. Mr. Yusick stated that Ms. Smith purchased a property that has four sheds which apparently are old and predate the zoning laws. Mr. Yusick stated that since it is not a permitted use, meaning you cannot use the property for a shed without there being a house, then you have to get a use variance. Mr. Yusick stated that there are a number of things that you have to prove. The first that there is no other economically reasonable use for the property except if we allow you to use it for the purpose that you're asking. Mr. Yusick stated that you would not be able to argue that the property would have no value if you don't have a shed because there are four sheds on the property. The second is you cannot have a self induced hardship. Mr. Yusick asks what the use of the property is. Ms. Smith stated that it's used for camping or she goes there to read.

Thomas Smith stated that the reason they were here was because they were turned down for a permit and this is the next step. There is no place to put the equipment that they have. Mr. Maglich asked why they need three riding lawn mowers. Mr. Smith stated that they use two. Mr. Maglich stated that it is not a shed but a garage. Mr. Smith agreed. Mr. Maglich asked if they are aware that they satisfy none of the criteria to get a use variance.

Mr. Yusick stated that the board sympathizes with you but the board has to have a legal reason to approve the appeal. The legal requirements are strict. A variance runs with the land.

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

Ms. Spada stated that she would have voted for it because it is already being used that way.

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

Mr. Yusick asked if there was anything further for the board.

Mr. Yusick made a motion to adjourn to the next scheduled meeting, seconded by Ms. Spada.

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

Respectfully Submitted,

Jennifer Renaldo
Secretary