RECEIVED

FEB 2 0 2019

Lynn M. Krajacic
Town Clerk
Town of Evans

Unapproved minutes filed with
Town Clerk 1/16/19
Minutes Approved 2/19/19
Distributed 2/20/19

January 9, 2019

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: A. Yusick D. Maglich, V. Gugliuzza, J. Kennedy

Members Absent: N. Manges, T. Spada

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 Records 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 November 14, 2018.

Mr. Gugliuzza made a motion to approve the November 14, 2018 minutes. All in favor, motion carried.

OLD BUSINESS:

Mark F. Zeis, 4692 Brentwood Dr., Williamsville, NY 14221, is requesting to decrease the rear yard and front yard setbacks in order to enclose an existing porch into livable space, located at 608 Sandy Avenue, Angola, NY 14006, SBL# 234.28-4-29, in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) (4) and 200-12 C (1) (f) (1).

Applicant is requesting to reduce the rear yard setback from 50 feet to 0 feet and the front yard from 25 feet to 7.53 feet, in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) (4) and 200-12 C (1) (f) (1).

The applicant would like to enclose an existing back porch to accommodate a washer and dryer.

Present for the appeal was Mark Zeis.

Mr. Yusick stated that the matter was previously heard during the November 14, 2018 meeting and was tabled because of issues with a proposed addition. The first issue was that the proposed addition was .57 feet over the lot line. The second issue was that a variance was needed from the right of way. The third issue was allowing the applicant to place the addition over the property line and the board requested a deed or an easement be filed. An easement was filed with the Erie County Clerk's office and has been marked as "Exhibit A". Mr. Yusick read a letter marked as "Exhibit B" from Ronald and Carol Grohmann. They are concerned about encroachment on their property. It was determined the applicant's house is not near the Grohmanns' property. Mr. Kennedy asked if there is going to be any kind of fire protection. Mr. Zeis stated that the he spoke with the building inspector regarding fire protection. Mr. Gugliuzza stated that in his opinion, he would put fire rated drywall on the entire addition but it is up to the code enforcement officer to make that determination. Mr. Zeis asked about the fire restrictions for a window. Ms. Hill asked if he has plans. Mr. Zeis stated that he can get them from the gentleman that is working on the project. Ms. Hill stated that she would need to look at the plans. Mr. Yusick asked if an architect is doing the plans. Mr. Zeis stated no. Mr. Yusick stated that he should have an architect because they know the codes.

Mr. Gugliuzza made a motion to approve, seconded by Mr. Maglich with the stipulation that it meets fire code.

All in favor:

Vote: Mr. Yusick, aye
Ms. Spada, absent
Ms. Manges, absent
Mr. Maglich, aye
Mr. Gugliuzza, aye
Mr. Kennedy, aye

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

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

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

Respectfully Submitted,

Jennifer Renaldo
Secretary

Record and return to:
Box 29 (Harter Secrest & Emery LLP)

COPY

FILED

DEC 18 2018

ERIE COUNTY
CLERK'S OFFICE

EASEMENT AGREEMENT

Christine A. Van Stry, Jennifer S. Restivo, Kelli E. Fricke, Timothy G. Van Stry, and Deborah L. Van Stry (collectively, the "Neighbor") is the sole owner of property located at 601C Bay Point Avenue, Evans, New York; and Mark F. Zeis and Michaelene A. Zeis (collectively, the "Owner") is the sole owner of property at 608 Sandy Avenue, Evans, New York.

An instrument survey map of the Owner's property was completed by Robert J. Nicaise, on August 24, 2004, copy of which is attached hereto as **Exhibit A** (the "Map"), and the Map purports to show concrete blocks and steps (the "Improvement") extending on to Neighbor's property by as much as 0.57 feet.

As shown on the Map, the parties share a common boundary line which is the Neighbor's southerly record line of title by deed (the "Neighbor's Boundary Line"), and the Owner's northerly record line of title by deed (the "Owner's Boundary Line").

The Improvement, while owned by Owner, might act as an encumbrance upon the land of the Neighbor in that it appears to extend beyond the Owner's Boundary Line and inside the Neighbor's Boundary Line.

The parties to this Agreement are mutually desirous of entering into an Agreement to clarify their understandings with regard to the location of the Improvement.

In consideration of $1.00 to each in paid and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

FIRST: The Neighbor hereby grants unto Owner a permanent easement for the Improvement to remain in its current placement and for the Improvement to be reasonably used, repaired, maintained and replaced by Owner, and further grants unto Owner a permanent easement for reasonable access to the Improvement for the purpose of making repairs, maintenance and replacements to the Improvement.

SECOND: This Agreement shall run with the land and shall bind and inure to the benefit of the Neighbor and Owner, their respective heirs, successors, and/or assigns.

THIRD: The words "Neighbor," "Owner," and "Improvement" shall be construed to read in the plural whenever the sense of this Agreement so requires.

FOURTH: This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

(Signature Page follows)

Exhibit A

(Signature Page to Easement Agreement)

Dated: December 4, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Signature Page to Easement Agreement)

Dated: December 3, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Signature Page to Easement Agreement)

Dated: December 13, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Signature Page to Easement Agreement)

Dated: December ____, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Signature Page to Easement Agreement)

Dated: December 4, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Signature Page to Easement Agreement)

Dated: December 7th, 2018

Christine A. Van Stry, *Neighbor*

Jennifer S. Restivo, *Neighbor*

Kelli E. Fricke, *Neighbor*

Timothy G. Van Stry, *Neighbor*

Deborah L. Van Stry, *Neighbor*

Mark F. Zeis, *Owner*

Michaelene A. Zeis, *Owner*

(Jurat Pages follow)

(Jurat Page to Easement Agreement)

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this 4 day of December in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **CHRISTINE A. VAN STRY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

MELISSA DARNELL
Notary Public - State of New York
01DA6382291
Qualified in Erie County
My Commission Expires 10/22, 2022

Melissa Darnell
Notary Public

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **JENNIFER S. RESTIVO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by **KELLI E. FRICKE**, who is personally known to me or has produced _____ as identification.

_____
Notary Public

STATE OF NORTH CAROLINA)
COUNTY OF CATAWBA) ss.:

I, a Notary Public of _____ County, North Carolina, do hereby certify that **TIMOTHY G. VAN STRY** personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness by my hand and official seal, this ____ day of _____, 2018.

My Commission Expires:

_____

_____
Notary Public

(Jurat Page to Easement Agreement)

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **CHRISTINE A. VAN STRY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

On this 3rd day of December in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **JENNIFER S. RESTIVO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

MARY BETH BAILEY SOUTHWICK, #01BA6359671
Notary Public, State of New York
Qualified in Chautauqua County
My Commission Expires May 5, 2021

Mary Beth Bailey Southwick
Notary Public

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by **KELLI E. FRICKE**, who is personally known to me or has produced _____ as identification.

_____
Notary Public

STATE OF NORTH CAROLINA)
COUNTY OF CATAWBA) ss.:

I, a Notary Public of _____ County, North Carolina, do hereby certify that **TIMOTHY G. VAN STRY** personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness by my hand and official seal, this ____ day of _____, 2018.

My Commission Expires:

_____

_____
Notary Public

(Jurat Page to Easement Agreement)

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **CHRISTINE A. VAN STRY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **JENNIFER S. RESTIVO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this 13th day of Dec., 2018, by **KELLI E. FRICKE**, ~~who is personally known to me~~ or has produced FL. DL. as identification.

ASHLEY TODD
Notary Public - State of Florida
Commission # FF 242842
My Comm. Expires Oct 16, 2019
Bonded through National Notary Assn.

_____
Notary Public

STATE OF NORTH CAROLINA)
COUNTY OF CATAWBA) ss.:

I, a Notary Public of _____ County, North Carolina, do hereby certify that **TIMOTHY G. VAN STRY** personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness by my hand and official seal, this ____ day of _____, 2018.

My Commission Expires:

_____

_____
Notary Public

7311684

(Jurat Page to Easement Agreement)

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **CHRISTINE A. VAN STRY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF NEW YORK)
COUNTY OF CHAUTAUQUA) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **JENNIFER S. RESTIVO**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

_____
Notary Public

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by **KELLI E. FRICKE**, who is personally known to me or has produced _____ as identification.

_____
Notary Public

STATE OF NORTH CAROLINA)
COUNTY OF CATAWBA) ss.:

I, a Notary Public of Catawba County, North Carolina, do hereby certify that **TIMOTHY G. VAN STRY** personally appeared before me this day, and acknowledged the due execution of the foregoing instrument. Witness by my hand and official seal, this 7th day of December, 2018.

My Commission Expires:
1/28/2021

SHARRON B. SCRONCE NOTARY PUBLIC CATAWBA COUNTY, NC

Sharron B. Scronce
Notary Public

7311684

(Jurat Page to Easement Agreement)

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this 4th day of DECEMBER, 2018, by **DEBORAH L. VAN STRY**, who is personally known to me or has produced FL DRIVER LICENSE as identification.

Notary Public

JEAN B POLYNICE
State of Florida-Notary Public
Commission # GG 104143
My Commission Expires
May 14, 2021

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **MARK F. ZEIS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this ____ day of _____ in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **MICHAELENE A. ZEIS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

(Jurat Page to Easement Agreement)

STATE OF FLORIDA)
COUNTY OF MONROE) ss.:

The foregoing instrument was acknowledged before me this ____ day of _____, 2018, by **DEBORAH L. VAN STRY**, who is personally known to me or has produced _____ as identification.

_____
Notary Public

STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this 7 day of December in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **MARK F. ZEIS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

JOSEPH W. BURDEN III
Notary Public in the State of New Yo
Registration No. 4901511
ERIE COUNTY
Commission Expires July 20 2021

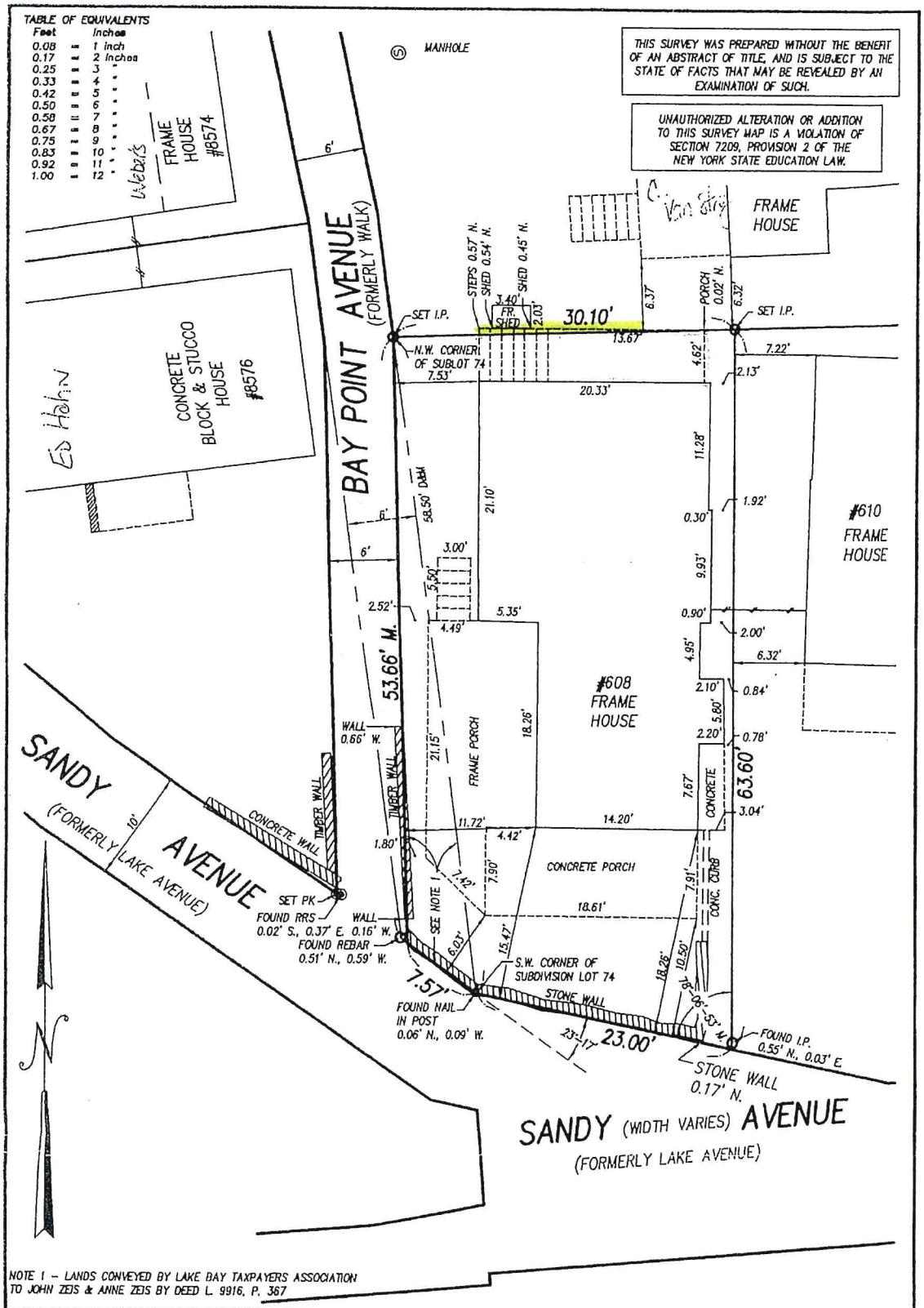
STATE OF NEW YORK)
COUNTY OF ERIE) ss.:

On this 7 day of December in the year 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared **MICHAELENE A. ZEIS**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of whom the individual acted, executed the instrument.

Notary Public

JOSEPH W. BURDEN III
Notary Public in the State of New Yo
Registration No. 4901511
ERIE COUNTY
Commission Expires July 20 2021

EXHIBIT A



SURVEY OF

LOCATION #608 SANDY AVENUE
LIBER _____ PAGE _____
MAP COVER 1486 SUBLOT 74 (AND MORE)
BEING PART OF LOT 76
TOWNSHIP 8 RANGE 9
TOWN/CITY OF EVANS
COUNTY OF ERIE, STATE OF NEW YORK
HOUSE LOC. _____

STATE OF NEW YORK ROBERT J. NICAISE No. 039310-1 LICENSED LAND SURVEYOR

Robert J. Nicaise

N.Y.S. LICENSE NO. 39310
RESURVEYED

ROBERT J. NICAISE
LAND SURVEYOR
S-6294 SUNNYSIDE DRIVE
HAMBURG, NEW YORK 14075
TELEPHONE NO. 649-1724

SCALE 1" = 10' DATE 08/24/04
JOB NO. 04022-1

MICHAEL P. KEARNS, ERIE COUNTY CLERK
REF:

DATE:12/18/2018
TIME:3:28:08 PM
RECEIPT: 18224293

HARTER, SECREST & EMERY, LLP BOX 29
ACCOUNT #: 1506

ITEM - 01 785
RECD: 12/18/2018 3:29:36 PM
FILE: 2018252311 BK/PG D 11338/8165
Deed Sequence: TT2018010937
STRY CHRISTINE A
ZEIS MARK F

Recording Fees		120.00
TP584		10.00
Subtotal	130.00	

TOTAL DUE	$130.00
PAID TOTAL	$130.00
PAID CHECK	$130.00
Check #6932:	130.00

REC BY: Megan
COUNTY RECORDER

Town of Evans
8787 Erie Road
Angola, NY 14006-9600

12-29-2018

Att: Zoning Board

We have received the notice of Public Hearing on the following appeal. Mark F.Zels regarding decreasing the rear yard and front yard on the corner lot in order to enclose existing porch into livable space located at 608 Sandy Ave., Angola, New York SBL# 234 28-4-29. Violation of Zoning Laws 200-12 C (1)f(4) and 200-12 C (1)f(1),

As owners of the property at 8564 Walk Ave.,Angola, NY SBL 234.28-4-1, we object to any part of this extension. We do not want any encroachment on our property or any equipment on our property. The property in question is very very close to our property.

Thank you,

Ronald J. Grohmann
Carol A. Grohmann

Exhibit B