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Town Clerk
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March 13, 2019

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: A. Yusick, H. Martin Jr, J. Kennedy, A. Supon

Members Absent: D. Maglich, T. Spada, V. Gugliuzza

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 February 19, 2019.

Mr. Martin, Jr made a motion to approve the February 19, 2019 minutes, seconded by Mr. Yusick. All in favor, motion carried.

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Town of Evans

OLD BUSINESS:

Leonard Price, 1566 Inwood Ave., Angola NY 14006, is requesting to increase the size of accessory structure located at the above address in violation of the Town of Evans Zoning Law Section 200-8.2 (8) (b) 3.

Applicant is requesting to increase the required size of an accessory structure from 1,200 square feet to 1,760 square feet at the above address in violation of the Town of Evans Zoning Law Section 200-8.2 -8 (b) 3.

The applicant has already constructed a 12' X 40' addition to his existing 1,200 square foot garage.

Present for the appeal was Leonard Price.

Mr. Yusick stated that he does not have a serious problem with the structure but he has a serious problem with the applicant building the structure without a permit. He stated that the board could take in account whether to approve or disapprove a variance. Mr. Yusick stated that the board suggest the applicant pay triple the permit fee and Ms. Hill confer with the Town Attorney on whether to pursue a legal case.

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, seconded by Mr. Martin, Jr.

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

NEW BUSINESS:

David Manning, 1380 Sturgeon Point Road, Derby NY 14047, is requesting to increase the allowable size of an accessory structure, in violation of the Town of Evans Zoning Law section 200-8.2 8 (b) 3.

Applicant is requesting to increase the size of an accessory structure from 1,200 square feet to 1,500 square feet, at the above address in violation of the Town of Evans Zoning Law Section 200-8.2 8 (b) 3.

The applicant has demolished the existing garage and would like to construct a 1,500 square foot accessory structure.

Present for the appeal was David Manning.

Mr. Manning stated that the old 1,200 square foot barn was torn down and he would like to build new barn. Mr. Yusick asked how many acres. Ms. Hill stated 9.5 acres.

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

Mr. Martin, Jr made a motion to table to approve, seconded by Mr. Yusick.

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

Daniel Egan, 6583 Revere Drive, Derby New York 14047, is requesting to decrease the side yard setback, in violation of the Town of Evans Zoning Law Section 200.12 C (1) (f) 3.

Applicant is requesting to reduce the side yard setback from 5'to 1', in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) (3). After inspection the applicant also is requesting a reducing the required separation from 10' to 5' from the garage in violation of Town of Evans Zoning Law Section 200-10 C (2) (a) 1.

The applicant would like to follow the existing side of the house to construct a 6'4" X 7'8" additional living space. Since applying for the variance, the applicant has removed the back part of the house, which was an enclosed porch in order to rebuild. By doing so, the applicant now needs a variance for the separation between the addition and garage.

Present for the appeal was Daniel Egan.

Mr. Egan stated that he tore down the porch and building the addition on the same footprint. The board reviewed the information with Ms. Hill and it was determined the addition would be built on the same footprint.

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, seconded by Mr. Martin, Jr.

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

Michele & Ron Comstock, 1480 Gowans Road., Angola NY 14006, is requesting to construct a single family dwelling on vacant lot know as 9046 Iroquois St., SBL 234.16-5-16, in violation of Town of Evans Zoning Law Section 200-10 C (1) (a) & (b) & (c) & (d) and 200-17 A (3).

Applicant is requesting to construct a house on a corner lot located at 9046 Iroquois Street, SBL# 234.16-5-16, in violation of Town of Evans Zoning Law Section 200-10 C (1) (a) & (b) & (c) & (d) and 200-17 A (3). There was a house located on the lot; the applicant demolished the dilapidated house in order to construct a new house.

Overview:

Lot Size 50'x150' .1722 Acres Property Class R-1 Single family residential

From Town of Evans Code problems with the site plan (in red)

R-1

C. Design regulations

(1) Principal structures and uses.

(a) Minimum lot area per dwelling unit.(50x150=7,500 sq. ft. undersize)(200-17 A

[1] Sewered: 12,150 square feet.

[2] Sewered corner lot: 13,500 feet.

[3] No public sewer: 20,000 square feet, the minimum Health Department requirements.

(b) Minimum width of lot abutting a dedicated street. (Does not meet these requirements)

[1] Public sewered: 90 feet.

[2] Public sewered corner lot: 100 feet.

[3] No public sewer: 125 feet.

(c) Minimum yards.(lot is 50'x150' according to tax records the crawl space foot print is 29'x49'. If the overhangs from the porch roofs and house roofs are taken into account as should be done the building as presented will not meet the following # 2, 3. There is no front or rear designated on the plans but there is sufficient room to meet # 1, 4.

[1] Front: 40 feet.

[2] Combined sides: 20 feet.

[3] Minimum side: eight feet.

[4] Rear: 35 feet.

(d) Maximum lot coverage by structure: 35%. (With the garage on the plans, you are very close to the 35% figure. Please note photo taken there is no garage on site.) (Plan must be corrected)
(e) Maximum structure height: 30 feet.
(f) Minimum floor area.
[1] One story: 1,200 square feet.
[2] More than one story: 1,600 square feet.
200-17 A (3)
Side yards on corner lots. The shorter line abutting a street on a corner lot is the front lot line. The width of the side yard on the street shall be not less than the front yard, and the interior side yard shall comply with the minimum regulations for the district.

1. 200-10 C (1)
    a. (a) (2) minimum lot are for corner lot is 13,500sqft. requesting 7,500sq.ft
    b. (b)(2) minimum lot width 100 feet on corner lot requesting 50 feet
    c. (c) (2) or (3)20 feet combine side yard which includes eaves, porches and overhangs. The site plan submitted shows 12 ft. not including the porch or overhang.
    d. (d) With the proposed garage on the plans, they maybe over the maximum 35% lot coverage requirement. All structures have been removed from the lot.
2. 200-17 A (3) Side yards on corner lots, which requires a 40' setback on both roads. The applicant is requesting 12 ft. or less.

Present for the appeal was Ronald and Michele Comstock.

Ms. Comstock stated that they wanted to purchase the property in May 2018. Prior to purchasing the home, they came to the town and at the time they spoke to Steve and told him, they wanted to tear down the house and build a new one. Steve told them that everything was ok and they could tear down the house. After the house was down, they went back to the building department and was told they could not rebuild without a variance. Mr. Yusick asked if they got a permit to demo. Ms. Hill stated yes. Mr. Yusick asked if they came to the building department prior to purchasing the property. Ms. Comstock stated yes. Mr. Yusick asked if the building inspector at the time give any indications there would be issues. Ms. Comstock stated not at all. Mr. Yusick asked if when the demo permit was issued, did it include a survey. Ms. Hill stated no. Ms. Comstock gave the board a copy of the

survey. Mr. Yusick stated that the survey and the site plan on the house plans do not match with the setbacks. Ms. Hill asked if they were going to build the porch that is indicated on the house plans but not the survey. Mr. Comstock stated yes. Ms. Hill stated that when calculating setbacks, everything needs to be included. Mr. Yusick had Mr. and Ms. Comstock look at the plans with the board and Ms. Hill. It was determined that the setback would be 10 feet with the porch included.

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

Mr. Yusick stated that these types of variances are not typically granted but he understands what Mr. and Ms. Comstock stated about the history of the request and received confirmation from Secretary Renaldo who was there. There were no objections in the courtroom or by letter.

Mr. Yusick made a motion to approve the following variances, seconded by Mr. Kennedy.

Reducing the square footage for the lot from 13,500 square feet to 7,500 square feet
Reducing the lot width from 100 feet to 50 feet
Reducing the front yard setback on Iroquois St from 40 feet to 10 feet

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

Respectfully Submitted,

Jennifer Renaldo
Secretary