Minutes Approved 11/12/20
Distributed 11/23/20

August 12, 2020

RECEIVED
NOV 2 3 2020
Lynn M. Krajacic
Town Clerk
Town of Evans

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: H. Martin, Jr., D. Maglich, T. Spada, J. Kennedy, C. LaRusso

Members Absent:

Also Present: J. Hill, Building Inspector, B. Penberthy, Esq.

Mr. Martin, Jr. opened the meeting with a quorum at 6:00pm. The meeting was held via Zoom in the Municipal Building courtroom, 8787 Erie Road, Angola, New York 14006.

Mr. Martin, Jr. 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. Martin, Jr. stated the application for 6550 Lake Shore Rd. has been withdrawn.

Mr. Martin, Jr. asked for a motion to approve the minutes from June 30, 2020.

Mr. Kennedy made a motion to approve the June 30, 2020 minutes. All in favor, motion carried.

NEW BUSINESS:

Michael Lee, 9170 Waterman Rd., Angola, NY 14006, is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-17A(4) and 200-17A(3)

Applicant is requesting to reduce the front yard setback for an accessory structure, in violation of the Town of Evans Zoning Law Section 200-17 A (4) from 40' to 25'and Section 200-17A (3) from 40' to 32'.46".

The applicant would like to install a new shed in the front yard of the property. The 8' X 8' shed is located 25' from the front yard property line of Waterman and 32'.46" from Ivy Road. The property has frontage on both Waterman Ave and Ivy Road.

Present for the appeal was Michael Lee.

Mr. Martin, Jr. asked if the applicant were looking at the house, it would be on the right side. Mr. Lee stated yes. Mr. Maglich asked why it could not be placed in the back yard. Mr. Lee stated there is no room with the patio and garage. Ms. Spada stated that the patio is not on the survey. Mr. Martin, Jr. stated that the issue with the board is issuing sheds in a front yard. Variances have been issued in the past with accessory structures in the front yard but those cases; the structure has been on the side of the house. Mr. Martin, Jr. stated that it looks like the shed will be in front of the house. Mr. Lee stated that it will be in the front but off to the side. Mr. Lee stated that a code officer came out and told Mr. Lee that it should not be a problem.

Mr. Martin, Jr. asked if there was anyone for or against the appeal. No one spoke for or against this appeal.

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

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Daniel Gmerek, 1145 Sturgeon Point Rd., Derby, NY 14047, is requesting to construct a garage, in violation of the Town of Evans Zoning Laws Section 200-17-A(4) and 200-8.2C(8)(b)[3]

Applicant is requesting to increase the size of an accessory structure, in violation of the Town of Evans Zoning Law Section 200-8.2 C (8) (b) [3]from 1,200 square feet to

2,100 square feet if located in the Rural Agricultural area of the property or in violation of the Town of Evans Zoning Law Section 200-17-A (4) from 900 sqft to 2,100 if located in the R1 portion on of the parcel

The applicant would like to construct a 2,100 square foot detached garage on his property.

Present for the appeal was Daniel Gmerek.

Mr. Martin, Jr. stated that the lot is large but not with neighbors on both sides. Mr. Martin, Jr. asked what the purpose of the garage is. Mr. Gmerek stated for parking cars in and for a workshop. Mr. Maglich asked if the garage is on the part of the property that is zoned agricultural. Mr. Gmerek stated no. Mr. Maglich stated that he went to the property, and his concern is the lot being narrow. Mr. Maglich stated that when garages of this size were approved in the past, it was proportional to the lot and the lots had large frontage. His concern is that variances are forever and current neighbors may not have a problem but future neighbors could. Mr. Maglich asked the applicant if he would be receptive to a smaller garage. Mr. Gmerek stated that he could go smaller but essentially that part would only be surrounded by trees. Mr. Gmerek stated that he could lower the profile of the garage. Mr. Gmerek asked if the size could be lowered to 30x60. Mr. Martin, Jr. stated that he feels the board would be compromising.

Wayne Handzlik, 1151 Sturgeon Point Rd, spoke in favor of the appeal.

Mr. Kennedy made a motion to approve a 1,200 square foot garage, seconded by Mr. LaRusso.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Mr. Martin, Jr. made a motion to approve a 1,500 square foot garage, seconded by Ms. Spada.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, nay
Mr. Kennedy, aye

Nicholas McMillan, 201 Porter Ave., Angola, NY 14006, is requesting to construct a garage, in violation of the Town of Evans Zoning Laws Section 200-17 A (4)

Applicant is requesting to increase the size of an accessory structure from 900' to 1440', in violation of the Town of Evans Zoning Law Section 200-17 A (4).

The applicant would like to construct a 960sqft pole barn with a 480 sqft covered porch, with a total 1440 sqft. The applicant has submitted to merge his vacant lots with his home.

Present for the appeal was Nicholas McMillan.

Mr. Martin, Jr. stated the applicant is requesting a 1,440 square foot garage on two lots that are in the process of being merged. Mr. Martin, Jr. asked what the purpose of the building will be. Mr. McMillan stated storage, workshop and entertainment. Mr. Kennedy asked if this will be a commercial building. Mr. McMillan stated no.

Mr. Martin, Jr. asked if there was anyone for or against the appeal. No one spoke for or against this appeal.

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

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Karen Tracy, 6644 Schuyler Dr., Derby, NY 14047, is requesting to construct a garage, in violation of Town of Evans Zoning Law Section 200-10 C (2) a [1] and 200-17 A (4)

Applicant is requesting to reduce the required front yard setback from 25' to 20' , at the above address in violation of the Town of Evans Zoning Law Section 200-17 A (4) and 200-10C (2) a [1] separation of structures from 10' to 0' in order to construct a garage.

The applicant would like to construct a 660 square foot garage 20' from his front property line and 0' feet abutting house, not attaching to home.

Present for the appeal was Karen Tracy.

Mr. Martin, Jr. stated that he met with Ms. Tracy and the variance request is for a traditional garage. Mr. Maglich asked why the garage could not be attached to the house. Ms. Tracy stated that she spoke with a Code Enforcement officer and was under the impression the garage could not be attached to the house. Mr. Maglich stated that having no separation between the house and garage is problematic because the 10 foot requirement is a fire separation. Ms. Tracy stated that she wants to have the garage attached. Mr. Kennedy suggested Ms. Tracy contact the building department regarding the codes.

Mr. Martin, Jr. asked if there was anyone for or against the appeal. No one spoke for or against this appeal.

Mr. Martin, Jr. made a motion to table the appeal, seconded by Mr. Kennedy.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Zackery Vincent Ungaro, 4402 Rushford Dr., Hamburg, NY 14075, is requesting to construct a two family residence at 7483 Depot St., SBL#206.04-2-15, in violation of Town of Evans Zoning Law Section 200-10 B(1)

Applicant is requesting to a use variance in order to construct a 2 family residence in a R-1 district, on SBL# 206.04-2-15 known as 7483 Depot Street, in violation of the Town of Evans Zoning Law Section 200-10-B(1).

The applicant would like to construct a 2 family duplex on a lot zoned for one family homes.

Present for the appeal Zackery was Ungaro and Glen Christner.

Mr. Martin, Jr. read into record a letter from Jim Bachert against the appeal. Mr. Martin, Jr. stated that the applicant would like to build a two family home at the end

of Depot St. Mr. Martin, Jr. asked if this will be a rental. Mr. Christner stated that it will be an owner occupied rental. It is currently zoned a R1 and the property across the street is zoned R2. The house would not visible from Derby Rd. He stated that when Mr. Ungaro purchased the property, he thought it was zoned R2. Mr. Martin, Jr. asked if he knew Mr. Bachert. Mr. Ungaro stated that he lives on the corner of Derby Rd and Depot St. Ms. Spada stated that there are stipulations with a use variance. Mr. Maglich stated that the board would essentially be rezoning the property. He stated that the board issues very few use variances and this one appears to be self-created. Mr. Martin, Jr. stated that legally it would not be rezoned.

Jim Bachert spoke against the appeal.
Jim Fregelette, 7460 Derby Rd, spoke against the appeal.

Ms. Spada made a motion to deny, seconded by Mr. Maglich.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Carol Widger 7378 Townline Rd., Derby, NY 14047, is requesting to construct a house at 9065 Iroquois St., SBL# 234.20-4-15, in violation of the Town of Evans Zoning Law Section 200-10 C(1)(a)[1] and 200-10 C(1)(b)[1] and 200-10C (1)(f)[1].

Applicant is requesting to construct a house on a vacant lot SBL# 234.20-4-15 previously known as 9065 Iroquois Street, which does not meet the required lot area or minimum width to build. The applicant is requesting to reduce the required front yard setback from the required 90 to 50 in violation of Town of Evans Zoning law section 200-10 C(1)(b)[1] and minimum required lot area from 12,150 sqft. to 7,500sqft. The applicant is also requesting to reduce the minimum size of a one story single family house from 1,200sqft to 1,000sqft. in violation of the Town of Evans Zoning Law Section 200-10 C(1) (f) [1]

The applicant would like to construct a 1,000sqft. Single story family house on a vacant lot on Iroquois Road.

No one was present for the appeal.

Mr. Martin, Jr. asked the board if they would still consider the appeal when the applicant is not present. The board stated yes. Mr. Martin, Jr. stated that he went to the lot. The neighborhood has small houses on small lots.

Mr. Martin, Jr. asked if there was anyone for or against the appeal. No one spoke for or against this appeal.

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

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Mr. Martin, Jr. asked if there was anything further for the board.

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

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Respectfully Submitted,

Jennifer Renaldo
Secretary

Jennifer Renaldo

From: Assesor
Sent: Wednesday, August 12, 2020 9:24 AM
To: Jennifer Renaldo
Subject: FW: Lot on at 7483 Depot

From: Jim Bachert <7441jb@gmail.com>
Sent: Tuesday, August 11, 2020 8:40 PM
To: Assesor <assessor@townofevans.org>
Subject: Lot on at 7483 Depot

I am not in favor of a two family rental property at all, or any rental property on that lot. It will take away from my privacy and quality of life in my home, this was the main reason I moved and built in Derby 24 years ago for a private home with no rentals so I could live in peace and quiet. James Bachert

Exhibit A

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TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: H. Martin, Jr., D. Maglich, T. Spada, J. Kennedy, C. LaRusso

Members Absent:

Also Present: J. Hill, Building Inspector, B. Penberthy, Esq.

Mr. Martin, Jr. opened the meeting with a quorum at 6:00pm. The meeting was held via Zoom in the Municipal Building courtroom, 8787 Erie Road, Angola, New York 14006.

Mr. Martin, Jr. 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. Martin, Jr. asked for a motion to reconvene the meeting. Mr. Maglich made a motion, seconded by Mr. Kennedy.

Mr. Martin, Jr. read into record two exhibits regarding the Widger variance.

Ed Conboy, Jr. was in favor of the appeal.
Esther A. Kowal, 620 Seneca St. was against the appeal.

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

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Mr. Martin, Jr. asked if there was anything further for the board.

Mr. Martin, Jr. made a motion to adjourn to the next scheduled meeting.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Respectfully Submitted,

Jennifer Renaldo
Secretary

3636 Marlowe Avenue
Blasdell, New York 14219
August 05, 2020

Town of Evans
Code Enforcement /Zoning Office
8787 Erie Road
Angola, NewYork 14006-9600
Dear Madam / Sir:

As property owner of 620 Seneca Street Angola, New York, I do <u>not</u> give my permission for the variant concerning the property at 9065 Iroquois Street. The Zoning Law should not be changed for the construction of a house on 9065 Iroquois Street.

Sincerely,

Esther A. Kowal

Esther A. Kowal

RECEIVED
AUG 5 2020
Building Department

Exhibit A

Jennifer Renaldo

From: edward conboyjr <ezed44@yahoo.com>
Sent: Tuesday, August 11, 2020 1:50 PM
To: Jennifer Renaldo
Subject: Zoning Board of Appeals Meeting August 12, 2020

Jennifer,

I am unable to "attend" this subject meeting, nor "zoom" it. I have the following comments concerning 9065 Iroquois Street.

200-10 C(1)(a)[1] Apparently zoning has changed since this lot was laid out. I am in favor of allowing a structure on this size lot as the neighbors have.

200-10 C(1)(b)[1] This lot has 50 feet more frontage than the structures at 8997, 8999 and 8993 Iroquois Street. These structures have zero frontage on a dedicated street. I am in favor of allowing a structure on this lot.

Thank you for allowing me to comment on this matter.

Ed Conboy, Jr.

Exhibit B