Minutes Approved 11/12/20
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October 14, 2020

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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. tabled the meeting minutes.

NEW BUSINESS:

Brian Rinn, 661 Herr Rd., Angola, NY 14006, is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-10C (2)(a)[1] and 200-10C (2)(a)[2] distance from structure and lot line.

Applicant is requesting to reduce the required side yard setback from 5' to 1' and the reduce the required separation of structures from 10' to 2' in violation of the Town of Evans Zoning Law Section 200-10 C(2)(a)[1] required separation and 200-10 C (2)(a)[2] required side yard setback.

The applicant would like to construct a 10' X 14' shed 2' from the single dwelling and 1' from the side property line.

Present for the appeal was Brian Rinn.

Mr. Martin, Jr. stated that the variance was tabled from last meeting. He stated that Mr. Rinn had some options on what to do with the shed. Mr. Rinn stated the shed is gone. Mr. Rinn complained regarding the condition of his neighbor's yard. Mr. Martin, Jr. stated that this is not relevant to his appeal.

Since the shed is gone, Mr. Rinn withdrew his variance.

Grandview Bay LLC., 295 Main St., Buffalo, NY 14203, is requesting to construct a 4-story mixed-use building adjacent to an existing bar/restaurant and 8 single-family residential townhouses along Iroquois Street located at 8934 Lake Shore Rd., SBL#234.16-2-25.1, in violation of the Town of Evans Zoning Law Section 200-20.1 F (2) (f) height of building, 200-20.1 F (2) (i) building setback after two stories, 200-20.1 B (2) (b) front yard setback 200-20.1 B (2) (h) front yard setback corner lots, 200-20.1 D (2) (a) parking side yard setback, 200-20.1 F (2) (h) residential use on ground floor.

The applicant is requesting to construct a 4-story mixed-use building adjacent to an existing bar/restaurant and 8 single-family residential townhouses along Iroquois Street located at 8934 Lake Shore Rd., SBL#234.16-2-25.1, in violation of the Town of Evans Zoning Law Section 200-20.1 F(2)(f) height of building, 200-20.1 F (2) (i) building setback after two stories, 200-20.1 B (2) (b) front yard setback 200-20.1 B(2) (h) front yard setback corner lots, 200-20.1 D (2) (a) parking side yard setback, 200-20.1 F (2) (h) residential use on ground floor.

The applicant would like to construct a new 4-story mixed-use building adjacent to Mickey Rats and eight single-family townhouses across the street along Iroquois Street. The Planning Board has conducted an in-depth review of the proposed project as it relates to the Waterfront Mixed-Use District; a letter has been submitted by the Planning Board in regards to the variance request.

Present for the appeal was Jeremy Wassel, representing Grandview Bay, LLC.

Mr. Wassel showed his presentation marked as "Exhibit A".

Mr. Martin, Jr. read into record a letter from William Smith, Director of Planning, Town of Evans, regarding the project. Mr. Martin, Jr. stated that he would like to thank the Planning Board and Mr. Smith directly for all their hard work on the project. Mr. Martin, Jr. read an email from Ed Conboy, Jr., Hillside Rd, marked as "Exhibit B" against the appeal. Mr. Martin, Jr. suggested the board split up the variances and vote separate.

Variances regarding the multi-use 4 story building:

Marie O'Connor, 8812 Lake Shore Rd, spoke against the appeal.

Mr. Wassel spoke to Ms. O'Connor regarding her concerns. Ms. Spada asked if the building is similar in height to the Chautauqua Harbor Hotel. Mr. Wassel stated yes.

Mr. Kennedy made a motion to approve, seconded by Mr. LaRusso.
All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, aye
Mr. Maglich, aye
Mr. Kennedy, aye

Variances regarding the townhomes.

Karen Erickson, 8991 Iroquois St, spoke regarding her concerns about having enough greenspace between her house and the townhomes.

Mr. Wassel stated there is a landscaping plan that addresses those issues.

Ms. Spada asked if 23 feet is from the building to the road or from the pavement to the road. Mr. Wassel stated from the building to the street. Ms. Spada asked about the existing ditch and if it will remain. Mr. Wassel stated that the ditch would remain. Mr. Martin, Jr. stated that in the letter from Mr. Smith, "The applicant shall take all partial measures to provide a well-designed buffer with the abutting

property to the north, including the maintenance of any mature and healthy trees and the removal and replacement of any dead trees along the property line. This should include meeting with the neighboring property owner to discuss any preferred yet practical landscaping designs, methods and maintenance."

Mr. Martin, Jr. stated the approval will be based on this statement.

Mr. Martin, Jr. stated the variance for residential use on the ground floor will be only applicable to the 8 unit townhouses.

Mr. Maglich 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.

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

Grandview Bay
8934 Lake Shore Road
Zoning Board of Appeals Meeting
September 23rd, 2020

ELLICOTT DEVELOPMENT

Exhibit A

SITE LOCATION



PROJECT OVERVIEW

Property:

- Home to Mickey Rats and Captain Kidds
- 4.633 acres site with 480' of water frontage
- Zoning: Waterfront Mixed-use District

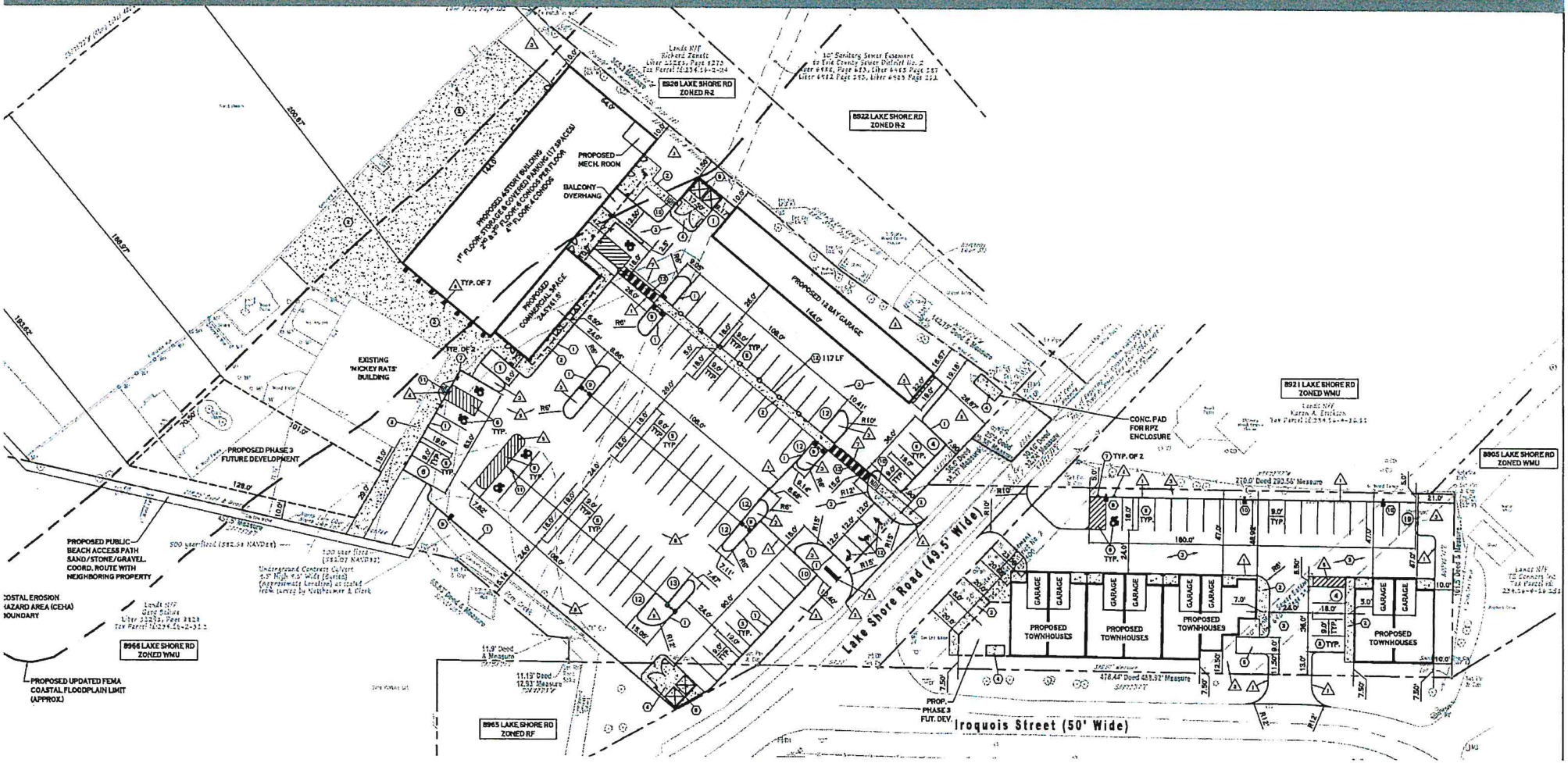
Program:

- Development of the site will take place over 3 phases
- **Phase 1:**
  - Construct of 8 2-story townhomes. Will come in 2- bedroom configurations with 1st floor indoor garage parking and will be 1,800 SF respectively
  - Construction timeline: Spring 2021 – Fall 2021

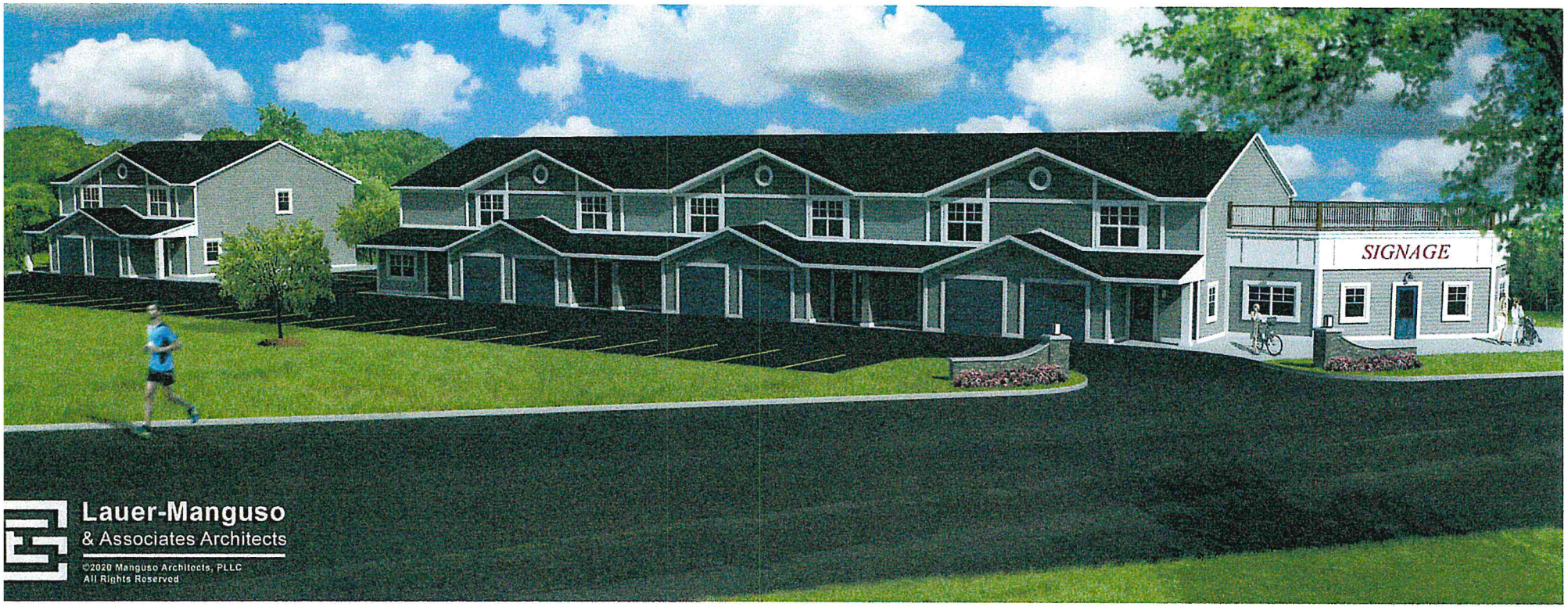
PROJECT OVERVIEW

- **Phase 2:**
  - Demolition of Captain Kidds
  - Construct of a 4-story mixed-use building
    - 1st floor will include up to 2 commercial retail suites, 17 indoor parking spaces, 18 storage units and mechanical rooms.
    - 2nd- 4th floor will include 16 condominiums. Units will come in 2- bedroom configurations between 1,400 – 1,700 SF respectively. 2nd floor will be short-term rental units (i.e. Airbnb)
    - Each condo will have a private patio facing the lake
    - 4 large private patios will be located on the 4th floor. One for each of the units on the 4th floor
    - 1st floor storage units will also be included for each condo.
    - Private garages for condominium owners
  - Construction timeline: Fall 2021 – Spring 2023
- **Phase 3:**
  - Phase 1 addition(s):
    - Construct of 1 retail suites, 649 SF in total, at the corner of Lakeshore Rd and Iroquois St.
    - Construction timeline: TBD
  - Phase 2 addition:
    - Potential expansion of the condominium building
    - Potential construction of a new restaurant and/or a bed and breakfast
    - Construction timeline: TBD

CURRENT PROPOSED SITE PLAN



EXTERIOR RENDERING – TOWNHOMES



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AREA VARIANCES - TOWNHOMES

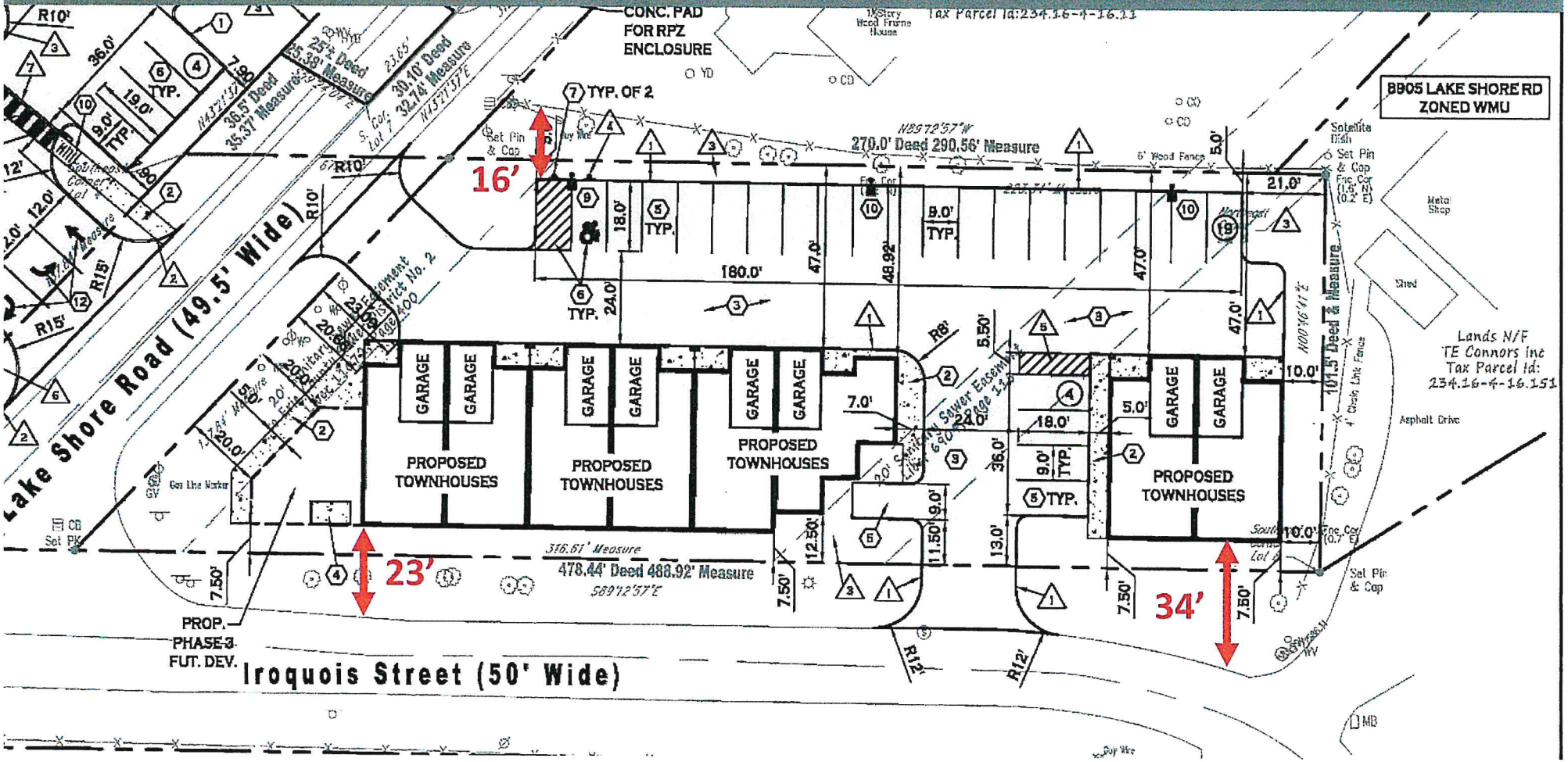
- **THREE** area variances will be requested of the ZBA:

1) **Section B(2)(b) & B(2)(h) – Front Yard Setbacks**
Required: Minimum 15-30' setback for nonwaterfront lots
Proposed: 7.5' setback from Iroquois Street

2) **Section D(2) – Parking Side Yard Setback**
Required: Min of 10'
Proposed: 5'

3) **Section F(2)(h) - Residential use is precluded from the ground floor**

AREA VARIANCES - TOWNHOMES



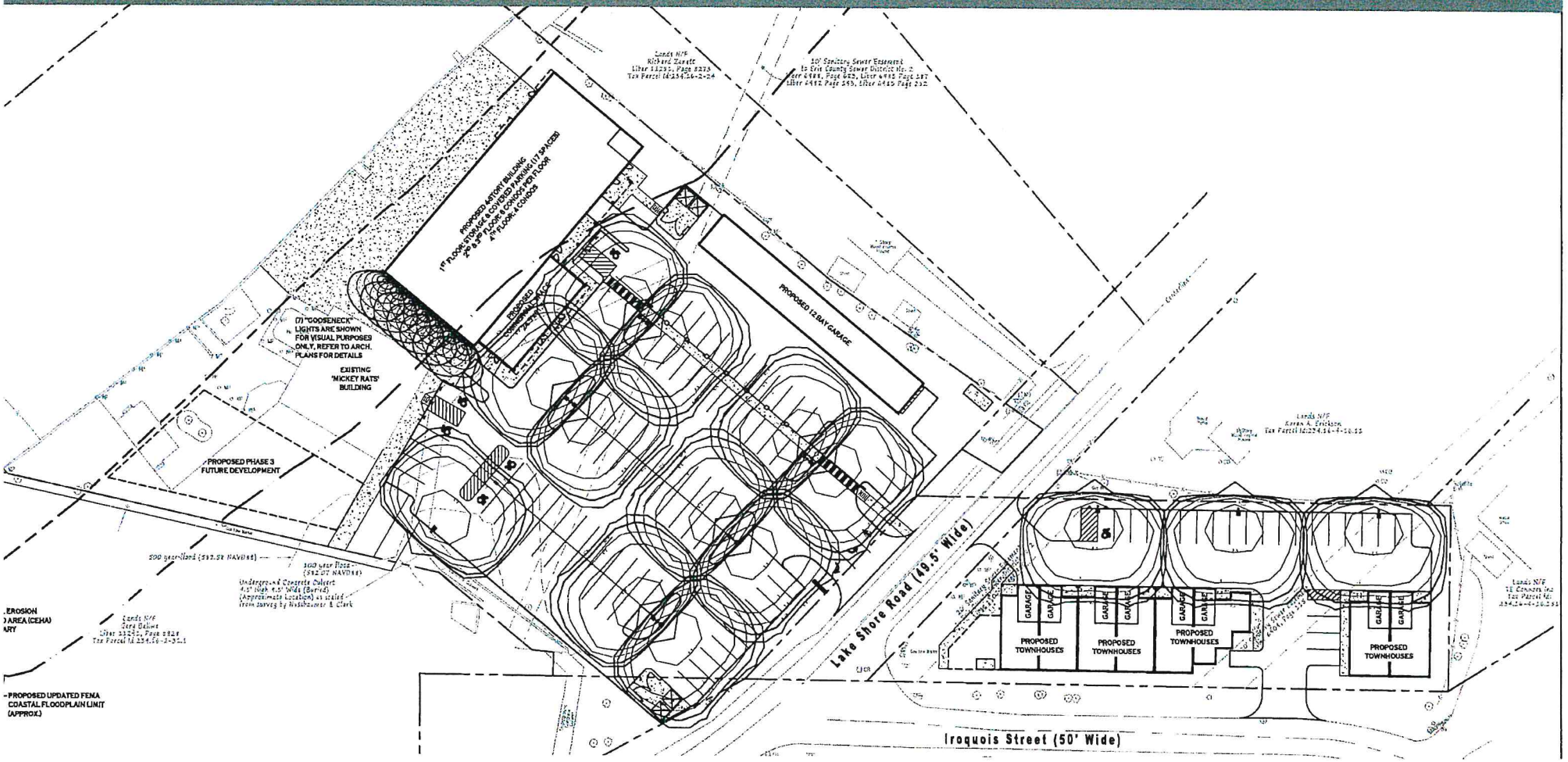
AREA VARIANCES - TOWNHOMES



AREA VARIANCES - TOWNHOMES



LIGHTING PLAN



AREA VARIANCES – MIXED-USE

- **Two** area variances will be requested of the ZBA:

  1) **Section F(2)(f) – Building Height to Eaves**
  Required: Max. of 40'
  Proposed: 44' 8"

  2) **Section F(2)(i) – Building Setbacks**
  Required: Setbacks after 26' or two stories
  Proposed: Building setback after the 3rd floor, approximately 34' 10"

EXTERIOR RENDERING – MIXED-USE



EXTERIOR RENDERING – MIXED-USE



ELEVATIONS– MIXED-USE



QUESTIONS and COMMENTS?

Jennifer Renaldo

From: Jeneen Hill
Sent: Wednesday, October 14, 2020 4:08 PM
To: Jennifer Renaldo
Subject: FW: Zoning Board of Appeals

From: edward conboyjr <ezed44@yahoo.com>
Sent: Wednesday, October 14, 2020 4:01 PM
To: Jeneen Hill <jhill@townofevans.org>
Subject: Zoning Board of Appeals

Jeneen,

Some how the email concerning the Zoning Board of Appeals meeting tonight got lost from my email.

I can not attend the Zoom Meeting. Could you pas on my comments?

Concerning the Ellicott Development Project and their many requests for variances it appears that the new Compressive plan would be gutted. This would open the door for the next developer to do what ever they wanted to do.

Front yard or back yard set back of 7.5 feet seems a bit odd. Who would buy such a Town House?

Building height requested at the peak of the dormer is excessive. Then there is the roof top patio higher than that. Way too high.

No set back on the upper levels will make the structure too boxy and urban.

Residence on the first level also goes against the Comprehensive plan. The Town spent money developing the plan, with minimum public involvement, and now just throw it out.

Thank you,

Ed Conboy, Jr.

Exhibit B

TOWN OF EVANS

8787 Erie Road • Angola, New York 14006-9600 • www.townofevans.org

WILLIAM B. SMITH
Director of Planning and Community Development
Telephone: (716) 549-0945 / Fax: (716) 549-0456
wsmith@townofevans.org

October 7, 2020

Howard Martin
Zoning Board of Appeals, Chair
6819 Colony Ct
Derby, NY 14047

Dear Mr. Martin,

Please be advised that the Evans Planning Board has been reviewing the Site Plan Application submitted by Grandview Bay LLC /Ellicott Development for a proposed Waterfront Mixed Use development at 8934 Lake Shore Road. The applicant has also presented the project and received feedback from the Planning Board at multiple Work Sessions spanning from April 2 to September 23 of 2020. Having conducted an in depth review of the proposed project as it relates to Section 200-20.1 Waterfront Mixed Use (WMU) District of the Evans Town Code, the Planning Board recommends the following zoning variances be approved by the Zoning Board of Appeals (ZBA), provided that the associated conditions are met:

Sections F(2)(f) and F(2)(i) – Building Height to Eaves and 3rd Floor Setback Requirements

The applicant shall take all practical measures to provide an appropriate landscaping buffer with the abutting property to the north, and take all reasonable steps to protect the health of the existing mature trees along the northern property line. The exterior lighting plan shall also avoid the casting of light on any portion of the neighboring residential property and all fixtures shall be dark sky compliant.

Section F(2)(h) – Residential Use Precluded from Ground Floor

While the Planning Board does not oppose residential uses on the first floor, the applicant shall incorporate commercial uses elsewhere throughout the site to adhere to the intent of the WMU District.

Sections B(2)(b) and B(2)(h) – Front Yard Setback for Townhomes along Iroquois Street

For both of these variances, the applicant shall demonstrate that the proposed setback will not pose any traffic safety risks, and that a safe environment will be provided for vehicles and pedestrians alike. The applicant shall also include new plantings along Iroquois to improve the overall aesthetics of the site.

Section D(2)(a) – Side Yard Parking Setback for Townhomes

The applicant shall take all practical measures to provide a well-designed buffer with the abutting property to the north, including the maintenance of any mature and healthy trees and the removal and replacement of any dead trees along the property line. This should include meeting with the neighboring property owner to discuss any preferred yet practical landscaping designs, methods and maintenance. In

addition, any new lighting for the parking lot shall not be cast on any portion of the neighboring residential property and all fixtures shall be dark sky compliant.

Lastly, it should be noted that during the Planning Board's initial review of this project, the applicant was made aware of a pending FEMA flood map revision which impacted the proposed project on the immediate waterfront portion of the site. FEMA is currently in the process of remapping all coastal communities along the Great Lakes to depict changes in current wave action and wave run-up zones. Though the pending map is not yet effective, it shows that a portion of the development site will be newly mapped into the A03 flood depth. This requires that any new construction within the coastal wave action zone to be elevated 5 feet above the highest adjacent grade, or that other mitigation measures be taken to reduce the risk of flood damage to the building.

To address this issue, the applicant has relocated the 4-story mixed use building 10 feet inland; incorporated a combination of screened parking and storage rooms on the first floor; relocated the retail component to an addition off the southeast corner of the building; and relocated the short-term rental units ("Airbnb") to the 2nd floor. Upon review, the Planning Board feels that these measures are appropriate to address the pending FEMA floodplain. In addition, despite the changes, the proposed site plan and building design are still consistent with overall intent and goals of the WMU District.

Thank you for your consideration of the Planning Board's recommendations on this project. Please review this letter with your fellow members of the ZBA, and do not hesitate to contact the Planning Department at 716-549-0945 with any questions.

Sincerely,

William Smith
Director of Planning (on behalf of the Planning Board)

Cc'd:

Donald Maglich
Tracy Spada
John Kennedy
Christopher LaRusso
Andrew Supon
Anne Sellers
Joseph Pinter
Brian Bergum
Michael Connors
Andrew Lloyd
Donald Schiedel
Lori Szewczyk