Minutes Approved 1/13/21
Distributed 1/14/21

September 9, 2020

TOWN OF EVANS

REGULAR MEETING
OF THE
ZONING BOARD OF APPEALS

Members Present: H. Martin, Jr., J. Kennedy, C. LaRusso

Members Absent: D. Maglich, T. Spada

Also Present: J. Hill, ZBA Liaison, 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. made a motion to table meeting minutes, seconded by Mr. Kennedy.

RECEIVED
JAN 14 2021
Lynn M. Krajacic
Town Clerk
Town of Evans

New Business:

Karen Tracy, 6644 Schuyler Dr., Derby, NY 14047, is requesting to construct an attached garage, in violation of Town of Evans Zoning Law Section 200-12 C (1) (f) [1] and 200-12 C (1) (f) [2] and 200-12 C (1) (f) [3] front yard and side yard setback.

Applicant is requesting to reduce the required front yard setback from 25' to 20', the minimum side yard setback from 4.92' to 5' and the side yard combined from 15' to 12.92' at the above address in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) [1] front yard setback, 200-12 C (1) (f) [2] combined side yard setback and 200-12 C (1) (f) [3] minimum side yard setback.

The applicant would like to construct a 660 square foot attached garage 20' from her front property 8' from the side lot line.

Present for the appeal was Karen Tracy.

Mr. Martin, Jr. stated that this variance was tabled from last meeting. The previous variance appeal was for a detached garage and now the garage will be attached. Mr. Martin, Jr. asked if the garage is in the same place. Ms. Tracy stated yes.

No one was for or against the appeal.

Mr. Kennedy made a motion to approve, seconded by Mr. LaRusso.

All in favor:

Mr. Martin, Jr. aye
Ms. Spada absent
Mr. LaRusso aye
Mr. Maglich absent
Mr. Kennedy aye

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

Applicant is requesting to reduce the required side yard setback from 5' to 1' and 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. asked if the shed is already there. Mr. Rinn stated yes, the shed replaced an existing shed. Mr. Martin, Jr. asked what the size of the original shed was. Mr. Rinn stated it was 10 x 10. Mr. Martin, Jr. stated there was no variance granted or a permit issued for that shed. Mr. Rinn stated it was from the previous owner. Mr. Kennedy stated he was concerned with the shed being so close to the house. Mr. Martin, Jr. asked if there is anywhere else the shed could go. Mr. Rinn stated no. Mr. Martin, Jr. stated that the applicant is really squeezing the shed in between the house and the property line. Mr. Kennedy asked if the neighbor was had any complaints of the shed being close to the fence. Mr. Rinn stated the fence is his and is not on the property line. He stated that his neighbors are more concerned with the neighbor's lawn than the shed.

Jason Burgos, 668 Hartley Dr. spoke in favor of the appeal.

Mr. LaRusso asked what the shed is made of. Mr. Rinn stated pine.

Mr. Kennedy stated that one of the options was to fire rate the entire shed.

Mr. Martin, Jr. gave Mr. Rinn the option to move the shed, fire rate it or sell it.

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

All in favor:

Mr. Martin, Jr. aye	**Mr. Maglich absent**
Ms. Spada absent	**Mr. Kennedy aye**
Mr. LaRusso aye	

Samuel Sanchez, 1157 Backus Rd., Derby, NY 14047, is requesting to construct a garage, in violation of the Town of Evans Zoning Laws Section 200-9 C (3) (b) [3] size of structure.

Applicant is requesting to increase the size of an accessory structure from 1200' to 1440', at the above address in violation of the Town of Evans Zoning Law Section 200-9 C (3) (b) [3].

The applicant would like to construct a 1440 square foot garage.

Present for the appeal was Kim and Samuel Sanchez.

Mr. Martin, Jr. asked the purpose of the garage is. Mr. Sanchez stated that it is going to be a garage.

No one was for or against the appeal.

Mr. Kennedy made a motion to approve, seconded by Mr. LaRusso.

All in favor:

Mr. Martin, Jr. aye
Ms. Spada absent
Mr. LaRusso aye
Mr. Maglich absent
Mr. Kennedy aye

Ralph McNall, 307 Herr Rd., Angola, NY 14006, is requesting to construct a garage, in violation of the Town of Evans Zoning Laws Section 200-17 A (3) & 200-17 A (4) required front yard.

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) & 200-17 A (3) from 40' to 14.6'.

The applicant would like to install a 16' X 20' shed in the front yard of the property. The property is on the corner of Herr Road and Beech Drive. Beech Drive is an unimproved road. The 16' X 20' shed is located behind the house and 14.6' from Beech Drive. The property has frontage on both Herr Road and an unimproved road known as Beech Drive on the Erie County tax map.

Present for the appeal was Ralph McNall.

Mr. Martin, Jr. stated that the members of the board visited the site. Mr. Martin, Jr. asked what the purpose of the building is. Mr. McNall stated to park his car during the winter and for storage. Mr. Martin, Jr. asked where the location is relative to the front of house. Mr. McNall stated in the back southeast corner of the lot. Mr. Martin, Jr. asked where to overhead door would be facing. Mr. McNall stated Beech Dr. Mr. Kennedy asked if the applicant would be driving in and out of the garage on a daily basis. Mr. McNall stated that he parks the car in front on Herr Rd.

Robert Ziemer, 9360 Lake Shore Rd., spoke against the appeal. He is concerned regarding the lane that is used for beach access.

Mr. Martin, Jr. read a letters from James Ziemer, 9360 Lake Shore Rd. spoke against the appeal and Mark J Wolski, 9358 Lake Shore Rd. spoke against the appeal.

Mr. Martin, Jr. stated that they could not deny access to his property from the beach access. Mr. Martin, Jr. stated that Beech Rd. is clearly used for vehicle traffic and has markings for vehicle traffic. Mr. Kennedy stated it will be used mainly for storage.

Mr. Kennedy made a motion to approve, seconded by Mr. LaRusso.

All in favor:

Mr. Martin, Jr. aye
Ms. Spada absent
Mr. LaRusso aye
Mr. Maglich absent
Mr. Kennedy aye

Christopher & Nancy Tucker, 8818 Lake Shore Rd., Angola, NY 14006, is requesting to construct a garage on SBL# 234.16-3-9, in violation of Town of Evans Zoning Law Section 200-17 A (4) size of structure and Section 200-10 C (2) (b) height of structure.

Applicant is requesting to increase the size of the allowable accessory structure in a R2 zoning district from 900 sqft to 1,600 sqft and increase the height of the structure from 16' to 21' in order to construct a detached garage on the property located at 8825 Lake Shore Road, in violation of the Town of Evans Zoning Law Section 200-17A (4) and 200-10 C (2) (b).

The applicant would like to construct a 1600 square foot garage 21' in height on the property. The applicant is also in the process of constructing a two family dwelling on the lot.

Present for the appeal was Christopher Tucker.

Mr. Martin, Jr. stated there are many large accessory structures in the neighborhood. Mr. Martin, Jr. asked how large the house is. Mr. Tucker stated 66x48.

Stanley Radwan, 8816 Lake Shore Rd, spoke in favor of the appeal.
Marie O'Connor, 8812A Lake Shore Rd, spoke in favor of the appeal.

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

All in favor:

Mr. Martin, Jr. aye
Ms. Spada absent
Mr. LaRusso aye
Mr. Maglich absent
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, absent
Mr. LaRusso, aye
Mr. Maglich, absent
Mr. Kennedy, aye

Respectfully Submitted,

Jennifer Renaldo
Secretary

September 1, 2020

Town of Evans
Code Enforcement/Zoning Office
8787 Erie Road
Angola, NY 14006-9600

Re: zoning variance 307 Herr Road

As an adjoining property owner in the Town of Evans and a daily user of the lane in which this proposed garage will be located, we received the notice for a variance and are quite concerned.

We have reviewed the variance request for the proposed garage on the above lot and granting the requested variance will make it impossible for pedestrians to safely use the lane to access the beach. Many families with children use the lane daily and the added vehicle traffic would be unsafe. The lane is currently about 10' to 12' wide and, according to the land map, is supposed to be 24' wide. The sightlines are obstructed by tall hedges, which encroach on the lane, and junk piled in the homeowners yard. The setback for the garage would be too short to allow safe exiting of the garage even with the removal of these obstructions.

The addition of a permanent structure, reducing further those sightlines, would increase the likelihood of a traffic accident for those pedestrians walking to and from the beach.

We request that you deny the variance request and keep the required Town of Evans Zoning Law Section 200-17 A (3) & 200-17 A (4) required front yard as is.

Sincerely,

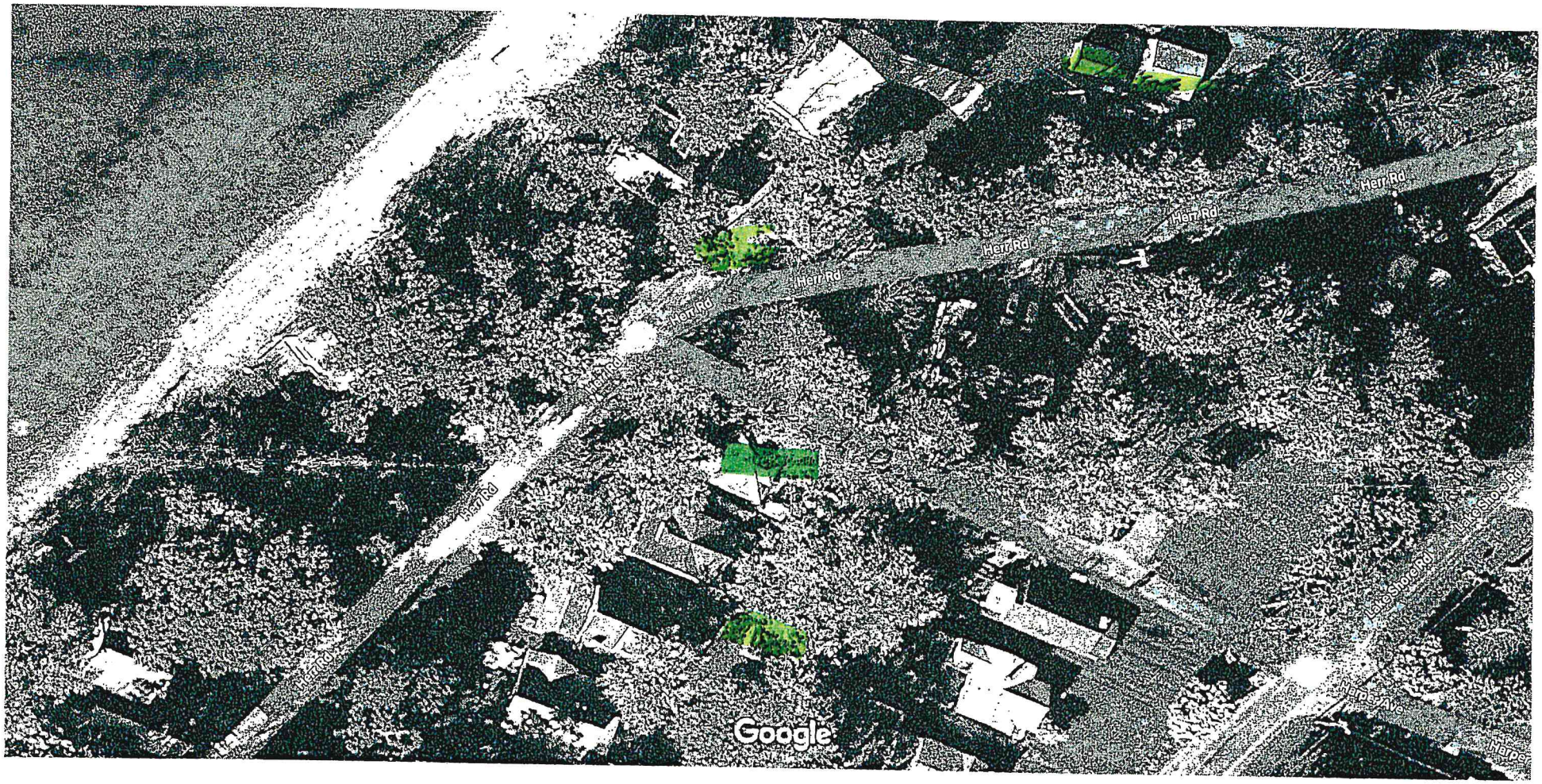
James M. Ziemer

James M. Ziemer
Owner, 9360 Lakeshore Road
3665 Lakeview Road
Hamburg, NY 14075
716-648-4460

RECEIVED
SEP 3 2020
Building Department

Exhibit A

307 Herr Rd



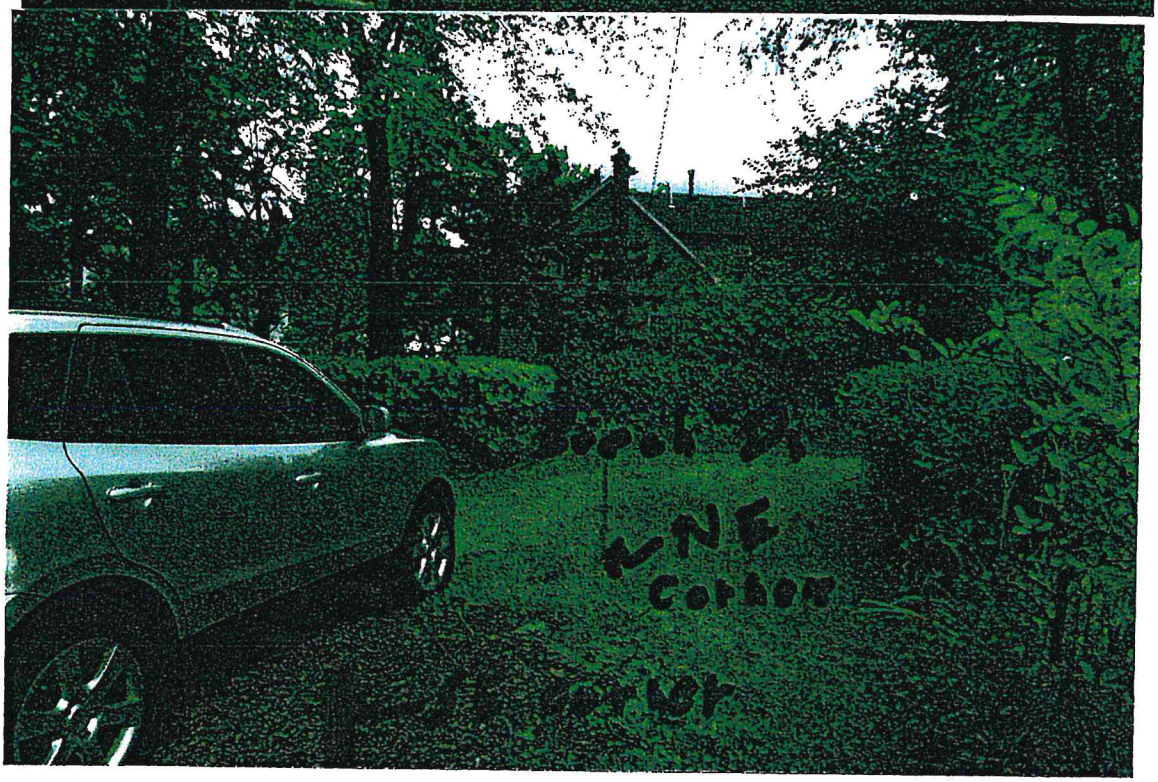
Map data ©2020 , Map data ©2020 20 ft

Exhibit B


SE
Corner
NE
Corner
NW
Corner








Metal
Shed


Barn
Rd


Northwest
Corner Marker

RECEIVED
SEP 8 2020
Building Department

To: Town of Evans
Code Enforcement/Zoning Office
8787 Erie Road
Angola, New York 14006

From: Rev. Mark J. Wolski
9358 Lake Shore Road
Angola, New York 14006
(716) 549-1229

Re: Request to build a garage at 307 Herr Rd, Angola, NY 14006

Every community needs Zoning Regulations

1. These regulations need to be applied and enforced equally without prejudice.
2. These regulations need to be examined so that 100 year old rules are still operations in today's mode of living.

Concerning #1 above: In 2010, I applied for the same variance to an adjoining property and was refused. Some said it would be dangerous to have vehicles entering or exiting on Beech Road. If that was true 10 years ago, why would it not be true today?

My dealings with your office 10 years ago and 2 previous occasions were sometimes less than pleasing or helpful. My last visit was a great improvement:

Concerning #2 ABOVE: Beech Rd. (or Dr. or Ave.) came into being in 1921. In our deeds, it is described as a right of way "for bathing purposes." For the first 50 years, it was chained on both ends and never considered as a public road. Questions often arise about the angle and lack of visibility at the point of juncture between this "Paper Road" and Herr Rd. extension.

I have been a proud landowner in Evans for over 50 years. I continue to hope that it be known as a progressive and desirable community in the years to come.

Rev. Mark J. Wolski

Exhibit C