Minutes Approved 5/13/21
Distributed 5/14/21

April 14, 2021

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

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

Members Absent: 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.

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 approve the minutes from March 10, 2021.

Mr. Kennedy made a motion to approve the minutes from March 10, 2021, seconded by Mr. LaRusso. All in favor, motion carried.

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MAY 14 2021
Lynn M. Krajacic
Town Clerk
Town of Evans

New Business:

Devin Auspland, 231 Burke Dr., Cheektowaga, NY 14043, is requesting to construct a single family dwelling at 9524 Granger St., Angola, SBL# 250.11-4-23.1, in violation of Town of Evans Zoning Law Section 200-17 A (3) corner lot setback, and Section 200-12 C (1) (f) [4] rear yard setback.

Applicant is requesting to reduce the minimum front yard setback from 24.38' to 25' on a corner lot and reduce the rear yard setback from 30' to 28.3' in order to construct a single family dwelling, in violation of Town of Evans Zoning law section 200-17 A (3) setback on a corner lot and 200-12 C (1) (f) [4] rear yard setback.

Present for the appeal was Devin Auspland.

Mr. Martin, Jr. stated numerous members drove by the lot. Mr. Auspland stated he lived at 466 Sycamore and recently sold his house. His grandmother left him the land and he wants to build a new house.

No one spoke for or against the appeal.

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

All in favor:

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

Richard Mayer, 283 Lakeside Ave., Angola, NY 14006, is requesting to construct a detached garage, in violation of Town of Evans Zoning Law Section 200-17 A (4) front yard setback

Applicant is requesting to reduce the front yard setback from 40'to 23.12', in violation of the Town of Evans Zoning Law Section 200-17 A (4)

The applicant would like to replace their garage with a new garage in the same location.

Present for the appeal was Candice and Richard Mayer.

Ms. Mayer stated the new garage would replace a current garage in the same footprint. They currently live across the street at 290 Lakeside Ave and want to downsize to this property. The current garage has been repaired numerous times, the garage now needs to be repaired, and they would like to put the money into a new garage. Mr. Martin, Jr. asked if the new garage would be the same size. Ms. Mayer stated the new garage will be 2 feet wider and longer but the setback from the road will remain the same.

No one spoke for or against the appeal.

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

All in favor:

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

Randolph Addison, 1117 Church Rd., Angola, NY 14006, is requesting to construct a detached garage, in violation of Town of Evans Zoning Law Section 200-8.2 C (8) (b) [3] maximum square footage of an accessory structure.

Applicant is requesting to increase the size of an accessory structure from 1200 sqft to 2400 sqft, in violation of the Town of Evans Zoning Law Section 200-8.2 C (8) (b) [3].

The applicant has construct a 2400 sqft pole barn on his property.

Present for the appeal was Randolph Addison.

Mr. Martin, Jr. asked if this request is for an addition or a new build. Mr. Addison stated it would be a new build garage. It will be used as a heated shop and storage, which will be located approximately 200 feet from the house. The house is currently 300 feet off the road. Mr. Kennedy asked if the garage would be used for commercial purposes. Mr. Addison stated no. Mr. Kennedy asked if the applicant would agree to have the condition on the variance. Mr. Addison stated yes.

No one spoke for or against the appeal.

Mr. Maglich put on record the size of the building is in proportion to the size of the lot. It is keeping with the policy of the board with lot sizes in relation to building sizes.

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

All in favor:

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

Timothy Leach, 227 Kennedy Ave., Angola, NY 14006, is requesting to construct an addition, in violation of Town of Evans Zoning Law Section 200.12 C (1) (f) [4] rear yard setback.

Applicant is requesting to construct an addition to the rear of his house reducing the rear yard setback from 30' to 7', at the above address in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) [4] rear yard setback.

The applicant would like to construct an addition to the rear of his house; the existing 12' X 22' deck will be removed.

Present for the appeal was Julie and Timothy Leach.

Ms. Leach stated the variance was approved last year but because of COVID, they had a hard time hiring a contractor. Mr. Maglich asked if it is the same proposal. Ms. Leach stated yes. Ms. Leach stated during the last meeting, there was a discrepancy with the location of the neighbor's pool. Her husband measured the distance and the pool is 25 feet away.

No one spoke for or against the appeal.

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

All in favor:

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

Tim Kent 40 Fernott Dr., Lancaster, NY 14086 on behalf of Bridget Nasca, 300 Fries Rd., Tonawanda, NY 14150 & Matt Nasca 91 Homer Ave., Buffalo, NY 14216, is requesting a variance to construct a single family dwelling at 339 Roat Drive SBL#220.09-4-35, in violation of Town of Evans Zoning Law Section 200-10-C (1) (a) [1] minimum lot area and Section 200-10 C (1) (b) [1] minimum width of a lot.

Applicant is requesting to reduce the minimum lot width and minimum lot area in order to build a home. There was a dilapidated home on the property that was demolished in 2008. The proposed lot does not meet the required minimum lot width

or lot area of a buildable lot in R1 zoning district. The applicant is requesting to reduce the required minimum lot width from 90' to 50' and minimum lot area from 12,150 sqft to 7000 sqft, in violation of Town of Evans Zoning law section 200-10 C (1) (a) [1] minimum lot area and 200-10-C (1) (b) [1] minimum lot width.

No one was present for the appeal.

Mr. Martin, Jr. read into record two exhibits with concerns regarding drainage and fire risk. Mr. Maglich stated the lot is in character with the neighborhood. Mr. Martin, Jr. stated he went to the lot, it is identical to the other lots, and concerns will be addressed during construction. The request is only for the lot size, and they may have to apply for future variances for setbacks.

No one spoke for or against the appeal.

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

All in favor:

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

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

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

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

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

Respectfully Submitted,

Jennifer Renaldo
Secretary

To: Jennifer Renaldo, Sec'y, Zoning Board of Appeals, Town of Evans

From: Pat Davison, Cheryl Christie, *et al*

Date: April 5, 2021

Re: Zoning Variance application for 339 Roat Drive, Angola, NY (Kent and Nasca applicants)

We have no Zoom capability. Hence this letter and to go on recourse record with the Town of Evans for this proposal (see attached your letter and information).

Our property at 418 Alfred Avenue is located directly behind this lot in the community known locally as Roat Acres. Addressing this application, we have no control over the size of the structure, its intended foundation (crawl space or basement), or its use as a single family unit for rent or sale if the variances are approved. We do have concerns at issue.

In general, discarded setback limits for small lots with large homes leave little outdoor space for quiet, comfort and safety which is why setbacks were established in the first place. Allowed setback variances in this town and others have often destroyed the latter by discarding current limits. In this case, to date, all three adjacent properties to 339 are older, year-round occupied, single family homes with less-than-current code easements/setbacks. Additional cautionary factors to this concern are a) that summer or annual renters and/or owners are far more notorious for aberrant behavior in a beach setting like this one, and b), to date and owning summer homes, neither applicant lives permanently on site.

Our biggest concern is drainage.
Here, we have lost many trees due to weather or disease. An old community established in the early 1950's, most homes here are built on a combination of clay, shale and rim rock. The result is that all of us have drainage problems which have led to the expense of installing, repairing and maintaining drain tile, sumps, or a combination. Therefore, any structure without appropriate drainage into the storm sewer will increase flood potential to the adjacent properties after even a normal rain storm. Flooding happens in this community all the time and it is a considerable issue.

Lastly is a potential fire enhance.
Almost all homes in this community are older, stick-built, quite small and "stacked" compared to current popular standards for home size and setbacks. While we do have city water and hydrants and this construction will be new, any structure that suffers or spreads a fire immediately threatens the properties around it. Therefore, the closer the proposed dwelling is to other properties, the worse the threat becomes, which also extends to campfires, a popular practice here.

If these concerns are directly addressed in this variance issuance, we have no objection to 339 Roat's return to a single family dwelling unit use.

Sincerely,

Pat Davison, Cheryl Christie

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APR - 8 2021
Building Department

Cc: File; Michael Cooper, Esq.

Exhibit A

Property owner of 335 Root Dr
To Whom it May Concern,

APRIL 12, 2021

I am responding to Notice I recieved concerning The Notice I've Recieved About The Lot at 339 Root Dr to Construct A Family Dwelling AND They Do not have the Room to do so according to the Town Ordinance. I AM not objecting I'm ABStaing to the fact is that the Town Ordinance is the Town Ordinance, I'LL Leave the Decision UP To The ZONING BOARD

Sincerely
Raymond J Bayles

Exhibit B