Minutes Approved 3/10/21
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February 10, 2021

TOWN OF EVANS

RECEIVED
MAR 1 1 2021
Lynn M. Krajacic
Town Clerk
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 January 13, 2021.

Mr. Maglich made a motion to approve the minutes from January 13, 2021, seconded by Mr. Kennedy. All in favor, motion carried.

New Business:

Joseph Crean, 9364 Lake Shore Rd., Angola, NY 14006, is requesting to construct a garage, in violation of Town of Evans Zoning Law Section 200-10 C (2) (a) [2] and Section 200-10 C (2) (a) [3] side and rear yard setback.

Applicant is requesting to replace the existing garage with a new garage in the same location reducing the side yard setback from 5' to .37' and reducing the rear setback from 5' to 1.2', in violation of the Town of Evans Zoning Law Section 200-10 C (2) (a) [2] side yard setback and 200-10 C (2) (a) [3] rear yard setback.

The applicant would like to construct a new 22' X 24' garage to replace his existing 8.35' X 16.31' garage. He would like to place the garage in the same location as the existing structure.

Present for the appeal was Joseph Crean.

Mr. Martin, Jr. stated the request was from last month and new drawings were submitted with the location of the garage. Mr. Martin, Jr. read an affidavit from Mark Wolski, 9358 Lake Shore Rd, in favor of the appeal.

Jordan Karawiecki, 530 Sycamore Ave, spoke in favor of 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

James Demmerley, 1247 Backus Rd., Derby, NY 14047, is requesting to construct an addition to his existing house, in violation of Town of Evans Zoning Law Section 200-8.2 C (1) (d) minimum side yard setback.

Applicant is requesting to construct an addition to his existing home 24.3' from the side property line, in violation of the Town of Evans Zoning Law Section 200-8.2 C (1) (d) requires a 35' side yard setback in Rural Agriculture.

The applicant would like to construct an attached garage to his existing home along with a rear addition to the existing home. The rear addition meets zoning requirements.

Present for the appeal was James Demmerley.

Mr. Demmerley stated the addition will consist of a bedroom, family room and garage.

Laura Klopp, 1227 Backus Rd, spoke in favor of the appeal. Her property would be affected by the variance.

No one spoke for or against the appeal.

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

Joseph Sardina, 636 Lake St., Angola, NY 14006, is requesting to construct a fence, in violation of the Town of Evans Zoning Law Section 200-34 A & 200-34 C height of a fence.

Applicant is requesting to construct an 8' fence along their existing driveway, in violation of the Town of Evans Zoning Law Section 200-34 A height maximum 6' and 200-34 C maximum 4' in height in front yard.

The applicant would like to install an 8' fence along the front of the property. The Town of Evans Zoning only allows for a maximum height of 6' in an R-2 zone and a 4' maximum fence height in a front yard.

Present for the appeal was Tonya Villani.

Mr. Martin, Jr. stated the board members drove by the property. Mr. Martin, Jr. asked where the location of the fence would be. Ms. Villani stated to the right of the driveway. There is an existing fence on the other side and they want to extend the fence for privacy. Mr. Martin, Jr. stated the existing fence still allows being able to see the house. Ms. Villani stated the 8 foot fence was approved by ZBA in 2007. Mr. Martin, Jr. stated the original variance did not have the fence go across the driveway or on the other side, which in effect neutralized walling off the property.

Mr. Maglich stated there is a National Fuel right of way and wanted to know if the fence would go across it. Ms. Villani stated no. Mr. Maglich asked if there is a fence between the neighbors. Ms. Villani stated no. Mr. Maglich stated when the variance was approved in 2007, he was not on the board but since then, no other 8 foot fences have been approved. The board sets a precedence with variance approvals.

Christopher Tucker, 8825 Lake Shore Rd, spoke in favor of the appeal.

Mr. Martin Jr. read an affidavit from Joseph McNamara, Erie County Division of Sewer Management, with no objection to the appeal.

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

All in favor:

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

Robert Wagner 1263 Eden Evans Center Rd., Angola, NY 14006, is requesting to construct an addition to his single family home located at 625 Fulton Ave., Angola SBL# 234.28-4-11, in violation of the Town of Evans Zoning Law Section 200-12 C (f) [1] front yard setback, 200-12 C (f) [3] minimum side yard setback, and 200-12 C (f) [2] combined side yard setback

Applicant is requesting to reduce the front yard setback in order to construct an addition 2' and 3' from the property line, and the side yard setback 4' and 1.5', in violation of the Town of Evans Zoning Law Section 200-12 C (f) [1] front yard setback from 25' to 2' and 3', 200-12 C (f) [3] side yard setback from 5' to 4' and 1.5' 200-12 C (f) [2] combined side yard setback from 15' to 13.5'.

The applicant would like to construct an addition to the front of 625 Fulton Ave., Angola reducing both the front yard setback and the side yard setback.

Present for the appeal was Mr. Wagner.

Mr. Martin, Jr. asked what the addition would be in relation to the rest of the structure. Mr. Wagner stated the addition is for a second story. The house is one of only a few that is not on the property line. Mr. Maglich asked if this is a two story addition. Mr. Wagner stated the top is living area with a porch underneath.

Mr. Martin, Jr. read an affidavit from Margaret Farrell, 606 & 610 Fulton Ave, in favor of the appeal.

No one spoke for or against 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, aye
Mr. Kennedy, aye

Richard Cerne, 1945 Eden Evans Center Rd., Eden, NY 14057, is requesting to split of a lot from SBL# 237.00-4-15.1 located on Eden Evans Center Road, in violation of the Town of Evans Zoning Law Section200-8.1 C (1) (a) minimum lot acreage.

Applicant is requesting to reduce the minimum lot area in order to subdivide his parcel and still be buildable lot. The applicant would like to split 4.31 acres from SBL# 237.00-4-15.1, in order to build. The applicant did not indicate if a house would be built on the proposed lot. The proposed lot does not meet the required minimum lot area. The applicant is requesting to reduce the required minimum lot area from 5 acres to 4.31 acres, in violation of Town of Evans Zoning law section 200-8.1 C (1) (a) minimum lot area.

Present for the appeal was Richard Cerne.

Mr. Cerne stated he was to subdivide the parcel for a friend to build a single family home. He wants to keep the line the same as a previous split and keep the parcel as small as possible because he has a farmer that uses the land.

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

Joran Karawiecki, 530 Sycamore Ave., Angola NY 14006, is requesting to erect a garage in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1] location from structure.

Applicant is requesting to reduce the separation distance for an accessory structure, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1] from 10' to 6'.

The applicant would like to construct a 16' X 22' garage 6' from his existing home. The applicant has stated the garage wall will be fire rated on the side facing the house.

Present for the appeal was Jordan Karawiecki.

Mr. Martin, Jr. stated he drove by the site and the property is a two story house with a breezeway/entry the goes up to the driveway. Mr. Karawiecki stated yes, that section is a bathroom and laundry room with a basement underneath. Mr. Kennedy asked if the garage would be attached. Mr. Karawiecki stated no, it would be a detached garage. Ms. Hill stated the garage would be fire rated. Mr. Maglich asked if the whole garage would be fire rated. Ms. Hill stated no, just one side. Ms. Hill asked if it would be enveloped. Mr. Karawiecki stated no, just the wall. Mr. Maglich asked if that is all that is required. Ms. Hill stated yes. Mr. Maglich stated if the variance were approved, he would like the entire building fire rated. Ms. Hill asked if there would be garage doors on the front. Mr. Karawiecki stated yes and they will be fire rated.

Sima Zahid, vacant land on Sycamore Ave, spoke in favor of the appeal, if the garage is fire rated.

Mr. Martin, Jr. asked if the applicant was willing to fire rate the entire building. Ms. Hill stated the side facing the house to the roof would need to be fire rated. Mr. Martin, Jr. asked if the rear wall should to be fire rated. Ms. Hill stated that it could be.

Mr. Kennedy made a motion to approve, seconded by Mr. Maglich with the condition the wall facing house and rear wall is fire rated.

All in favor:

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

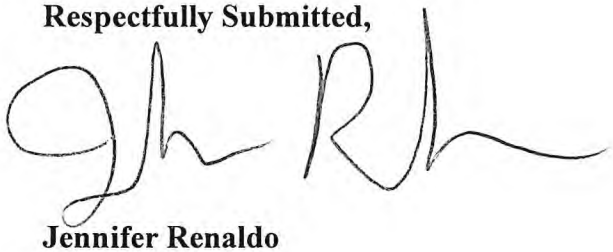
Mr. Martin, Jr. asked if there was anything further for the board.

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

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

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

Fax

Date: February 10, 2021

Fax to: 716-549-0456

To: Town of Evans, Code Enforcement Officer

Attn: Jennifer Renaldo

To be read at this evening's meeting.

From: Fr. Mark Wolski

As a homeowner for 50 years at 9358 Lake Shore Rd. I am fully in favor of Mr. Joseph Crean's Appeal request for a garage at 9364 Lake Shore Rd.

I am fully aware of the heart ache that I endured a few years back when my similar request was not granted.

These property lines etc. were set almost 100 years ago for buildings that were strictly cottages. For them to maintain their value, garage requests should be granted. Let us be forward looking. Let us be fair. Let us live in the 21st century.

Exhibit A

Jennifer Renaldo

From: McNamara, Joseph <Joseph.McNamara@erie.gov>
Sent: Wednesday, February 10, 2021 1:46 PM
To: Jennifer Renaldo; German, Timothy
Cc: Salah, Mutasem; 'angolacode@aol.com'
Subject: Re: 636 Lake Ave., (V) Angola, fence height variance

The Erie County Department of Sewerage Management (ECDSM) has no objection to the fence height violation variance request for 636 Lake Street in the Town of Evans.

Should you have any questions or need further information, please e-mail or call at the address below.

Joseph McNamara | Assistant Sanitary Engineer
Erie County | Div. of Sewerage Management
95 Franklin St., Room 1071 | Buffalo, NY 14202
P:+1(716)858-6697 | F:+1(716)858-6257
Joseph.McNamara@erie.gov | http://www.erie.gov

Exhibit A

[redacted]

60 Pinewoods Ave.
Tonawanda NY 14150
January 29, 2021

I am the owner of 606 and 610 Fulton Avenue. I support the granting of the variance to Robert Wagner to construct the addition at 625 Fulton Ave.

Margaret A. Farrell

Exhibit A

Jennifer Renaldo

From: McNamara, Joseph <Joseph.McNamara@erie.gov>
Sent: Wednesday, February 10, 2021 1:47 PM
To: Jennifer Renaldo; German, Timothy
Cc: Salah, Mutasem; 'angolacode@aol.com'
Subject: Re: 625 Fulton, (V) Angola, set back variance for house addition

The Erie County Department of Sewerage Management (ECDSM) has no objection to the front and side set-back variance request for the single family home located at 625 Fulton Ave. (SBL 234.28-4-11) in the Town of Evans.

Should you have any questions or need further information, please e-mail or call at the address below.

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Exhibit B