Minutes Approved 2/10/21
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January 13, 2021

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, 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 September 9, 2020 and November 12, 2020.

Ms. Spada made a motion to approve the September 9, 2020 and the November 12, 2020 minutes, seconded by Mr. Kennedy. All in favor, motion carried.

New Business:

Nicholas McMillan, 201 Porter Ave., Angola, NY 14006, is requesting to construct a garage, in violation of the Town of Evans Zoning Laws Section 200-10 C (2) (b), height of an accessory structure.

Applicant is requesting to increase the height of an accessory structure from 16' to 18', in violation of the Town of Evans Zoning Law Section 200-10 C (2) (b).

The applicant has construct a 960sqft pole barn with a 480sqft covered porch, with a total 1440 sqft which he obtained a variance to construct. Upon an inspection, the inspector noticed the height of the building was different from the original plans submitted.

Present for the appeal was Mr. McMillan.

Mr. McMillan stated he ordered trusses that were the wrong size and had to be returned. The new trusses that were able to fit made the garage taller than what is allowed. Mr. Kennedy asked if the second floor would be for storage only and not living space. Mr. McMillan stated it would be for storage only.

No one was for or against the appeal.

Ms. Spada made a motion to approve with the stipulation the second floor is used for storage only and not living space, seconded by Mr. Maglich.

All in favor:

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

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 200-10C(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 200-10C (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'. He would like to place the garage in the same location as the existing structure.

Present for the appeal was Mr. Crean.

Mr. Martin, Jr. asked Mr. Crean to explain the variance request. Mr. Martin, Jr. asked if the applicant is putting a garage in place of an existing shed. Mr. Crean stated the shed is dilapidated and he needs something for storage. Mr. Crean stated that he does not want to keep the garage ½ foot away from the side lot as the existing shed is but 3 feet and 2 feet from the rear lot line. Ms. Spada stated that those measurements are not on the variance request. Mr. Crean stated his neighbor put up a fence and he wants to have the garage further away. Ms. Spada asked why not the garage move 5 feet. Mr. Crean stated he did not want to block the neighbor's view of the lake. Ms. Spada stated that if the garage were moved, the applicant would not be able to keep the garage on his property with the angle of the back lot line. Mr. Martin, Jr. stated that what is on the application and what the applicant is stating are two different things. Mr. Martin, Jr. stated the board wants an updated survey with the location of the garage done by a surveyor.

No one was for or against the appeal.

Mr. Kennedy made a motion to table until the next meeting, seconded by Mr. LaRusso.

All in favor:

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

Bruno Stampone, 6664 Lake Shore Rd., Derby NY 14047, is requesting to construct a house on Westmoreland Blvd, SBL#205.03-1-29, 30, 31, in violation of Town of Evans Zoning Law Section 200-11 C (1) (a) [3] minimum lot area and 200-11 C (1) (b) [3] minimum lot width.

Applicant is requesting to reduce the minimum lot width and minimum lot area in order to build a home. The applicant is merging SBL#s 205.03-1-29, 205.03-1-30 and 205.03-1-31, in order build on Westmoreland Blvd. Avenue. The proposed lot does not meet the required minimum lot width or lot area of a buildable lot in RL1 zoning district. The applicant is requesting to reduce the required minimum lot width from 200' to 160' and minimum lot area from 40,000sqft to 25,600sqft, in violation of Town of Evans Zoning law section 200-11 C (1) (a) [3] minimum lot area and 200-11-C (1) (b) [3] minimum lot width.

Present for the appeal was Mr. Stampone.

Mr. Stampone stated he retired and is looking to downsize from his current home.

Sandra and James Hooge, 1 Surfside Dr., Irving, NY asked how this would affect the vacant lots they own adjacent to the property. Ms. Spada stated their properties are across the street from the applicant. They had no objection to the appeal.

Mr. Martin, Jr. read an email from James Bolibrzuch against the appeals for Bruno Stampone, Douglas McIvor and Carol Widger. Mr. Maglich asked what stake Mr. Bolibrzuch had in these appeals. Mr. Martin, Jr. stated he is unsure. Ms. Spada stated he lives near one of the cases.

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

All in favor:

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 reduce the minimum width of a building lot on Iroquois St., SBL# 234.20-5-18, in violation of the Town of Evans Zoning Law Section 200-10 C(1)(b)[1] and 200-10 C(1)(b)[2].

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 7,500 sqft. 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.

Present for the appeal was Mr. Widger.

Mr. Widger stated he wants to reduce the size of a lot and the lots will still be larger than existing lots in the neighborhood. Mr. Martin, Jr. stated that board went to the site and the lots are in line with the neighborhood.

No one was for or against the appeal.

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

All in favor:

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

Douglas McIvor, 350 Schultz Rd., West Seneca, NY 14224, is requesting to split SBL# 207.11-1-7, merge with 207.11-1-19.2 to construct a single family home, in violation of the Town of Evans Zoning Law Section 200-12C(d)[1] width abutting a dedicated street.

Applicant is requesting to reduce the minimum width of multiple lots in order to subdivide lots and still be buildable lots. The applicant would like to split the back of lot 207.11-1-7, and merge to SBL# 207.11-1-19.2, in order build on the lot fronting on Aquarius Avenue. The proposed lot does not meet the required minimum width of a buildable lot. The applicant is requesting to reduce the required minimum width from 80' to 53.71', in violation of Town of Evans Zoning law section 200-12 C (d)) [1] minimum lot width.

The applicant would like to build a residential home on the lot fronting on Aquarius Avenue.

Present for the appeal was Mr. McIvor.

Mr. McIvor stated that he owns two properties which one that has an existing house that is currently a rental. He would like to downsize a build a house on the other lot. Mr. Maglich asked if the house is 7 feet from the property line. Mr. McIvor stated it is the existing house built in 1949. Mr. Maglich stated he drove to the area and did not see any lots this small. Ms. Spada stated her issue is the surrounding lots are larger and is not in line with the neighborhood. Mr. Martin, Jr. entered a letter into the record.

Richard Dynas, 1976 Aquarius Ave, spoke against the appeal.

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

All in favor:

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

Mr. Martin, Jr. stated that Mr. Zydel does not need to extend the variance granted in the summer by virtue of the fact he has submitted plans to the building department under the deadline.

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

Mr. Martin, Jr. asked for a motion to adjourn.

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: James Bolibrzuch <jimbo19681@verizon.net>
Sent: Wednesday, January 13, 2021 10:51 AM
To: Jennifer Renaldo
Subject: public hearing

jennifer-my name is james bolibrzuch/601 seneca rd-i want to cast a no vote for the appeals by bruno stampone 6664 lake shore rd-carol widger 7378 townline rd-douglas mciver 350 schultz rd-if any questions my no.is 716-949-6962-thanks

Exhibit A

Jennifer Renaldo

From: richard@richarddynas.com
Sent: Monday, January 11, 2021 2:14 PM
To: Jennifer Renaldo
Subject: Dynas - Aquarius Road

Jennifer,
My name is Richard Dynas and I live at 1976 Aquarius road in Derby. I oppose giving a variance to Douglas McIvor to build a home on a 50-foot-wide lot next to me on Aquarius road. Please let me outline my objections:

- Why do we have codes if they won't be enforced? When I built my home in 2006 I had to follow every single guideline brought forth by the town. It cost me over $17,000 just to have a sewer moved across the road, and now, Mr. McIvor would take advantage my expenditure. We have rules for a reason.
- We bought this land and built our home knowing there were no lots big enough to build beside us, we wanted privacy. We have woods next to us where deer roam around and birds nest. We feed the birds and even have Red Headed wood peckers nesting in these trees. Are you making sure no protected wildlife will be disturbed?
- With a 50-foot frontage there will not be enough room for anything such as campers or multiple vehicles which means these items will all be stored in the back yard in our sightline.
- The house on the other side of the property is also owned by Mr. McIvor and is an eyesore. There are huge Trump flags and broken down campers in the front yard. A party was held at the property over the summer and people parked on the property on Aquarius. There were many people smoking pot and cursing at all hours, we had to stay in the house with our kids so we didn't have to smell it.
- Mr. McIvor isn't going to use the house, it is purely to sell and maximize his profit on the land. He is building a small house and selling or renting it. Mr. McIvor lives in West Seneca so he will never have to deal with the issues that we will come with a new home. He would have known when he bought the property he could not build a house on land that is too narrow, now he wants you to allow this just so he can make more of a profit. He won't even be living in the house. He will have more renters that will have no incentive to keep the property nice or to keep noise down just as his rented home on Versailles Plank road.
- My property value will diminish because of obstructed views.

We built our home knowing we would have privacy. Our taxes are extremely high but we chose to stay because of our home,seclusion,neighbors and tranquility. I offered to buy the land next to us from Mr. McIvor but he only wants to sell all the land with the old home on Versailles Plank Road which is dilapidated and unsightly. I am afraid another home will end up in disrepair next to us driving down our property value. Mr. McIvor is only interested in making a profit, his main concern is not our neighborhood.
Please enforce the variance as it is written, 50 feet is not enough to properly build a home.

Richard,Jennifer,Gabby and Kelsey Dynas

Thank you,
Richard

Exhibit A