Minutes Approved 10/13/21
Distributed 10/14/21

September 8, 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 in the Municipal Building Court room, 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. asked for a motion to approve the minutes from July 14, 2021.

Mr. Maglich made a motion to approve the minutes from July 14, 2021, seconded by Ms. Spada. All in favor, motion carried.

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

New Business:

Michelle Hanes, 497 Peters Road, Angola, NY 14006, is requesting to construct a shed, in violation of Town of Evans Zoning Law Section 200-10 C (2) (a) [1] minimum side yard setback for accessory structures.

Applicant is requesting to construct a shed, in violation of Town of Evans Zoning Law Section 200-10 C (2) (a) [2] minimum side yard setback for accessory structures.

The applicant would like to construct a new shed reducing the minimum side yard setback requirement from 5' to 2.8'

Present for the appeal was Michelle Hanes.

Mr. Martin, Jr. stated he drove by the property and there is an existing shed. He asked how that shed would compare to the new shed. Ms. Hanes stated the same. Mr. Maglich asked if it would be the same footprint. Ms. Hanes stated the new shed will be smaller. Mr. Martin, Jr. asked in the same position relative to the property line. Ms. Hanes stated yes. Mr. Martin, Jr. read an affidavit in favor of the appeal.

Karen Biel-Costantino, 493 Peters Road spoke in favor of the appeal.

Ms. Spada 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, absent

Mark Szafnicki, 341 Lake Breeze Road, Angola, NY 14006, is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-17 A (4) accessory structures front yard setback.

Applicant is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-17 A (4) accessory structures front yard setback.

The applicant would like to construct a new shed on a corner lot reducing the minimum front yard setback requirement from 40' to 1.38'

Present for the appeal was Mark Szafnicki.

Mr. Szafnicki stated there was a previous shed that was partially on the neighbor's property. He currently has a small shed but needs a larger size. The size will now be 11x18. Mr. Martin, Jr. asked if the house sits way back on the lot. Mr. Szafnicki stated yes. Ms. Spada stated that everyone's back yard is on Woodside. Mr. Szafnicki stated yes. Mr. Szafnicki asked if he would be able to put a 10x20 shed if the setback is no closer to the road. Mr. Martin, Jr. stated yes.

No one spoke for or against the appeal.

Mr. LaRusso 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, absent

Alyssa O'Connor aka Alyssa Creek, 291 Kennedy Avenue, Angola, New York 14006, is requesting to construct a fence, in violation of the Town of Evans Zoning Law Section 200-35 corner lot setback of fence and 200-34 C height of a fence in front yard.

Applicant is requesting to construct a fence, in violation of the Town of Evans Zoning Law Section 200-35 corner lot setback of fence and 200-34 C height of a fence in front yard.

The applicant would like to construct an 8 foot fence on a corner lot, increasing the allowable height from 2' in the front yard and 4' in the front yard to 8'.

Present for the appeal was Alyssa Creek.

Ms. Creek stated her lot is on a corner and she needs a fence for her dogs. Ms. Spada asked the applicant if she was going for a height variance and a setback variance. Ms. Creek stated yes. Mr. Maglich stated the history of the board is that high fence variances in front yards are not approved. Mr. Maglich stated 8 foot fence is high. Ms. Creek stated she wants a 6 foot fence. Mr. Martin, Jr. stated that Oakland St. is an actual street. Ms. Creek stated the fence will be chain link. Ms. Creek asked if the board would approve 5 feet. Mr. Martin, Jr. stated he drove around the neighborhood and saw no front yard fences. Ms. Creek asked if the board would approve 4 feet. Ms. Creek stated her property has no back yard. Mr. Martin, Jr. stated the 40 foot offset is from both roads. Ms. Spada asked if she can go to the property line with a 4 foot fence. Ms. Hill stated because she is on a corner lot, there is a 35 foot buffer for clear vision.

No one spoke for or against the appeal.

Mr. Maglich made a motion to deny the height variance, seconded by Mr. Kennedy.

All in favor:

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

Ms. Creek asked where her property line is. Mr. Maglich stated she would have to get a surveyor to stake her property. The fence has to be on her property.

Mr. Martin, Jr. made a motion to table the setback variance, seconded by Mr. Maglich.

All in favor:

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

Vincent Alimonti, 6652 Putnam Drive, Derby, New York 14047, is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [2] side yard setback and 200-12 C (2) (a) [3] rear yard setback.

Applicant is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [2] side yard setback and 200-12 C (2) (a) [3] rear yard.

The applicant has already constructed a shed without a building permit 4' from the side yard line instead of the required 5' and 3' from the rear yard line instead of the required 5'.

Present for the appeal was Vincent Alimonti, Sr.

Mr. Martin, Jr. stated it indicates in the write up the shed that there was a shed already there without a permit. Mr. Alimonti, Sr. stated yes. Mr. Martin, Jr. asked why he did not get a permit. Mr. Alimonti, Sr. stated he did not know he needed a permit. He also stated it was his fault with the location. Mr. Martin, Jr. asked if the shed could be moved. Mr. Alimonti, Sr. stated it can but it is heavy. Mr. Martin, Jr. stated a neighbor made a complaint about the shed.

Dan McGuire, 6656 Putnam Dr. spoke against the appeal.

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

All in favor:

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

James Raymond, 105 South Lane, Angola, New York 14006, is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-17 A (3) setback on corner lots and 200-17 A (4) accessory structures in front yard.

Applicant is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-17 A (3) setback on corner lots and 200-17 A (4) accessory structures in front yard.

The applicant would like to construct a shed at 105 South Lane, which is located on the corner of Lake Shore Road and South Lane. The proposed shed would be 30' from Lake Shore Road instead of the required 40'.

Present for the appeal was James Raymond.

Mr. Martin, Jr. asked the applicant to explain the purposes of the request.

***Secretary was unable to hear applicant.**

No one spoke for or against the appeal.

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

All in favor:

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

Mr. Martin, Jr. made a motion to rehear the appeal made by Gary and Suzanne Andelora in May as follows:

WHEREAS, on April 8, 2021, Gary and Suzanne Andelora (the "Andeloras") submitted an application for area variances to the Town of Evans Zoning Board of Appeals (the "ZBA"); and

WHEREAS, the ZBA reviewed the Andeloras variance application and held a public hearing on May 13, 2021 at 6:00 pm; and

WHEREAS, the ZBA engaged in deliberations and a determination to grant the application to the Andeloras on May 13, 2021 for property located at 8812 Lake Shore Road (the "Decision"); and

WHEREAS, the ZBA determines that the findings that it made at May 13, 2021 meeting were not set forth in writing and the ZBA wishes to conduct a rehearing to address this issue; and

WHEREAS, pursuant to Town Law § 267-a(12) (and Town of Evans Code § 200-44(B)(8)), the ZBA may hold a rehearing to review any order, decision or determination of the board not previously reheard, on a unanimous vote; and

WHEREAS, such rehearing is subject to the same notice provisions as an original hearing; and

WHEREAS, upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby;

NOW, THEREFORE, BE IT RESOLVED by the Town of Evans Zoning Board of Appeals that:

1. The ZBA hereby determines to hold a rehearing of the Decision at its regularly scheduled meeting of the ZBA on October 13, 2021 at 6:00 p.m. at the Evans Municipal Center, 8787 Erie Road, Angola, New York 14006.

2. The ZBA hereby directs that this resolution be filed in the office of the Town Clerk immediately, and that the Town Clerk or designee shall publish notice of the special meeting and rehearing as required by Town Law § 267-a(7) by publishing the notice in a paper of general circulation in the town at least five days prior. The Town Clerk or designee shall also ensure that the requirements of the Open Meetings Law are followed, by alerting the media of the special meeting and rehearing and by posting the time and place of the meeting pursuant to Public Officers Law § 104. The Town Clerk shall also mail a copy of this resolution to the applicants and other interested parties.

3. This resolution is effective immediately.

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. asked for a motion to adjourn to the next scheduled meeting.

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

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

TOWN OF EVANS

CODE ENFORCEMENT / ZONING OFFICE
8787 Erie Road • Angola, New York 14006-9600
(716) 549-5753 • Fax (716) 549-0456

August 27, 2021

Vincent Alimonti
6652 Putnam Dr
Derby, NY 14047

RE: 6652 Putnam Dr

Dear Applicant,

A public hearing before The Town of Evans Zoning Board of Appeals will be held on Wednesday, September 8, 2021 at 6:00 pm at the Evans Municipal Center, 8787 Erie Road, Angola, NY 14006, to consider your application for a variance.

You are required to appear in support of your application. If you are unable to attend, you may send a representative to appear on your behalf, written authorization is required.

If you have any questions, please contact the Building Department at (716) 549-5753.

Sincerely,

Jennifer Renaldo
Secretary
Zoning Board of Appeals

I Vincent Alimonti Residing At 6652 Putnam DR
Give Authorization to VINCENT ALIMONTI SR
AS my Representative

Vincent Alimonti Jr

Exhibit A

To the Town of Evans

I have no opposition

To my neighbor Michelle Haines

putting in a new shed.

John W Golebiewski
495 Peters Rd
Angola N.Y. 14006
John W Golebiewski
31 Aug 21

Exhibit A

TOWN OF EVANS ZONING BOARD OF APPEALS

Resolution Holding a Rehearing to Review a Determination of the Board

WHEREAS, on April 8, 2021, Gary and Suzanne Andelora (the "Andeloras") submitted an application for area variances to the Town of Evans Zoning Board of Appeals (the "ZBA"); and

WHEREAS, the ZBA reviewed the Andeloras variance application and held a public hearing on May 13, 2021 at 6:00 pm; and

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WHEREAS, the ZBA determines that the findings that it made at May 13, 2021 meeting were not set forth in writing and the ZBA wishes to conduct a rehearing to address this issue; and

WHEREAS, pursuant to Town Law § 267-a(12) (and Town of Evans Code § 200-44(B)(8)), the ZBA may hold a rehearing to review any order, decision or determination of the board not previously reheard, on a unanimous vote; and

WHEREAS, such rehearing is subject to the same notice provisions as an original hearing; and

WHEREAS, upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby;

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2. The ZBA hereby directs that this resolution be filed in the office of the Town Clerk immediately, and that the Town Clerk or designee shall publish notice of the special meeting and rehearing as required by Town Law § 267-a(7) by publishing the notice in a paper

of general circulation in the town at least five days prior. The Town Clerk or designee shall also ensure that the requirements of the Open Meetings Law are followed, by alerting the media of the special meeting and rehearing and by posting the time and place of the meeting pursuant to Public Officers Law § 104. The Town Clerk shall also mail a copy of this resolution to the applicants and other interested parties.

3. This resolution is effective immediately.

PASSED AND ADOPTED this 8th day of September, 2021 by the Town of Evans Zoning Board of Appeals.

Ayes: 5

Nays: 0

RECEIVED

SEP - 9 2021

Lynn M. Krajacic
Town Clerk
Town of Evans