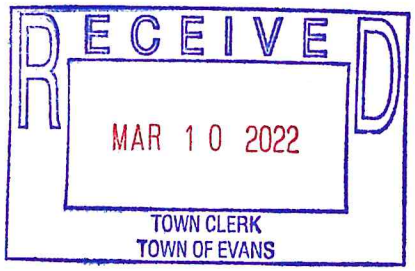
Minutes Approved 3/9/22
Distributed 3/10/22

February 9, 2022

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

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 November 10, 2021 and December 8, 2021.

Ms. Spada made a motion to approve the minutes from November 10, 2021 and December 8, 2021, seconded by Mr. Maglich. All in favor, motion carried.

New Business:

Debra Izzio, 415 Kennedy Ave., Angola, NY 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 of said address.

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 5 foot fence on a corner lot, increasing the allowable height from 2' in the front yard and 4' in the front yard to 5'.

No one was present for the appeal.

Mr. Maglich asked if the fence would be on her property. Mr. Martin, Jr. stated the request is similar to an appeal a few months ago. Ms. Hill stated the fence would be on her property line. Mr. Martin, Jr. stated there are properties with fences on corner lots in the area but none where the house faces Kennedy Ave. Mr. Maglich stated he would like to know the location of the fence.

No one spoke for or against the appeal.

Mr. Maglich made a motion to table until the next meeting with the request the applicant stake out the location of fence, seconded by Mr. Kennedy.

All in favor:

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

Brandy Lombardo, 8497 Lake Shore Rd., Angola, NY 14006, is requesting to reconstruct Delio's at 515 Herr Road SBL# 250.08-5-1 & 250.08-5-47, in violation of the Town of Evans Zoning Law Section 200-20 C (1) minimum lot size, 200-20 C (3) minimum yards for structures and parking, loading and stacking area and 200-23 A side yard on a corner lot.

The applicant is requesting to reconstruct a convenience store/deli located at 515 Herr Road SBL# 250.08-5-1 a .33 acre lot after the merger of adjacent lot SBL# 250.08-5-47, reducing the minimum lot size from .50 to .33, in violation of the Town of Evans Zoning Law Section 200-20 C (1). The applicant is also requesting to reduce the required minimum front yard for structures, parking and stacking area from 40' to 20.8 for structure and 30' to 2' for parking in front and 25' to 15' in the rear yard abutting a residential district, in violation of the Town of Evans Zoning Law Section 200-20 C (3) minimum front yard for structures and parking and stacking area and rear yard abutting a residential district. The applicant is also requesting to reduce the side yard on corner lots from 20.8 to 15.2, in violation in violation of the Town of Evans Zoning Law Section 200-23 A side yards on corner lots.

Applicant is requesting to reconstruct a new convenience store/deli after a fire on March 1, 2021. The previous convenience store/deli also required variances in 2016. The applicant has recently purchased the lot adjacent, which is being rezoned and combined with the existing lot (the old Delio's site).

If approved, the variance should be subject the approval of the rezone and site plan by the Planning Board.

Present for the appeal was Brandy Lombardo.

Mr. Martin, Jr. stated the building would be reconstructed after a fire last year and in the same footprint as the previous building. Ms. Lombardo stated yes and she purchased the vacant lot next door for a patio and additional parking.

William Smith, Planning Director stated the applicant would go through a full site plan development review with Planning Board that includes landscape, drainage and lighting. The lot was rezoned with no objections.

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

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

1-29-2022

Dear Jennifer Renaldo,

We are writing this correspondence in regards to Ms. Debra Iggio's request to place a fence on her property at 415 Kennedy Ave.

As being owners of the property next door to her at 421 Kennedy Ave, we have no problem with her plans.

It will be a professionally installed fence and we are sure it will be quite nice.

Thank You,

Richard & Cynthia Jaquish

Exhibit A

TOWN OF EVANS

8787 Erie Road • Angola, New York 14006-9600 • www.townofevans.org

WILLIAM B. SMITH
Director of Planning and Community Development
Telephone: (716) 549-0945 / Fax: (716) 549-0456
wsmith@townofevans.org

February 4, 2022

Howard Martin
Zoning Board of Appeals, Chair
6819 Colony Ct
Derby, NY 14047

Dear Mr. Martin,

Regarding the Application to the Zoning Board of Appeals (ZBA) recently submitted by Brandy Lombardo for the reconstruction of a convenience store and deli to be located at 515 Herr Road, please be advised that at the January 26, 2022 Evans Planning Board meeting, the Board voted unanimously to recommend that the following area variances be approved by the ZBA.

- Variance of 0.17 acres for minimum lot size (0.50 acres required, 0.33 acres provided)
- Variance of 19.2 ft. for front setback from ROW for structure (40 ft. required, 20.80 ft. provided)
- Variance of 28 ft. for front setback from ROW for parking (30 ft. required, 2 ft. provided)
- Variance of 10 ft. for rear parking setback abutting R-2 district (25 ft. required, 15 ft. provided)
- Variance of 5.6 ft. for side setback on corner lot (20.8 ft. required, 15.2 ft. provided)

The primary reason for the Planning Board recommending these variances is that the proposed project involves the reconstruction of a pre-existing/non-conforming structure, located on a pre-existing/non-conforming lot within the Neighborhood Business (NB) district, which was unfortunately lost to fire on March 1, 2021 while successfully operating as a convenience store and deli. Therefore, the proposed rebuild, with the above-referenced variances, will not result in a change of use and is not anticipated to have any adverse impacts on the character, health or safety of the surrounding residential community.

Please note that at the January 26, 2022 Evans Planning Board meeting, the Board also voted unanimously to recommend the rezone of the adjacent 0.09-acre parcel located at 0 Lemon Street (SBL# 250-08-5-47) from Residential Two-Family (R-2) to Neighborhood Business (NB) in order to merge the lot with 515 Herr Road for the purpose of improving the site with the addition of outdoor seating and rear parking. The public hearing for the rezone is schedule for the February 16, 2022 Town Board meeting.

If successful in receiving the variances from the ZBA, the applicant will then be required to submit a full Site Plan Development Application for Planning Board review and approval, which will include a thorough examination of project elements such as landscape, lighting, drainage and site aesthetics.

Thank you for your consideration of the Planning Board's recommendations on this project. Please review this letter with your fellow members of the ZBA, and do not hesitate to contact the Planning Department at 716-549-0945 with any questions.

Sincerely,

William Smith

William Smith
Director of Planning (on behalf of the Planning Board)

Cc'd:

Donald Maglich
Tracy Spada
John Kennedy
Christopher LaRusso
Andrew Supon
Anne Sellers
Joseph Pinter
Michael Connors
Andrew Lloyd
Donald Schiedel
Lori Szewczyk