Minutes Approved 5/10/23
Distributed 5/12/23

December 14, 2022

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Lynn M. Krajacic
Town Clerk
Town of Evans

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

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

Members Absent: T. Spada, C.LaRusso

Also Present: J. Flading, Building Inspector, 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. Kennedy made a motion to approve the minutes from April 13, 2022, seconded by Mr. Maglich. All in favor, motion carried.

Mr. Martin, Jr. made a motion to approve the minutes from September 14, 2022, seconded by Mr. Kennedy. All in favor, motion carried.

Mr. Maglich made a motion to approve the minutes from October 12, 2022, seconded by Mr. Kennedy. All in favor, motion carried.

Mr. Martin, Jr. made a motion to approve the minutes from November 9, 2022, seconded by Mr. Maglich. All in favor, motion carried.

Mr. Martin, Jr. read a letter from Ellicott Development requesting an extension on their variance.

Mr. Martin, Jr. made a motion to approve the extension for one year from the date the variance expired, seconded by Mr. Maglich.

All in favor:

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

New Business:

Michael & Mary Beth McCormick, 713 Lake St., Angola, NY 14006, is requesting to construct a garage on the subject parcel, in violation of the Town of Evans Zoning Law Section 200-17 A (4) size of accessory structure.

Applicant is requesting to increase the size of an accessory structure from 900 sqft to 1152 sqft, in violation of the Town of Evans Zoning Law Section 200-17 A (4).

The applicant would like to construct an 1152 sqft garage.

Present for the appeal was Michael McCormick.

Mr. Martin, Jr. stated the board heard the appeal before and asked Mr. McCormick the difference with the current appeal. Mr. McCormick stated he eliminated the overhang and reduced the height of the building.

Mr. Martin, Jr. read an affidavit marked as Exhibit A against the appeal. He read an affidavit marked as Exhibit B in favor of the appeal.

No one spoke for or against the appeal.

Mr. Kennedy made a motion to approve with the condition it not to be used for commercial purposes, seconded by Mr. Martin, Jr.

All in favor:

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

Cathleen Evan, 1175 Backus Rd., Derby, NY 14047, is requesting to construct a single family dwelling on SBL# 221.00-5-6.3, in violation of Town of Evans Zoning Law Section 200-8.2 C (1) (b) minimum lot width.

Applicant is requesting to construct a single family house on a 1.83 acre lot with 100' frontage located at SBL# 221.00-5-6.3, in violation of the Town of Evans Zoning Law Section 200-8.2 C (1) (b) minimum lot width.

Applicant is asking the Zoning Board to consider the following proposal: The applicant is willing to apply for a minor subdivision to take acreage from the lot known as 1175 Backus Rd., and add to SBL# 221.00-5-6.3, which would consist of a 3.49 acre parcel with 100' frontage.

The applicant would construct a house reducing the minimum lot width from 200' to 100'.

Present for the appeal was Corey Auerbach from the law firm Barclay Damon.

Mr. Auerbach stated there was a previous appeal requesting three separate variances, which were denied. The applicants hired a surveyor to survey the property and now is asking for a single variance asking for a 100 foot lot frontage. The original lot proposal was deficient in overall lot area. The adjustment made has accommodated that appeal. The lot would jog to the left creating a 160 foot lot width to be able to put a house there. Mr. Maglich asked if it would be behind the neighboring house.

Mr. Martin, Jr. read an affidavit marked as Exhibit A against the appeal.

No one spoke for or against the appeal.

Mr. Martin, Jr. made a motion to approve with the condition the house is constructed in the 160 foot lot section and the provided sufficient property from the adjacent property is added to this lot to make it conforming for area size and width, seconded by Mr. Maglich.

All in favor:

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

Respectfully Submitted,

Jennifer Renaldo
Secretary

ELLICOTT
DEVELOPMENT

ELLICOTT SQUARE BUILDING
295 MAIN STREET, SUITE 700
BUFFALO, NY 14203-2219

TEL: 716.854.0060
FAX: 716.852.2829
EllicottDevelopment.com

October 18, 2022

Town of Evans Zoning Board of Appeals
8787 Erie Road
Angola NY 14006

RE: Grandview Bay
8934 Lake Shore Road
Evans, NY

Dear Board Members:

The above referenced project site is the former Mickey Rats and Captain Kidd's beach club. This 4.86-acre parcel has 480' of Lake Erie water frontage and is located at the intersection of Lake Shore Road and Iroquois Street. Last year, we received Zoning Board of Appeals approval for a mixed-use development of the site. We are currently constructing 8 single-family 2-story townhomes and a 680 square foot retail space on the east side of Lake Shore Road along Iroquois Street. In the next phase on the west side of Lake Shore Road, we will be constructing a 4-story mixed-use building, 2-story restaurant and 6 single-family home lots along the waterfront.

Since our approval, we have been working with various Erie County departments to receive their approvals. We anticipate having our final County approvals before the end of the year.

We respectfully request a one-year extension of our Zoning Board of Appeals approval. Thank you for your time and consideration of this matter.

Very truly yours,

ELLICOTT DEVELOPMENT COMPANY

JEREMY P. WASSEL
Planning & Development Coordinator

Encl.

RECEIVED
DEC - 8 2022
Building Department

689 Lake Street
Angola, NY 14006
December 5 , 2022

Ms. Jennifer Renaldo, Secretary
Zoning Board of Appeals
Town of Evans
8787 Erie Road
Angola, NY 14006-9600

Dear Ms. Renaldo

SUBJECT: RECOMMENDATION FOR DENIAL OF APPLICATION TO BUILD LARGE GARAGE AT 713 LAKE STREET, ANGOLA

We have lived two houses north of 713 Lake Street since 1953. 713 Lake Street has historically been a single-family residence with four-sided brick exterior and a modest sized front lawn. This Hanson/Senn homestead has always been an attractive home in a residential section of Lake Street. Both Clate Hanson and his father were superintendents at Evans Town Park.

Recently, industrial service trucks and heavy equipment have been parked in the front yard of this residence, and a second driveway and parking lot has been added at the site.

Constructing an oversized garage/warehouse is not in keeping on this lot, as there is little setback possible. Delaware Creek passes close to the rear of the house, and there is no room for building setback. If fill is placed behind the existing driveway, it will fill in the Delaware Creek floodway and will adversely affect flooding on neighbors up and down stream.

The site may look like a large storage building with a house attached. This equipment and this building do not belong in this well-maintained residential neighborhood. This is not a personal criticism of this nice couple.

We request the application be denied.

Sincerely,

Richard and Mary Jo LaClair
716-839-1922

Exhibit A

Jennifer Renaldo

From: holl mary <mholl264@yahoo.com>
Sent: Wednesday, December 14, 2022 4:17 PM
To: kmart2521@gmail.com; Jennifer Renaldo
Subject: 713 Lake Street - Michael and Mary Beth McCormick

Good afternoon Mr. Martin and Zoning Board Members:

I am in receipt of correspondence from the Town of Evans Zoning Board of Appeals regarding another public hearing to be held on Wednesday, December 14, 2022 at 6:00pm. More specifically #1 on the published legal notice regarding construction of a garage at 713 Lake Street, Angola, NY 14006, Michael and Mary Beth McCormick, which are my adjacent neighbors.

It is my understanding that Mr. & Mrs. McCormick are requesting a variance for the above referenced construction. Please note, that Mr. & Mrs. McCormick have made numerous improvements to their house/property over the years and continue to do so, greatly improving the aesthetics of the neighborhood.

I reside next door at 701 Lake Street, Angola, NY 14006 and I am in favor of granting the variance.

If you should have any questions please feel free to contact me at (716) 725-5958.

MARY HOLL
701 LAKE STREET
ANGOLA, NY 14006
(716) 725-5958
mholl264@yahoo.com

Exhibit B

Thomas Barney, 8080 Delamater Rd Angola NY

My comments today are largely the same as they were from April to June when this was previously discussed and ultimately denied. I continue to oppose granting variances to town code for the following reasons:

1. For the twenty years I have lived in the area, and presumably decades before I built here, homeowners moved into and built in these Residential Agricultural zones because it required larger lots and more green space. Allowing a code violation is a disservice to those who may have invested in this area for the specific reason of larger lots and higher land values.

2. In April, we discussed one parcel being in violation of the town code, In June we discussed two parcels being in violation and now we are back to one parcel in violation. No matter how it is sliced up, 300 feet of frontage cannot be expanded to meet the requirement of 400 feet. Simply put, this land is not large enough for two homes.

3. The role of the Code Enforcement Office is to ensure the interest of the greater community takes precedence over the desires of the individuals seeking variances. Each variance is a grant to an individual at the expense of the greater community. This is why the Code was written, why it is important to follow it, and why this decision to deny this request is really quite simple.

4. The Town should be careful of the president set by allowing zoning variances to occur. At some point, the Code must be enforced as written and variances must be declined. If not now, what is the trigger for standing fast on the laws of the Town? At what point will the Town make a stand behind the Code? And if never, the Code has no point.

5. There are many solutions for this issue which don't involve seeking violations of town code. Specifically, there are a multitude of existing houses and lots available for sale in the town. We don't need to solve a problem that doesn't exist.

I oppose the request for a variance.

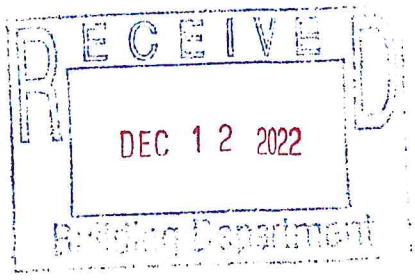


Exhibit A