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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, C. LaRusso

Members Absent: T. Spada

Also Present: J. Hill, ZBA Liaison, T. Fischione, Code Enforcement Officer

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.

New Business:

Christopher Zielinski, 7001 Woodcliff Dr., Derby, NY 14047, is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-10 C (2) (a) [1], distance from a structure and 200-10 C (2) (a) [3], rear yard setback.

Applicant is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-10 C (2) (a) [1] distance from a structure and 200-10-C (2) (a) [3] rear yard setback.

The applicant would like to construct a 10' x 16' shed on his property 1.5' from his garage and 1.5' from his rear lot line. The proposed shed would be 1.5' instead of the required 10' and 1.5' from the rear yard instead of the required 5'. Upon viewing the aerial view below, it does not look like there is any room behind the garage to put a shed, an updated survey maybe need to make a determination.

Present for the appeal was Christopher Zielinski.

Mr. Maglich stated the drawing is not an accurate representation. Mr. Fischione stated the survey is not accurate.

Mr. Kennedy made a motion to deny.

Mr. Maglich, Jr. made a motion to reopen after Mr. Zielinski arrived, seconded by Mr. Kennedy.

All in favor:

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

Mr. Zielinski stated there is empty space behind his garage and he needs a shed for storage. He stated no one would see the shed. Mr. Martin, Jr. stated there does not look like there is 10 feet behind the garage to put a shed. Mr. Zielinski stated he has a foot and a half between the property line and the garage. Mr. Maglich asked why the applicant would not add to his garage instead of having a building so close. He stated that is the reason why there is a fire code. Mr. Zielinski stated the shed would be metal. Mr. Maglich asked if there is an updated survey. Mr. Zielinski stated he put a new garage up with no new survey. Mr. Maglich stated the board could not make a decision without a new survey.

No one spoke for or against the appeal.

Mr. Martin, Jr. made a motion to table, seconded by Mr. Kennedy.

All in favor:

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

Eileen Brittain, 699 Sandy Ave., Angola, NY 14006, is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1], side yard setback.

Applicant is requesting to erect a shed, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1] side yard setback.

The applicant would like to construct a shed on her property 1.6' from rear lot line. The proposed shed would be 1.6' instead of the required 5'.

Present for the appeal was Eileen Brittain.

Ms. Brittain stated she is replacing an existing shed on the same footprint. Mr. Martin, Jr. stated the appeal is in line with the neighborhood.

Stephen Brachmann, 4784 Edgewood Dr., spoke in favor of the appeal.

Mr. Maglich 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

Dean Simons, 359 Eisenhower Ave., Angola, NY 14006, is requesting to construct an addition, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1], distance from a structure.

Applicant is requesting to construct an addition to his existing house, in violation of the Town of Evans Zoning Law Section 200-12 C (2) (a) [1] distance from a structure.

The applicant would like to construct an addition to their existing house. Currently the house is 14' from the garage, with the addition the house will be 6.3' from the existing garage, the town code is 10'.

Present for the appeal was Dean and Janet Simons.

Mr. Martin, Jr. stated the application indicated the addition would be fire rated. Mr. Simons stated yes.

Samantha Carlson, 354 Dawn Ave spoke in favor of the appeal.

Mr. Kennedy 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

Peter & Carol Roswell, 320 Roat Dr., Angola, NY 14006, is requesting to construct a shed, in violation of the Town of Evans Zoning Law Section 200-17 A (4), front yard setback.

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

The applicant would like to construct a shed reducing the front yard setback from 40' to 27'.

Present for the appeal was Peter and Carol Roswell.

Mr. Martin, Jr. stated he visited the property and the shed is really in the back yard.

No one spoke for or against the appeal.

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

All in favor:

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

WNY Derby Inc., 6766 Erie Rd., Derby, NY 14047 is requesting to extend the existing gas canopy and add additional pump, in violation of the Town of Evans Zoning Law Section 200-22 C (3) front yard setback, 200-22 C (4) setback between structures, 200-23 A corner lot setback.

No one was present for the appeal.

Mr. Martin, Jr. read a letter from the Planning Board in favor of the appeal.

No one spoke for or against the appeal.

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

All in favor:

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

Respectfully Submitted,

Jennifer Renaldo
Secretary

TOWN OF EVANS

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

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July 5, 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 WNY Derby, Inc. for the expansion of the gas station located at 6766 Erie Road (formerly Millitello's), please be advised that the Planning Board reviewed the project at the Work Session held on June 8, 2022 and wishes to formerly recommend that the proposed area variances from the following Motor Services zoning codes be approved:

- 200-22. C. (3) – Front yard setback from right-of-way from a dedicated street.
- 200-22. C. (4) – Minimum interior building separation.
- 200-22. A. – Minimum side yard on corner lots.

The primary reason for the Planning Board recommending these variances is that the proposed project involves the minor extension of a pre-existing non-conforming gas pump island and canopy (one additional pump) which is currently located within the required front yard setback area (60 feet from right of way) and interior building setbacks (30 feet between structures). The proposed action, including the conversion of the former auto-service station to an expanded convenient store with future retail space, is not anticipated to have any adverse impacts on the character, health or safety of the surrounding community. Rather, it is believed that the proposed project will have an overall improvement on the aesthetics of the site and help promote local business.

If successful in receiving the variances from the ZBA, the applicant will then be required to attend the Planning Board Public Meeting for site plan approval and recommendation for issuance of a special use permit on Wednesday, July 13th at 7:00PM immediately following the ZBA meeting on this matter. The public hearing for the special use permit is schedule for the July 20th Town Board meeting at 7:10PM.

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
Director of Planning (on behalf of the Planning Board)

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