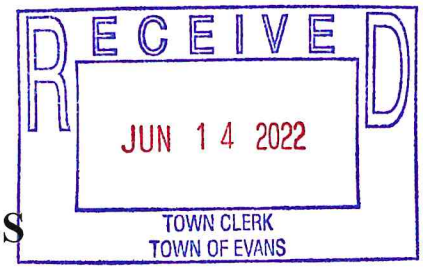
Minutes Approved 6/8/22
Distributed 6/14/22

May 11, 2022

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS



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

Members Absent: C. LaRusso

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. Maglich made a motion to table the minutes from March 9, 2022 and April 13, 2022, seconded by Mr. Kennedy. All in favor, motion carried.

New Business:

Daryl Clark for Beachin Bay Bungalow LLC 5757 Southwestern Blvd., Hamburg, NY 14075 is requesting to construct a front porch at 600 Seneca Road, Angola SBL# 234.20-4-24, in violation of Town of Evans Zoning Law Section 200-10-C (1) (c) [1] minimum front yard setback.

Applicant is requesting to reduce the front yard setback from 40' to 33.35'construct a front porch, in violation of the Town of Evans Zoning Law Section 200-10 C (1) (c) [1] front yard setback.

The applicant would like to construct a new porch 33.35' from the front property line reducing the minimum front yard setback requirement from 40' to 33.35'

Present for the appeal was Daryl Clark.

Mr. Clark stated he wants to construct a porch 12 feet out and the reason for the variance request.

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, absent
Mr. Maglich, aye
Mr. Kennedy, aye

Cathleen Evan, 1175 Backus Road, Derby, NY 14047, is requesting to construct a single family dwelling on SBL# 221.00-5-6.3 and split a portion from SBL# 221.00-5-10.2 , in violation of Town of Evans Zoning Law Section 200-8.2 C (1) (a) minimum lot area, 200-8.2 C (1) (b) minimum lot width, 200-8.2 C (1) (d) minimum side yard setback, SBL# 221.00-5-10.2 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) (a) minimum lot area, 200-8.2 C (1) (b) minimum lot width , and 200-8.2 C (1) (d) minimum side yard setback (possible not needed).

Applicant is asking the Zoning Board to consider the following proposal: The applicant is willing to apply for a minor subdivision to take 50' from the lot known as 1175 Backus Rd., and add to SBL# 221.00-5-6.3 which would consists of 2 none conforming lots 150' X 800' and 150' X 1250'

The applicant would construct a house reducing the minimum lot area from 3 acres to 2.75 acres, minimum lot width from 200' to 150'. 1175 Backus Road would be 150 X 1250 also needing a variance for minimum lot width from 200' to 150'

Applicant is requesting to construct a garage addition reducing the front yard setback from 40' to 31.48', in violation of the Town of Evans Zoning Law Section 200-10 C (1) (c) [1] front yard setback

The applicant would like to construct a 30' X 43' garage addition in the front on the existing house.

Present for the appeal was Cathleen Evan and Dean Gregory.

Ms. Evan stated she has two lots. One is 200 x 1250 and the other is 100 x 800 which totals approximately 8 acres. She stated she wants to combine the lots then subdivide into two new lots. Mr. Gregory stated he met with the Code Enforcement Officer who suggested this appeal. Ms. Spada stated the applicate would meet the acreage minimum but not the frontage. Mr. Maglich stated he would not be happy if he lived in the area someone was able to build on a 100 foot lot. Ms. Spada stated in her opinion, they will still have the 3 acres and that is more important than the frontage.

Thomas Barney, 8800 Delamater Rd, spoke against the appeal.

Mr. Martin, Jr. read into record an affidavit marked as "Exhibit A".

Mr. Martin, Jr. stated this appeal was before the board last month and there was a mixed of neighbors for and against the appeal. Mr. Kennedy stated the board could set a precedence if the appeal is approved.

Mr. Martin, Jr. made a motion to adjourn the decision and the board has up to 60 days to render its decision, seconded by Mr. Kennedy.

All in favor:

Mr. Martin, Jr., aye
Ms. Spada, aye
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. Martin, Jr. made a motion to adjourn, seconded by Mr. Kennedy.

All in favor:
Vote: Mr. Martin, Jr., aye
Ms. Spada, aye
Mr. LaRusso, absent
Mr. Maglich, aye
Mr. Kennedy, aye

Respectfully Submitted,

Jennifer Renaldo
Secretary

To Evans Zoning Board of Appeals
for May 11, 2022 meeting

From Marjorie Barney
8000 Delamater Rd.
Angola NY 14006

I am writing in regard to the petition of Cathleen Evan, 1175 Backus Rd. Derby, NY

I include the following information from the Town of Evans website:

Town of Evans Provisions and Purposes

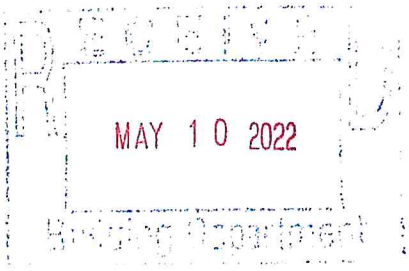
regulations are adopted to further the foregoing policy and for the following purposes:

(3) To protect the character of all parts of the Town and to encourage the orderly and beneficial development of its parts.

(4) To protect and conserve the value of land throughout the municipality and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.

Annexation definition from Town of Evans

the division of any parcel of land into two parcels and the combination of a portion of the property so divided with an adjoining parcel, provided that in consequence of such division and combination no lot is created which conflicts with any provision or portion of the Master Plan, Official Map or Zoning Local Law.



Maintaining the character of an area is an important reason for the regulations. By allowing the requested violations, the character of Backus Rd. which has 200 ft lots will be impacted as will the value of existing lots. The annexation provision states that no lot shall be created that conflicts with existing provisions and this request creates 2 such lots.

At the last meeting the request was to build a house on an existing 100 ft lot in violation of minimum lot area, minimum lot width and minimum side yard setback. The 100 ft lot was adjacent to a 200 ft lot and both were owned by the same person.

This time the request is to take 50 ft from the 200 ft lot and combine it with the 100 ft lot making two 150 ft lots. The annexation definition of the Town of Evans explicitly prohibits combining lots if they conflict with any portion of the Master Plan, Official Map or Zoning Local Law. In this case, rather than having one lot in violation as in the previous request, there will be two lots in violation of the regulations. One lot will have 3 violations: minimum lot area, minimum lot width and minimum side lot setback. The other lot will be in violation of minimum lot width.

Granting either request will fail to protect the character of a part of the town and conserve the value of land as required by the regulations.

Evans residents and future residents should/must be able to expect that the rules that existed when they bought property in the town will be upheld by the town governing bodies. Furthermore, each exception granted sets a precedent for future requests.

I am sympathetic to the wishes of the applicant but note that as the Town of Evans has many parcels of land and existing houses for sale, the applicant has other ways of meeting her needs without changing the character and value of the property of her neighbors.

I oppose the request.