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DEC 15 2022

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Minutes Approved 12/14/22
Distributed 12/15/22

November 9, 2022

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: H. Martin, Jr., J. Kennedy, C. LaRusso

Members Absent: D. Maglich, T. Spada

Also Present: 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 August 10, 2022, seconded by Mr. LaRusso. All in favor, motion carried.

Mr. Martin, Jr. read a letter from Gary and Suzanne Andelora requesting an extension on their variance that was granted October 2021.

Mr. Martin, Jr. read into record a resolution to extend the Andelora's variance request.

Mr. Martin, Jr. asked for a motion to adopt the resolution.

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

All in favor:

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

New Business:

Harry Gartley, 9729 Lenox St., Angola, NY 14006, is requesting to construct an addition, in violation of the Town of Evans Zoning Law Section 200-12 C (f) [1] front yard setback and 200-17 A (3) corner lot yard setback.

Applicant is requesting to construct an addition to his existing house, in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) [1] minimum front yard setback and 200-17 A (3) minimum front yard on a corner lot.

The applicant would like to construct an addition to their existing house. The addition to the house would be 13.5' from the front yard on Lenox and 9.92' from the Pleasant Ave, reducing the required minimum front yard of 25' in a R2 zone.

Present for the appeal was Harry Gartley.

Mr. Gartley stated he wants to add a lower bedroom. Mr. Martin, Jr. asked what street the house faces. Mr. Gartley stated Lenox. Mr. Martin, Jr. stated in the write up from the applicant, there is a neighboring house that is close to the road. Mr. Martin, Jr. stated he saw drove by and saw the house. The addition would be 10' from Pleasant but would be in line with the current house.

No one spoke for or against the appeal.

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

All in favor:

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

Charles Vacanti, 7489 Versailles Plank Rd, Derby, NY 14047, is requesting to construct a garage, in violation of the Town of Evans Zoning Law Section 200-9 C (3) (b) [3] size of accessory structure.

Applicant is requesting to increase the size of an accessory structure from 1200 sqft to 1344 sqft, in violation of the Town of Evans Zoning Law Section 200-9 C (3) (b) [3].

The applicant would like to construct a 1344 sqft garage on his property.

Present for the appeal was Camille Vacanti and Anthony Vuich.

Mr. Vuich stated Mr. Vacanti has numerous vehicles he wants to store. Mr. Martin, Jr. asked how large the property is. Mr. Vuich stated an acre and a half. Mr. Martin, Jr. asked where the location of the garage is. Mr. Vuich stated between the house and the road. Mr. Martin, Jr. stated his concern is the garage would overcrowd the property. Mr. Martin, Jr. stated anything that could be done with a 1,344 square foot garage could be done with a 1,200 square foot garage with no variance. Mr. Kennedy asked why 1,344 square feet. Mr. Vuich stated the size is needed for all of Mr. Vacanti's equipment.

No one spoke for or against the appeal.

Mr. Martin, Jr. made a motion to deny, seconded by Mr. LaRusso.

All in favor:

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

Gary Ralph, 676 Bennett Rd., Angola, NY 14006, is requesting to reduce the minimum lot frontage on a dedicated street in order to create 2 buildable lots, SBL# 192.16-5-29.1, 6618 Wellington Dr., in violation of the Town of Evans Zoning Law Section 200-12 C (1) (a) minimum lot area and 200-12 C (1) (d) minimum width of lot.

Applicant is requesting to reduce the minimum lot width lot and minimum lot area in order to split the existing lot with an existing single family home. The applicant is requesting to reduce the required minimum lot width from 80' to 70' and minimum lot area from 10,000 to 8,400 sqft., in violation of Town of Evans Zoning law section 200-12 C (1) (a) minimum lot area and 200-12 C (1) (d) [1] minimum lot width, in order to split the current parcel into two lots, one lot will contain the existing house.

Present for the appeal was Gary Ralph.

Mr. Ralph stated the property was his parents' property and he is selling the property and wants to subdivide the vacant lot portion and merge with his sister's property next door.

Ed Conboy, 8168 Hillside St spoke in favor of the appeal.

Mr. Martin, Jr. made a motion to approve with the condition no primary structure is allowed on the vacant lot and will be merged with 6622 Wellington Dr., seconded by Mr. Kennedy.

All in favor:

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

Respectfully Submitted,

Jennifer Renaldo
Secretary

TOWN OF EVANS ZONING BOARD OF APPEALS

Resolution Granting an Extension for Previously Approved Area Variances

WHEREAS, Gary P. Andelora and Suzanne M. Andelora (together, "Applicant") submitted an application to the Town of Evans Zoning Board of Appeals ("ZBA") on April 8, 2021 for three area variances to reduce the minimum rear and side yard setbacks ("Application") in order to complete construction ("Project") at their residential property located at 8812 Lake Shore Road in Angola, New York ("Property"); and

WHEREAS, the ZBA held a hearing on the Application on May 13, 2021, where the ZBA considered the Application pursuant to the relevant factors for granting area variances in Section 200-44(C)(2) of the Zoning Law of the Town of Evans, Erie County, State of New York ("Zoning Code") and granted the variances ("Initial ZBA Determination"); and

WHEREAS, on August 2, 2021, neighboring landowners challenged the Initial Determination in Supreme Court, Erie County ("Initial Petition"), arguing it should be annulled for failure to issue a full, written determination (*Edward & Therese Voltz v. Town of Evans, et al.*, Index No. 810498/2021.); and

WHEREAS, the ZBA took administrative action to address this issue, and unanimously passed a resolution on September 8, 2021 to rehear the Application at its regular meeting scheduled for October 13, 2021, where the ZBA reheard the Application, and following a thorough review and deliberation, granted the area variances and issued a formal written decision ("Second ZBA Determination"); and

WHEREAS, the neighboring landowners again challenged the issuance of the area variances and filed an amended petition on November 30, 2021 ("Amended Petition"), and the case proceeded through the litigation process, which culminated in dismissal of the Amended Petition via Order and Judgment dated May 20, 2022; and

WHEREAS, despite diligently pursuing the proposed Project, in light of the issues referenced above, the Applicant needs and has requested an extension of the time period set forth in Section 200-44(b)(9 of the Zoning Code; and

WHEREAS, the ZBA has considered the Project at length in multiple public hearings; and

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

1. An extension of the time periods set forth in Section 200-44(B)(9) of the Zoning Code is hereby granted for one year from the date of this resolution.

2. Consistent with the building inspector's determination to issue a building permit for the Project construction, the ZBA confirms that the building permit conforms to the issued variances.

3. The Secretary is directed to file this decision with the Town Clerk within five (5) days.

4. This resolution is effective immediately.

PASSED AND ADOPTED this 9th day of November 2022 by the Zoning Board of Appeals of the Town of Evans.

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

All in favor:

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

Gary P. & Suzanne M. Andelora
8812 Lake Shore Road
Angola, New York 14006
(716) 863-2870
gandelora25@gmail.com

October 24, 2022

TO: The Honorable Town of Evans Zoning Board of Appeals

RE: Variance – To (A) reduce the minimum side yard set back
To (B) reduce the rear yard setback

Mr. Chairman & Board Members:

We are respectfully requesting a minimum 90-day extension of the previously granted variances which have been approved for 8812 Lake Shore Road, Angola, New York 14006.

Due to a prolonged legal challenge which ultimately was ruled to be without merit, we experienced unexpected and untimely delays in the construction process. We experienced additional delays when we were advised that the structure was not fit to be moved and had to be demolished. We were ordered to secure appropriate demolition and building permits which we secured, and this led to further delays in the construction schedule.

With these factors in mind, we would be very appreciative of your kind attention to this request.

Sincerely,

Gary P. Andelora

Suzanne M. Andelora

Gary P. Andelora

Suzanne M. Andelora (Owner)

