Minutes Approved: 07/12/2023
Distributed: 07/12/2023

May 10th, 2023

RECEIVED
JUL 13 2023
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. 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 December 14, 2022, seconded by Mr. Maglich. All in favor, motion carried.

Mr. Martin, Jr. read a letter from Barclay Damon requesting an extension on their variance.

Mr. Maglich made a motion to approve the extension for one year from the date of the meeting (May 10th 2023), seconded by Mr. Kennedy.

All in favor:

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

New Business:

Gina Considine 732 lake Street, 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 1600 sqft, in violation of the Town of Evans Zoning Law Section 200-17 A (4).

The applicant would like to construct a 1600 sqft pole barn.

Present for the appeal was Gina Considine and James Wild.

Mr. Martin, Jr. and the Board talked about the distance away from the road and that the building would be around 233ft from the road.

No one spoke for or against the appeal.
Mr. Martin, Jr. 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

Marymargaret Sawicki, 898 Johnson Ave, Angola NY 14006, is requesting to construct a garage in violation of Town of Evans Zoning law 200-17 (A) Size of an Accessory Structure and height of a structure.

The applicant was approved for a 40X42 pole barn but, built a 42X50 instead. The applicant was denied before when requesting to build a 42X50 pole barn.

Present for the appeal was Marymargaret Sawicki

Mr. Martin, Jr. brought up the fact that the building is in zone R-1 and it is uncharacteristic for that area.

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, aye
Mr. Kennedy, aye

Patrick Zydel, 8160 Hillside Street, Angola NY 14006, is requesting to extend a previous approved variance that was granted in 2020 Town of Evans Zoning Law Section 200-10 (1) (3) and 200-10 C (1) (3).

The applicant is requesting to add an addition onto his existing home to make the entrance on level ground.

Present for the appeal was Patrick Zydel

Lawrence Palys, 580 Milsom Parkway, Angola NY 14006 spoke in favor of the appeal.

Ed Conboy, 8168 Hillside St, Angola NY 14006 neither spoke in favor or against the appeal. He brought up the legal notice and that it was incorrect for the meeting.

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

Ms. Penberthy, Esq. Mentioned that there were efforts made by the applicant's chairman to remedy the error in publication. The applicant was assured it was remedy would be made. Ms. Penberthy, Esq. suggested that a conditional approval be made, the condition being that the posting is made correctly and there are not objections at that time.

Mr. Martin, Jr. made a motion to approve the side yard setback request under the condition that the North wall construction be fire rated. This is a conditional approval, under the condition that the variance is reposted in the Dunkirk Observer as an addition not an accessory structure. Ms. Penberthy, Esq. added that opposition will be heard at the next meeting and the applicant is not required to attend. Seconded by Mr. Kennedy.

All in favor:

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

Marjorie Barney, 8000 Delamater Road, Derby NY 14047, is requesting to reduce the minimum lot width from 200ft to 189ft in order to subdivide the property in violation of Town of Evans Zoning law 200-8.2 (C) (1) (B) minimum width of lot.

The applicant is requesting to reduce the minimum lot width in order to subdivide the property at a later time.

Present for the appeal was Marjorie Barney's son Thomas Barney 8080 Delamater Rd, Derby NY 14047

Mr. Martin, Jr. brought up a concern on which law that is being challenged. He is advising that it should be frontage not width of lot. Mr. Martin Jr. confirmed that the Town of Evans Zoning Law 200-8.2 (C) (1) (B) covers both the width and frontage of the lot.

Diane LaVallee, 1215 Backus Road, Derby NY 14047 spoke against the appeal.

Ms. Penberthy, Esq. confirms that the legal notice was listed correctly and that the surrounding neighbors were properly notified.

Mr. Maglich made a motion to approve with a restriction that nothing is constructed within the 200ft of frontage, seconded by Mr. Kennedy.

All in favor:

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

Bruce Barratt, 1647 Overhead Road, Derby NY 14047, is requesting to build a 36X52ft pole barn in violation of the Town of Evans Zoning Law Section 200-17 A (4) size of accessory structure.

The applicant is requesting to construct a 36X52ft (1872sqft) pole barn in an R-1 district that has a maximum allowance of 900sqft.

Present for the appeal was Bruce Barratt

Mr. Kennedy voiced his concern that the applicants lot is not as large as the surrounding lots.

Mr. LaRusso questions the overhang of the proposed building and realizes that it is not included in the projected 36X52. This would bring the buildings total square footage to around 2500sqft.

Mr. Martin, Jr. made a motion to adjourn the decision, seconded by Mr. Kennedy.

All in favor:

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

Mr. Martin, Jr. asked if there was anything further for the board.

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

All in favor:

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

Respectfully Submitted,

Alex Haley
Secretary

BARCLAY DAMON LLP

RECEIVED
APR 27 2023

Corey A. Auerbach
Partner

April 25, 2023

Via USPS & Email - jrenaldo@townofevans.org
Town of Evans Zoning Board of Appeals
c/o Jennifer Renaldo, Secretary
Town of Evans Code Enforcement/Zoning Office
8787 Erie Road
Angola, NY 14006-9600

Re: V/L Backus Rd SBL# 221.00-5-6.3

Dear Chairman Martin:

Please allow this letter as a formal request to extend the area variance approved December 14, 2022 for the above property to reduce the minimum lot width. A copy of the Decision Notice is attached for your convenience. Before the property can be transferred to the applicant's son and a building permit application submitted, the lien of the mortgage must be released by the bank. A formal request was submitted to the bank by my office and the process is ongoing. Applicant's son is also in the process of arranging financing for the construction of a single family home. While the applicant and her son remain fully committed, we are requesting a 12 month extension to allow for the release of lien and financing to be completed.

We thank the Zoning Board of Appeals for your consideration and welcome the opportunity to provide additional information or to discuss, if necessary.

Very truly yours,

Corey Auerbach

Corey A. Auerbach

CAA:dcp

cc: *Via Email*
Brittanylee Penberthy (bpenberthy@thepenlawgroup.com)
Kenneth Farrell (ken@farrell-farrell.com)
Bill Smith (wsmith@townofevans.org)

TOWN OF EVANS

CODE ENFORCEMENT / ZONING OFFICE
8787 Erie Road • Angola, New York 14006-9600
(716) 549-5753 • Fax (716) 549-0456

DECISION NOTICE

December 15, 2022

RECEIVED
JAN 03 2023
Lynn M. [illegible]acic
Town Clerk
Town of Evans

Cathleen Evan
1175 Backus Rd
Derby, NY 14047

Re: V/L Backus Rd SBL# 221.00-5-6.3

Dear Applicant;

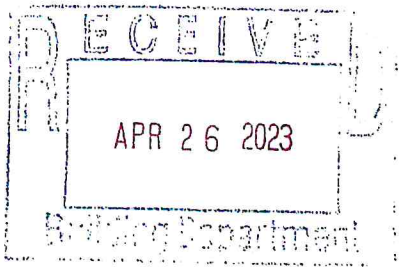
At the December 14, 2022 Town of Evans Zoning Board of Appeals meeting, your request for a variance in violation of the Town of Evans Zoning Law section 200-8.2 C (1) (b) to reduce the minimum lot width was granted with the following conditions: the lot will be subdivided and annexed as presented in submitted survey and the house will be built in the 160' wide section of the new lot. The variance expires on June 14, 2023.

Please call this office at (716) 549-5753 if you have any questions. Our office hours are 8:00am to 4:00pm Monday, Tuesday, Thursday and Friday and 9:00am to 5:00pm on Wednesday.

Sincerely,

Jennifer Renaldo, Secretary
Zoning Board of Appeals
Town of Evans

BARCLAY DAMON LLP



Corey A. Auerbach
Partner

April 25, 2023

Via USPS & Email - jrenaldo@townofevans.org
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c/o Jennifer Renaldo, Secretary
Town of Evans Code Enforcement/Zoning Office
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Angola, NY 14006-9600

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cc: *Via Email*
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Kenneth Farrell (ken@farrell-farrell.com)
Bill Smith (wsmith@townofevans.org)

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