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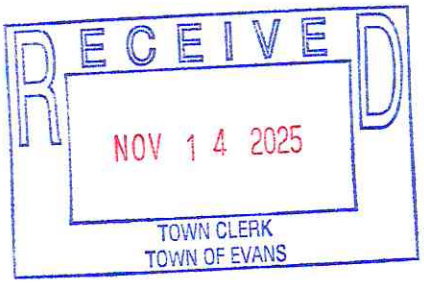

TOWN OF EVANS

REGULAR MEETING OF THE ZONING BOARD OF APPEALS

Members Present: D. Maglich, C.LaRusso, J. Kennedy

Members Absent: T. Spada, H. Martin, Jr.

Also Present: B. Penberthy, Esq., J. Elliott, Code Enforcement Officer,

Mr. D. Maglich. 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. D. Maglich 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:

Mr. LaRusso moves to approve the minutes from September 11th 2025 meeting. Mr. Kennedy seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

David Pintabona, of 1430 Wisconsin Rd, Derby, NY 14047, is requesting to construct a 1200sqft pavilion attached to an existing 720sqft garage, in violation of the Town of Evans Zoning Law Section 200-17(A)(4), wherein the maximum size of an accessory structure is 900sqft.

The applicant was present for the appeal. The applicant states that he wants to do the addition with a roof and one wall to be able to store his stuff in there. Mr. Maglich asks why it cannot be free standing, the applicant states it would not be cost effective and does not want to remove more trees.

Mr. Kennedy asks about how far this would be from the road. The applicant advises about 220ft.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Mr. Maglich closed the public discussion and opened the board for discussion.

Mr. Maglich confirms that there are other large barns in that area and dose not see and issue with this one.

Mr. LaRusso moves to approve the variance, Mr. Kennedy seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Thomas Partridge, of 455 Roat Dr, Angola, NY 14006, is requesting to construct an 23X42 (966sqft) addition onto an existing 29X22 (638sqft) garage on the property located at 490 Gordon Ave, Angola, NY 14006, in violation of the Town of Evans Zoning Law Section 200-17(A)(4), wherein the applicant is not conforming in maximum of 900sqft, Section 200-10(C)(2)(a)[1], wherein the building will be less than 10ft away from another structure at 8ft from another structure, and Section 200-10(C)(2)(b), wherein the building will be over 16ft in height at 18ft height.

The applicant sent an email to the secretary asking for an adjournment.

Mr. Kennedy makes a motion to adjourn the meeting until the next date, Mr. LaRusso seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Charles and Julie Lohr, of 9628 Lakeshore Rd, Angola, NY 14006, is requesting to construct a new shed where the existing shed was in the rear of the property, in violation of the Town of Evans Zoning Law Section 200-10(C)(2)(a)[1], whereas the structure would be ±3ft from another structure instead of 10 ft, and 200-10(C)(2)(a)[2] whereas the structure would ±2ft from the side yard instead of 5 ft.

The applicant was present for the appeal. Mr. Lohr states that he currently has an 8X8 shed and it is barely visible from the road. The new shed would be 10X16, prebuilt and dropped off. The new shed would be in the same position as the other shed was. He needs the bigger shed for lawn furniture and to store his things in. He advises that there is no way to expand on the garage or basement and this would be the only way.

Mr. Maglich asks expresses his concern about having a shed that close to the house and requests that the applicant be open to adding fire rated drywall to the side that is closest to the house. The applicant states that since the drywall would be outside it would create a mold problem and a health risk for his wife and him.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Margaret Tauriello 9630 Lake Shore Rd, Angola, NY 14006 spoke in favor.

Mr. Maglich closed the public discussion and opened the board for discussion.

Mr. Maglich advises the applicant they are trying to work with him and that without any fire rating on the shed it would not get approved. The board discusses different options to try to come to a solution.

Mr. Kennedy moves to approve the variance with a condition that the shed meets a fire code rating with the building departments approval, Mr. LaRusso seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Charles Militello, of 6712 Revere Dr, Derby, NY 14047, is requesting to construct a 1530sqft garage, in violation of the Town of Evans Zoning Law Section 200-17(A)(4), wherein the maximum size of an accessory structure is 900sqft.

There was no one available to represent this appeal.

Counsel advises the board that they can still make a ruling without the applicant present but, if they wish to ask questions, they have the option to adjourn the appeal until the next meeting.

Mr. Kennedy makes a motion to adjourn the meeting until the next date, Mr. Maglich seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Edwin Marchant, of 4889 Killarney Mnr, Hamburg, NY 14075, is requesting to construct a new single-family home at 631 Hickory Rd, Angola, NY 14006 where the existing home is being demolished, in violation of the Town of Evans Zoning Law Section 200-12(C)(1)[d], whereby Hickory Rd is undedicated.

The applicant was present for the appeal. Mr. Marchant states that they bought the lot about 2 years ago and originally investigated fixing up the house. It was built in 1870 and to bring it up to code would have been more than just knocking it down and building new. Mr. Kennedy asks if the new house would be the same size. The applicant states that the new house would be smaller and face the road instead of the lake.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Mr. Maglich closed the public discussion and opened the board for discussion.

The board agrees that there is already a house at this location now and the new one would be smaller.

Mr. Maglich moves to approve the variance, Mr. Kennedy seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Darlene Mall, of 3604 Schintzius Rd, Eden, NY 14057, is requesting to construct a new single-family home, on a vacant lot located at SBL# 234.20-3-38.1, in violation of the Town of Evans Zoning Law Section 200-10(C)(1)[b], whereby Mergenhagen is undedicated.

The applicant was present for the appeal. Mrs. Mall states that she bought the lot 3 years ago and was originally told that they could build on it, which now they need a variance due to the road being undedicated.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Ellen Baer 9151 Waterman Rd Angola, NY 14006 Spoke against the appeal
Alison Walding 545 Mergenhagen Rd Angola, NY 14006 Spoke against the appeal

Mr. Maglich advised Mrs. Walding that her letter would be enterend into the minuets for the meeting.

"Town of Evans Assessor 8787 Erie Road Angola, NY 14006 October 9, 2025 Re: Formal Objection to Construction of Single-Family Dwelling on Vacant Lot (SBL# 234.20-3-38.1) – Violation of Town of Evans Zoning Law §200-10(C)(1)[b] Dear Town of Evans Zoning Board of Appeals, This correspondence serves as a formal objection to the construction of a new single-family residence on the vacant parcel

identified as SBL# 234.20-3-38.1, located off Mergenhagen Road in the Town of Evans. The proposed construction is in clear violation of the Town of Evans Zoning Law §200-10(C)(1)[b]. This construction is an agenda item on the Public Hearing on October 9 at 6pm. Item number 6th is a request from Darlene Mall to construct a single family home on Mergenhagen Road which is undedicated. Mrs. Mall is appealing a previous denial from the town to build. Pursuant to §200-10(C)(1)[b], no building permit shall be issued for the erection of a dwelling on a lot that does not possess required frontage on a duly dedicated and accepted public street. Mergenhagen Road is an undedicated roadway and, therefore, does not qualify as a legally accepted public right-of-way under the Town's zoning code. Any approval or construction on this parcel would constitute a material violation of the Town's zoning regulations. In addition to the zoning violation, I am deeply concerned about the potential flooding and drainage impacts resulting from this unauthorized construction. Because Mergenhagen Road is an undedicated roadway, it lacks the proper stormwater infrastructure and municipal oversight required to manage runoff from new development. The recent clearing and grading of the lot may have already altered the natural drainage patterns, increasing the risk of flooding, erosion, and sediment runoff onto adjoining properties, including ours which sits below this property. Allowing construction to continue under these conditions would not only contravene zoning law but could also cause lasting environmental and property damage in this area. Our adjoining property at 545 Mergenhagen Road has been in our family since 1915, spanning multiple generations. It is deeply troubling and disheartening to witness new construction proceeding on a parcel that should not legally be developed under current zoning laws. Unfortunately, although the property owners were initially denied a building permit, they have proceeded over the past month to clear the property without authorization to build from the Town of Evans. Accordingly, I respectfully request that the Town of Evans Zoning Board of Appeals review the permitting and assessment status of this parcel to ensure full compliance with applicable zoning provisions. Any construction undertaken or authorized in contravention of §200-10(C)(1)[b] should be immediately suspended or rescinded until such time as Mergenhagen Road is formally dedicated and accepted by the Town. Thank you for your prompt attention to this matter. Respectfully submitted, Alison Elizabeth Walding alisonwalding@gmail.com 515-240-7904"

Mr. Maglich acknowledges the main concern with flooding and the clearing of the lot but advises that the building department would be responsible for making sure there is a drainage plan for the new house. He also advises that they have no power against someone clearing a lot that they own.

Mr. Maglich moves to approve the variance, LaRusso seconds

All in favor:

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

The applicant was present to represent the appeal. Mr. Dehlinger states that he was unaware that the lot was split zoned, and that the back half of the parcel is flood zone and wetland which he wants to stay out of.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Mr. Maglich closed the public discussion and opened the board for discussion.

Mr. LaRusso moves to approve, Mr. Maglich seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Roger Fox, of 346 Kennedy Ave, Angola, NY 14006 is requesting to construct an addition to the east side of an attached garage of 12X24 (288sqft) which is within ±12ft from the required 30ft minimum rear yard setback, in violation of the Town of Evans Zoning Law Section 200-12(C)(1)(f)[4].

The applicant was present to represent the appeal. Mr. Fox states that he got a variance about 30 years ago for the garage that is there now.

Mr. Maglich asks if anyone would like to speak in favor or against the variance.

Mr. Maglich closed the public discussion and opened the board for discussion.

Board confirms that the yard would stay the same because there is already a structure there.

Mr. Kennedy moves to approve, Mr. LaRusso seconds.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Mr. Kennedy makes a motion to adjourn seconded by Mr. Maglich.

All in favor:
Mr. Martin, Jr., abs **Mr. Maglich, aye**
Ms. Spada, abs **Mr. Kennedy, aye**
Mr. LaRusso, aye

Respectfully Submitted,
Alex Haley