

Unapproved minutes filed with  
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November 14, 2018

**TOWN OF EVANS**  
**REGULAR MEETING**  
**OF THE**  
**ZONING BOARD OF APPEALS**

**Members Present:** A. Yusick D. Maglich, T. Spada, V. Gugliuzza

**Members Absent:** N. Manges

**Also Present:** J. Hill, Building Inspector

Mr. Yusick opened the meeting with a quorum at 6:30pm. The meeting was held in the Municipal Building Records room, 8787 Erie Road, Angola, New York 14006.

Mr. Yusick 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 statute to adjourn to executive session to deliberate. Motions granting and rejecting appeals are voted upon in the public portion of the meeting.

Mr. Yusick asked for a motion to approve the minutes from August 8, 2018.

Mr. Maglich made a motion to approve the August 8, 2018 minutes, Mr. Gugliuzza seconded. All in favor, motion carried.

**RECEIVED**

JAN 11 2019

Lynn M. Krajacic  
Town Clerk  
Town of Evans

**NEW BUSINESS:**

**Mark F. Zeis, 4692 Brentwood Dr., Williamsville, NY 14221, is requesting to decrease the rear yard setback in order to enclose an existing porch into livable space, located at 608 Sandy Avenue, Angola, NY 14006, SBL# 234.28-4-29, in violation of the Town of Evans Zoning Law Section 200-12 C (1) f (4).**

**Applicant is requesting to reduce the rear yard setback from 50 feet to 0 feet, in violation of the Town of Evans Zoning Law Section 200-12 C (1) (f) (4).**

**The applicant would like to enclose an existing back porch to accommodate a washer and dryer.**

**Present for the appeal was Mark Zeis.**

**Mr. Yusick stated the board has some issues with the appeal. Mr. Yusick wanted to know the exact size of the addition. Mr. Zeis stated that he wasn't going to expand the footprint of the porch so the size is roughly 4.5 feet by 12 feet. He is only enclosing the existing porch. Ms. Spada asked if that included the stairs. Mr. Zeis showed the board his survey and approximately where the door is located on the house. He stated that he would have to build some kind of landing with stairs. He stated that he is not including the stairs. Mr. Yusick asked if he is going to use the existing foundation. Mr. Zeis stated that no foundation work will be needed. Mr. Yusick stated that Bay Point is listed as a street on the survey and according to the town's zoning law, it is considered a public road. According to zoning laws, the property is considered a corner parcel and both roads are treated as front yards and in this district, a 30 foot setback. There should be a notice to variance for the distance from Bay Point to the addition which is less than 30 feet. The survey shows the existing porch encroaches on the neighbor's property. Mr. Yusick stated that the board has no authority to grant variances to build on a neighbor's property unless the board has some proof that the applicant is allowed to do that, either the neighbor conveys the piece to the applicant or there is an easement agreement. Mr. Yusick stated that his concern is that there would not be a 10 foot fire separation setback between the applicant's house with the new addition and the neighbor's house. Mr. Yusick stated that the appeal would have to be refiled based on the new setback on Bay Point in case a neighbor had an objection. Mr. Maglich stated that the board has never approved a variance without the fire separation being addressed especially in a dense area.**

**Christine Van Stry, 601C Bay Point Rd, is the neighbor that would be affected by the appeal. She stated that the porch has always been there.**

**Mr. Maglich stated that that may be the case but the board cannot approve the variance because the next owner may want the addition torn down if it's on their property. Ms. Van Stry stated that she understood. Mr. Zeis stated that speaking with Steve, the code enforcement officer, that if the appeal was approved, a window**

would not be allowed in that section and some kind of fire retardant would need to be installed. Mr. Maglich asked if that would eliminate the clearance issue. Mr. Gugliuzza stated that it is code when it is between a garage and a house. Mr. Maglich asked if it would eliminate the issue on two separate structures. Mr. Zeis stated that Steve told him that it would be a way to solve the issue. Mr. Gugliuzza stated that the variance is not correct as it stands. Mr. Maglich stated that the issue is the road and the boundary. Mr. Yusick suggested the appeal be tabled until next month to address the issues and come up with a resolution. Mr. Yusick stated that the previous inspector stated that a residential property being built on a zero setback would require a state variance and he will speak with Steve on the matter.

Mr. Yusick made a motion to table the appeal until the next meeting, seconded by Mr. Maglich

All in favor:

Vote: Mr. Yusick, aye  
Ms. Spada, aye  
Ms. Manges, absent

Mr. Maglich, aye  
Mr. Gugliuzza, aye

Mr. Yusick stated that an easement would have to be recorded and would have to run with the land.

Mr. Yusick asked if there was anything further for the board.

Mr. Yusick made a motion to adjourn to the next scheduled meeting.

All in favor:

Vote: Mr. Yusick, aye  
Ms. Spada, aye  
Ms. Manges, absent

Mr. Maglich, aye  
Mr. Gugliuzza, aye

Respectfully Submitted,



Jennifer Renaldo  
Secretary