

Unapproved minutes filed with
Town Clerk
Minutes Approved 3/13/19
Distributed 3/14/19

February 19, 2019

TOWN OF EVANS
REGULAR MEETING
OF THE
ZONING BOARD OF APPEALS

Members Present: A. Yusick D. Maglich, V. Gugliuzza, J. Kennedy, H. Martin Jr

Members Absent: T. Spada

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 Court 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 January 9, 2019.

Mr. Gugliuzza made a motion to approve the January 9, 2019 minutes, seconded by Mr. Maglich. All in favor, motion carried.

RECEIVED

MAR 14 2019

Lynn M. Krajacic
Town Clerk
Town of Evans

NEW BUSINESS:

John Wentz, 6711 Putnam Dr., Derby NY 14047 is requesting to decrease the side yard setback and the separation between structures to erect a 8 X 10 shed, located at the above address in violation of the Town of Evans Zoning Law section 200-10 (2) 2 and 200-10 (2) 3.

Applicant is requesting to reduce the required side yard setback from 5' to 2.6', and the separation distance between the shed and existing garage from 10' to 3' at the above address in violation of the Town of Evans Zoning Law Section 200-10(2) (2) and 200-10 (2) (3).

The applicant has already erected an 8' X 10' shed in the rear of the property.

Present for the appeal was John Wentz.

Mr. Yusick read letters marked “Exhibit A, B and C” in favor of the appeal.

Mr. Yusick asked Mr. Wentz where he bought the shed. Mr. Wentz stated from the Amish. Mr. Maglich asked if it is on a foundation. Mr. Wentz stated that it is on a four inch pad of crushed stone that was tapped. Mr. Maglich has more of a concern with the separation because that is a fire code. Mr. Gugliuzza stated that he was at the property and there is not another option for him because of the garage and the other side floods. Mr. Maglich asked if he could move the shed 10 feet from the garage. Mr. Wentz stated no. Mr. Maglich asked how close it is to the pool. Mr. Wentz stated five feet. Mr. Yusick stated that the applicant should have asked for a permit before he purchased that shed.

Mr. Maglich made a motion to deny, seconded by Mr. Yusick.

All in favor:

Vote: Mr. Yusick, aye

Ms. Spada, absent

Mr. Martin, Jr, aye

Mr. Maglich, aye

Mr. Gugliuzza, nay

Mr. Kennedy, nay

Mr. Yusick told the applicant that he has 30 days to appeal or he can contact the building inspector to put the shed in a different spot.

Leonard Price, 1566 Inwood Ave., Angola NY 14006, is requesting to increase the size of accessory structure located at the above address in violation of the Town of Evans Zoning Law Section 200-8.2 (8) (b) 3.

Applicant is requesting to increase the required size of an accessory structure from 1200 sqft to 1760 sqft., the above address in violation of the Town of Evans Zoning Law Section 200-8.2 -8 (b) 3.

The applicant has already constructed a 12' X 40' addition to his existing 1200 square foot garage.

Present for the appeal was Leonard Price.

Mr. Yusick asked how the addition was built without a permit. Mr. Price stated that he did not know he needed a permit; it was for storage of wood and a tractor. Mr. Yusick asked if the applicant was in front of the board when the barn was first built. Mr. Price stated yes. Mr. Yusick stated that his request was for a 1,640 square foot garage and a variance was granted for a 1,200 square foot garage. Mr. Price stated that he thought he could build up to a 1,600 square foot garage for the size of his property. Mr. Yusick stated that he would like to look at the property before he would vote and take into account the history. Mr. Yusick asked if the board has permission to go on the property. Mr. Price stated yes.

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

All in favor:

**Vote: Mr. Yusick, aye
Ms. Spada, absent
Mr. Martin, Jr, aye**

**Mr. Maglich, aye
Mr. Gugliuzza, aye
Mr. Kennedy, aye**

Christopher Koch, 350 Westminister Rd., Angola NY 14006, is requesting to increase the size of accessory structure located at address above in violation of the Town of Evans Zoning Law section 200-17 A (4).

Applicant is requesting to increase the size of an accessory structure from 900 sqft. to 1800 sqft., at the above address in violation of the Town of Evans Zoning Law Section 200-17 A (4).

The applicant would like to construct an 1800 sqft. concrete patio with storage underneath. The plans submitted show 10 ft concrete walled structure with a concrete patio on the roof of accessory structure. The previous framed deck was removed, in order to construct the accessory structure.

Present for the appeal was Howard Zubin, contractor of project.

Mr. Yusick stated that the first issue is that the structure, which is partially built, is 1,800 square feet and the stature only allows for 900 square feet. The second issue is that the property is in a FEMA flood zone. The third issue is that it is in a coastal barrier resources area. You would be on notice that FEMA recommends you not build in these areas and you would not be able to get flood insurance. Mr. Yusick stated that construction was started pursuant to a building permit that was issued from the building department. Ms. Hill stated that a building permit was issued and then a stop work order was issued when the department realized the size of the structure. Mr. Zubin showed the board a picture of the previous structure. He stated the structure was falling down and had become dangerous. He stated that he spoke with Paul Ryerse in 2017 regarding the issue and determined the structure was a danger. He stated that he was told to contact Jim Vogel from the DEC to make sure the right permits were issued. Mr. Zubin stated that he met with Mr. Vogel in October 2017. Mr. Zubin stated that he received a determination from Mr. Vogel that it was not in his jurisdiction other than beach access for the vehicles to get down the beach. Mr. Zubin stated that in 2018, he submitted the plan to Steve Bremer in hopes of starting the project after Labor Day. He stated that Mr. Bremer and Mr. Vogel informed him that he needed to get a beach access permission for the dead end of Wendt Rd, which was granted by the town board in a resolution. Mr. Zubin stated that the structure is around 10 feet out of the sand or base flood elevation. Mr. Yusick asked if he had a certification. Mr. Zubin stated that he is getting the certification. He stated that he was informed by Ms. Hill that he needed a flood permit and a variance. Mr. Yusick asked if Mr. Zubin had the copy of our local law stating what is required to get a variance when the project is below base flood elevation. Mr. Zubin stated that the variance is for the size of the structure and the flood permit is with the building department. Mr. Yusick asked Ms. Hill if they would need a variance from the board.

Ms. Hill stated that it would be determined when she receives the certification. Mr. Zubin stated that on Wednesday, November 21, he received via email of a stop work order stating that he did not receive the proper building permits. He stated he spoke to Ms. Hill and a variance was needed because the structure is more than 900 square feet. He stated that Mr. Bremer told him that the project would be shut down for the winter and come back in the office in January to get the variance. Mr. Zubin stated that he came back in January Mr. Bremer was gone and Ms. Hill has been helping him. Mr. Maglich asked if the size of the structure on the original permit application. Mr. Zubin stated yes. Mr. Yusick asked if the building department raised the issue about the flood zone. Mr. Zubin stated never until last Monday. Mr. Yusick asked if he proceeded to this point in good faith. Mr. Zubin stated correct.

Ed Conboy, 8168 Hillside, spoke in favor of the variance because the building department issued the permit and a possible lawsuit.

Mr. Yusick stated that the applicant has done everything by the book and the remedy is not that simple.

Mr. Gugliuzza made a motion to approve for the size variance, seconded by Mr. Yusick.

All in favor:

Vote: Mr. Yusick, aye
Ms. Spada, absent
Mr. Martin, Jr, aye

Mr. Maglich, aye
Mr. Gugliuzza, aye
Mr. Kennedy, aye

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

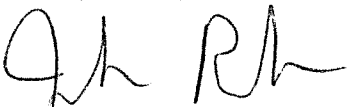
Mr. Yusick made a motion to adjourn to the next scheduled meeting.

All in favor:

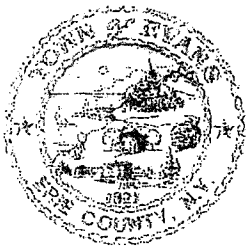
Vote: Mr. Yusick, aye
Ms. Spada, absent
Mr. Martin, Jr, aye

Mr. Maglich, aye
Mr. Gugliuzza, aye
Mr. Kennedy, aye

Respectfully Submitted,

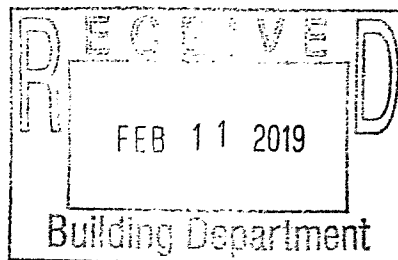


Jennifer Renaldo
Secretary



TOWN OF EVANS

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



Dear Sir or Madam:

As an adjoining property owner in the Town of Evans, you are hereby notified that a neighbor (**PLEASE READ THE ENCLOSED LEGAL NOTICE PUBLISHED IN THE OBSERVER**) residing in the Town of Evans has made application to the Zoning Board of Appeals of the Town of Evans for a variance with regards to his/her property situated in the Town of Evans.

You are entitled to appear at the public hearing held in the court room at the Evans Municipal Building to express your opposition to or support for the granting of said application.

Communications in writing relating to the application may be filed with the Board, in person or by mail, at or before the meeting.

If you have any questions regarding the meeting, please contact the Building Department at 549-5753.

ZONING BOARD OF APPEALS
OF THE TOWN OF EVANS

By

Jennifer Renaldo
Secretary

Enc: NOTICE

2/7/19

TO WHOM IT MAY

CONCERN:

I do not care if

they do this. Thank

you -

Somenica M. Stallone

(716) 684-6169

Exhibit A

FEB 10, 2019

TO - EVANS ZONING BOARD

FROM - PAUL TREMBATH 6746 PUTNAM DR. DERBY N.Y.

SUBJECT - JOHN WENTZ ZONING REQUEST

I AM WRITING TO SUPPORT THE REQUEST OF JOHN WENTZ. HE HAS BEEN OUR NEIGHBOR FOR SEVERAL YEARS AND HAS ALWAYS KEPT HIS PROPERTY NEAT AND CLEAN AND HAS MADE UPDATES TO HIS PROPERTY TO KEEP THE NEIGHBORHOOD LOOKING NICE.

I'M SURE ANY ADDITION HE IS REQUESTING TO HIS PROPERTY WILL BE DONE IN GOOD TASTE FOR OUR COMMUNITY.

Respectfully Submitted

Paul Trembath

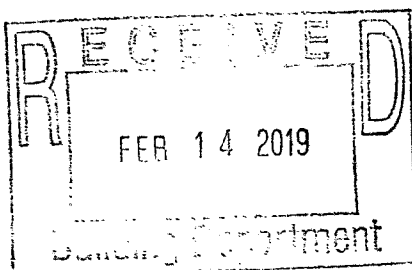


Exhibit B

1001 Legal Notices

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Zoning Board of Appeals of the Town of Evans will meet at the Evans Town Hall, 8787 Erie Road Angola, NY 14006 on Tuesday, February 19, 2018 at 6:30 P.M.

The Purpose of this meeting is to conduct a Public Hearing on the following appeals Pursuant to Article IV of the Zoning Law of the said Town, and hear all persons in favor of, or opposed to, the relief requested in said appeal:

1. John Wentz, 6711 Putnam Dr., Derby NY 14047 is requesting to decrease the side yard set back and the separation between structures to erect a 8 X 10 shed, located at the above address in violation of the Town of Evans Zoning Law section 200-10 (2) 2 and 200-10 (2) 3.

2. Leonard Price, 1588 Inwood Ave., Angola NY 14006, is requesting to increase the size of accessory structure located at the above address in violation of the Town of Evans Zoning Law Section 200-8.2 (8)(b) 3.

3. Christopher Koch, 350 Westminister Rd., Angola NY 14006, is requesting to increase the size of accessory structure located at address above in violation of the Town of Evans Zoning Law section 200-17 A (4).

Any other business that may presently be before the board.

Jensen M. Hill
Code Enforcement Officer
Town of Evans

0-164857 February 2, 2019-aw

Dear Sir
I don't object to a shed
on 6711 Putnam Dr, Derby

Thank You
Mark Fris

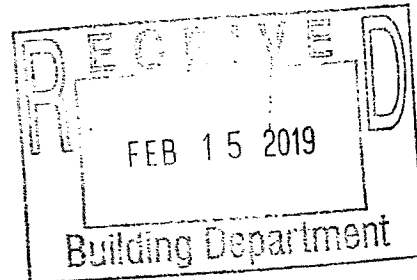


Exhibit C