

June 12, 2019

TOWN OF EVANS

REGULAR MEETING

OF THE

ZONING BOARD OF APPEALS

Members Present: A. Yusick, D. Maglich, T. Spada, V. Gugliuzza, H. Martin, Jr

Members Absent:

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 April 10, 2019.

Mr. Maglich made a motion to approve the April 10, 2019 minutes, seconded by Mr. Gugliuzza. All in favor, motion carried.

RECEIVED

JUL 12 2019

Lynn M. Krajacic
Town Clerk
Town of Evans

NEW BUSINESS:

Jonathan A. Smietana, 144 Midshore Dr., Blasdell, NY 14219, requesting to reduce the minimum building lot size to construct a single family dwelling at 1974 New Jerusalem Road SBL# 237.00-4-32, in violation of the Town of Evans Zoning Laws section 200-8.1 C (1) (a).

Applicant is requesting to reduce the allowable lot area in AOS from 5 acres to 1.4 acres in order to construct a single family dwelling at 1974 New Jerusalem Road, Angola SBL# 237.00-4-32 in violation of the Town of Evans Zoning Law Section 200-8.1 C (1) (a).

The applicant would like to construct a single family dwelling on property located at 1974 New Jerusalem Road.

Present for the Appeal was Jonathan Smietana.

Mr. Yusick asked when the property was purchased. Mr. Smietana stated 18 months ago. Mr. Maglich asked if the applicant was aware that there was a 5 acre minimum. Mr. Smietana stated no. Mr. Maglich asked what size the house would be. Mr. Smietana stated 2,100 square feet with a 700 square foot attached garage. Mr. Yusick stated that the issue is it is an agricultural area, there is a reason for the 5 acre minimum, and the reason is it is romantic to live in an agricultural area but not romantic to smell the horses and cows and manure. Mr. Smietana stated that he understands but there are also single family homes on both sides of the property and across the street. Mr. Yusick asked what the sizes of those properties are. Ms. Hill stated they are 3 or 4 acres. Mr. Yusick read a letter marked as “Exhibit A” in favor of the appeal. Mr. Yusick stated to the applicant not to complain to the town board regarding the odor.

Mr. Yusick asked if the board has any questions and no one in the audience was there for or against this appeal.

Mr. Maglich made a motion to approve, seconded by Ms. Spada.

All in favor:

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

**Mr. Maglich, aye
Mr. Cugliuzza, aye**

Jason Schultz. 9485 Erie Road, Angola, NY 14006, is requesting to increase the height of a fence in the front yard, in violation of the Town of Evans Zoning Law section 200-34 (A) & (C) 200-9-C-6 (a), (b) & (e).

Applicant is requesting to construct a 6'-8' privacy fence on the side of the property reducing the allowable front yard from 50' to 0', in violation of the Town of Evans Zoning Law Section 200-34, A, C and 200-9 C 6 (a) (b) (e).

The applicant would like to erect a 6'-8' privacy fence along the side lot line, and front property line.

Present for the appeal was Jason Schultz.

Mr. Yusick asked how long has the applicant lived there. Mr. Schultz stated 7 years. Mr. Yusick stated that since he has been on the board, has always taken the position that the board did not want the town to be a series of walls along our roads or highways. Mr. Yusick stated that he went up and down Erie Road and saw houses and buildings closer to the road than the applicant's house; however, he did not see any fences, especially a 6 foot to 8 foot fence along the road. Mr. Maglich asked what a 6 foot fence give the applicant that a 4 foot wouldn't. Mr. Schultz stated for safety and a sound barrier. Mr. Martin, Jr stated that he also went down Erie Road and saw no similar fences.

Mr. Yusick asked if the board has any questions and no one in the audience was there for or against this appeal.

Mr. Maglich made a motion to deny, seconded by Ms. Spada.

All in favor:

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

Mr. Maglich, aye
Mr. Gugliuzza, aye

Derby Warehousing LLC, P.O. Box 773, Derby, NY 14047, is requesting to decrease the side yard setback abutting a residential area at 1393 Wisconsin Road, Derby, NY, in violation of the Town of Evans Zoning Law section 200-24 C (6)

Applicant is requesting to construct a 27,500 sqft. addition to the existing facility reducing the allowable side yard abutting a residential area from 50' to 15', in violation of the Town of Evans Zoning Law Section 200-24-24 C (6).

The applicant would like to remove 2,800 sqft. portion of the existing building and reconstruct a 27,500 sqft. addition to the existing warehouse in order to accommodate their growing business.

Present for the appeal was Jeffery Fierle.

Mr. Yusick stated the parcel is 9 acres, the building/business in similar form has been there for forty years and the current owner has been there for 17 years. The warehousing building is approximately 450 feet from the road. The building would not have an adverse effect. Mr. Fierle spoke to the audience regarding concerns on traffic and what the project entails.

Linda Affronte, 1380 Wisconsin Rd spoke against the appeal.

Mary Willer, 348 Lakeside Rd spoke against the appeal.

Grace Seitz, 1400 Wisconsin Rd spoke against the appeal.

Tom Waring, 1370 Wisconsin Rd spoke in favor of the appeal.

John Schneider, 1528 Wisconsin Rd spoke in favor of the appeal.

John Binder, 1470 Wisconsin Rd spoke against the appeal.

Lisa Videl, 1482 Wisconsin Rd spoke against the appeal.

John Schamberger, 7053 Waring Cir and adjoining lot affected by appeal spoke in favor of appeal.

Margaret Strade, 1384 Wisconsin Rd spoke against the appeal.

Mr. Yusick stated that the law states the Zoning Board of Appeals cannot place conditions on a variance, if granted, that directs or controls the way the applicant does his business. Environmental issues will be addressed by others, the drainage by the building department. He stated that the board is only here for the issue of a side line. The owner of the property next door, which is the only one affected by the request, spoke in favor of the appeal. The property is zoned correctly, has been zoned, the building has been there for years and predates many of the people that has spoken today.

Mr. Yusick asked if the board has any questions.

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

All in favor:

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

Mr. Maglich, aye
Mr. Gugliuzza, aye

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

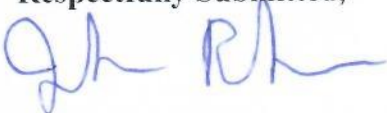
Mr. Yusick made a motion to adjourn to the next scheduled meeting.

All in favor:

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

Mr. Maglich, aye
Mr. Gugliuzza, aye

Respectfully Submitted,



Jennifer Renaldo
Secretary

I Dorothy Anne Scheffer have
no problem with John A. Smietana
building his new house at 1974

New Jerusalem Road It is better than
what was there till he bought and
cleaned up the lot.

Sincerely

Dorothy Anne Scheffer

1994 New Jerusalem RD
Eden, NY 14057

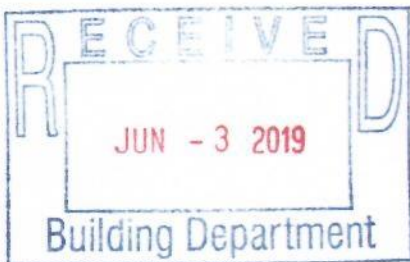


Exhibit A