

RECEIVED

**REGULAR MEETING OF THE
TOWN OF EVANS PLANNING BOARD
WEDNESDAY, FEBRUARY 26, 2020**

MAY 28 2020

Lynn M. Krajacic
Town Clerk
Town of Evans

MEMBERS PRESENT: A. Sellers, M. Connors, A. Lloyd, L. Szewczyk, D. Schiedel
ALSO PRESENT: William Smith, Director of Planning & Community Development
Jeneen Hill, Code Enforcement Officer
Brittany Penberthy, Planning Counsel

Chair A. Sellers opened the meeting at 7:00 P.M. The meeting took place in the Records Room of the Evans Municipal Center, 8787 Erie Road, Angola, NY 14006.

Chairwoman Sellers: I would like to welcome everyone to the February 26, 2020 Planning Board meeting. Before we begin tonight's meeting we have some housekeeping we need to take care of; regarding minutes from the November 13, 2019 public meeting; are there any additions, corrections or questions or may I please have a motion to accept them as submitted.

M. Connors: Motion to accept.

A. Lloyd: Second.

Vote: All in favor; motion carried.

For the record, a Planning Board Public Meeting is conducted solely for the pre-determined action items listed on the official Planning Board Agenda as advertised. No other unrelated items may be brought before the Planning Board at a Public Meeting. That being said, if any resident wishes to comment for or against an action item listed on the Agenda, it is their right to do so when the floor is opened to the public. Each person is limited to one opportunity to speak and comments shall be limited to 3-minutes. If you wish to comment, and haven't done so already, we ask that you sign up on the sheet located on the counter behind you.

1. The First item on the agenda tonight is:

Site Plan – Hogg Express Expansion – Proposed construction of 1,500 sf building expansion, plus 695 sf covered exterior porch, 528 sf of open exterior patio, and 7,249 sf parking lot expansion to accommodate a new ice cream parlor at 9297 Erie Road (northeast corner of NYS Rt. 5 and Commercial St) SBL# 235.00-3-25.1 Petitioner: Andrew Tiedt, 1309 Peppertree Drive, Derby NY 14047.

HISTORY: There is a bit of history on this project

- Hogg Express, LLC purchased the existing property in 2014. The property is currently utilized as a Convenience Store and Gas Station. The request for expansion is to allow for the addition of an ice cream parlor.
- The application for this project was filed on January 6, 2020. The Planning Board reviewed the site plan at their January 8th and February 12, 2020 Work Sessions.
- A revised Site Plan was received following the January 8th Planning Board Work Session and as requested, a detailed Landscape Plan was supplied after the February 12th Work Session.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, William Smith**

- I am fine with everything, all the setback requirements; we worked closely with Andy, Holly and the architect making sure everything was to Code. Code Enforcement as well has been reviewing and the Town Engineer, Dave Johnson has it on his desk and doesn't foresee any issues there.
- The only thing I saw was with the proposed landscaping; the height was 6' to 8' at the matured height on the plantings along Erie Road and we just need to be sure that is maintained at roughly 4 feet for line of site because of cars pulling in and out

- **Code Enforcement Officer**

- No concerns.

- **Town Engineer**

- No concerns.

OUTSIDE AGENCY REVIEWS: Chair

- **Erie County Department of Environment and Planning:** The 239M Review was sent to the County and returned on January 10th; they offered no recommendation having determined the proposed action to be of local concern.

SEQR: The Planning Board has reviewed the short form of the SEQR and has found no significant environmental concerns.

Are there any questions or comments from the Board before I open the floor to the Applicants?

There being no further questions or comments from the Board, at this time I will open the floor to the Applicant and/or his representative – please state your name and address, spelling your last name for the record. PLEASE REMEMBER, comments shall be held to the 3-minute time limit per person, and each person shall be limited to one period of comment.

Dean we've gone over the project with your son-in-law, so if you just want to give your name and address for the record, stating that you are just here representing the project, you don't really need to go over it with us.

Dean Hogg, 8830 Route 5, Angola, NY: I am here representing the project.

Chair: Is there anyone else who wishes to speak?

There being no further comments, I will close the floor and bring it back to the Planning Board for further questions or comments. Are there any further questions or comments from the Planning Board?

There being no further questions from the Planning Board may I please have two motions – one regarding SEQR and one regarding approval.

M. Connors: SEQRA Motion

Based on the Town's review of the information submitted and the guidelines of the New York State Environmental Quality Review Law, the Planning Board has determined that the project is not anticipated to result in any significant adverse impacts on the environment. Therefore, I move to issue a negative declaration for this action.

A. Sellers: Second.

Vote: All in favor; motion carried.

M. Connors: Approval Motion

I would like to make a motion to approve the project based on the following reasons:

1. We have received the application and plans and have found them in accordance with the Town's regulations and requirements.
2. This project is consistent with the Town's Comprehensive Plan.
3. The redevelopment of this site, retention and continuation of this business in the Town will be a benefit to the local community and surrounding area.

I would like to add the following condition(s) to this motion:

1. Completion of the project shall be consistent with all elements of the approved site plan, and subject to the review and approval of the Code Enforcement Officer, Town Engineer and Planning Director.
2. Plantings along Erie Road shall be kept to a height not to exceed 4' in order to maintain lines of site while still providing a visual buffer to the parking lot.
3. An additional sign application shall be submitted to the Planning Office for review and approval.

A. Lloyd: Second.

Vote: All in favor; motion carried.

Chair: NEXT STEPS

The Planning Office will send a letter to the Code Enforcement Office advising of our action tonight. You may continue the building process under their jurisdiction, and as always our office would be happy to assist should the need arise. Good luck and best wishes to you as you continue through construction.

Director: Thank you Dean.

2. The second item on the Agenda this evening is a:

Code Amendment — Recommend for approval to the Evans Town Board the Amendment to Section 200-22(B)(1) of the Town of Evans Code so that any structure and/or use permitted within the General Business (GB) District is also permitted within the Motor Vehicle Services (MS) District.

HISTORY:

- There are a number of vacant or underutilized properties located within the MS District.
- Permitted structures and uses within the MS District are currently limited primarily to automotive sales and services; however,
- The Planning Department has recently received inquiries regarding the reuse of properties currently within the MS District for non-motor service related uses.
- At the February 12, 2020 Work Session, the Planning Board discussed a proposed zoning code amendment to permit General Business uses and structures within the MS District.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, William Smith:**
 - As discussed, this allows for greater business opportunities in the Town and it will help address some more highly visible vacant or at-risk commercial properties.
- **Code Enforcement Officer:**
 - Expressed support for the amendment

OUTSIDE AGENCY REVIEWS: Chair

- **Erie County Department of Environment and Planning:** The 239M Review has been sent to the County and we are awaiting comment. Any action that may be taken tonight will be done pending comment from that review.

Director: Typically we like to get the 239M Review back before our public meeting, this recommendation goes before the Town Board where they will hold a public hearing and we will have it back before then. I do not foresee any issues there, but if there is, then we can readdress them before it goes to the Town Board.

Chair: Are there any questions or comments from the Board before I open the floor to the Public?

There being no further questions or comments from the Board, at this time I will open the floor to the public – please state your name and address, spelling your last name for the record. Again, PLEASE REMEMBER, comments shall be held to the 3 minute time limit per person, and each person shall be limited to one period of comment. Would anyone like to speak on this?

There being no further comments, I will close the floor and bring it back to the Planning Board for further questions/comments.

Are there any further questions or comments from the Planning Board?

There being no further questions from the Planning Board may I please have a motion regarding recommendation to the Town Board?

A. Lloyd: Recommendation Motion

I would like to make a motion to recommend to the Evans Town Board the approval of the following zoning amendment:

Amend Section 200-22(B)(1) of the Town of Evans Code so that any structure and/or use permitted within the General Business (GB) District is also permitted within the Motor Vehicle Services (MS) District.

For the following reasons:

- The action is consistent with the Town of Evans Comprehensive Plan.
- The action is not expected to result in any significant adverse impacts.
- The action will constitute the use of underutilized properties in the Town.

A. Sellers: Second.

Vote: *All in favor; motion carried.*

Chair: NEXT STEPS

- The Planning Office will send a letter to the Town Board advising of our action tonight requesting a Public Hearing to be scheduled. Please watch The Observer for the corresponding Legal Notice, which will confirm the date of the public hearing.

3. The First item on the agenda tonight is:

Code Amendment — Recommend for approval to the Evans Town Board the Amendment to Chapter 200, Article XIII Solar Energy Systems, Attachment 3 Solar Overlay Map of the Town of Evans Code to include parcel SBL# 221.00-4-1 at the corner of Delamater and Burns Road to the Solar Overlay Map.

HISTORY:

- On July 17, 2019 Town Code Section 200, Article XIII was adopted as Local Law #5 of 2019 in which the Type 1 Solar Energy Systems Overlay Map was established.
- The overlay district was based on current Light Industrial and General Industrial Zoning Districts as well as the Future Land Use Map from the adopted 2019 Evans-Angola Comprehensive Plan which identified future commercial and industrial districts.
- The Comprehensive Plan also identified certain agricultural, scenic and business corridors where it was recommended that utility-scale solar energy systems should be prohibited.
- While the proposed Light Industrial District on the Future Land Use Map does extend onto a portion of the vacant parcel owned by Michael Duell, known as SBL# 221.00-4-1 at the corner of Delamater and Burns Roads; the parcel, however, was not included in the solar overlay district.
- Since the time of the adoption of the Solar Energy Systems Law, it was brought to the attention of the current Planning Director that Mr. Duell had begun in 2016 working with previous Planning Director on a proposed ground mounted Type 1 solar energy system installation on the southeast corner of his property. However, this information was not shared with the new Director during the finalizing of the solar ordinance between June and July of 2019.
- In September of 2019, Mr. Duell returned to Evans and walked the property with the Planning Director to discuss potential inclusion of the parcel within the overlay district.
- The proposed amendment to the Overlay District Map was reviewed at the January 8th and February 12th of 2020 Work Sessions.

INTERDEPARTMENTAL REVIEWS:

- **Planning Director, William Smith**
 - Would like to submit a memorandum from our legal counsel, Brittany Penberthy, supporting the proposed amendment for a number of reasons
 - The amendment is consistent with the established criteria to be included in the overlay district in terms of current and future land use, lot size and proximity to the existing overlay. It is also not currently prime farmland and currently underutilized nor is it within any of the excluded corridors. Just the character of that area, with the substation and railroad tracks right there, both adjacent, it fits within the character.
 - Unfortunately, Mr. Duell was out of town at the time of adopting the code, and if I had known that this was going on I would have taken the reigns then it would probably have been in the original map. I thank you for your patience as we move forward on this.
- **Code Enforcement Officer:**
 - Expressed support for the amendment

OUTSIDE AGENCY REVIEWS: Chair

- **Erie County Department of Environment and Planning:** The 239M Review was sent to the County on January 31, 2020 and returned on February 21, 2020; they offered no recommendation having determined the proposed action to be of local concern.

Are there any questions or comments from the Board before I open the floor to the Public?

There being no further questions or comments from the Board, at this time I will open the floor to the public – please state your name and address, spelling your last name for the record. Again, PLEASE REMEMBER, comments shall be held to the 3 minute time limit per person, and each person shall be limited to one period of comment.

Michael Duell, 1305 Burns Road, Angola: I'm here to answer any questions if you have any. What Bill already said is very accurate but I can answer if there are any more questions. This property is actually a really good spot for solar for a couple of reasons; 1) because it abuts the Delamater Road substation. Before my family bought it the previous owners sold it to Niagara Mohawk back in the 70's, so it's a substation. 2) It abuts the railroad line which is a 34KB distribution line, so the hook-up is going to be minimal. 3) What is really good, is that it slopes to the southeast, away from Delamater Road; there are trees and stuff there. As Bill mentioned, I had been working with Roberta since 2016 and I am completely okay with the specifications, that's what I really need is to know what to do, but I need to have my property included so I can do it. So if you could do that, it would be great.

Chair: Thank you. Are there any further questions?

Director: Just to clarify, the Planning Board is a recommending Board to the Town Board, so now we will recommend to have it approved at the Town Board level and they will have a public hearing. I will do my best to expedite it. There will be a resolution to advertise for the public hearing at the next Town Board meeting and then the public hearing will be held at the next Town Board meeting. Once it's included then we can start moving to the site plan development process, special use permit and all that other fun stuff.

Mr. Duell: Just a little side bar, I don't know how familiar you are with solar farms and tax codes, but they just did an extension on it. Finances were supposed to change at the end of last year, but they extended some credits and I think it goes until the end of this year and then next year it starts decreasing, so finances are something I've been working on. Finances have changed since 2016 but they are still okay, but they get decreasingly interesting the more you go out. The value stack that National Grid does is a lower stack so the finances are poorer the more we wait, the less the finances make it work out. I don't know how you all feel about green energy, but I think it's really good to do something for the environment.

Director: I will say everything is moving in the right direction to get the map amendment done. I don't foresee any issues there, so whatever work you're doing in the background to move things forward we can talk about to make sure we are working in parallel paths here to expedite it as much as we can.

Mr. Duell: I have the guidelines here in a file, that I've reviewed with some of the people I have been working with and they haven't told me anything that's unreasonable.

Chair: Thank you. I will close the floor to the public and bring it back to the Planning Board.

Are there any further questions or comments from the Planning Board?

There being no further comments or questions, may I please have a motion regarding recommendation to the Town Board?

A. Lloyd: Approval Motion

I would like to make a motion to recommend to the Evans Town Board the approval of the following zoning amendment:

- Amend Chapter 200, Article XIII Solar Energy Systems, Attachment 3. Solar Overlay Map of the Town of Evans Code to include parcel (SBL No. 221.00-4-1) at the corner of Delamater and Burns Roads to the Solar Overlay District Map.

For the following reasons:

- The action is consistent with the Town of Evans Comprehensive Plan.
- The action is not expected to result in any significant adverse impacts.

M. Connors: Second

Vote: All in favor; motion carried.

Chair: NEXT STEPS

- The Planning Office will send a letter to the Town Board advising of our action tonight requesting a Public Hearing to be scheduled. Please watch The Observer for the corresponding Legal Notice which will confirm the date of the public hearing.

A. Sellers: Motion to adjourn.

M. Connors: Second.

Vote: All in favor; so moved.

Respectfully submitted by:



Debra L. Wilson
Secretary

Approved: *5/27/20*

