

**TOWN OF EDEN
PLANNING BOARD MINUTES
April 28TH, 2015**

MEMBERS PRESENT:

**MARK AGLE – CHAIRMAN
BILL MAHONEY – VICE CHRM
FRANK MEYER, D.D.S.
KEVIN O’GORMAN M.D.**

MEMBERS NOT-PRESENT:

**TONY WEISS
ANDREW ROMANOWSKI
BILL ZITTEL
JUANITA MAJEWSKI**

GUESTS:

**GREG KEYSER – CRA INFRASTRUCTURE & ENGINEERING
MARK MOHR – HOT DOG STAND
PHIL MUCK – EDEN ZONING BOARD MEMBER
WILLIAM CARPENTER- YOCHUM ROAD – MINOR SUBDIVISION**

Chairman Agle called the April 28, 2015 meeting to order at 7:03pm and asked the board if there were any changes to the October 2014 minutes as printed. Mark Agle made a motion to approve the minutes seconded by Bill Mahoney “ayes” motion approved.

NEW AND UNFINISHED BUSINESS:

1. Pre-Submission – Hot Dog Stand

First on the agenda is the pre-submission by Rob Ray and Mark Mohr for a hot dog stand at the old “Nice-n-Easy” location on North Main Street. Mark Mohr explained that this would be similar yet simpler business than the hot dog stand they have in Springville. We would like everything to be outside and thus a seasonal business from April to October. The kitchen and serving line will be an open area. Customers will be able to see the grill with a glass enclosure and we will have outside seating and a playground area. We would like to possibly have an overhead door in the front to lock at night. We had a survey done and this location is an acre of land. When we excavated the site and removed the former fuel holding tanks, we took approximately three or four truckloads of material to a landfill. There

was no fuel left in the holding tanks. There was a sign of some slight leakage on one but it was in one of fittings to the tank. The NYSDEC has signed off on the removal project. Recently, we have put clean fill at the lot and would like to let it set and settle for a year and they would like to be up and in business in the spring of 2016.

Mark Agle told the applicant that the site is located within the General Business district where retail and food restaurants are permitted by right. However, this area is part of the Hamlet Overlay District and is within the Hamlet Transition Area. You will need to check our Town Code to make sure that you take into consideration the special requirements during your design process to ensure your compliance. Diane can give you a copy of the Site Plan Checklist and the Hamlet Overlay District regulations. The Hamlet Transition requires you to take into consideration things like fitting into the character of the surrounding area along with incorporating certain elements and requirements into your design. It requires that you provide the Planning Board with at least two different ideas of conceptual building elevations for our consideration. For example, we do not want a corporate "box" type design. There are also certain signage requirements that you will need to follow. This location is also within an MS4 drainage district so that would trigger a storm water pollution prevention plan (SWPPP) for controlling storm water runoff during and after construction. It would be beneficial to touch base with your own professional design consultant. Also, a SEQRA form has to be completed. Due to the site being situated along a State highway, we are obligated to also make 239m referral of your application and plans to Erie County Planning. They, and the other agencies will then have 30 days to review and comment. This is a procedural requirement to ensure that items such as traffic impacts, site lighting, and environmental impacts are fully considered by the appropriate parties.

Mark Agle asked: How far back will building be?

Mark Mohr replied: Where the remaining "Nice-n-Easy" pavement stops would be the front footer.

Mark Agle: The next step from pre submission conference would be to come back with your two conceptual building elevation idea drawings for our review. During the design phase, your design consultant should be very mindful of understanding and complying with the requirements of the Town Code, especially those of the Bulk Regulations for the GB zone and those additional requirements of the Hamlet Transition Area.

2. William Carpenter – Minor Sub-division Yochum Road

Mark explained to the Board that Mr. Bill Carpenter has 70 acres on Yochum Road that he would either like to split into two lots or possibly three lots. He now has 400' road frontage, but this property is split between the Conservation and Agricultural zones. According to the Bulk Regulations table, both zones require a 200' average lot width and also a 200' road frontage. These requirements are based on a local law in 1994 they whereby the average lot width and the minimum road frontage was equalized to be one in the same. There is also a provision in that local law that provides the Planning Board with some discretion to address the road frontage in subdivisions where the lots front on a curved road. You are here tonight because you have 400 feet of road frontage on a curve in the road and you are seeking input from this Board as to whether this provision in the local law could provide you the relief you need to end up with three lots instead of the two which your existing frontage would ordinarily support?

Mr. Carpenter said that he has been thinking about this over a period of time. Not sure yet how anxious I am to actually subdivide the property. So I am trying to find out if you can provide that relief, not sure I will follow through with it.

Mark Agle confirmed with Mr. Carpenter: based on the information that you have submitted; you currently have 400' feet of road frontage. This would give you (2 lots) at 200' each and you are looking for third lot which would decrease the road frontage to 133.33' for each lot.

Questions asked of Mr. Carpenter were:

Frank Meyer- Is this at the top of the hill?

Answer; yes

Kevin O'Gorman- Is this land farmed?

Answer; no one currently farms the land but my neighbor cuts the front portion for hay.

Mr. Carpenter said that he bought the land 1990 [prior to the local law equalizing the width & frontage] when the requirement was 135' road frontage and I know that you have made the provision work for other people.

Mark Agle said that the provision is in the code when they equalized the frontage and now the lot width is to be one and the same. The lot

frontage used to be less than the lot width. But then in 1994 they equalized them so now 200' is the requirement for both and thus with 400' of frontage you would get the two lots but not a third.

Mr. Carpenter showed the Board the proposed two lot subdivision whereby the parcel would be split into the five acre parcel that he would like to keep and the remaining balance of sixty five acres would be the second lot.

Mark Agle read from the local law in question: *the required street frontage and width is increased to be the same as the minimum lot width in feet within each given district unless on cul-de-sacs or curved roads in minor subdivisions approved by the Planning Board.* Three lots would still be considered a minor subdivision but the issue that I am struggling with is that, the whole idea of the Conservation and Agricultural Districts and their associated regulations are set up for a reason; to try and preserve the integrity and intent of those zones. The local law would appear give us some discretion to make some allowances because of the curve but this is like a 40% frontage reduction on each lot. You are looking for substantial relief and then you will end up with 3 lots and then potentially 3 houses and therein lies the conflict with the general intent of these districts which is to control housing density. Granted you have plenty of land, I'm not disputing that, what I'm afraid of is that if we make that large of an exception here, it opens the door to anyone who happens to have frontage on a curve to try and seek an exception in order to carve out an additional lot or two.

I think the whole idea of this provision in the local law is that in situations where you have a cul-de-sac or sharp curve in a planned subdivision, some latitude can be exercised by the Planning Board to alleviate some lot line constriction.

The other possible alternative would be to seek relief through a variance from the Zoning Board. I do not know if they would view this but typically their first factor is whether the situation is a self-created hardship. In other words you are creating the need for this.

Kevin O'Gorman asked: On the outside of a circle you gain frontage so if we have a straight line we would lose frontage. So if you bend the circle out you actually gain frontage. So if you are saying because of the curve I lost you didn't lose you gained.

Mark Agle said that from the geometry perspective you are correct but he has the frontage he has. Whether it's on the inside of outside of the circle isn't specified in the Code; the code the way it is written, it just say, on a curve. However, your point is understood from the standpoint of providing us further rationale for not granting the relief.

Kevin O'Gorman stated that ok what if we approve the split this is done forever. That means that whoever buys these lots it can never be developed, period.

Mark Agle agreed that perhaps if the applicant would consider some form of future development restriction on the lots in exchange for allowing three lots, the Board may reconsider. In other words, if three lots were allowed it would be in exchange for the applicant granting a conservation easement (or some other kind of legal instrument) to the Town that would restrict further development on any of the created lots to either one single family home or an agricultural use, and that no further subdividing of any of the lands would be allowed.

Mr. Carpenter decided to have the Board act on the originally proposed two lot minor subdivision; being the 5 acres for his residence and the 65 acre remainder parcel.

Mark Agle made a motion to approve a 2 lot minor subdivision as depicted upon the copy of the survey in front of the Board here tonight, for the property on Yochum Road for Mr. William Carpenter. Said subdivision consisting of (1) lot of 5 acres for the existing residence of Mr. Carpenter, and the second lot being the remaining 65 acres. Seconded by Kevin O'Gorman. Vote: all "ayes"; motion approved.

REPORTS: Mr. Henry is no longer working for the Town of Eden as the Code Enforcement Officer as of May 8, 2015. The Board members discussed the fact that they are concerned that now more work will be put onto the volunteer Boards. Mark Agle stated that he already had to spend additional time researching and compiling data for tonight's meeting that would have normally been assembled and provided in advance by Scott. Kevin O'Gorman was unaware of Scott's departure and upon learning of it also expressed his determination that no one on these Boards should need to do any extra work as we are all volunteers and give enough of our time. The Town Board should make sure that we are covered by having the Town Engineer and/or the Hamburg Building Inspector perform all of the prep work and provide

us with the necessary documentation and support before and during the meetings. When Scott's hours were cut back, we were already saddled with having to fill out some form just to request his presence at our meetings. Now we are left in an even greater bind!

ANNOUNCEMENTS: Frank Meyer had submitted his application to be an alternate member of this Board for another year in December, 2014. Since this Board has not met since October, 2014 we have not been able to vote on this until tonight. Motion to recommend to the Town Board that they approve Frank Meyer for another year as an alternate member of the Eden Planning Board, seconded by Bill Mahoney "ayes" motion approved.

ADJOURNMENT:

Mark Agle made the motion to adjourn the Planning Board Meeting at 8:20p.m, seconded by Frank Meyer, all "ayes".

Next Planning Board meeting is scheduled for May 26th, 2015 @ 7:00pm.

Respectfully submitted,

Diane Herzog, Secretary Eden Planning Board