

PLANNING BOARD MINUTES

JULY 26, 2011

MEMBERS PRESENT

MARK AGLE, CHAIRMAN
WILLIAM MAHONEY, VICE-CHAIRMAN
JUANITA MAJEWSKI
WILLIAM ZITTEL
ANDREW ROMANOWSKI
FRANK MEYER, D.D.S.
TONY WEISS

MEMBERS EXCUSED

KEVIN O’GORMAN M.D.

GUESTS PRESENT

DAVID JOHNSON- NUSSBAUMER & CLARKE (TOWN OF EDEN ENGINEER)
CAMI MCGRAW - CRA (ACTING TOWN OF EDEN ENGINEER FOR MINEKIME PROJECT)
SCOTT HENRY – TOWN OF EDEN BUILDING INSPECTOR
LEONARD ZYGULA – SITE PLAN REVIEW (SOUTHTOWNS AUTO REPAIR)
JOSEPH ELIESLE – SITE PLAN REVIEW (SOUTHTOWNS AUTO REPAIR)
DAVID DAHL – HAMBURG SUN

Chairman Agle called the July 26th, meeting to order at 7:02pm and asked the board if there were any changes to the April 2011 minutes as printed. Bill Mahoney made a motion to approve the minutes seconded by Frank Meyers all “ayes” motion approved.

NEW AND UNFINISHED BUSINESS

MINEKIME BEVERLY SUBDIVISION

Cami McGraw was present at the meeting acting as the Town of Eden engineer on this project. CRA has reviewed the plans and specifications and they provided written correspondence to the Town that they are in accordance with Town of Eden code and other applicable codes. We have received all the documentation from necessary agencies (water authority, health department, etc.) and Preliminary Plat approval was given at our October 2010 meeting. A full environmental assessment form was required. When we received that full EAF, we conducted a coordinated review under SEQRA, including a 239m referral to Erie County. We did receive a response back from Erie County saying that they didn't have any jurisdictional interest and they ceded lead agency status to the Town of Eden Planning Board.

If final approval is granted tonight, Mr. Minekime still has to follow thru with installation of PIP and those improvements have to be inspected and certified by the appropriate agencies and as built provided to the Town. Once the certification and dedication of those improvements have been accepted by the Town, the Planning Board Chairman would be authorized to sign the plat. Then within 62 days of signing the plat the applicant is required to file the plat with the Erie County Clerks Office. All the fees have been paid but Mr. Minekime still owes the Town signed preliminary plats for our records.

SEE ATTCHED – SEQRA NEGATIVE DECLARATION & FINAL PLAT APPROVAL

Evergreen Acres - SEORA Negative Declaration

As Lead Agency under SEQR, the Eden Planning Board hereby makes the following determination:

This project is an Unlisted Action under the SEQRA process. In accordance with that process, a coordinated review was conducted, including a 239m referral to Erie County. As part of this process, the Planning Board carefully reviewed this project, comparing it to all the listed "Criteria" for Determination of Significance set forth in SEQR Regulations (6NYCRR 617.7). Based upon the foregoing, the Town of Eden Planning Board concludes that the proposed project will not adversely affect the natural resources of the State and/or health, safety and welfare of the public and is consistent with social and economic considerations. The result of this review is that a Notice of Determination of Non-Significance (a **Negative Declaration**) is hereby **RESOLVED** for the proposed EVERGREEN ACRES PART II – BEVERLY AVENUE SUBDIVISION as follows:

WHEREAS, the Town of Eden Planning Board has reviewed the plans and information submitted by the applicant including a Full Environmental Assessment Form (EAF) - Part I and found them to be in compliance with the applicable standards; and

WHEREAS, the Town of Eden Planning Board has reviewed the SEQR documentation and conducted a coordinated review by interested and involved agencies and collected additional information; and

WHEREAS, the said coordinated review was completed on November 30, 2010 determining lead agency and no significant environmental impact or concerns; and

WHEREAS the Town of Eden Planning Board has accordingly completed the EAF-Part 2 for the record; and

WHEREAS, the Town of Eden Planning Board has found no item of significant impact to the Town of Eden and that the project is in accordance with all zoning and plans for the development of the Town;

NOW, THEREFORE BE IT RESOLVED, that the Town of Eden Planning Board hereby issues a **Negative Declaration** of environmental impact for the development of this project.

Final Plat Approval

WHEREAS, the Planning Board and the Town Engineer have reviewed the plans and specifications for the EVERGREEN ACRES PART II – BEVERLY AVENUE SUBDIVISION, and

WHEREAS, the plans have further been reviewed in accordance with 6 NYCRR, Part 617 (commonly referred to as SEQRA), the Planning Board has issued a Negative Declaration.

THEREFORE, I hereby make a motion to approve the final plat and seek Planning Board approval to sign the plat prior to its recording at the office of the Erie County Clerk.

Second? William Zittel Vote - Ayes: 7 Nays: 0

SOUTHERN TIER AUTO REPAIR – SITE PLAN REVIEW

Mr. Zygula was before this Board in March 2011. At that time we provided some direction to him and also referred him to various sections of the Town Code for guidance in preparation of his plans. At their June 2011 meeting, the Town Board approved the Special Use Permit for their site within the PI zone, subject to site plan approval by the Planning Board and several other conditions. Specifically there were code conditions relative to other uses on the parent property, which requires that additional information and detail be shown on the site plan. The Town Engineer and the Code Enforcement Officer have reviewed the submitted plans and provided written comments. The submitted plans are a good start but they are deficient in certain areas that we will give you guidance on tonight so that you can get those items addressed.

Mr. Zygula stated that he had three [design] people working on the plans; he also told the board that there is no design professional because there is not alteration to the building. Mr. Zygula was under the understanding that the site plan was basically focused on his lease area. Dave Johnson explained that the whole parent parcel must be shown on the site plan not just a portion of that parcel. The reason for this is so that it can be shown to the board that it is in compliance with the Town Code. Mark said that the approval you are seeking is specifically for what you are doing on your lease area. But the Code requires the additional information in order that it can be determined that your specific use is compatible with everything else that is going on there (parking, traffic flow, screening, etc.). Unfortunately if the parent parcel is non-compliant we can't issue a permit for some other use on that property no matter how desirable that use may be. We are not asking you to solve their problem for them. But for the basis of your review there are a lot of activities and uses taking place on that overall parcel that have a direct bearing on your proposed usage. We are not expecting you to do a full-blown boundary and topographic survey of the parcel, however our site plan requirements are specific about what we do need to see.

Scott Henry explained that the things that he is concerned with are codes issues and items required by the Site Plan Checklist that are not addressed on this plan. He also said that, since we just received this plan, we are only at the reaction stage of the Site Plan.

Mark added that many of the issues raised are not overly involved to address in your subsequent revision.

Dave gave a copy of his written comments to the applicant and went through them. The applicant was told that if their design professional wanted something waived from the site plan rather than including it, they should make a request along with their rationale, to the Planning Board to waive it. The parent parcel landowner is over the one-acre threshold limit for storm water drainage management and that's potentially a big deal affecting your project approval.

Mark explained that since this is not an allowed use by right, you needed to obtain the Special Use Permit from the Town Board to do it. Mr. Henry explained to the applicant that he may be confusing zoning (land use) and building codes. Whether or not an auto repair shop is allowed in the PI zone is zoning issue. In Eden it is allowed in PI by Special Use Permit issued by the town board (which in this case they granted). Auto repair shops are allowed but not by right, but by Special Use Permit. There is a difference. If it was allowed by right all you would have had to do is go to Mr. Henry and work out any details, get your permit and you would be in business. The Town Board has authorized your SUP subject to site plan approval.

The Planning Board issues with your site plan, are relatively minor and your design professional can work thru them with the Building Inspector and Town Engineer. The major issues appear to those that really rely on the landlord; he has to cooperate to bring his site up to code. The amount of clearing that has taken place on the site, the drainage issues need to be addressed within the parameters of the Code and any other applicable agency permitting. Mr. Braasch will have to deal with that sooner or later, either through the DEC or us. The problem for you is whether those items can be addressed by him in a time frame that is acceptable to you.

The board discussed, with Mr. Zygula an option to help his project move forward. The idea of approaching the landlord/owner and asking whether there was a possibility of Mr. Zygula purchasing the "lease parcel". If so, that would alleviate many of the current issues with the Southern Tier Auto Group's site plan. However, the applicant was cautioned that if they were to go that route, they should consult the Bulk Requirements to ensure that the configuration of the purchase parcel would adequately support the use (a separate parcel has its own setback, side yard, coverage, etc.). Another suggestion was to see whether the owner would consider doing a minor subdivision of his property to segregate the "lease parcel" into a stand alone parcel. It would still be under his ownership but he could then lease it to you for your use and it would be free of the constraints associated with the remainder of the parent parcel. Either of these ideas would still require the cooperation of Mr. Braasch. Mr. Zygula seemed very open to these ideas, he has known the landlord for many years.

REPORTS: Diane will be looking into the CD series for the board members for our required training commitments.

ANNOUNCEMENTS: NONE

Mark Agle made the motion to adjourn the Planning Board meeting at 8:34pm, seconded by Andrew Romanowski.

Next Planning Board meeting is tentatively scheduled for August 30, 2011 @ 7:00pm.

Respectfully submitted,

Diané Herzog, Secretary