

**Minutes
Eden Planning Board
March 25, 2008**

FINAL MINUTES

MEMBERS PRESENT:

William Zittel
Dennis Brawdy
Kevin O’Gorman
Andrew Romanowski
Anthony Weiss
William Mahoney (Alt)
Frank Meyer, (Alt)

MEMBERS ABSENT:

Mark Agle
Juanita Majewski

GUESTS:

Dana Braun, Engineer, Wendel Duschcherer
Ed Krycia, Councilman and Town Board Liaison
Richard Minikime, Beverly & Evelyn Subdivision



Vice Chairman, Dennis Brawdy called the March 25, 2008 Planning Board meeting to order at 7:10 p.m.

Since everyone has received and reviewed a copy of the minutes of the February 26, 2008 meeting, the minutes are approved as submitted and printed. So moved by Bill Zittel, seconded by Andrew Romanowski. Being no discussion, all “Ayes” motion carried.

NEW & UNFINISHED BUSINESS:

Beverly & Evelyn Subdivision – 2 Schreiner Road Lots - The first item on today’s agenda is Richard Minikime who is seeking approval to create Part 2A of the Evergreen Acres subdivision, Part of Part 2 commonly known as Beverly Evelyn Subdivision consisting of 14 lots [12 on Beverly and 2 on Schreiner]. Mr. Minikime indicates that he has buyers for those two Schreiner lots and would therefore like to sell those now. Mr. Minikime submitted a pre-submission form together with a map showing the two Schreiner lots only. I have a few notes from my discussion with Mark on this matter. With respect to the subdivision that was approved in October, 2007, there were some legal loose ends with respect to the transfer of the recreational property that was agreed to in lieu of the Recreational fees when the original subdivision was approved. That has been going back and for with the lawyers for some time.

Mr. Minikime – That matter it is still not done but it is moving along and my attorney advised me it would be completed within a few weeks. So apparently any use of the Subdivision Part 1 or Part A cannot be done until that legal paperwork is complete. I also

have not been pushing this matter because there has been zero demand and I have been dragging my feet as much as anyone else on this.

Dennis – Mark was concerned with not wanting to muddy the water with too many things going on at the same time. All verbiage aside, what you have tonight is completely separate and distinct from what we did before. I know you had a few years ago those same to lots, but you were thinking apartments or duplexes. So this is that same property.

Mr. Minikime – That has all been dropped. This subdivision was approved (all stages) except for the Health Departments okay as to the water issue. However they looked at it again and said that Evelyn could move forward because there is apparently enough water for those lots. Beverly was split and stopped at that point because there was no water approval for Beverly and that is still pending. Apparently, the new water line coming down Shadagee bears directly on the Beverly Subdivision [referring to all 14 lots]. If the water line goes through then Mr. Casey with the Health Department will allow the Subdivision in total to go through. The problem is that there is not enough pressure because it is a dead end line. But there are 14 lots.

Dennis - When you say 14 lots you are referring to these 2 lots on Schreiner and the 12 on Beverly. [Mr. Minikime, correct].

Mr. Minikime – On Schreiner all the utilities are in place, including water. The best case scenario is that I get approval tonight pending Health Department approval and pending the park and land transfer which has to happen first. The health department told me they would have an answer for me in a few days as to the 2 lots on Schreiner. I asked Drew Reilly a few weeks ago about just setting those 2 lots aside as a minor subdivision because all the utilities or in place for those 2 lots, but he said to do it as a Part A so here I am.

Dennis - What was his rationale for that?

Dana - The rationale behind that is because from the beginning these two lots were part of the overall subdivision. When you get into segmentation issues then you create new problems so he wanted to keep it as a Part 2A showing phasing and phasing is completely legal and you also had completed the SEQR process of the full subdivision and if you do something other than phasing then you might have to go back and open the SEQR process again to show the due process that was completed on the previous lots. So his thought was that this was a more direct way to get to the end point that Mr. Minikime desired as opposed to going back and opening all these potential doors for problems.

Mr. Minikime – I would have these two lots sold, if this could be approved. I have buyers and I have the builder. If we get too far into the season the builder is going to get busy and he won't be able to build the two houses. That may not be your concern but it sure is mine.

Dennis – We understand, as long as everything is as you say it is and we can locate the paperwork, we can possibly do a phone vote. It has been done before.

Dana – I do not want to nor can I say that everything is okay because I have not looked at those two lots on their own. They were looked at as part of the big picture.

Dennis – This is a complicated issue and I'm sitting in for Mark here, so you can blame me but you have worked with us enough that we can push this along. But there seems to be far more questions on this than answers.

Bill – We need to make sure that we and you are all on the same page and that we are all talking about the same thing. We need to determine what exactly was previously approved. Dana needs to go back through the paperwork to review this. Some paperwork refers to Evelyn only and some refers to Beverly & Evelyn. We need to specifically determine what was and what was not approved.

Dana – I will try to put together the chronological history of this project, the drainage needs to be looked at, Mr. Minikime still needs to be working with his attorney to get the legal end of the paperwork issue moving. That still has not been completed in accordance with the October 2007 meeting.

Bill - If this was approved as one complete subdivision, then the drainage for the entire subdivision must be in order. We cannot look at the drainage for 2 lots. It is a whole subdivision. Otherwise you create a new minor subdivision with just the 2 lots. Either way this still needs to be reviewed and discussed.

Dennis - Okay, we cannot approve these 2 lots, it is all or nothing at this point. We need to research this and get back to Mr. Minikime. This matter is tabled at this time. This matter has been ongoing since 2005. Dana will do the review and look at the drainage. If everything checks out it is a simple process to just approve the phasing of the 2 lots provided the engineering and the chronological history checks out. So that next time, everyone will be on the same page.

Bill – The lots were approved up to the point they are at. The October, 2007 approval was contingent upon multiple items including the drainage plan, the water issue and the recreation and parkland issues. Allegedly Erie County signed off on Evelyn but not on the Beverly. Although we do not have this in writing either.

Mr. Minikime – Mr. Casey with Erie County Water said that as long as he is assured that the Town is committed to doing the Shadagee Road Water Project then we will sign off in anticipation of the water going on and resolving the outstanding water issues.

Andrew – So these two Schreiner lots would be subject to the same conditions?

Mr. Minikime – Yes.

Dennis – So what you are essentially asking us is to add them to the sketch plat.

Mr. Minikime – No, they are already on it [these are the two lots that were originally going to be apartments] I just want them separated because they already have water and sewer. I have buyers for these 2 lots and would like to move forward with these 2 lots.

Indiscernible – Everyone speaking at one time about different aspects of this matter.

Scott – I see in my file that the public hearing took place a while back and this has been ongoing since 2005. We looked at this originally and said we have a total of 24 lots originally as the whole subdivision known as Evergreen Acres. However, at some point the focus became Evelyn Drive. Mainly, the public hearings, final approval and final plans to be signed conditioned upon meeting these other legal requirements as previously mentioned. I don't know if we have ever gotten beyond sketch plat or preliminary plat related to Beverly.

Mr. Minikime – I take issue to that. This was a whole from the beginning. This was all complete as one big development. You all saw everything up to the final approval because they all went through Nussbaumer and Wendel. If I had the water approval from Mr. Casey I could have had everything approved and I would not be here this evening.

Dennis - So essentially you are saying that the final plans were not brought forth because of the water?

Scott - Again, I do not think we moved past preliminary on Beverly, which would include Schreiner.

Kevin – I don't recall moving forward on Beverly either. I want someone to show me where and when the approval for Beverly was granted because I don't think it was October of 2007.

Dennis - I think that's what we need to do. We need to table this matter. We can't split it, we can't just give him these two lots. We will not be making a motion or make anything contingent. We didn't understand exactly what he was looking for, so we need to review the history and do our homework. I don't know that bringing you back next month will save any time. You have other contingencies still floating on from October, 2007 that you still not have completed. This matter is tabled pending further research and discussions with Mark.

REPORTS/ANNOUNCEMENTS:

Dawn Palma announced that she is resigning as secretary. She is moving to Georgia.

Mark - Being no other announcements or anything else, I make a motion to adjourn. So moved by William Zittel. Seconded by Andrew Romanowski. All "Ayes" motion carried. Meeting adjourned at 7:45 p.m.

The next meeting is tentatively scheduled for April 29, 2008 at 7:00 p.m.

Respectfully submitted,

Dawn Palma
April 9, 2008