

FINAL MINUTES
Eden Planning Board
May 27, 2008

MEMBERS PRESENT:

Mark Agle
William Zittel
Juanita Majewski
Kevin O' Gorman
Andrew Romanowski
William Mahoney (Alt)
Frank Meyer (Alt)

MEMBERS ABSENT:

Dennis Brawdy
Anthony Weiss

GUESTS:

Scott Henry (Eden Code Enforcement Officer)
Dana Braun (Engineer – Wendel Duschcherer)
Dave and Jane Clemens (Subdivision)
Don Schreiber Jr. (Sonny brook III)
Renee Adams (Dog Kennel)
Andrew Przybysz (Verizon Tower)
Ed Krycia, Jr. (Town Council)
Kerri Inserra

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Chairman, Mark Agle called the May 27, 2008 Planning Board meeting to order at 7:06 p.m.

Mark asked for a motion to approve the March Draft 2008 minutes due to them being tabled at the last meeting. William Zittel motioned, Juanita Majewski seconded, hearing no further comments or corrections – Vote: all “Ayes” motion carried. Also to approve the April 2008 minutes, Andrew Romanowski motioned, seconded by Kevin O’Gorman. Being no discussion, Vote: all “Ayes” motion carried.

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NEW & UNFINISHED BUSINESS:

Item 1: Renee Adams – Dog Kennel Request

This is Renee Adams, here for third time before the board; we referred her to the Zoning Board at a prior meeting to seek variances or other relief. The Zoning Board did grant the variances that were needed and now she is back before the Planning Board. A revised site plan will be required to reflect the conditions placed by the Zoning Board before we can make a recommendation, unless we do so conditionally.

Items needed to be reflected on the Site Plan per Zoning Board direction:

1. An above ground tank removed to allow additional outdoor 4200 sq ft. of fenced area. (Credit was also given for indoor space due to the small size (9-16 lbs.)of the dogs).
2. A short form Environmental Assessment Form (EAF) under SEQRA must be submitted.
3. Site Plan must show screening vegetation to be planted along the common property line with neighbor Scheetz.

Renee Adams brought in the original site plan with the proposed areas sketched on freehand that is purported to show the required square footage.

Removal of the above ground water tank was not a necessity she stated, but eventually it will be removed. I will be able to get 6548 sq ft w/o the tank being removed and the screening still has to be done. Renee Adams stated that she did file SEQR forms with Mary Jo Hultquist and one with the Zoning Board.

Mark Agle stated that this plan would just have to be revised by her engineers to show these things to the proper scale on the plans so we can verify that the conditions that were required will be able to be met. In other words ; the screening, plantings, and so forth will all then become part of the permanent plan of record. There was some opposition put forward from some in the surrounding neighborhood but that's typical, with these types of uses. However all of these requirements are being imposed for a reason. The Special Use Permit will also have conditions attached to it, and therefore if you fail to control the dogs there are some potential repercussions for you as well.

Dana stated that with the Special Use Permit you would have a yearly review. Mark stated that we are only the recommending body on this matter as the Town Board has the authority for issuing Special Use Permits. However, once the site plan is revised it will have to be approved by the Planning Board.

Dana stated the proposed use in an unlisted action under SEQRA and the environmental impact is not significant so it would not trigger any further environment review except for looking at the short EAF.

Mark stated that we would make a recommendation to the TB and since they've already held the public hearing they would have the benefit of our recommendation along with the ZBA's input. It would be up to them to decide how they would want to move ahead; either granting the SUP or not.

Mr. O'Gorman stated that it may be better for her to list the adult dogs as over 1 year old.

Our recommendation will be specific as to the size of the dogs because that's the basis for the required area calculation.

All dogs will be licensed after four months of age stated Adams, thru the town.

Chairman Agle made a motion that the Planning Board make the following recommendation to the Town Board:

That they favorably consider the granting of a Special Use Permit for the Renee Adams Dog Kennel Plan, with the following conditions:

- **That a revised site plan be prepared that reflects those conditions imposed as part of the ZBA action: 1) the revision of the site plan to reflect the requisite amount of outdoor fenced area; 2) the placement location, scope, and nature of the screening to be placed along the common property line with Scheetz; 3) submission of the short form environmental assessment form (if one is not already provided); and**
- **That prior to the issuance of the actual Special Use Permit, the revised site plan be submitted to, and approved by, the Planning Board; and**
- **Since there is no adverse environmental effect either to the physical environment or the neighborhood or district, we further recommend that the TB further grant a Negative Declaration under SEQRA; and**
- **That the permit is made to be specific as to the size of dogs (9 to 16 lbs range); and**
- **That the permit also be specific as to the maximum number of adult dogs (over one year of age) being set at no more than 10; and**
- **That the permit is nontransferable; and**
- **That the permit is subject to annual review.**

Seconded by William Zittel. Vote on sending the proposed Recommendation to the Town Board for Renee Adams Dog Kennel: motion carried, all “ayes”.

2. Clemens subdivision

Chairman Agle explained that the Clemens’ are back in front of us tonight to propose a minor lot line adjustment of pre-existing lot lines shown under existing Map Cover 2189 filed in the Erie County Clerk’s Office. As you recall the Clemens’ have been before us with a comprehensive subdivision plan for their property. We held the required public hearing on that plan and had subsequently given sketch plan approval. However, it is our understanding that because of certain considerations; at this point they merely want to move ahead with this reconfiguration which is one of the sublots proposed under that approved sketch plan. The lot line adjustment would affect sub lots 12 and 13 shown under Map Cover 2189. In this way they can move forward and sell 1 lot that has already been proposed and approved as part of their comprehensive plan. Agle asked Dave Clemens if that summary adequately captures why we are here tonight. Clemens concurred that it did.

We’ve done several of these lot line adjustments over the years. The effect is that, if and when they ever decide to come back with the rest of the plan, it would be just 1 less subplot in their subdivision it doesn’t change the scope and nature of that plan at all just merely lets them get underway on this lot for now. However, there are some adverse effects to them if they never elect to move forward with the rest of that subdivision. The two affected sub lots 12 and 13) under the original Map Cover 2189 would be rendered

non-build able because the remnant portions of these lots (once the new lot is created) would not conform to the bulk requirements of the zone. I just want to be clear for the record on this point so the applicants understand their future options and constraints. They can either go ahead with the plan as they proposed before or just continue to hold all their property and divide it some other way at a later date.

Andrew Romanowski announced his intention to abstain from the vote due to a potential conflict of interest.

Bill Zittel made motion to approve this lot line adjustment with the understanding that once approved, the remnant portions of the original sub lots 12 and 13 as shown under Map Cover 2189 will no longer be considered viable building lots under the current bulk regulation of the Zone. Juanita Majewski seconded the motion. Vote: all “ayes” motion carried.

3. Minikeme – not present

4. Sonnybrook Phase III

Chairman Agle gave the following summary. Preliminary plat approval was given, with conditions, to this subdivision in 2004. Final plat approval could not be given due to water moratorium being imposed by ECWA. As of January 2008 the water moratorium has been lifted. Subsequently we have received correspondence from the Erie County Health Department approving the construction of the water lines and also correspondence from the Erie County Water Quality Management Department approving the sanitary sewer lines. This clears the way for us to finally move to the final Plat approval. Our Town Engineer will now bring us up to date on the outstanding issues.

Dana Braun stated that the next steps would be:

- A. The Planning Board may consider issuing a final subdivision plan approval conditioned upon:
 - Review of project within the MS-4 requirements
 - Review and sign off of work completed under the previously filed PIP
 - Review/approval of engineering/construction drawings for new PIP applications
 - Review of fees for PIP and agreement on fees with Town
 - Construction of improvements as per the PIP applications and construction drawings
 - Sign-off on the completion of all improvements by the appropriate agency/inspector

- B. Since the plan is the same as the one that received preliminary approval, the Planning Board may choose to hold or waive a second public hearing.
- C. Final sign-off and filing of the Map Cover will happen once all the conditions have been satisfactorily met by the applicant and proof of such has been provided to the Planning Board.

Mr. Schreiber stated that the Notice of Intent (NOI) was filed and we did hear back on that so that the only thing with the MS-4 requirement is that you just need to be copied on the reports. That's taken care of so I can get you that. As far as the drainage goes, everything is in except of course the under drains. As far as sewer can we actually get started on it? The sewer authority will go ahead, they are already to inspect. Since we don't need a PIP from the Town Board, is that a way to get started and move forward? Dana replied that the layout has not changed from the preliminary plan so we will need final drawings that will conform to the reporting requirements for the County. Recommend that the requirement to be waived under the code.

Mark stated the only other condition that he saw that was part of that was the Town Board except the Park Land offer, you were going to keep that green space and I didn't hear anything and I don't in vision it being an issue whether they formally. Schreiber stated that he might have a letter that they formally accepted.

Mark- Just a procedural issue; typically the Health Dept has to sign off first on the Map Cover then we are next. I know you got the letter from them, can get their signatures on there now? I don't know whether they will sign it based on the design or they have to do the testing? But if they sign it, then as long as you have met all of our conditions, then we can sign. However since some of this infrastructure is being dedicated to the Town, then we should wait till they are installed and approved before we sign off. That would be my thought.

Chairman Agle made a motion that we grant Final Plat Approval conditioned upon receiving all the necessary engineering approvals, the payment of all the applicable fees, and because there is no substantial changes in the layout that we also waive the need for a second public hearing.

Seconded by William Zittel.

Andrew Romanowski abstaining from the vote due to a potential conflict of interest.

Vote: all in favor " ayes" - motion carried.

5.Verizon Tower

Chairman Agle provided the following summary. If you recall about a year ago we had made a recommendation to the Town Board for a Special Use Permit for this

communication tower use. We had looked at two sites, one being Eden Bowling Center and the other being the Smith Hardware site. We recommended the Bowling Center site as the primary site but also gave the Town Board a favorable recommendation on the Smith Hardware site should they want to opt for that site. They did hold a public hearing on those sites. Based on feedback from the hearing, the TB took those comments and went back and performed some more due diligence. Since the Smith Hardware site was a viable site from our perspective, they looked at the potential of leasing a portion of Town owned property adjacent to the former Smith Hardware site. There was a general feeling that this case offered several benefits; it met Verizon's location and engineering criteria, it was likely to be acceptable the Planning Board since we already considered the Smith site as viable, it would provide income stream to the Town, and it mitigated some of the public concerns raised at the public hearing about the Bowling Center site, and the site is wooded and therefore it takes full advantage of the existing natural screening. The Town Board has had some discussions with Verizon and what you have in front of you tonight is a survey of the Town owned property adjacent to Swartz field. As you can see, this area is not a developed recreation area.

This new proposal however requires that we revisit our whole review and approval process again. Meaning that we would have to make a recommendation to the Town Board to hold a public hearing if we feel that this is a viable site. They would **tend** do that as early as their next meeting.

Bill Zittel wanted to know how close to the water well is this site, he wanted to be able to access it.

Councilman Krycia stated that he knew the area but not where the water well was located.

Bill Zittel wanted to make sure that if the tower is installed that it not inhibit access to the well.

Of course, any recommendation we would make would require any require any variances to be obtained before we would recommend final site plan approval. There are at least two set back issues that I see right away that would require variances and therefore you would have to end up going to the Zoning Board. We would probably make that referral to the ZBA as part of our recommendation so they can start on their review.

Mr. O'Gorman asked if Verizon had discussed this site with the County of Erie since they own the railroad property?

There will be a SEQR coordinated review. the same we did on the site plan, The Town Board would be the lead agency under SEQRA and the County will automatically be included as an interested agency. Once they get it, they can internally route it to any of their departments that may have an interest. Dana gave a SEQR update, that the Town Board is, the lead agent for all Cell Towers; the applicant did send me the long EAF today so we have that as records and the Planning Board has a copy as well. I have been talking to the Town Attorney about

what the process will be for reopening the SEQR since they have already progressed it on the previous site and he is aware that the railroad is an interested agency and will be coordinating it with the Town Board to redo the SEQR mailings and make everyone aware of the site changes.

The setback requirement requiring a variance is pursuant to our Town Code whereby the Tower needs to be set back from buildings and property lines the height of the Tower. So in this case, it would need to be 195 feet and it is only proposed to be 80 feet. The south property line also would need a variance.

The tower is taller, for a more effective coverage and its set back 800' from Route 62. The Town is considering the lease but it is not up to us to recommend that they sign the lease or not. That's up to the Town Attorney and the Town Board to make that determination.

Mr. O'Gorman motioned that the Planning Board hereby makes the following recommendation to the Town Board:

That the Town Board schedule the necessary public hearing in order to consider a lease of this site for the proposed use, as requested by Verizon.

We further recommend that if the site is determined to be acceptable to the Town Board; that prior to their issuance of the necessary SUP permit, the Applicant be required to meet and fulfill the following conditions:

- Prepare a final set of plans that are in substantial compliance, in terms of scope and intent, as shown on the submitted preliminary plan that was reviewed by the Planning Board at its May 27, 2008 meeting and which plan serves as the basis for this recommendation. (Said final plans shall depict the location of the "Town well" based upon actual field survey).
- Prepare and Submit a Site Plan in accordance with Town specifications for approval by the Planning Board.
- Secure any and all required zoning variances necessary to accommodate the use as proposed. ***Referral to the Eden Zoning Board of Appeals, for consideration of said variances, is hereby made by copy of this memo.***
- Comply with all other applicable laws, codes, ordinances, or directives of the Town or otherwise.
- That as Lead Agency under SEQRA, the Town Board adds Buffalo Southern Railroad as an additional interested agency in its project notification mailings.

Seconded by Mr. Romanowski. Vote: all in favor "ayes" motion carried.

6. Annual training

Mr. O’Gorman presented the Planning Board with a draft letter to Mr. Nellis and the Eden Town Board about requesting the authority be transferred to the Chairman of the Planning Board to determine suitable training for its members as required by law. A copy of the letter was provided to Dana for editing and presentation to the Town Board. The Planning Board discussed staying after their monthly meeting every month for a ½ hour to 1 hour to receive the requisite training from the Town Engineer or other qualified providers.

7. Update: O’Brien’s Paving

Dana provided an update of discussions between the O’Brien’s and the Town Code Enforcement officer relative to their desire to pave their parking lot. Discussion centered on the preparation of a drainage plan in accordance with the Town Code. This is not on the agenda but wanted to give the Planning Board a heads up on this subject. The O’Brien’s contend that they may fall under the exemption from preparing such a plan as provided for in our code.

Dana stated that her last conversation with O’Briens was that they needed to at least show by calculation that there would be no appreciable change in drainage between a paved lot and what currently exists there now. The feeling of the CEO is that to go from grass and gravel to pavement is a significant change. The Town’s storm water law does have a provision in there that anything over 5000 sq ft that’s paved for commercial or industrial development requires a storm water management plan. They are with in the MS-4, which is under the MS-4 requirement, it doesn’t meet the threshold requirement, the MS-4 is an acre which is the standard speed easy requirement but the Town has this more stringent requirement before industrial, commercial sites that would have a heavy use of traffic. The lot has 25000 sq ft of pavement going down. There is a clause in the law but this is a (gray area).

Dana met with their engineer and architect and they finally relented at least that they would do minimal recalculations to show that it does not adversely effect, if their calculations show it so be it, and if it doesn’t they will have to do the plan.

Mr. O’Gorman suggested that one solution might be for them to donate the land to the Town and let the Town pave it, for a parking lot for the Downtown area.

8. Tim Horton’s Update

Tim Horton’s SEQR review period is not up till June 8th, so they elected not to come back till the June meeting, they didn’t see any need to come and discuss while they were working on it.

The Highway Superintendent has reviewed the plans and his comments included that they might need to replace one of the drainage receivers into which they are running the drainage system and do a couple of other improvements. They have agreed to plant the trees requested and called to verify the species, they are agreeing to stripe the crosswalk At Legion. Right, now we have received no comments from any of the agencies for the SEQR review. The school Superintendent has talked to their

Engineer directly to get more information. Tim Horton's talks to our Engineers on a weekly basis. They are talking to Ron Maggs, Highway Superintendent to make sure he's happy with the drainage and they will likely be back in June.

Mark Agle made the motion to adjourn the meeting at 8:29p.m. Seconded by Kevin O'Gorman. All "Ayes" motion carried.

The next meeting is tentatively scheduled for June 24, 2008 at 7:00 p.m.

Respectfully submitted,

Diane Herzog
June 6, 2008