

FINAL MINUTES
Eden Planning Board
October 30, 2007

MEMBERS PRESENT:

Mark Agle
William Zittel
Juanita Majewski
Kevin O’Gorman
Dennis Brawdy
Andrew Romanowski
William Mahoney (Alt)
Frank Meyer, (Alt)

MEMBERS ABSENT:

Anthony Weiss

GUESTS:

Pastor Art Kohl, Faith Bible Baptist Church (Parking Area/Field)
Renee Adams (Dog Breeding)
Dana Braun, Engineer - Wendel Duschcherer



Chairman, Mark Agle called the October 30, 2007 Planning Board meeting to order at 7:05 p.m.

Everyone should have a copy of the minutes of the September 25, 2007 meeting. Do I hear a motion to approve them submitted and printed? So moved by Bill Zittel, seconded by Dennis Brawdy. Being no discussion, all “Ayes” motion carried.

NEW & UNFINISHED BUSINESS:

Item 1.) **Renee Adams, Dog Breeding & Boarding**

Renee Adams is before the Board for a recommendation on a special use permit (SUP) for a dog breeding business. She was here back in June of 2007 and was given some direction as to what we expected to see on the site plan. The plan was to be submitted after she had it prepared by a licensed professional. Back in June you [Adams] only had a basic sketch plan of your property. You have now supplied a professionally prepared site plan. However, if you refer back to the June minutes you were advised to review the Town Code relevant to kind of use in that zone. At that time, we had some concerns as to whether or not you would be able to get this use laid out on your oddly shaped piece of property and still comply with the requirements associated with the proposed use. It was suggested then that variances might be required.

After reviewing your new site plan, several variances will have to be pursued through the Zoning Board if you are going to continue with this application. Basically, the first problems are with the bulk requirements of the zone. The minimum lot width of 200' is not met. At the particular spot where you have shown the kennel to be located you only have about 185' of total lot width. The other is the minimum side yard is 35 feet with a total of both side yards being at least 100 feet. The new addition you show is only about 33 feet and therefore shy of the requirement. It looks as though you will have more than enough side yard on the opposite side to attain the 100 foot. So if you apply and obtain a variance for that one side you should be okay for the side set backs. The other two variances that would be required are triggered by the use and you were previously directed to review the Town Code, specifically 225-32e. That specifies the set backs to the lot lines from the dog pens, runways and exercise areas. You have a 15' by 10' exercise pen shown on here. According to the Code requirements, it must be 200' from the lot line and you have only 42' so you will require a variance for that. The next item would be the area of the pens themselves. I think somewhere in your paperwork you indicated a minimum of 10 breeding dogs with revolving litters of puppies. In issuing a SUP for a kennel, the permit shall stipulate the maximum number and type of animal to be boarded, harbored or trained. That number shall not exceed 10,000 square feet per 100 pounds of animal. Your argument that the dogs are in the house and not [outside] does not matter. That, in and of itself, does not comply with the bulk code. You either have a limit of 2 animals per residence as allowed by code or you proceed as a [commercial business] and obtain a Special Use Permit to harbor more than two and thereby comply with the code. So the code is such that you need 100 square feet for every pound of animal. So what you have indicated is substantially undersized at 150 square feet. You would have to tell the Zoning Board the number of animals. The dogs have an avg. weight of 10 to 16 lbs. Even if you base it on 10 lbs. per dog, you would need a minimum of 1,000 square feet per dog for a total of 10,000 square feet. Currently you only have 150 square feet. So that would require a variance or you need to enlarge the pen to total 10,000 square feet. That would be up to you. That was why, at the last meeting, we directed you to that section of the Town Code, so your design professional could refer to that and come up with a design that met those requirements.

So essentially you are non-compliant in the following areas: [Pursuant to Town of Eden Code Section 225-11B(1), 225-23, and 225-32E]

1. BULK REQUIREMENTS: **Side yard setback**; you have about 33 feet to the addition and you need at least 50 feet and a combined side yard of not less than 100 feet. The **minimum lot width** is only 185' and it should be a minimum of 200'.
2. The area of the pen/kennel should be a minimum of 10,000 square feet (based on having 10 breeding dogs as you have indicated).
3. The side yard set back for the pen itself, according to the code must be at least 200 feet and you currently show 42 feet on your plan.

These guidelines were given to you at the last meeting. There is nothing we can do for you at this point. Therefore, you will need to go before the Zoning Board for variances

on all of these issues or reconfigure your plan to reduce or eliminate some of these deficiencies. If the Zoning Board grants the requested variances, you will need to come back to us and we would then be able to make our recommendation to the Town Board. They would then schedule the public hearing and subsequently make the decision as to whether to grant you the SUP or not. So if you wish to proceed with this plan, your next step is to get on the meeting agenda for the Zoning Board and proceed with them for the necessary variances. You were also given a SEQR form to complete. That is just a standard environmental impact study form that is required as part of your submission for this change of use and SUP and can be filled out by your design professional. That form is due prior to your next Planning Board appearance if you proceed with this.

Item 2.) **Richard Minikime, Beverly Evelyn Subdivision**

This matter has been around for some time. There have been some developments. Basically, if you will recall we went through all the processes. We held the public hearing. Preliminary plat approval was given. We made a Negative Declaration under SEQR and we gave Final Plat approval last December with some conditions. The conditions were that the necessary documents be prepared to effect the dedication of the recreational land and the access easement to that land and the drainage facilities to the town. There was supposed to be a drainage district created and completed. That was done in April of 2007. Another condition was the approval of the sanitary sewer. That was also completed in April of 2007. The final condition was the approval of all drainage plans, calculations and installations by the engineers. We did receive a memo and letter from Wendel satisfying that condition. So basically, all hurdles have been cleared with the exception of the actual documents to transfer the recreational land and the access to it.

After speaking with Bill Trask, Esq. [Town Attorney], those two remaining items are very close to being wound up. The only outstanding matter remaining before this Board is to authorize the Planning Board Chairman to sign the map cover.

Therefore, we need a motion to authorize the Planning Board Chairman to sign the Evelyn Drive Subdivision Map Cover upon receipt of notification from the Town Board and/or Town Attorney that an offer of dedication for the associated drainage facilities and real estate interests has been made by Mr. Minekime and accepted by the Town Board along with receipt of any related maintenance bond or other surety that the Town Board/Town Attorney may deem appropriate or necessary.

So moved by Bill Zittel. Seconded by Dennis Brawdy. All “ayes” motion carried.

Mr. Minikime will also be reminded to encourage his attorney to work with the Town Attorney to finalize the preparation of the necessary dedication documents. Once those documents are prepared he will need to place himself on an upcoming Town Board meeting agenda in order to make the necessary offer of dedication. If accepted by the Town, they will provide notice to the Planning Board and I will then sign the map cover in order that it can be recorded with the County Clerk and bring this matter to conclusion.

Item 3.) **First Bible Baptist Church, Pastor Art Kohl**

I know you have been before this Board before. You were previously referred to the Zoning Board. One of the Zoning Board suggestions was that the Church should look into creating some additional parking. To that end the church purchased neighboring property and what we have in front of us is a development plan that shows us additional parking as well as a sports field laid out on that property. Does the church have any specific use for the sports field? Will it be for specific sports? No, it will be for picnics, family activities during church functions. So it will be green space for use by the church and its members. Yes. Is any outdoor lighting anticipated for the field area? No. Will there be a PA system for the field? No. The reason we ask is that the Code has some additional requirements if this field were to be dedicated to specific sports. For example, the code requires that the property must be a minimum of 2 acres. Your lot is 1.46 acres, which would require a variance. The other requirement for a recreational/sports field would be that parking must be 25' from the property line and you are only proposing 3' on your plan. So you would then need to go before the ZBA for that and then you would come back here and we could act on your plan as shown if the variances were granted by the ZBA. We would just have to have our engineers review the drainage plan as shown to be sure that is adequate. If the church does not want to pursue a sports field then we could probable approve this as shown and your 3" set back for the parking would be fine so long as the drainage was deemed appropriate by the Town engineers. It's the churches call, how to proceed with this. Do you want a recreational space or just a green space or picnic area? No we were just looking for a picnic area or green space. In that case you just need to revise and resubmit your plans with this area designated as "green space" or "open space" and not "sports field".

If it will only be "green space" or "open space" then we can conditionally approve the plan so long as the plans are revised to indicate "open space" or "green space" and also pending review of the drainage by the Town engineers. The engineers will make their review and make any necessary recommendations. Then you would need to revise the plan per their recommendations. You need to contact your design professionals [Marquis Engineering] and they need to make the necessary changes on the plans. They can contact the Town engineer [Wendel] directly with any questions pertaining to the drainage. The drainage plan and calculations can be submitted directly to Wendel and the revised site plan can be submitted for our next meeting. If the drainage is approved and we have the revised plan in front of us, we can probably take action at the next meeting.

The next meeting is scheduled for November 27th. The deadline for submission would be November 13th.

REPORTS/ANNOUNCEMENTS:

Training - Everyone should have received the pamphlet and/or the e-mail as to the required training. That will be held here at Town Hall. Please be sure to get your

registration in quickly as this went out to a lot of municipalities and it will fill up quickly. There are 2 separate sessions. If you attend both sessions it counts as 3 hours. Any total hours over the required 4 can be carried over to the next year. The new rule went into effect on January 1, 2007. The training should concur with the 1st of the year along with your membership start.

Stormwater - The other issue is the Storm Water Management Plan prepared for the Town of Eden. This is from the WNY Storm Water Coalition. Wendel is the representative for the Town and has been working with the WNYSC, DEC and the Town of Eden. This is the draft version of plan. It introduces the new MS4 area, which is a new area that has some other storm water drainage requirements. There is a copy of the Plan for everyone along with a card for the lead engineer/contact person at Wendel if you have any questions. Essentially if we have projects that come up within the new MS4 area we will need to do additional storm water studies and paperwork. There will be a storm water officer who will be the main contact. That may be Scott or there may be a joint person with a surrounding Town [possibly Evans]. Various discussion.

This is more focused on erosion and sediment control and enforcement of illicit drainage into the area. That is the main focus. They are not so much looking at what happens when you dig up a new piece of land but looking at where does that [persons or business] drainage pipe come from, what is moving through it and where is it going. An example would be a car wash that has no drain control. That would need to be looked at and remedied. Another trigger would be construction site runoff and post construction storm water management. They want to control erosion. This came from the State DEC to the all Counties to the WNY Storm Water Coalition, which handed it to the municipalities. So as a Board, the only thing we would need to address is what we need to do, if anything. Do we need to tell the applicant anything? Is there a checklist or something we will need to follow? This is only a draft document it has not been approved yet. This document is an FYI for future use, which will most likely be adopted as Town Law. So if we have agricultural land in this MS4 area and we want to do a project like put up additional greenhouse space or something similar, that would require going through the normal permit process, this would then kick in, correct? Yes and being agricultural land or a farm there may be issues as to pesticides or other farming chemicals. Dennis - Who was on this committee? Off hand, Bill Trask, Ron Maggs and the Supervisor are very involved with or on the committee. Kevin - We need to review this. We need to contact the lead person (Rebecca Wightman) at Wendel and ask any questions and then possibly comment on this as a Board, maybe at the next meeting. Bill - Do we know if the Town is ready to adopt this? Dana - No. Supposedly all WNY towns will be required to review and ultimately adopt this Plan. [This issue was tabled for review and discussion at next meeting.]

Mark - Being no announcements or anything else, do I hear a motion to adjourn. So moved by William Zittel. Seconded by Kevin O’Gorman. All “Ayes” motion carried. Meeting adjourned at 7:35 p.m.

The next meeting is tentatively scheduled for November 27, 2007 at 7:00 p.m.

Respectfully submitted,

Dawn Palma
November 7, 2007