

TOWN OF EDEN – PLANNING BOARD MINUTES

EDEN TOWN HALL – 7:00PM

NOVEMBER 7, 2018

- MEMBERS William Mahoney – Chairman
- PRESENT: Andrew Romanowski – Vice Chairman
Frank Meyer, D.D.S.
Scott Green
Brian Reed
Joe Eppolito
William Zittel
David Johnson
- EXCUSED: Tony Weiss
- OTHERS: Town Council – Susan Wilhelm
Town Council – Richard Ventry
Greg Keyser – Town Engineer
Rachel Ricey - Pre-Submission – 2679 Hemlock Road
Karen Gross – Resident
Howard Winkler - Resident

Minutes from last meeting

Mr. Zittel made a motion to approve the minutes of August 1, 2018 meeting. Seconded by Andy Romanowski; All “Ayes” motion approved.

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**1. Pre-Submission –2679 Hemlock Road – Special Use Permit**

Mr. Mahoney - Ms. Ricey is here tonight for a Pre-Submission Conference, because of a referral from the Eden Town Board. The Town Board referred this application to the Planning Board at their October 10, 2018 meeting.

Ms. Ricey explained to the board the history of her property and what she would like to do. I would like to utilize 2679 Hemlock Road with a similar use as before but with a retail store in the front. I do own 2683, 2677 & 2679 Hemlock Road. I was told in order to do this I would need a Special Use Permit from the Eden Town Board. I bought this property from Mr. Minekime in 2016 and it has been empty since then. I would like to open a furniture refurbishing business and keep the apartment in the back, basically we would be doing the same thing that this property had before I purchased it.

Mr. Mahoney – this property is zoned General Industrial and according to our Town Code does not allow for a rental apartment. That being said in 2004 Mr. Minekime was approved for a Special Use Permit for an apartment at this property with the one condition that the renter must be the caretaker of the property. This condition would have to be proven every year at the renewal time with the Town Board.

The board members asked Ms. Ricey questions about her application: (*answers in italics*)

- What is the building used for now? *It is empty right now*
- Can you explain this floor plan you brought with you? *The front would be retail and the back is split in half, one half is to redo furniture and storage the other half would be the apartment.*
- You will be working on furniture? *Yes*
- The retail would be an accessory use to that? *Yes*

Mr. Mahoney suggested instead of calling it retail you may want to label that the area in back manufacturing area because that is what it will be used for and that is a permitted use in this zone.

- What about the apartment is it one or two apartments? *One apartment, when I bought the property the lawyer that we bought it from said to not do it any bigger than a one bedroom because then we get to be a little choosier on our tenant.*
- Is there an existing apartment there now? *Yes, that is what it was prior, it's just smaller than what it was plus I do own the properties on both sides.*
- Do you have any parking? *Yes, I have at least five spots in the front of the retail area and the parking for the other building they have the whole back lot.*
- What is the business that was there before you purchased it? *It was a Vintage upholstery business and they had to be vacated before the sale because there was a lot of work to be done to the building.*

Mr. Romanowski asked if the board was considering this a change of use or a continuation of the same use. Mr. Mahoney replied that's the question.

Mr. Mahoney asked Ms. Ricey what was explained to her when speaking to the Code Enforcement Officer. *Ms. Ricey told the board that he said that if she was going to be making items from the ground up then it could be considered the same use but was not sure about the store front change.*

Mr. Mahoney – what was there before was a re-upholstery business of existing furniture, now you are changing it to refurbishing business of existing furniture a very similar use.

Was there a store front there before with the same exact configuration? *Yes, the only difference is that I would like to make the apartment half the size of what it is.*

Mr. Romanowski - the apartment was there before and the retail is still an accessory use to the manufacturing.

Mr. Keyser – it is a continuation of use so I think that may eliminate the site plan. The site plan kicks in on the Overlay District when there is a change of use, if the Planning Board is going to consider this a continuation of use under a Special Use Permit.

Mr. Mahoney – Does the Special Use Permit flow through with the building or with the owner? Diane can you get the answer for the board on that?

Ms. Ricey – when I bought this property from Dick Minekime he said the only reason he had to come back every year was that the owner of the property next door would continually fight with him over what he wanted to do and now I own that property.

Mr. Mahoney – we did not know this information when you submitted this pre-submission. Under the General Business District, which we know you are in General Industrial District. But our town code refers us back to the Business District, user group B under permitted by right. It allows for any process of manufacturing, assembling or treatment which is clearly incidental to a retail business or service conducted on the premises.

Mr. Keyser – you begin in General Industrial under uses by Special Permit.

Mr. Romanowski – so if that is correct than this application may need a Special Use Permit? But because they are not changing the use they probably don't need a site plan.

Mr. Ventry – the reason we had the Special Use Permit was because of the apartment.

Mr. Keyser – the dwelling unit is allowed as long as the apartment is an accessory to the business, a caretaker type house.

Mr. Romanowski – we have to boil it down to if they need a Special Use Permit or if it's a permitted use in the zone.

Mr. Mahoney – Special Use Permit is how it reads based on what Greg has said. Under Special Use Permit is refers you back to Permitted use under General Business for the manufacturing side of things so that's good. The apartment side of it is one dwelling unit which is under 25(19)B so that's where you get into Special Use Permit as well. This application did start at the Town Board with the referral to our board. Based on the process you knew that a Special Use Permit would be needed. In accordance with the code you will need to put together a site plan, the question that remains in my mind is that since the property already had a Special Use Permit in place for a similar use with the caretaker apartment and a manufacturer why can't they just continue the Special Use Permit from the Town Board? Can we as the Planning Board make a recommendation back to the Town Board that we would just encourage you to review the Special Use Permit on file. In our opinion, nothing has substantially changed to date to require a site plan review and approval.

Mr. Ventry – the Special Use Permits will be going up for renewal and approval at the first December Town Board meeting.

Mr. Keyser – is the Special Use Permit still active? The building has been vacant for a while.

Ms. Ricey purchased the property in 2016, so it has been inactive for two years.

Mr. Keyser – when Mr. Trask explains Special Permits their tied to a specific use, a specific piece of land once the use ceases I do not know the time frame of it expiring.

Mr. Zittel – can the applicant go to the Town Board and ask to reinstate the Special Use Permit?

Mr. Mahoney – one question would be just that, has the Special Use Permit expired or is it active? Or, was it renewed with all the other ones last year? And in fact if that is the case maybe we can make a conditional recommendation.

**Mr. Mahoney made a motion to the Town Board that the change of use is not substantial enough to require a site plan review and we as a board believe that it is very consistent with what was already approved on the previous Special Use Permit at 2679 Hemlock Road. Our recommendation as the Planning Board would be to not go through another Special Use Permit process but to continue if that permit is eligible, to be transferred to Ms. Ricey for the same use within the same facility for both the apartment as well as the manufacturing/retail. Seconded by Mr. Zittel; All “Ayes” motion approved.**

Mr. Mahoney explained what the motion meant to the applicant. If in fact we can’t legally do that because that permit expired then what you would need to do is go through the Special Use Permit process again which requires site plan approval, this board would make a motion to do a preliminary review at which point we would make a recommendation to the Town Board then the Town Board would have the necessary public hearing. The Town Board has the ultimate approval to issue the Special Use Permit or not. The good thing is that is based on your application you will not have to appear in front of the Zoning Board of Appeals. Hopefully, we will get positive news about the Special Use Permit being able to be reinstated.

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REPORT: Reappointments

- Scott Green
- David Johnson

Our two alternate members must be reappointed every year, ultimately it is the Town Board’s discretion to extend or interview the candidates.

Mr. Mahoney made a motion to request the Town Board re-appoint Scott Green and David Johnson to one year terms as alternate members to the Eden Planning board. Seconded by Mr. Zittel; All “Ayes” motion approved.

ANNOUNCEMENTS – Required training - 4 hours a year

If you have attended any Town meetings in reference to code review, master plan etc.. Just give Diane the record of what was attended and the time spent and I will review them to see if it will meet the criteria for the training requirements. Other things that can be used would be classes that address things in our town such as

agriculture, building, zoning etc. Plus, job related classes that pertain to things that may need to be addressed by this board. Diane has many options for board members to meet this requirement: online classes, a take home book and throughout the year there are classes offered by NYS.

Mr. Zittel made a motion to adjourn the Planning Board meeting. Seconded by Mr. Mahoney; All "Ayes" motion approved.

The next meeting is tentatively scheduled for December 5, 2018 at 7:00 p.m.

Respectfully submitted

Diane Herzog, Secretary Eden Planning Board