

A Meeting of the Town Board of the Town of Orchard Park, Erie County, New York, was held at the Orchard Park Municipal Center, S4295 South Buffalo Street, Orchard Park, New York on the 3rd day of July 2024 at 7:00 PM, the meeting was called to order by Supervisor Eugene Majchrzak and there were:

PRESENT AT ROLL CALL:

	Eugene Majchrzak	Supervisor
Excused	Joseph Liberti	Councilmember
	Julia Mombrea	Councilmember
	Scott Honer	Councilmember
	John Mariano	Councilmember
	Remy Orffeo	Town Clerk
	Timothy D. Gallagher	Town Attorney
	Tom Minor	Building Inspector
	Patrick Fitzgerald	Chief of Police
Excused	Andrew Slotman	Highway Superintendent
	Wayne Bieler	Town Engineer

Supervisor Majchrzak read into the record the following: “If anyone appearing before the Town Board has a family, financial or business relationship with any member of the Board, it is incumbent upon that person to make it known under State Law and the Town Code of Ethics.”

1) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

RESOLVED, that the Town Board does hereby approve the Regular Meeting Minutes: June 19, 2024 and be it further

RESOLVED, that the reading of these minutes be dispensed with as each member of the Town Board has previously received copies thereof.

The resolution was unanimously adopted.

**PUBLIC HEARING
V/L 4297 & 4309 Abbott Rd. for a Special Exception Use Permit**

At 7:02PM (local time) Supervisor Majchrzak called for the Public Hearing to hear all interested parties regarding V/L 4297 & 4309 Abbott Road, located on the south east corner of Abbott & Big Tree Roads, Route 20A, across from Danny’s South, Zoned B-2. Ellicott Development is requesting a “Special Exception Use Permit” be granted to construct a new Gas Station with a Convenience Store Building, including a pick-up window, a six (6) dispenser fueling canopy, and driveway access to Abbott Road.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, and read aloud, and filed with the Town Board by the Town Clerk.

Supervisor Majchrzak asked if anyone is interested in speaking or making a comment.

Sean Hopkins gave a presentation in favor of the proposed Gas Station and Convenience Store Building.

Gary Trella spoke against the proposed Gas Station and Convenience Store Building.

Bob Fessler spoke against the proposed Gas Station and Convenience Store Building.

Jim Grucella spoke against the proposed Gas Station and Convenience Store Building.

Jonathan Lake spoke against the proposed Gas Station and Convenience Store Building. He also submitted a petition against the proposed project which is on file in the Town Clerk's office.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

RESOLVED, that the Town Board does hereby close the Public Hearing for V/L 4297 & 4309 Abbott Road located on the south east corner of Abbott & Big Tree Roads, Route 20A, across from Danny's South, Zoned B-2. Ellicott Development is requesting a "Special Exception Use Permit" be granted to construct a new Gas Station with a Convenience Store Building, including a pick-up window, a six (6) dispenser fueling canopy, and driveway access to Abbott Road at 7:31PM. An area variance was granted on January 16, 2024 by the Zoning Board of Appeals.

The resolution was unanimously adopted.

****Town Board did not vote. They will vote at a future meeting****

PUBLIC HEARING

V/L 4956 & 4968 Chestnut Ridge Rd. for a Special Exception Use Permit

At 7:33PM (local time) Supervisor Majchrzak called for the Public Hearing to hear all interested parties regarding V/L 4956 & 4968 Chestnut Ridge Road, located on the north west corner of Armor Duells & Chestnut Ridge Roads, Zoned B-2. Miranda Holdings, Inc. is requesting a "Special Exception Use Permit" be granted to operate a Drive-through Service Facility for a proposed Tim Hortons.

Affidavits of Publication and Posting of the Legal Notice of the Public Hearing were presented, and read aloud, and filed with the Town Board by the Town Clerk.

Supervisor Majchrzak asked if anyone is interested in speaking or making a comment.

Matt Fitzgerald spoke in favor of the proposed Tim Hortons on behalf of Miranda Holdings. He also requested that the Public Hearing remain open.

Emily Purcell spoke against the proposed Tim Hortons.

Lauren Jarocho spoke against the proposed Tim Hortons.

John Bihr spoke against the proposed Tim Hortons.

Jim Grucella spoke against the proposed Tim Hortons.

Kenneth Holmes spoke against the proposed Tim Hortons.

Dave Deeds spoke against the proposed Tim Hortons. He also submitted written comments which are on file in the Town Clerk's office.

Mary Hinterberger spoke against the proposed Tim Hortons.

Pat Zerkle spoke against the proposed Tim Hortons.

3) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

RESOLVED, that the Town Board does hereby leave the Public Hearing open for proposed V/L 4956 & 4968 Chestnut Ridge Road, located on the north west corner of Armor Duells & Chestnut Ridge Roads, Zoned B-2. Miranda Holdings, Inc. is requesting a “Special Exception Use Permit” be granted to operate a Drive-through Service Facility for a proposed Tim Hortons.

The resolution was unanimously adopted.

PUBLIC COMMENT ON OLD BUSINESS

No one came forward

Old Business #1 Approve the proposed rezoning request for the subdivision known as “Bend Creek Subdivision” SBL #153.17-1-1.1 changing the zoning on 5.5 +/- acres of vacant land from B-2 to R-3 residential. This item was tabled on June 5, 2024.

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER HONER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MARIANO, TO WIT:

WHEREAS, following due and timely notice, a public hearing relating to the matter of the proposed Amendment to the Zoning Ordinance to rezone a subdivision known as “Bend Creek Subdivision” SBL #153.17-1-1.1 changing the zoning on 5.5+/-acres of vacant land from B-2 to R-3 residential was conducted on June 5, 2024, at which time all parties were given an opportunity to be heard, which amendment provides as follows:

WHEREAS, no recommendations from the Erie County Department of Planning, pursuant to §239-m of the General Municipal Law, was received and filed by the Town Board; and

WHEREAS, approval from the Conservation and Planning Board was received and filed with the Town Board.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Ordinance and Zoning Map of the Town of Orchard Park be and are hereby amended by rezoning SBL #153.17-1-1.1 changing the zoning on 5.5+/-acres of vacant land from B-2 to R-3 residential as petitioned by Bend Creek Development as follows:

ALL THAT TRACT OR PARCEL OF LAND, situated in the Town of Orchard Park, County of Erie and State of New York, being part of Lot 16, Township 10, Range 7 of the Holland Land Survey, bounded and described as follows:

BEGINNING at the northwest corner of lands conveyed to Harry A. Baker and wife by deed recorded in the Erie County Clerk’s Office in Liber 4589 of Deeds at page 95; said point of Beginning, being 660 feet per deed north of and at right angles to the centerline of Milestrip Road, said centerline of Milestrip Road being the south line of Lot 16;

THENCE: southeasterly along the northerly boundary of said Baker’s land and which is the Southerly bank of Smokes Creek a distance of 410 feet more or less to the northeast corner of said Baker’s land, which point is 336.6 feet east of the westerly line said Baker’s land as measured at right angles and 600 feet per deed north of the said centerline of Milestrip Road;

THENCE: northerly along an extension of the easterly line of said Baker's land a distance of 9 feet more or less to the centerline of Smokes Creek;

THENCE: easterly, northerly, easterly and southeasterly along said centerline a distance of 774 feet more or less to a point distant 600 feet north of the said centerline of Milestrip Road;

THENCE: easterly on a line parallel with said centerline of Milestrip Road a distance of 167 feet more or less to a point;

THENCE: southerly forming an exterior angle of 89°-43'-21" on a line parallel with the-east line of said Lot 16 by deed, a distance of 600 feet to a point on said centerline of Milestrip Road;

THENCE: easterly forming an exterior angle of 90'-16'-39" along said centerline a distance of 460 feet to the west line of lands conveyed to Carl G. Smith by deed recorded in the Erie County Clerk's Office in Liber 4610 of Deeds at page 486;

THENCE: northerly forming an exterior angle of 89°-43'-21" along said west line of Carl G. Smith's land a distance of 1382.84 feet to the northwest corner thereof;

THENCE: westerly forming an interior angle of 90°-29'-26" along the north line of said lot 16, a distance of 1463.68 feet to the northeast corner of lands conveyed to Walter S. Labrens and wife by deed recorded in the Erie County Clerk's Office in Liber 4923 of Deeds at page 369;

THENCE: southerly forming an interior angle of 89 °-30'-34" along the east line of said Walter S. Labrens and wife's land and an extension southerly of said line a distance of 633 feet more or less to the POINT OF BEGINNING, containing 31.073 acres more or less exclusive of the area lying within the bounds of Milestrip Road.

This description is intended to describe lands conveyed by liber 11046 of Deeds at page 186 and Liber 11045 of Deeds at page 9849;

RESOLVED, that this approval is granted with the following stipulations as recommended by the Planning Board:

- All public notices have been filed.
- This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two, and a Negative Declaration is recommended.
- Fees shall be paid in accordance with §144-70C, of the Town Code prior to publication of the Public Hearing Notice.
- The recommendation is contingent upon the Applicant completing the project as proposed on the preliminary development plans, and shall revert to its original Zoning Classification if the project is not completed per §144-67 of the Town Code.

RESOLVED, under the authority of the Town of Orchard Park Ordinances §144-66 through 144-69, be it further

RESOLVED, this ordinance shall take effect ten (10) days after publication and posting in accordance with law, and be it further,

RESOLVED, that the Town Clerk publish and post a copy of said amendment in accordance with §264 and §265 of Town Law.

The resolution was unanimously adopted.

Old Business #2 Authorize advertisement for Multi-Use Maintenance Facility Phase 1 - Fuel Station Replacement Project

5) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

WHEREAS, C&S Companies is finalizing plans, specifications, and bid documents for the Orchard Park Multi-Use Maintenance Fuel Facility. Plans and specifications for this project are available for review in the Engineering Department Office; and

WHEREAS, the work will entail the installation of 2 - 9,900 gallon above ground fuel tanks, dispensers and safety controls; associated drainage including storm water retention and quality; associated electric and communication line; installation of pavement, fencing, and restoration; and abandonment of the old tanks. Bid documents will be available July 18, 2024.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize advertisement in the Orchard Park Bee for sealed bids for the Orchard Park Multi-Use Maintenance Fuel Facility to be opened on August 22, 2024 at 2:00 pm at the Orchard Park Municipal Center Basement Meeting Room, as recommended by the Town Engineer.

The resolution was unanimously adopted.

Old Business #3 Approve the areas to be included in the proposed rezoning around the stadium for publication. **This Item was tabled**

Old Business #4 Approve Change Order #1 to our Contract with United Survey for the Sanitary Sewer Lining Work Order #6 Project

6) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MARIANO, TO WIT:

WHEREAS, United Survey has been awarded work order #6 for the Cured-In-Place Sanitary Sewer Lining Contract Traffic Control Plan Design project. Within the scope of work order #6, lining is being completed along Abbott Road that requires additional traffic control devices and a design plan; and

WHEREAS, the contractor has consulted with US Traffic Control LLC to develop a traffic management plan for eight setups. The cost of the traffic control management plan design is not to exceed \$5,220.00.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby approve change order #1 to our contract with United Survey, Inc., work order #6, for an amount not to exceed \$5,220.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

PUBLIC COMMENT ON NEW BUSINESS

No one came forward

New Business #1 Appoint a seasonal employee to the Parks and Grounds Department

7) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER HONER, TO WIT:

WHEREAS, the Orchard Park, Parks and Grounds Department has a vacancy for a seasonal employment position; and

WHEREAS, there are funds in the 2024 budget to fund seasonal employment positions;

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby, based on the recommendation of Andrew Slotman, Orchard Park Highway Superintendent, the following employee, Ryan Parker be appointed at a rate of \$20.25 per hour as seasonal staff to the Parks and Grounds Department effective July 8, 2024 to October 31, 2024.

The resolution was unanimously adopted.

New Business #2 Appoint Director of Community Development in the Planning Department

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MOMBREA, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER HONER, TO WIT:

WHEREAS, the Orchard Park Planning Department is in need of a full time Director of Community Development; and

WHEREAS, Anna Worang-Zizzi has been performing the duties of a Director of Community Development on a part-time basis; and

WHEREAS, Anna Worang-Zizzi is ready and able to perform the duties of a full time Director of Community Development; and

WHEREAS Anna Worang-Zizzi possesses the qualifications to perform the duties of a full time Director of Community Development.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby appoint Anna Worang-Zizzi as full time Director of Community Development in the Planning Department at a rate of \$21.50 an hour with an increase to \$23.00 per hour, based on meeting performance standards, on September 30, 2024. This non-union, full-time appointment is effective July 1, 2024.

The resolution was unanimously adopted.

New Business #3 Approve Bullriders BBQ & Mac LLC Food Truck Permit

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER HONER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MARIANO, TO WIT:

WHEREAS, the Town of Orchard Park has completed an inspection of the food truck for Bullriders BBQ & Mac, and

WHEREAS, the Town of Orchard Park Fire Inspector has approved an Operating Permit for the Bullriders BBQ & Mac Food Truck, and

WHEREAS, the Operating Permit fee and Town of Orchard Park Mobile Food Vending Permit fee have been paid; and

WHEREAS, a certificate of liability insurance has been provided; and

WHEREAS, Bullriders BBQ & Mac has agreed to comply with the Town of Orchard Park Town Code and policies.

NOW, THEREFORE be it

RESOLVED, that the Town Board of Orchard Park approves the Operating Permit and the Mobile Food Vending Permit of the Bullriders BBQ & Mac Food Truck in the Town of Orchard Park for the year 2024.

The resolution was unanimously adopted.

New Business #4 Authorize the Supervisor to sign agreement with Earth Dimensions Inc. for professional services for the wetland design of Elmtree Road & Dorchester Road Reconstruction Project

10) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMEMBER MARIANO, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MOMBREA, TO WIT:

WHEREAS, for the past few months the Town has been working with Nussbaumer & Clark on a design for the reconstruction of the road and associated drainage for the above mentioned project. Currently, the road and surface drainage of that area flows north to a tributary of Rush Creek. In order to improve the drainage of that area, work needs to be done in the creek corridor to provide an outlet. The work required needs to be approved and permitted by the U.S. Army Corp of Engineers and NYS DEC; and

WHEREAS, Earth Dimensions Inc. is an Environmental Consultant that specializes in Wetland Delineation and Environmental Permitting. They have provided us with a quote of \$1,160.00 for the Permit Application and \$2,415.00 for a detailed delineation of the wetlands.

NOW, THEREFORE be it

RESOLVED, that the Town Board does hereby authorize the Supervisor to sign an agreement with Earth Dimensions Inc., 1091 Jamison Road, Elma, New York, 14059 to provide professional services for the Elmtree & Dorchester Reconstruction Project for an amount not to exceed \$3,575.00 as recommended by the Town Engineer.

The resolution was unanimously adopted.

New Business #5 Refer to the Planning and Conservation Boards.

11) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER MARIANO, TO WIT:

1. V/L Lake Avenue, located on the north side of an approved 45,000 square foot medical office at 250 Windward Road. Applicant is requesting rezoning of .99 acre portion from R-3 to I-1 to construct an 83 space parking lot extension. (SBL #s 152.14-2-24.11 & 152.14-2-24.12).

The resolution was unanimously adopted.

BUSINESS FROM THE FLOOR

Paul Zak spoke regarding the Bieler Road traffic study.

Mary Hinterberger spoke regarding traffic issues on Philson Drive and inquired about a speed bump.

ELECTED OFFICIALS & DEPARTMENT MANAGERS

Supervisor Eugene Majchrzak congratulated Anna Worang-Zizzi on her promotion and assured residents that their comments are taken seriously.

Councilmember Julia Mombrea congratulated Anna Worang-Zizzi on her promotion and thanked all speakers for voicing their concerns.

Councilmember Scott Honer congratulated Anna Worang-Zizzi on her promotion. He also values public input to help him make the best decisions for the town residents.

Councilmember John Mariano congratulated Anna Worang-Zizzi on her promotion and referred a resident to the Public Safety Committee.

Town Clerk Remy Orffeo congratulated Anna Worang-Zizzi on her promotion and will relay resident concerns regarding New Business #5 to the Planning Board.

Town Engineer Wayne Bieler spoke regarding resident traffic concerns.

Building Inspector Tom Minor praised Anna Worang-Zizzi’s work and thanked the Town Board for their wise decision of approving her promotion.

12) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR MAJCHRZAK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMEMBER HONER, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #13 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$928,983.93
Public Safety Fund	\$940.86
Part Town Fund	\$814.68
Risk Retention	-0-
Cemetery Fund	-0-
Highway Fund	\$49,086.12
Special Districts	\$43,991.81
Trust & Agency	\$12,985.12
Capital Fund	\$789,969.49

The resolution was unanimously adopted.

There being no further business, on a motion by Supervisor Majchrzak, seconded by Councilmember Mariano, the meeting adjourned at 8:15pm (local time).

Respectfully Submitted,

Remy C. Orffeo
Town Clerk