

**PLANNING BOARD JULY 11, 2024. MEETING MINUTES**

**MEMBERS:** Harold Fabinsky, Chairman  
Nicholas Baich  
Dr. Gregory Bennett  
Alex Long  
David Kaczor  
Philip Murray

**EXCUSED:** Henry Heppner, David Mellerski,

**OTHERS PRESENT:** Remy C. Orffeo, Acting Planning Coordinator  
Thomas Ostrander, Assistant Town Municipal Engineer  
Thomas Minor, Supervising Code Enforcement Officer  
John Bailey, Deputy Town Attorney  
Rosemary Messina, Planning Board Secretary  
Anna Worang-Zizzi, Director of Community Development

The Chairman announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:00 P.M. in the Orchard Park Community Activity Center. He stated that if anyone appearing before the 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.

Upon a motion duly made and seconded, the reading of the March, May, and June 2024 Planning Board Meeting minutes were unanimously waived, as each Board Member had previously received a copy.

Mr. Baich made a **MOTION**, seconded by Dr. Bennett to **APPROVE** the Minutes of the March 14, 2024 meeting as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY                                    AYE  
BENNETT                                    AYE  
LONG                                        AYE  
HEPPNER                                    AYE  
KACZOR                                     AYE  
BAICH                                        AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

Mr. Long made a **MOTION**, seconded by Dr. Bennett to **APPROVE** the Minutes of the May 9, 2024 meeting as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY                                    AYE  
BENNETT                                    AYE  
LONG                                        AYE  
HEPPNER                                    AYE  
KACZOR                                     AYE  
BAICH                                        AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

Mr. Baich made a **MOTION**, seconded by Dr. Bennett to **APPROVE** the Minutes of the June 13, 2024 meeting as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.

**PUBLIC HEARING – 7:00 P.M.**

1. **P.B. File #26-23 Fox Run Senior Living Facility, 1 Fox Run Lane, Zoned B-2.** Petitioner is seeking Planning Board Preliminary Plat Plan Approval and a SEQR determination for (3) Senior Living apartment additions. (SBL# 172.00-1-1.111) Note: Denied Area Variances requested on 11/21/23 by the Zoning Board of Appeals.

**APPEARANCE:** *Patrick Mixdorf – OnePoint*  
*William Wlodarczyk – CEO, Fox Run*  
*Peter Gorman, - Marathon Engineering*

The Applicants distributed information for the Board’s review and gave a brief presentation of the proposed Fox Run Campus expansion project that includes the construction of additional apartments and patio homes. In addition, they are proposing that the Community Building have renovations, with a small addition added. The eastern side of the property contains wetlands, however, all proposed work is outside of the wetlands boundary and buffering requirements. They feel the best way to construct the project and minimize land use is to have the proposed buildings three-stories in height, and use the current footprint of the existing buildings. However, three-story buildings are not in compliance with the Town of Orchard Park Code. They requested Variances be granted from the Zoning Board of Appeals on 11/21/2024, and their request was denied. They revised their request to construct 2-1/2 stories and are now Code Complaint. The Applicants discussed the architecture, and how it blends harmoniously with the site. In addition, color elevations were presented (previously discussed at a Concept Review meeting). The Applicants explained that the third floor is essentially a “half-story”, amounting to less apartments.

The Chairman established that Fox Run offers “continuing care” with a life contract. In addition, they are licensed to provide three different levels of Health Care.

Mr. Baich confirmed that the property is 54-acres in size, and that the project will not alter the existing wetlands. He also established that there are approximately 85-persons on a waiting list to live here.

Mr. Murphy established that the skilled nursing staff will increase from 50, to 60 employees.

The Chair opened the public hearing, noting that individuals may speak in “favor” or “against” the project for a maximum of two-minutes.

**IN FAVOR:**

*Mr. Dean Bieler*  
*One Fox Run Lane*  
*Orchard Park, New York 14127*

Mr. Bieler feels this is a great facility.

*Mr. Dick O'Brian  
One Fox Run Lane  
Orchard Park, New York 14127*

Mr. O'Brian noted that most Fox Run residents do not drive, and that the parking lots are not over crowded.

*Ms. Marguerite  
One Fox Run Lane  
Orchard Park, New York 14127*

Ms. Marguerite discussed the statistics of the number of residents over the ages of 65 and 80 and the importance of full-range services.

*Ms. Jan Brunner, Council President  
One Fox Run Lane  
Orchard Park, New York 14127*

Ms. Brunner explained the need for this facility and pointed out that there is no drain on the Town of Orchard Park services. She read and submitted her "Ten Top Reasons to Support the Fox Run Expansion". This document will be attached to the permanent file.

*Mr. Dick Leonard  
One Fox Run Lane  
Orchard Park, New York 14127*

Mr. Leonard, is a retired Environmental Scientist, and he feels Fox Run is clean, well maintained, impressive, and impeccable. He, also, feels the facility adds an appeal to living in Orchard Park.

*Ms. Jo Ann Litwin-Clinton, Village Mayor  
Village of Orchard Park  
S. 4295 South Buffalo Street – Suite 2  
Orchard Park, New York 14127*

Ms. Litwin-Clinton feels we are blessed to have the Fox Run facility here for our residents.

*Ms. Dale Rothbell  
1 Fox Run Lane  
Orchard Park, New York 14127*

Ms. Rothbell moved to Orchard Park and finds that this facility fits all her needs. It is a great place to live.

*Ms. Katherine Way  
One Fox Run Lane  
Orchard Park, New York*

Fox Run is a great place to live with the phases of continued care.

*Ms. Barbara Thamasett  
One Fox Run Lane  
Orchard Park, New York 14127*

Ms. Thamasett stated that this is a highly rated Care Facility.

*Mr. Neil Colton  
One Fox Run Lane  
Orchard Park, New York 14127*

Mr. Colton has lived in Fox Run for the last thirteen-years and he feels Fox Run should be allowed to expand and serve our community further.

*Mr. Michael McClane  
One Fox Run  
Orchard Park, New York 14127*

Mr. McClane stated that the care and living conditions received at Fox Run are exceptional. He feels the plan to expand should be approved.

*Mr. Gene Majchrzak, Town of Orchard Park Supervisor  
Town of Orchard Park Municipal Building  
S. 4295 South Buffalo Street  
Orchard Park, New York 14127*

Supervisor Majchrzak stated that he welcomes the proposed expansion to the Fox Run complex, as it will help keep Orchard Parks’ aging residents here in the community.

*Mr. Dennis Dueling  
One Fox Run Lane  
Orchard Park, New York 14127*

Mr. Dueling stated that even his dog loves it here.

**IN OPPOSITION:**

*Mr. Thomas Lunt  
5755 Big Tree Road  
Orchard Park, New York 14127*

Mr. Lunt stated that he is not opposed to the project, but he has concerns with the Storm Water runoff impacting his business’ parking lot. Mr. Lunt agreed to meet with Thomas Ostrander of the Town Engineering Department to work out water runoff issues.

*Mr. Tom Ford  
Big Tree Road  
Orchard Park New York 14127*

Mr. Ford, a resident who lives across the street from the Fox Run site, and has privacy concerns. He also feels Fox Run is not a benefit to the entire community, but for more “well-off” people.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor to **CLOSE** the Public Hearing.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

Mr. Mixdorf stated he appreciates the neighbor across the street concerns. He will be happy to meet with him to address the issue of privacy. As far as the cost of Fox Run, by adding more units they are hoping to make the facilities fees more affordable for folks that would like to come live here.

Thomas Ostrander spoke on the drainage at the site, noting that the stormwater discharge will be handled by the drainage system and he further noted that the facility holds back the water.

**Mr. Kaczor made a MOTION, seconded by Mr. Fabinsky, to GRANT Preliminary Site Plan Approval for the proposed Fox Run “Campus Expansion” and AUTHORIZE the Building Inspector to ISSUE BUILDING PERMITS as required based on the submitted Site Plan received 6/24/2024, and the following conditions:**

1. All public notices have been filed.
2. This is an Unlisted SEQR action and a Negative Declaration is made.
3. Subdivision Development fees shall be paid prior to Final Approval.
4. Recreation Fees in accordance with Section 144-70E of the Town Code shall be paid prior to Final Approval.
5. The Conservation Board approved the submitted Landscaping Plan on 6/04/2024. The Landscaping Value Estimate of \$172,000 requires a Certified Check amounting to 50% of the total (\$86,000) shall be deposited with the Town Clerk prior to receiving a Building Permit.
6. The Site Lighting plan is limited to those fixtures and poles indicated on the approved Site Plan.
7. No outside storage or display is permitted.
8. Dumpsters shall be screened along with any additional dumpsters all of which shall be screened in accordance with Section 144-25 of the Town Code.
9. Town Engineering approval was granted on 7/10/24.

**Mr. Kaczor made a MOTION, seconded by Mr. Fabinsky to WAIVE the Final Public Hearing.**

ON THE QUESTION:

The Chairman stated this action is based on the thoughts of the Board and the fact that the project has received full Town Engineering approval.

**THE VOTE ON THE MOTION BEING:**

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

**Mr. Baich made a MOTION, seconded by Dr. Bennett to GRANT FINAL SITE PLAN APPROVAL for the proposed Fox Run “Campus Expansion” and AUTHORIZE the Building Inspector to ISSUE BUILDING PERMITS as required based on the submitted Site Plan received 6/24/2024, and the following conditions:**

1. All public notices have been filed.
2. This is an Unlisted SEQR action based on the submitted Short EAF Part 1, and a Negative Declaration was made on 7/11/24.
3. Pre-Application Findings were made by the Planning Board on 6/13/24.
4. Preliminary Plat Plan Approval was granted on 7/11/24.
5. Public Hearing and Subdivision Development fees will be paid prior to the issuance of a Certificate of Occupancy.
6. Recreation fees in accordance with Section 144-70E of the Town Code will be paid prior to the issuance of a Certificate of Occupancy.
7. The Conservation Board approved the submitted Landscaping Plan on 6/04/2024. The Landscaping Value Estimate of \$172,000 requires a Certified Check amounting to 50% of the total (\$86,000) shall be deposited with the Town Clerk prior to receiving a Building Permit.
8. The applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser
9. Town Engineering Final Plat Plan Approval has been granted on 7/10/24.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

**REGULAR BUSINESS**

1. **P.B. File#19-2024, Birdsong “Part 2” Subdivision, proposed traditional subdivision, consisting of 51- Single Family Building Lots, Zoned R-1.** Planning Board to authorize Chairman to set a Public Hearing when he deems appropriate. (This is not a CMO.)

**APPEARANCE:** Not Necessary

**Mr. Kaczor made a MOTION, seconded by Mr. Long to set a PRELIMINARY PLAT PLAN public hearing when the Chairman deems it appropriate.**

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE

HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

2. **P.B. File #04-24, Crosby’s, 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.** Planning Board to declare itself Lead Agency. (SBL#’s 172.05-1-1.1, 172.05-1-36.2) An Area Variance was granted for this project on 1/16/2024 by the Zoning Board of Appeals.

**APPEARANCE:** Mr. Sean Hopkins, Attorney

Mr. Hopkins distributed information to the Board Members for their review. He told the Board that next month a SEQR Declaration can be made.

Anna Worang-Zizzi, Director of Community Development, answered the Chairman’s’ question regarding this projects’ status, “We sought Lead Agency Status and now we are declaring ourselves the Lead Agency”.

The Board had no further questions.

**Dr. Bennett made a MOTION, seconded by Mr. Kaczor, that the Planning Board DECLARE themselves the LEAD AGENCY for this project’s SEQR Action.**

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

3. **P.B. File #20-23, 4038 California Road, “Maple Grove Apartments”, located on the west side of California Road, south of Ellis Road, Zoned R-4.** Applicant is requesting Planning Board to make Pre-Application Findings for this multifamily project. The Board declared themselves Lead Agency on 5/9/2024. (SBL# 161.03-1-41)

**APPEARANCE:** Mr. Sean Hopkins, Attorney  
Mr. Arron Romanowski, Alliance Homes  
Mr. Andre Romanowski, Alliance Homes  
Mr. Chris Wood, Carmina – Wood Designs P.C.

Mr. Hopkins stated that they are appearing before the Board requesting Pre-Application Findings for Maple Grove Apartments. He noted that four, two-story buildings with twelve-apartments each will be constructed and available for lease. This density is the exact same as their "Orchard Grove" complex, also, located on California Road. He verified that constructing a total of 12-units is Code Compliant. In addition, the buildings have been moved back from California Road as requested. The nearest building is now 195-feet away from the roadway. Seniors and empty nesters are usually interested in this type of housing.

**Dr. Bennett made a MOTION, seconded by Mr. Baich that the following Pre-Application Findings are made based on the submitted Site Plan received 7/5/24, and the Applicant has detailed:**

- The total acreage is 9.15 +/- acres.
  - The desired zoning classification is R-4 Zone.
  - The number of possible stages of completion is one (1).
  - The applicant's position with respect to title is "Owner"
1. All public notices have been filed.
  2. The zoning will remain as is.
  3. Access to surrounding properties is through California Road.
  4. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Final Plat Plan Public Hearing.
  5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
  6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

**Mr. Kaczor made a MOTION, seconded by Dr. Bennett to SET A PRELIMINARY PLAT PLAN PUBLIC HEARING when the Chairman deems it appropriate.**

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE



LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

4. **P.B. File # 23-24, 6293 Webster Road, located on the south side of Webster Road, west of North Buffalo Street, Zoned R-3.** Kaitlyn A. Schneider is requesting Planning Board to make Pre Application Findings for this 1-Lot subdivision. (SBL# 161.00-3-27.1)

**APPEARANCE:** Kaitlyn Schneider, Applicant  
Matthew Laufer Keenan, PLLC

Ms. Schneider gave a brief history on this property and told the members that she would like to construct a home here.

The Chairman stated that there is not much submitted with respect to details.

Thomas Ostrander commented on the survey for the property that was submitted.

**Mr. Baich made a MOTION, seconded by Mr. Kaczor that the following Pre-Application Findings are made based on the submitted Site Plan received 3/19/24, and the Applicant has detailed:**

- The total acreage is .4 +/- Acres.
  - The desired zoning classification is R3 Zone.
  - The number of possible stages of completion is one (1).
  - The applicant's position with respect to title is "Owner"
1. All public notices have been filed.
  2. The zoning will remain as is.
  3. Access to surrounding properties is through Webster Road.
  4. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Preliminary Plat Plan Public Hearing.
  5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
  6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
  7. The Applicant has completed and submitted the Short EAF, for this Type 2 SEQR Action.

**THE VOTE ON THE MOTION BEING:**

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE

KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

Dr. Bennett made a **MOTION**, seconded by Mr. Long to **set a PRELIMINARY PLAT PLAN PUBLIC HEARING** when the Chairman deems it appropriate.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

- 5. **P.B. File #14-2024, 3310 Southwestern, north side of Southwestern Boulevard, west of the “Five Corners”, Zoned B-1.** Mr. Brian Gilbride is seeking a Building Permit and Site Plan Approval for a parking lot expansion for the “Swim School”. (Former auto parts store previously located here.) (SBL#152.16-6-1.112)

**APPEARANCE:** Mr. Chris Wood, Carmina & Wood Designs

Mr. Wood explained that this is a two-phase project to expand the existing parking lot. A swim school will occupy 7,854 sq.ft. of space, with 2,146- sq.ft. available for a future tenant. He noted that all greenspace requirements are met and that a retaining wall will be used here. After the completion of the two phases, there will be a total of 52-parking spaces.

**Dr. Bennett made a MOTION, seconded by Mr. Baich to RECOMMEND that the Town Board APPROVE the presented Site Plan and AUTHORIZE a Building Permit, to construct a parking lot expansion for a net increase of 52-parking spaces (Phase 1 a total of 43-spaces) (Phase 2, an additional 9 parking spaces) per the plan received on 7/5/2024, based on the following conditions and stipulations:**

1. All public notices have been filed.
2. This is an **UNLISTED SEQR** Action, based on the Short EAF submitted on 3/18/2024, and a Negative Declaration is made.
3. The Site Lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No Outside Storage or Display is permitted.
5. The Landscape Plan, received 5/31/2024, was approved with the Total Green Space meeting the Town requirement of 20%. In accordance with Section 144-44(c)(1)(a)(2) a Certified Check amounting to 50%

of the \$4,865 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$2,432.50) Conservation Board approval was granted on 7/02/2024.

6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. Engineering Approval was granted on 7/10/2024.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

6. **P.B. File #9-2024, 7 Cobham, located in the Quaker Industrial Park, Zoned I-1.** Curbell Inc. is seeking a Building Permit and Site Plan Approval for a Pole Barn at this location. (SBL# 161.19-1-4.111)

APPEARANCE: Mr. Tom Bieniek, Curbell representative  
Mr. Chris Wood, Carmina & Wood Designs

Mr. Wood presented and explained the plans for a proposed 30-ft x 40-ft, heated, pole barn. He noted that they would like to locate the structure partially on the existing parking lot, and green space area. It was verified that the Town required amount of green space will be met at this site. The number of parking spaces will also be Code Compliant after removing an existing shed on this 5 +/- acre parcel.

Thomas Ostrander stated that the project has Engineering approval.

Thomas Minor commented on the parking plan where several spaces were removed and placed elsewhere on the site.

Mr. Kaczor established that the neighbors were made aware of this project. There is no residence near this area.

**Regarding Planning Board File #09-2024, I move to recommend that the Town Board APPROVE the presented Site Plan and AUTHORIZE a Building Permit, to construct a Pole Barn per the plan received on 6/12/2024, based on the following conditions and stipulations:**

1. All public notices have been filed.
2. This is an **UNLISTED SEQR** Action, based on the Short EAF submitted on 3/24/2024, and a Negative Declaration is made.
3. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.

- 5. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
- 7. The applicant is to provide the Town of Orchard Park Assessor with an “independent” appraisal for the completed project by a Certified Commercial Appraiser
- 9. Engineering Approval was granted on 7/10/2024.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE
HEPPNER	AYE
KACZOR	AYE
BAICH	AYE

**THE VOTE ON THE MOTION BEING UNANIMOUS, THE MOTION IS PASSED.**

There being no further business, the Chairman adjourned the meeting at 8:35 P.M.

DATED: 7/24/2024  
REVIEWED: 8/05/2024

Respectfully submitted,  
Rose Messina  
Recording Secretary

Harold Fabinsky, Planning Board Chairman