

PLANNING BOARD AUGUST 8, 2024, MEETING MINUTES

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

EXCUSED: Remy C. Orffeo, Acting Planning Coordinator

OTHERS PRESENT: 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.

The Chairman stated that the July Planning Board meeting minutes are not available to vote on this evening.

The Chairman reviewed the guidelines for public hearings, noting that individuals may only speak either in "favor" or "against" a project and can ask questions only in answer to one of those calls. Comments are limited to four minutes to assure a fair opportunity for everyone to speak.

PUBLIC HEARINGS – 7:00 P.M.

1. **P.B. File #13-2024, V/L, Bruce Drive**, located on the south side of Bruce Drive east of Scherff Road. Proposed One-Lot Subdivision, 1.19 +/- Acres of Vacant Land. Applicant is seeking Planning Board Preliminary Plat Plan Approval. Pre-Application findings were made on 5/9/24. (SBL#185.03-3-9.2)

APPEARANCE: Mr. Dean Delo, Petitioner/Property Owner
Mr. Jordon Schneider, Corinthian Homes

The Chair opened the public hearing, reminding that individuals may speak in "favor" or "against" the project for a maximum of four-minutes.

IN FAVOR:

***Mr. Dean Delo, Petitioner
2355 Bowers Road
Elma, New York 14059***

Mr. Delo stated that he supports the proposed project. He purchased this property and would like to construct his home here.

Mr. Jordon Schneider, Corinthian Homes
211 Hilltop Drive
Elma, New York 14059

Mr. Schneider spoke and stated he supports the request to construct the one-lot subdivision.

Ms. Diane Costa
20 Wildwood Lane
Orchard Park, New York 14127

Ms. Costa stated that she supports the project.

IN OPPOSITION:

Mr. Kenneth Lukasiewicz
22 Wildwood Lane
Orchard Park, New York 14127

Mr. Lukasiewicz stated he has no problem with the construction of a home. However, he wants a guarantee there will be no drainage problems created that impact and alter his property, and he wants someone to be held responsible.

Unknown Resident
Orchard Park, New York 14127

Resident stated that she, too, has the same water concerns. She, also, does not feel the proposed residential home fits the character of the neighborhood. She feels the location of the proposed residence will create privacy issues and water concerns. He also told the Board that several property markers were mysteriously moved.

Ms. Patricia Filsinger
12 Bruce Drive
Orchard Park, New York 14127

Ms. Filsinger told the members that she chose to live here for the peace and quiet offered in this neighborhood, and does not want this house built here.

Ms. Diane Walkowski
2 Bruce Drive
Orchard Park, New York 14127

Ms. Walkowski stated that the survey markers were moved approximately 20-ft.

Ms. Joann Lukasiewicz
22 Wildwood Lane
Orchard Park, New York 14127

Ms. Lukasiewicz expressed her concerns for increased water issues. She reported that the survey markers were moved, and feels the proposed residence will change their existing neighborhood.

Mr. Roger Walkowski
2 Bruce Drive
Orchard Park, New York 14127

Mr. Walkowski expressed his concerns for the survey markers that were moved at the site.

Ms. Amanda Ryan
15 Bruce Drive
Orchard Park, New York 14127

Ms. Ryan stated her concerns for the wildlife, eco-system and wetlands. She worries if the project will generate more water.

Dr. Bennett discussed a culvert and fish to add to the pond.

Mr. Heppner made a MOTION, seconded by Mr. Baich to ADJOURN the Public Hearing.

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

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

Building Inspector Thomas Minor stated that this project meets all Town Code requirements.

Town Assistant Engineer Tom Ostrander stated the Applicant needs to reach out to the Army Corps regarding water and drainage issues.

The Chairman stated that the Petitioner is to work with the Town Engineering Department.

Dr. Bennett made a MOTION, seconded by Mr. Kaczor to Grant Preliminary Plat Plan Approval to this 1.19 +/- acres V/L, 1-lot Subdivision, Zoned R-1, based on the submitted Preliminary Plat Plan and survey received 5/21/2024 with 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 is hereby made on 8/8/24.
3. Pre-Application Findings were made on 5/16/24.
4. Public Hearing and Subdivision Development fees have been paid prior to Final Plat Plan Approval.
5. Recreation fees in accordance with Section 144-70E of the Town Code have been paid.
6. One (1) Street Tree per the Conservation Board Street Tree Plan shall be provided on each lot per Section 120-3F of the Town Code.
7. Town Engineering Preliminary Plat Plan Approval has been granted on 8/8/24.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BENNETT	AYE
LONG	AYE

HEPPNER	AYE
KACZOR	AYE
BAICH	AYE
MURRAY	AYE

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

2. **P.B. File #34-2019, Quaker Lake Terrace, proposed 18-Lot Subdivision V/L located at the end of Quaker Lake Terrace, Zoned R-1. Applicant is seeking Planning Board Final Plat Plan Approval. Pre-Application Findings were made on 2/13/20. Preliminary Plat Plan Approval was granted in 2/10/22. (SBL# 173.00-1-2.11)**

APPEARANCE: Mr. Peter Liberatore, Property Owner
Mr. Sean Hopkins, Attorney
Mr. Chris Wood, Carmina – Woods Designs

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

IN FAVOR:

***Mr. Howie Holmes
4684 Freeman Road
Orchard Park, New York 14127***

Mr. Homes stated that he likes the trail connectivity planned in this subdivision and, therefore, he supports the project.

IN OPPOSITION:

***Ms. Katherine Pohlman
34 Winterhall Road
Orchard Park, New York 14127***

Ms. Pohlman is opposed to the one-lot subdivision.

***Ms. Nancy McNulty
78 Old Farm Road
Orchard Park, New York 14127***

Ms. McNulty stated that she is not opposed, but has concerns regarding responsibility and positive progress. She spoke of land stripped of vegetation and standing water that smells. She wants honest, transparent, attention for the runoff issues, and an environmental assessment done for “Old Farm Lake”, as all the fish are gone.

***Mr. Joseph Maute
44 Quaker Lake Terrace
Orchard Park, New York 14127***

Mr. Maute stated he was glad to hear about the nature trail to be constructed here.

***Mr. Charles Schamann
73 Old Farm Road
Orchard Park, New York 14127***

Mr. Schamann is concerned about water from the new subdivision.

Assistant Town Engineer, Mr. Ostrander stated that the new construction will not have an adverse impact on the existing subdivision. He explained that the new subdivisions’ water is maintained efficiently.

Mr. Kaczor discussed the power outages that residents’ had reported.

The Chairman stated that he had contacted NYSEG to learn more about the reported outages.

Mr. Wood discussed power outages in Orchard Park and road repairs. He also noted that the proposed trail will connect to Birdsong Part III, and to the other existing Birdsong. The new subdivision will have street lights, and no sidewalks. He explained that runoff water will flow to the regional detention pond. There will be no increase in runoff water. More than likely there will be less.

The Chairman would like the Boards’ review of this item tabled.

Attorney John Bailey agreed that the item should be tabled.

Mr. Wood gave a history on the trees that were cut down and he discussed this action with the Board.

Dr. Bennett made a MOTION, seconded by Mr. Heppner to ADJOURN the Public Hearing.

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

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

REGULAR BUSINESS

- 1. P.B. File #07-08 (#50-07), Forest Creek Part 2B, Vacant Land located off of Norwood Lane, Zoned R-1. Planning Board to review proposed 5 “Non-conforming Lots” in this proposed subdivision.**

APPEARANCE: Mr. Sean Hopkins, Attorney
Mr. Ken Zollitsch, Greenman – Pedersen, Inc.

Mr. Zollitsch handed out information to the Board members and Mr. Hopkins explained that four of the five lots are not Code Compliant (Lots #4, #5, #10, #11, #16) and he explained the non-conformities in detail.

The Chairman and the members spoke on the non-compliant lots shown on the proposed Site Plan. Discussion and topics included:

- The members do not like the corner lot.
- They were “uncomfortable” with the proposed plan.
- The potential bridge was discussed.
- Suggestions were made to merge lots #10 & #11.
- They discussed merging the corner lot.

Mr. Hopkins stated he would return to the Board next month. Chairman Fabinsky asked that he return with a different plan, and Mr. Hopkins agreed to do so.

2. P.B. File #20-24, Webster Road, located on the south side of Webster Road, west of North Buffalo Street, proposed 5- Lot, 1.17+/- acre Subdivision, Zoned R-3. Planning Board to make Pre-Application Findings. (SBL#161.00-3-28.1)

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

Mr. Wood distributed information to the Board members for their review.
The Chair confirmed the Pre-Application Findings with the Petitioner.

Mr. Long made a MOTION, seconded by Mr. Fabinsky that the following Pre-Application Findings are made, based on the submitted Sketch Plan received 4/03/24 and the applicant has detailed:

- The total acreage is 1.7 +/- acres.
 - The desired zoning classification is R-3.
 - The number of possible stages of completion is one (1).
 - The Applicant's position with respect to title is "Owner".
1. The Applicant has submitted the Short EAF Part 1 for this Unlisted SEQR action.
 2. All public notices have been filed.
 3. The zoning will remain as is.
 4. Access to surrounding properties is through Webster Road.
 5. 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.
 6. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 - 8 One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lot per Section 120-3F of the Town Code.

THE VOTE ON THE MOTION BEING:

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

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

MOTION TO SET A PUBLIC HEARING

Mr. Long made a MOTION, seconded by Mr. Baich 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
MURRAY	AYE

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

3. **P.B File #28-24, 3329 Southwestern Boulevard, Advanced Auto Parts, located on the northeast side of Southwestern Blvd, south of Lake Avenue. Applicant is requesting an Outside Display for “Country Fresh Farms”, 4-Day Meat Sale, August 21-24, 2024. (SBL# 152.16-6-1.112)**

APPEARANCE: Mr. Harry Peaden, Manager CFF Meats

Mr. Peaden explained their wholesale operation and the following was established; Country Fresh Farms (CFF) is requesting an “Outside Display” permit to operate a four-day meat sale at 3329 Southwestern Boulevard, in the “Advanced Auto Parts” store parking lot, under a 10-ft. by 10-ft. canopy. The dates and time of the proposed operation are August 21st through 24th, Wednesday through Saturday, 8 A.M. through 7 P.M.

Products for purchase include frozen “USDA Approved Meats” (chicken, pork, beef and seafood), in prepackaged boxes. Items are purchased from Stampede Meat, Incorporated. The inventory is stored in a 26-ft. refrigerated truck with deep freezers beneath. All sales will be cash and carry, conducted under a 10-ft. by 10-ft. pop up canopy. No waste disposables are created and the sale will not interfere with any traffic.

The members’ questions further established that the Health Department does onsite inspections of their operation; the truck is leased and the refrigeration unit is kept in the truck; other Towns they have operated in are Hamburg, and Lockport New York; they have a visual display of what is for sale in the vehicle’s window; these are choice meats they are selling with FDA approval and grading.

Mr. Baich made a MOTION, seconded by Mr. Fabinsky to GRANT an Outside Display Permit, to allow a four-day meat sale August 21st through 24th, 2024, based on the location plan, that includes “operational equipment” that is necessary, received 7/15/2024. The following Conditions and Stipulations are to apply:

1. All public notices have been filed.
2. This is a Type II SEQR action and, therefore, no SEQR Determination is required.
3. There will be no additional Outside Lighting for the display, or temporary structure.
4. Four-day Meat Sale located in the parking lot, under a 10 x 10 pop-up canopy on August 21-24, 2024. Hours of operation are Wednesday through Saturday, from 8 A.M. – 7 P.M.
5. Signage for the Outside Display will be limited to one sign during the Outside Display Times. Maximum size of sign is 20-sq.ft., and it must be removed at the end of approval period.

ON THE QUESTION:

The Chair conferred with Mr. Ostrander. He stated he had no comments on this project.

THE VOTE ON THE MOTION BEING:

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

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

- ★ 4. **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. Applicant is requesting a SEQR determination. (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.**
 *****Item has been removed from agenda*****

CONCEPT REVIEW:

1. **P.B. File #25-24, V/L Lake Avenue, located on the north side of “Sterling 45 Medical Building”, and on the south side of Lake Avenue. Applicant is seeking to rezone a .99 acre portion of this 3.43 +/- acre parcel from R-3 to I-1 to allow an 83 parking space parking addition for an approved medical building (access through Windward Road). (SBL# 152.14-2-24.11)**

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

Mr. Wood explained that the Applicant would like to have a .99-acre portion of this property rezoned from R-3 to I-1 in order to construct 83-additional parking spaces. The medical office building has received approval for construction, located adjacent to the south.

Mr. Heppner established that the two-lots will be combined. Clearing of trees was necessary for access to the nearby power lines. He stated that he supports commercial business.

Mr. Kaczor asked for clarification on the site map of the projects’ location. It is 386-ft. from the rear neighbors’ property line.

Chairman Fabinsky discussed the clearing of trees. Mr. Wood assured him that the existing trees will remain, except for those in the power corridor access way.

2. **P.B. File # 29-24, 188 Thorn Avenue, located on the north side of Thorn Avenue, east of Duerr Road, Zoned B-2. Planning Board to review proposed 18-parking spot expansion of the parking lot for “Thorn Avenue Animal Hospital”. (SBL# 172.08-4-12)**

APPEARANCE: Mr. Chris Wood, Carmina - Wood Designs
Mr. Joe Claus, Petitioner/Property Owner

Mr. Wood explained the proposed project to the members, noting that Mr. Claus bought the adjacent parcel on the north east side of his property, with the intention of constructing 18-additional parking spaces. This will provide a total of 30-parking spaces for employees and customers. The parking is located behind their facility and has very little visibility from Thorn Avenue. A new 6-ft. fence would be constructed along the east and south side of the proposed parking lot to screen it from the residential uses. Site lighting is not proposed as the hours of operation are mainly during daylight hours.

Chairman Fabinsky confirmed that the parking lot will be used by employees.

Mr. Baich verified the location of the project site on the presented Site Plan.

Mr. Kaczor confirmed that the Town Engineering Department has not reviewed this plan yet. Therefore, it is unknown if there are water issues at this time.

Mr. Heppner made a suggestion regarding renting property to Mr. Claus.

3. **P.B. File #20-2023, 4038 California Road, "Maple Grove Apartments", located on the west side of California Road, south of Ellis Road, Zoned R-4. Planning Board to discuss the number of Apartments per building. (SBL#161.03-1-41)**

APPEARANCE: Mr. Sean Hopkins, Attorney
Mr. Andrew Romanowski, Alliance Homes Developer

Mr. Hopkins distributed colored elevations to the Board members and explained the proposed project.

Chairman Fabinsky stated he would like the two-story buildings to have eight-units each.

Mr. Hopkins discussed the project with the members, answering their questions established the following:

- There are two-building plans to choose from with one, two, and three Bedroom Units offered. Both Buildings are of high quality with Landscaping.
- The color elevations presented are not the chosen color scheme.
- Moving the buildings further back from the road.
- The existing "Orchard Glen" complex (also built by Mr. Romanowski and located on California Road) is black with grey. Mr. Kaczor feels the character of the building is lost using these colors.
- The members feel the building should have more character. Mr. Baich would like to see different colors.

Mr. Bailey stated that the issue before the Board is the number of Units in a building. Please address this.

Tom stated that increasing the number of Units causes the Green Space to diminish. The members want less Units in the building.

A roll call vote was taken as follows:

- Mr. Mellerski stated he likes the proposed buildings.
- Chairman Fabinsky stated that he has concerns.
- Mr. Heppner would like the Applicant to consider design?
- Mr. Murray stated that he feels it is a nice project.
- Mr. Kaczor stated that he would like ten units, not twelve.
- Mr. Long likes the buildings with twelve units in them.

Mr. Romanowski stated that the project will not work with less than 12-units per building.

There being no further business, the Chairman adjourned the meeting at 9:30 P.M.

DATED: 8/19/2024
REVIEWED: 8/29/2024

Respectfully submitted,
Rose Messina
Recording Secretary

Harold Fabinsky, Planning Board Chairman