

MEMBERS PRESENT: Harold Fabinsky, Chairman/Kim Bowers/Henry Heppner/David Kaczor
Bill McNamara/Nicholas Taneff/Philip Murray, Alternate

EXCUSED: Paul Bodden

OTHERS PRESENT: John Bernard, Planning Director
Len Berkowitz, Deputy Town Attorney
Andrew Geist, Building Inspector
Thomas Ostrander, Assistant Town Engineer
Rosemary Messina, Secretary

**APPROVED
MINUTES**

The Chair called the Planning Board meeting to order at 7:00 P.M. by stating 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 Chair noted that the Alternate member, Mr. Murray would be voting this evening due to the absence of Mr. Bodden.

Mr. Kaczor stated that he will not be voting in cases #2 and #3 due to a business relationship.

Upon a motion duly made and seconded, the reading of the Planning Board’s June, 2016 Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Heppner made a **MOTION**, seconded by Ms. Bowers to **APPROVE** the June 2016 minutes as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BOWERS	AYE
HEPPNER	AYE
KACZOR	AYE
MC NAMARA	AYE
MURRAY	AYE
TANEFF	AYE

THE MOTION IS UNANIMOUSLY PASSED.

1. 7:00 P.M. Public Hearing, P.B. File #27-13, “Riley Meadows West” proposed sixty-nine (69) Lot Subdivision, Vacant Land, 57+/- acres located on the west side of Murphy Road across from the existing Riley Meadows East Subdivision, Zoned R-2. Applicant is seeking Preliminary Plat Plan Approval and SEQR Determination. The Planning Board made Pre-application Findings and declared itself as the SEQR Lead Agency on January 8, 2014.

The Chairman called the public hearing open for discussion of “Riley Meadows West” proposed sixty-nine (69) Lot Subdivision. The Affidavit of Publication and Posting, was published in the “Orchard Park Bee”, and filed with the Board by the Planning Board Secretary.

IN FAVOR:

*Mr. Chris Wood
Carmina – Wood – Morris
487 Main Street – Suite 600
Buffalo, New York 14203*

Mr. Wood briefly described the project, stating that he supports it.

IN OPPOSITION: No one spoke.

Mr. Heppner made a **MOTION**, seconded by Mr. Taneff, to **CLOSE** the Public Hearing.

THE **VOTE ON THE MOTION** BEING:

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
MCNAMARA	AYE
MURRAY	AYE
TANEFF	AYE

THE **MOTION IS UNANIMOUSLY PASSED.**

APPEARANCE: Mr. Chris Wood, Carmina – Wood - Morris

Planning Director John Bernard told the members that the Conservation Board recommends fees be provided in lieu of land. The Developer has paid the required fees for the Preliminary Plat Plan public hearing and subdivision. Recreation and public hearing fees are due before the Final Plat Plan Hearing.

Mr. Wood told the Board that they are awaiting Town Engineering comments and Final Approval.

Mr. McNamara made a **MOTION**, seconded by Mr. Heppner to **GRANT** Conditional Preliminary Plat Plan Approval to this 69-lot subdivision based on the submitted Preliminary Plat Plan received 2/1/16 and survey submitted 2/1/16 with the following conditions:

1. The Planning Board declared this to be a Type 1 SEQR Action and sought Lead Agency Status on 10/9/13. No involved Agency objected to the Planning Board being the Lead Agency. Based on the submitted Long EAF Parts 1 and 2 the Planning Board hereby makes a Negative SEQR Declaration on 7/13/16.
2. Pre-Application Findings were made by the Planning Board on 1/08/14.
3. Public Hearing and Subdivision Development fees have been paid.
4. Recreation fees in accordance with Section 144-70E of the Town Code shall be paid prior to the Final Plat Plan Public Hearing.
5. 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.
6. Town Engineering Preliminary Plat Plan Approval has been granted on 6/23/16.

THE **VOTE ON THE MOTION** BEING:

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
MCNAMARA	AYE
MURRAY	AYE
TANEFF	AYE

THE **MOTION IS UNANIMOUSLY PASSED.**

- 2. P.B. File #23-15, Ellicott Development, 3910 North Buffalo, located on the west side of North Buffalo Road, south of Webster Road, Zoned B-1. Planning Board to make a recommendation to the Town Board regarding the Applicant's request for a "Special Exception Use Permit" for a proposed 5,035 gsf Medical Office Building. (SBL#161.16-1-2.3)

Mr. Kaczor stated he is recusing himself from voting in this case due to a business relationship.

APPEARANCE: Mr. William Paladino, Ellicott Development
Mr. Chris Wood, Carmina - Wood - Morris

The Board has had some discussion on the project. If there are any questions or concerns that the Board members have now, we are prepared to make a motion;

Mr. Murray - Nothing, thanks.

Ms. Bowers - Nothing here.

Mr. Heppner - Just a simple question - Is the brick on the proposed new building going to match the first part or the second part.

Mr. Wood stated the first part. It is definitely the same brick.

Mr. Paladino, referred to the map, noting, this is existing, this is addition, this is the walkway that goes in between. So we made it sort-of carry the moldings across. With regard to the additions, we did speak with the Town Engineer Wayne Bieler, and the Town Attorney on laying language right now on how this would be constructed. The Engineering Department is comfortable with us building that and that allowed us the access around the problems with the codes and the sewer. Everyone seemed comfortable with that. As part of the approval process I assume that the Town Board passes an agreement, written form, for that understanding.

The Chairman has no questions.

Mr. McNamara - No questions.

Mr. Taneff - No questions.

Mr. Fabinsky made a **MOTION**, seconded by Mr. McNamara, to recommend the Town Board schedule a public hearing for the requested Special Exception Use Permit.

THE VOTE ON THE MOTION BEING:

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
KACZOR	ABSTAINED
MCNAMARA	AYE
MURRAY	AYE
TANEFF	AYE

THE MOTION IS UNANIMOUSLY PASSED, with one abstention.

The Chair stated that we recommend that the Town Board schedule a public hearing.

- 3. P.B. File #21-15, Ellicott Development, Vacant Land, northwest corner of Southwestern Boulevard (US Route 20) and Milestrip Road (NYS Route 179), across from Hart Place, Zoned B-1. Planning Board to make a recommendation to the Town Board regarding the Applicant's request for a "Special Exception Use Permit" for a proposed 23,567 gsf Medical Office Building as part of a 43.65 +/- acres phased Commercial Development. (SBL#'s 152.19-1-18.1 & 152.19-1-21)

Mr. Kaczor stated he is recusing himself from voting in this case due to a business relationship.

APPEARANCE: Mr. William Paladino, Ellicott Development
Mr. Chris Wood, Carmina - Wood - Morris

The Planning Director told the Board that Town SEQR Review Fees have not been paid, therefore, the Traffic Impact Study has not been reviewed by our third party engineering firm. (It was noted that a problem with Ellicott Development's financial software prevented the issuance of checks.)

Mr. Paladino stated that he submitted a copy of a May 2015 NYS DEC letter for the members' review indicating that there is to be no connection from this property to Sterling Drive. In addition the site was revised to eliminate front yard parking at the site.

The Board discussed their need to review the Traffic Impact Study, Wetlands Delineation Study, the comments from the NYS DOT, and the consultant's review before making a recommendation to the Town Board regarding the request for a Special Exception Use Permit. The members are not comfortable making a recommendation without having information to base their decision on.

Mr. McNamara stated that he is not comfortable going forward without knowing how the entire site be developed.

The Planning Director consulted with the Town Deputy Attorney, Len Berkowitz. He stated that the members can recommend that the Town Board schedule a public hearing, with no recommendation made by the Planning Board at this time.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner, to ask that the Town Board schedule a public hearing date. A recommendation will be made at a later date after the receipt of further information on Traffic.

ON THE QUESTION:

Mr. McNamara stated he did not know if there is a "need" for an office at the proposed site.

THE **VOTE ON THE MOTION BEING:**

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
KACZOR	ABSTAINED
MCNAMARA	AYE
MURRAY	AYE
TAN EFF	AYE

THE **MOTION IS UNANIMOUSLY PASSED.**

4. P.B. File #11-16, Wings, 3964 California Rd, located on the west side of California Road, south of Southwestern Boulevard, Zoned I-1. Requesting Planning Board approval for a 1,500-attendee fund raising event to be held on August 6, 2016 at this location from 4 PM to 10 PM.

Mr. Taneff abstained due to a lack of information in the file.

APPEARANCE: Mr. Joseph DeMarco, Jr.

Several members spoke to Mr. DeMarco about selling tickets and posting advertising for an event that had not yet received Planning Board review or approval. They cautioned Mr. DeMarco and insist he be on time when applying to the Board.

It was further established that:

- The Building Inspector should be advised of all events that take place at this site.
- Port-o-potties are rented, handicapped bathroom is available.
- The Police Chief wrote a letter stating that he had no issues from last year's event.
- One police vehicle is to be present for traffic control.
- There will be 10 or 12 Sheriffs present and a Security Staff.
- The Planning Department fee was paid.
- The parcel merger discussed in 2015 will take place after this event, as Mr. DeMarco Sr. has purchased the property from his brothers.

Mr. Heppner made a **MOTION**, seconded by Ms. Bowers to **APPROVE** the request to hold an event known as "2016 Wings Flights of Hope Buffalo BBQ" at 3964 California Road, based on the following conditions and stipulations:

1. This is a Type II SEQR action; therefore, no determination of significance is required.
2. This authorization is based on the submitted 2016 Sketch Plan received 6/9/16.
3. The event is to be scheduled for 8/6/16, from 4:00 P.M. through 10:00 P.M.
4. Tickets for sale will be limited to a quantity of 1,500 people.
5. The port-o-pots and tents location and installation shall be approved by the Town of Orchard Park Building Inspector.
6. Police Chief Mark Pacholec stated in a correspondence dated 6/24/16 that he had no issues with this request and has recommended the required Town of Orchard Park Police coverage.

ON THE QUESTION:

Chairman Fabinsky told Mr. DeMarco to file his application on time.

THE **VOTE ON THE MOTION** BEING:

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
MCNAMARA	AYE
TAN EFF	ABSTAINED
KACZOR	AYE
MURRAY	AYE

THE **MOTION** IS UNANIMOUSLY **PASSED**.

5. P.B. File #12-16 Windom Volunteer Fire Company, 3736 Abbott Road, Zoned B-2/R-3. Planning Board to make a recommendation to the Town Board on a Building Permit to construct a 30-ft. x 60-ft. shelter with a 30-ft. x 10-ft. storage building.

APPEARANCE: Nick Sabal, Lehigh Construction
 Kyle Holscher, Windom Volunteer Fire Company

The following was established:

- This is not a phased project.
- The shelter will not have walls that enclose it.
- There will be no water available at the shelter, there will be electric.
- They do not anticipate late night parties.
- The location map was reviewed to verify how close their neighbors are to this site.
- The nearest neighbor was spoken to and they did not object to the proposed shelter.
- It is not a practice to have gatherings in the nearby wooded area. There have been no complaints regarding this.

Mr. Heppner made a **MOTION**, seconded by Ms. Bowers to recommend that the Town Board **AUTHORIZE** a Building Permit for the construction of a 30-ft. x 64-ft. shelter, including a 30-ft. wide by 10-ft. deep enclosed storage area based on the plans received 7/5/16, and the following conditions and stipulations apply:

1. This is a Type 2, SEQR Action, therefore, no determination is necessary.
2. No additional exterior lighting is included in the approval. If any exterior lighting is to be installed the plans shall be submitted to the Planning Department for approval.

THE **VOTE ON THE MOTION BEING:**

BOWERS	AYE
FABINSKY	AYE
HEPPNER	AYE
MCNAMARA	AYE
TANEFF	AYE
KACZOR	AYE
MURRAY	AYE

THE **MOTION IS UNANIMOUSLY PASSED.**

There being no further business, the Chairman adjourned the meeting at 7:46 PM

DATED: 7/19/16
 REVIEWED: 8/01/16

Respectfully submitted,
 Rosemary M. Messina
 Planning Board Secretary

Harold T. Fabinsky, Planning Board Chairman