

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 17th day of December 2008 at 7:00 PM. The meeting was called to order by the Supervisor and there were:

PRESENT AT ROLL CALL: Mary Travers Murphy	Supervisor
Nancy Ackerman	Councilwoman
David Kaczor	Councilman
Mark Dietrick	Councilman
Edward Graber	Councilman
Janis Colarusso	Town Clerk
Leonard Berkowitz	Town Attorney
Andrew Geist	Building Inspector
Andrew Benz	Chief of Police
Frederick Piasecki, Jr.	Highway Superintendent
Wayne Bieler	Town Engineer

The Supervisor 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 COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION WITH A SECOND BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the minutes of the Meeting of the Town Board held on December 3, 2008, as presented by the Town Clerk are hereby approved, 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

At 7:00 PM, the advertised time, the Supervisor called for the Public Hearing to hear all interested persons for or against the Proposed Local Law for the Year 2008. This Local Law provides for the proposed adoption of the *“North Buffalo Street Architectural Overlay District”* which reads as follows:

North Buffalo Road Architectural Overlay District

Purpose and Goal: To maintain and enhance the unique character of North Buffalo Road from Southwestern Boulevard to the north Village line in keeping with its small-town character. The character of Orchard Park is, in part, dependent upon its physical attributes, the architecture of its buildings, how well those buildings are located and oriented on their sites, how they relate to one another and the surrounding elements. A building’s size, shape, height, mass, color, materials, texture, roofline, roof treatment, and window and entry placement combine to give the users and passersby a specific image and identification for the area in particular and the community as a whole. The following guidelines are intended to require excellence in the design of buildings proposed for the North Buffalo Road Architectural Overlay District and to foster development that is consistent with the small town character and the ambiance of suburban and yesteryear Orchard Park. These guidelines will address required approaches to the design of structures, focusing on building scale, shapes, massing, heights, colors, materials, roof treatments, facades, and building site orientation to achieve diversity and design

excellence in residential and non-residential development in the North Buffalo Road Architectural Overlay District. Further, the streetscape and landscaping features of the area should enhance and compliment the District to create the most attractive and compatible northern entryway possible into the historic community center, the Village of Orchard Park.

1. **Definition:** North Buffalo Road Architectural Overlay District - All premises which have frontage on North Buffalo Road between the center line of Southwestern Boulevard and the Orchard Park Village line extending 350 feet on the east and west sides of the street.
2. **Architecture:** The construction of new buildings, additions, alterations or renovations within the North Buffalo Road Architectural Overlay District should add life and vibrancy to the existing neighborhood. New design must be carried out in such a way that it compliments rather than detracts from the streetscape.
3. **Location:** New construction, additions, alterations or renovations should be oriented in conformity with the other buildings on North Buffalo Road. The prevailing setback of the street should be maintained by any new construction.
4. **Scale:** New construction, additions, alterations or renovations should be compatible in scale with the other buildings in the area. New construction, additions, alterations and renovations of a massive scale shall not occur within the North Buffalo Road Architectural Overlay District, nor shall very small, out-of-proportion main buildings on a property be added to the stock of the road. Buildings should not be branded using an architectural style of a company. Franchise architecture (building design that is trademarked or identified with a particular chain or corporation and is generic in nature) is not allowed.
5. **Rhythm:** New construction, additions, alterations or renovations should mirror the window and door rhythm and the height of various elements (windows, rooflines, etc..) of the adjacent and other buildings on the street.
6. **Massing:** New buildings should incorporate the same general patterns of massing, including window and door forms, roof profiles, and building shapes as are evident in the existing architecture of the district.
7. **Materials:** New buildings should incorporate the same exterior materials as exist on current buildings within the District. Large expanses of glass and synthetic materials should be avoided. The use of wood, composite wood, or cementitious is recommended.
8. **Roof Architecture and Treatments:** The use of architectural features, such as three dimensional cornice treatments, enclosed parapet wall forms and details, overhanging eaves, etc., are encouraged to enhance the architectural character of the roof. Roof-top plumbing, vents, ducts, and air conditioning and heating equipment, communication antennae, and other mechanical or electric equipment must be located away from public view and screened in such a manner so as not to be visible from any angle or any height outside of the building.
9. **Other Exposed Mechanicals:** Exposed mechanical equipment, such as through-wall and window air conditioners, vent pipes, electrical conduit and boxes, is not permitted on the street face or on any side elevation that is visible from the street.

10. **Additions:** Additions to existing buildings should generally be made on the side or rear elevation with minimal impact on existing features, and should be made in such a manner that, if removed in the future, existing material would not be irreparably damaged. Additions should use materials compatible with the existing building and should incorporate massing, scale, window and door proportions, etc.

11. **General Guidelines for New Construction in the North Buffalo Road Architectural Overlay District:**

- A. New Additions to existing properties shall include new construction physically attached to an existing structure, such as an appendage to a building, or separate new pieces of construction having nearby existing counterparts, such as a new building adjacent to a similar resource.
- B. Any new addition should be located in a manner that allows existing features to remain the primary visual and physical components of the existing property. Considerations include characteristics such as density, orientation, scale, and form of features both within the existing property and its setting.
- C. Attached additions, such as a building appendage, should be somewhat smaller in scale, although similar in overall form to the existing feature. Separate new construction, such as a new building along this overlay street, should be of the same general scale and size as the adjacent existing counterparts. Considerations include overall dimensions, as well as size of significant features, such as roof slopes and overall height, and general alignment. A general rule of thumb is that the new construction falls within 10% of the scale of existing equivalents.
- D. Additions to existing properties should reflect the shape or form of similar adjacent existing counterparts. When shape is determined by strict geometric arrangements, for example, the combination of rectilinear components to form buildings, these same forms should be reflected in proposed addition. If existing forms are more organic or free flowing, as might be the case in the arrangement of structures in the overall layout on a property, such forms should guide the design of the new construction.
- E. New construction should be comprised of individual features comparable, but not identical to those of similar existing properties. In those areas of the North Buffalo Road Architectural Overlay District which are characterized by dwellings having front porches, paired windows and dormers, etc., new buildings should include these same features.
- F. Materials used in new construction should be comparable with those of corresponding existing properties and their features. Additions having existing counterparts should reflect the overall pattern, texture, and color of materials found at the existing property: for example, a new outbuilding should complement the existing main building in application of roof, building massing, and foundation materials. New additions, such as retaining walls or walkways, should use materials that complement those of the existing property.
- G. A property's color palette should be not more than three colors: one base color, one trim color, and one accent color. Encourage trim and accent colors that contrast with the base color. Trim and accent colors should be either lighter or darker than base color.

H. Articulation: If buildings are longer than thirty feet, they should include modulation and/or articulation features at a maximum of thirty (30) feet to reinforce the small pattern of earlier times. At least two of the following methods must be employed at intervals of no greater than thirty (30) feet:

- (i) The use of windows and/or entries
- (ii) The use of awnings
- (iii) The use of change of roofline
- (iv) The use of change in building materials or siding
- (v) The uses of other methods that meet the intent of the guidelines to retain the small town feel of the structure.

Vertical Articulation should be used to moderate buildings extending to the full thirty-five (35) feet of vertical development permitted by local ordinance, such as cornice treatments, differing levels of fenestration, material changes, pedestrian scale building details, and weather protection elements, such as awnings and door over hangings.

12. Signs:

- A. Signs should be architecturally compatible with the style, compositions, material, color, and detail of the building and other signs on nearby buildings. They should also provide adequate identification of the business. All signs need to comply with the Town of Orchard Park Zoning Code/General Sign Requirements.
- B. Signs constructed of materials such as wood or metal are preferred. Permanently painted window or awning signs are encouraged if compatible with the architectural style of the building. Painted window signs shall not consume more than one-third (1/3) of the glazed area of the window.
- C. Neon signs are not permitted on the exterior of the building. They may be used in the interior of a display window. However, they may not cover more than one-third (1/3) of the window surface.
- D. Projecting signs cannot block or obliterate intricate facade detailing, windows or cornices of the building upon which they are attached. Franchise signage will be moderated to comply with the design intents of this District.

13. Exterior Lighting.

- A. Lighting along the North Buffalo Road Architectural Overlay District shall serve to illuminate facades, signage, and landscaping. Illumination shall provide an adequate level of personal safety, while enhancing the aesthetic appeal of building and grounds.
- B. The use of shaded gooseneck style, lantern, and other style lighting fixtures relative to the particular architectural character of the building are recommended.
- C. The back lighting of semi-transparent awnings, colored lighting, and neon lighting are not permitted.
- D. Catalogue cuts or photographs of all proposed lighting fixtures shall be submitted to the Architectural Review Committee for review and acceptance.

14. Awnings.

- A. The use of awnings is encouraged within the North Buffalo Road Architectural Overlay District to enhance the traditional and historic character of the community. Awnings are to provide sun protection for display windows and/or residential windows, shelter for pedestrians, and a sign panel for businesses.
- B. Retractable or operable awnings are recommended. Large expanses of awnings should be broken into segments that reflect individual store fronts. Awnings are not permitted to extend across multiple store fronts and/or multiple buildings. Awnings must be constructed of durable, protective, and water repellent material and project a minimum of thirty-six (36) inches from a building facade. Plastic or fiberglass awnings are not permitted. The back lighting of permitted awnings is not acceptable.

15. Street Scaping.

- A. Landscaping treatments should be used to enhance the pedestrian and vehicular experience, compliment architectural features, and/or screen utility areas.
- B. Streetscape Master Plan shall be prepared by a registered landscape architect, which will encompass a selection of trees, shrubs, ground covers, perennials, location of annuals, as well as hardscapes. Hardscapes will include paving materials, benches, landscape aggregates, and lighting. This Master Plan will be reviewed by the Conservation Board and the Planning Board, with final approval granted by the Town Board.
- C. Any new construction shall conform to the Streetscape Master Plan. The Conservation Board shall be familiar with all details of the Plan as well as all landscape architects doing work in the Historic Overlay District.
- D. Some plantings should be located on private property, with the permission of the owners, to give continuity to the whole streetscape.
- E. Funding of the streetscape shall be derived from recreation land fees, as well as forfeited landscape fees from other projects.

Section 1. Architectural Review Board.

- (a) There is hereby created a board to be known as the Architectural Review Board.

The board shall consist of five (5) members to be appointed, to the extent available in the community, by the Town Board as follows:

- (i) At least two shall be architects.
 - (ii) At least one shall be a civil engineer.
 - (iii) At least one shall be a builder (residential or commercial).
 - (iv) At least one shall be a landscape architect.
- (b) One (1) member of the board shall be appointed for the term of one (1) year, one (1) member of the board shall be appointed for the term of one (1) year, one (1) member of the board shall be appointed for the term of two (2) years, one member of the board shall be appointed for

the term of three (3) years, one member of the board shall be appointed for the term of four (4) years, and one member of the board shall be appointed for the term of five (5) years. All subsequent appointments shall be for a full five (5) year term.

- (c) Vacancies shall be filled for the unexpired terms only and members may be removed for cause by the Town Board upon written charges and after a public hearing.
- (d) There shall be a chairman and vice chairman of the board who will be elected by and from the members of the board.
- (e) The powers of the board shall include:
 - (i) Utilization of staff and professional consultants as necessary to carry out the duties of the board.
 - (ii) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (iii) Approval or disapproval of applications for certificates of appropriateness pursuant to this ordinance.
- (f) The board shall meet at least monthly, but meetings may be held at any time on the written request of any two (2) board members or on the call of the chairman or the Town Board and the building inspector's officer.
- (g) A quorum for the transaction of business shall consist of three (3) of the board's members, but not fewer than a majority of the full authorized membership may grant or deny a certificate of appropriateness.

Section 2. Certificate of Appropriateness.

- (a) Generally. No person or representative of any municipality shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a structure within an architectural district, nor shall any person or representative of any municipality make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, stops, paving, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the architectural district, without first obtaining a certificate of appropriateness from the architectural review board.
- (b) Criteria for approval. The architectural review board shall apply the criteria set forth in this ordinance in approving a certificate of appropriateness for any structure in the architectural district.
- (c) Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the architectural review board. The application shall contain:
 - (i) Name, address, and telephone number of applicant.
 - (ii) Location and photographs of property.
 - (iii) Elevation drawings, including relationship to adjacent properties, if available.
 - (iv) Perspective drawings, including relationship to adjacent properties, if available.
 - (v) Samples of color or materials to be used.

- (vi) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property.
 - (vii) Any other information which the board may deem necessary in order to visualize the proposed work.
- (d) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the architectural review board. Nor shall a certificate of occupancy be issued until a certificate of appropriateness has been issued. The certificate of appropriateness required by this ordinance shall be in addition to and not in lieu of any building permit that may be required by any other ordinance.
- (e) The board shall approve, deny, or approve the permit with modifications within forty-five (45) days from receipt of the completed application. The board may hold a public hearing on the application at which any opportunity will be provided for proponents and opponents of the application to present their views.
- (f) All decisions of the board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the town clerk's office for public inspection. The board's decision shall state the reasons for denying or modifying the application.

Section 3. Administration and Enforcement.

- (a) Enforcement. All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the building code enforcement officer to inspect periodically any such work to assure compliance. In the event work is found that is not performed in accordance with the certificate of appropriateness, or upon notification of such fact by the architectural review board, the building code enforcement officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on a project as long as a stop work order is in effect.
- (b) Maintenance and repair requested.
- (i) No owner or person within an architectural district shall permit the property to fall into a serious state of disrepair so as to result in deterioration of any exterior architectural feature which would, in the judgment of the architectural review board, produce a detrimental effect upon the character of the architectural district as a whole or the life and character of the property itself.
 - (ii) Examples of deterioration include:
 - (a) Deterioration of exterior walls or other vertical supports.
 - (b) Deterioration of roofs or other horizontal members.
 - (c) Deterioration of exterior chimneys.
 - (d) Deterioration or crumbling of exterior stucco or mortar.
 - (e) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
 - (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(c) Violations.

- (i) Failure to comply with any of the provisions of this ordinance shall be deemed a violation. The violator shall be liable to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation and for each day the violation continues.

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

At this time the Supervisor opened the Public Hearing to hear all interested persons for or against the Proposed Special Exception Use.

In favor: No one spoke.

In opposition: No one spoke.

2) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN DIETRICK, TO WIT:

RESOLVED that the Public Hearing in the Matter of a Local Law for 2008 "*North Buffalo Street Architectural Overlay District*" is hereby closed at 7:07 PM (local time).

The resolution was unanimously adopted.

Supervisor Travers Murphy stated that will not be taking any action on this Local Law this evening.

Old Business # 1 Historic Significance for the Harry Yates Barn – Jewett Holmwood Road: Historic significance for the Harry Yates Barn – "*Edgewood Farms*", located on Jewett Holmwood Road, in the Town of Orchard Park. (Postponed to later in the meeting).

Old Business #2 Proposed Wal-Mart, DEIS Declared Incomplete, Additional Information Needed

3) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, the Town Board has received the Technical Review from TVGA Engineering Firm for the DEIS for the New Proposed Facility on Milestrip Road at Amelia Drive – Wal-Mart, and

WHEREAS, the Town Board has received a memo from TVGA, and a memo from the Engineering Department, stating that there are some inconsistencies in the DEIS

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby declare the Wal-Mart DEIS document incomplete and require the additional information needed as stated by TVGA and as recommended by the Planning Coordinator: traffic; noise level; water quality; utilities; public transit and pedestrian access, etc.

The resolution was unanimously adopted.

Old Business #3 – Louis Alberalla, 4109 N. Buffalo Street, Requesting a “Change-in-Use”

4) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby authorize the Change-In-Use for Louis Alberalla, 4109 N. Buffalo Street (Former Exquisite Taste) located on the East side of North Buffalo Road, Zoned B-3. The Planning Board, 11/12/08, recommends the Change-In-Use Permit from “Retail” to “Restaurant” based on the following conditions and stipulations:

- This is a Type II SEQR Acton and therefore no determination of significance is required.
- Approval is contingent upon the Zoning Board of Appeals granting a Use Variance to permit an “Eating and Drinking Establishment” (granted on 12/16/08).

The resolution was unanimously adopted.

Old Business #4 Quaker Crossing East Out-Parcel – Request for Building Permit for Restaurant

5) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the Town Board does hereby approve a Building Permit for Quaker Crossing East Out-parcel, located near the entranceway along Amelia Drive, Zoned B-1. The Planning Board recommends the Permit for “Buffalo Wild Wings” for a 6,000 sq. ft. +/- restaurant and to approve the Site Plan received, 12/10/08, based on the following conditions and stipulations:

- This is an Unlisted SEQR Action based on the submitted Short EAF, parts One and Two and a Negative Declaration is made.
- The site lighting is limited to those fixtures and poles indicated on the approved Site Plan. Light fixtures shall have flat lens.
- No outside storage or display is permitted.
- Dumpsters as shown shall be screened, along with any additional dumpsters, in accordance with Section 144-25 of the Town Code.
- Town Engineering Approval was granted on 12/10/08.
- A landscape completion bond in the amount of \$18,840.00 shall be provided for the landscape plan received 10/17/08 which includes 18.3% total green space, prior to the receipt of a Building Permit.

At this time the Supervisor stated she did not agree to this request due to the problems that already exists at Quaker Crossing, i.e. buses.

Supervisor Travers Murphy	Nay
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Aye
Councilman Graber	Aye

The resolution was duly adopted.

Old Business #5 Award Bid for Recreation Department Pick Up Truck

6) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the purchase of one 2009 F150 XL ½ Ton Pickup Truck from the New York State Bid Contract in an amount not to exceed \$14,000, as recommended by the Recreation Director.

The resolution was unanimously adopted.

New Business # 1 Schedule 2009 Organizational Meeting w/ 1st Regular Meeting of the Town Board

7) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby schedule the 2009 Organizational Meeting & the 1st Regular Meeting of the Town Board for Wednesday, January 7, 2008, with the Organizational Meeting commencing at 6:00 PM and the 1st Regular Meeting of the Town Board to immediately follow, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #2 Schedule Public Hearing for Proposed Amendment to Local Law - Ethics

8) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN GRABER, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board is hereby authorized to schedule a Public Hearing for Wednesday, February 4, 2009, at 7:00 P.M. (local time) regarding a Proposed Local Law which provides for amendments to the Town Code, Chapter 12, Ethics.

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #3 Schedule Public Hearing for rezoning of 5285, 5287 & 5255 Chestnut Ridge Rd.

9) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

WHEREAS, Dennis Boyle, Woodbridge Construction, 5285, 5287 & 5255 Chestnut Ridge Road, located on the East side of Chestnut Ridge, Zoned R-3 Special Exception Use and R-2 has petitioned to rezone property located at 5255 Chestnut Ridge Road from Zoned R-2 to R-3, and to consider the proposed "Special Exception Use Multi-Family Dwelling Permit" for 5285, 5287 and 5255 Chestnut Ridge Road, Zoned R-3,

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby schedule a Public Hearing on Wednesday January 21, 2009 at 7:00pm (local time) in the matter of the above rezoning request, and be it further

RESOLVED, that the Town Clerk shall publish due notice in the official newspaper of the Town.

The resolution was unanimously adopted.

New Business #4 Appointment to Youth Representative on the Recreation Commission

10) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby appoint Jaymie Druding to fill the vacancy of Youth Representative on the Recreation Commission as recommended by the Recreation Director.

The resolution was unanimously adopted.

New Business #5 Refer to Planning and/or Conservation Board

11) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the Town Board does hereby refer the request of Boston Terra Cotta, 6860 South Abbott Road, proposed 16,842 +/- sq. ft. expansion of current production/manufacturing facility with site improvements, including a proposed new curb cut located on South Abbott Road to the Planning and/or Conservation Board.

The resolution was unanimously adopted.

Old Business # 1 Historic Significance for the Harry Yates Barn – Jewett Holmwood Road

12) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN KACZOR, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

WHEREAS, the Historic Preservation Board of the Orchard Park adopted a resolution recommending that the Town Board adopt a resolution recognizing and designation as a historic landmark the main barn and attached silo structures and the site of Harry Yates “Edgewood Farms” located at 7295 Jewett-Holmwood Road in the Town of Orchard Park, New York. The main barn has a modified “Z” shaped footprint with two attached ceramic silos on this site

NOW, THEREFORE, be it

RESOLVED, that the Town Board does hereby accept the recommendation of the Historic Preservation Board and be it further

RESOLVED, that the Town Board does hereby designate the main barn and attached silo structures and the site of Harry Yates “Edgewood Farms” located at 7295 Jewett-Holmwood Road in the Town of Orchard Park, New York as a Historic Landmark, and be it further

RESOLVED, that this resolution has been submitted and is on file at the County Clerk’s office, as submitted by the Historic Preservation Board, and be it further

RESOLVED, that a letter (12/15/08) from Richard Sullivan, the attorney for the owner of the subject property, Smokes Creek Estates, LLC., regarding the "Landmark" designation be part of the record.

Councilman Dietrick stated in the letter from Richard Sullivan, the owners of the property would donate the structures at 7295 Jewett-Holmwood Rd. to the Town or the Historic Preservation Board provided it is relocated at their expense

Councilman Kaczor stated that The Historic Preservation Board and the Town Board will do everything in their power to look at all possible ways the barn could be utilized so that the Community and the developer would benefit. The intent is to maintain a building in Orchard Park that has a great deal of history and character, not penalize the developer.

Councilman Dietrick stated that he feels the site is historic and a landmark and does not feel that he can vote against that. However, he believes that there is a lot of work to be done and the Town Board has addition responsibilities beyond that of just "designation". He will abstain from voting on this resolution.

Supervisor Travers Murphy stated that she will be voting in favor of this designation because she believes that this site embodies so much of what our residents cherish, appreciate and respect about our community and its history. More importantly, this designation addresses a major complaint of the residents in that we need to protect and preserve the elements that make Orchard Park so unique.

Councilman Graber stated that he will be voting in favor of this designation, but he has concerns about the responsibilities of the Town. He would like the Preservation Board to work aggressively to find funds to make proper use of this property. If they don't see that in a certain time frame, the property owner does have the right to come back and ask the Town Board to remove the designation.

Councilwoman Ackerman asked if there is a specific time frame associated with this, to which Councilman Graber stated that there was not. Councilwoman Ackerman stated that it is, therefore, open ended.

Supervisor Travers Murphy	Aye
Councilwoman Ackerman	Aye
Councilman Kaczor	Aye
Councilman Dietrick	Abstained
Councilman Graber	Aye

The resolution was duly adopted.

Business from the Floor

Marcia Brunner - She wants a signal place at the intersection of Southwestern Blvd. and Transit Road as there have been so many accidents, some fatal, at that intersection. The supervisor will direct this request to the proper authorities.

Lou Boehm – Mr. Boehm stated that the Accent Stripe construction site is a mess and an eyesore.

Mike Montileone – Mr. Montileone's home is along the rail tracts and there is a 120 foot dead elm tree three feet off is property on the rail line. Hugh limbs are falling and no one is taking responsibility for it.

Tom Casey – Mr. Casey stated that he would like the Town Board to hire a professional, certified planner for the Town Planner position. He feels the current appointment was politically motivated.

The following people (townships noted) spoke against the Rail Trails:

Orchard Park	West Falls	Colden, East Aurora –other
Don Larsen	Michael Hawk	David Barris - EA
Franklin Thompson	Dan Tone	Mark Bouquin – Colden
Tim O'Brien	Tom Dizucco	Sue Lewandowski – Holland
John Hansen	Diane Hopkins	Gerald Lewandowski – Holland
Sharon Graber	Mark Pfeiffer	Ed Engles – Elma
Ron Wessel	Joe Fuchs	Tim Broman – Colden
John Brennan	Joy Colangelo	Mike Ventry – Colden
Kim Baldinger	Julie Lorentz	
Alan Kroll	David Schroeder	
Scott Pierson	Sandy Kirkham	
Greg Haskell	Grace Moddle	
Greg Tomani	Bill Baker	
Adam Zaccardi		
Carolyn Cappola		
Art Christy		

- Urge Town Board to reconsider this project -Community needs to be represented.
- Hold a forum, go through proper, more transparent proceedings, with discussions, and then make decisions.
- There are other options available for this trail line.
- Unsafe & Dangerous environment.
- Peace and tranquility of home environment will be a thing of the past.
- Vandalism & Crime would increase, and much of the trail would be remote and make it easier to commit a crime.
- Would bring strangers into the backyards of residents along the trail.
- Trail maintenance – How will it be handled and who will be responsible.
- Security enforcement – How will it be handled and who will be responsible.
- During economically trying times, is it necessary to spend money on a trail.
- Even though money comes from grants, it is still taxpayers' money, there are better ways to spend tax dollars.
- Property values will decline.
- There are many other parks already in existence for people to use, improve them
- Liability
- Other towns have rejected the Rail Trails project.
- Terrain is dangerous along trail.
- There are already problems with snowmobiles on the tracks. Snowmobiles run at all times of the day and night, and some are inconsiderate of neighbors.
- Resolution endorsing Rail Trails was passed without the same scrutiny that the town would require of a developer.
- Railway Historical Society is interested in purchasing the line

Steven Aldstadt – Colden - President of Erie County Federation of Sportsman's Club, represents 52 organizations. This rail line runs through the West Falls Conservation Society property, and would limit activities there. The West Falls Conservation Society is a non-profit organization that offers numerous programs to the residents in WNY. It is the unanimous decision of the membership of the ECFSC to oppose the Rails to Trails initiative and urge the Town Board to do the same.

The following members West Falls Conservation Society spoke in opposition as well:

Steve Munich	Michael Cummings	Randy Wagner - Secretary
Sal Cassucio	Art Segool	Christian Lee
Lawrence Collary – Vice President	Chris Tedesco	Tom Bauer
Jack Bouquin	Ann Kelly	

The following people spoke in favor of the Rail Trails with comments following

Lou Boehm	Glen Shaikun	Roy Turner
Steven Brese	Ron Guido	

- Trails have a positive impact on communities and are desirable.
- Do not attract large crowds.
- Have been on different trails over the past 14 years, and has never seen any problems.
- There is crime potential anywhere.
- Trails will get people out and exercising.
- Money earmarked for recreation will go to recreation somewhere.
- Communities that are highly rated have great recreational venues.
- Money Magazine stated that the “best places to live in America” have active outdoor cultures, bike lanes, trails, river walks and wilderness areas.
- Resident across from Birdsong stated that he sees a vast array of people using the trail, hikers and bikers, often with children and pets, and there have been no problem.
- Local residents need to keep an open mind, Community should work together towards creating a trails system.
- Will supply a quite, safe transit system for residents of Orchard Park away from the roadways

All written statements submitted to the Town Clerk are copied and given to all Town Board Members.

Elected Officials & Department Heads

13) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the following Budget Transfer(s) for the *Town Police*:

\$4,150.00	From: A.0000.0599	D.A.R.E. Reserves
	To: A.2989.0419	D.A.R.E. Expenses
\$1,000.00	From: A.0000.0599	D.A.R.E. Reserves
	To: A.2989.0419	D.A.R.E. Expenses
\$ 725.00	From: A.3510.0419	Other Expenses
	To: A.3510.0111	Assistant Dog Control

RESOLVED, that the Town Board does hereby authorize the following Budget Transfer(s) for the *Highway Department*:

\$ 8,984.22	From: DA.5130.0200	Machinery-Highway
	To: DA.7020.433	Snow Supplies – Salt

\$ 2,204.63	From: DA.5140.0416	Brush – Gas, Oil
	To: DA.7020.433	Snow Supplies – Salt
\$ 1,700.00	From: DA.5140.0419	Brush Other Expenses
	To: DA.7020.433	Snow Supplies – Salt
\$ 600.00	From: DA.5142.0419	Snow – Other Expenses
	To: A.7020.433	Snow Supplies – Salt

The resolution was unanimously adopted.

Councilwoman Ackerman stated that TVGA Engineering Firm gave a donation to the Food Bank in the name of the Town of Orchard Park. The Town of Orchard Park is the recipient of an Olmstead Park Conservancy Sycamore tree that is an offspring from a tree at Washington's Mt. Vernon, with a certificate of authenticity. It will be placed in Veterans Park. Councilwoman Ackerman said that this Saturday the Lions Club will be doing their food baskets distribution to less fortunate in our area.

Councilman Kaczor said that the Breakfast with Santa held by the Recreation Department had over 300 children in attendance. The Orchard Park Fire district hosted it in their facility.

Town Clerk Janis Colarusso stated that due to budget cuts the Town Clerk's office for 2009 there will no longer be office hours for Wednesday evenings. She would like to see Wednesday night extended hours come back sometime in the future, possibly for the other offices as well. Ms. Colarusso stated she would like to get together with the Town Board to talk about the possibility of flexible hours in the coming years.

14) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILMAN DIETRICK, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN KACZOR, TO WIT:

RESOLVED, that the Town Board does hereby approve the request of the Police Chief to send one of his Lieutenants to a training course being offered at the Tonawanda Police Department, Jan 26 & 27, involving training in background investigations for police applicants, the money is in the budget.

The resolution was unanimously adopted.

Highway Superintendent Fred Piasecki stated that he received a notice from the County stating that the bridge on Freeman Road was opened up on Dec. 15th. They will come back in the Spring to take care of some details. New York State has sent the CHIPS (\$120,867.63) check for the 2008 project, resurfacing Angle Road, between Michael & Milestrip Road.

15) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the purchase of one 2009 Ford Super duty F250 4x2 ¾ ton pickup truck not to exceed \$16,300 from the State Bid Contract, for the Sewer and Water Department as recommended by the Town Engineer.

The resolution was unanimously adopted.

16) THE FOLLOWING RESOLUTION WAS OFFERED BY SUPERVISOR TRAVERS MURPHY, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILWOMAN ACKERMAN, TO WIT:

RESOLVED, that the Town Board does hereby authorize the approval of all entries on Warrant #24 following auditing by members of the Town Board and in the funds indicated:

General Fund	\$73,699.94
Part Town Fund	\$797.85
Risk Retention	\$712.19
Cemetery Fund	\$0.00
Highway Fund	\$23,227.90
Special Districts	\$130,225.52
Trust & Agency	\$51,697.76
Capital Fund	\$103,657.23

The resolution was unanimously adopted.

17) THE FOLLOWING RESOLUTION WAS OFFERED BY COUNCILWOMAN ACKERMAN, WHO MOVED ITS ADOPTION, SECONDED BY COUNCILMAN GRABER, TO WIT:

RESOLVED, that the Town Board does hereby receive and file the following Communications:

- **City of Buffalo Common Council:** Resolution resolving the Empire Zone Communities-Regionally Significant Projects by stating all applicants for participation in the Empire Zone Program as a Regionally Significant Project must forward their request to the attention of the Common Council, City Clerk, 65 Niagara St., Room 1308, Buffalo, New York 14202.
- **Buffalo Olmsted Park Conservancy:** A "Certificate of Authenticity" has been sent to the Town of Orchard Park for the purchase of the sapling Sycamore tree from the Buffalo Olmsted Parks Conservancy. The saplings were grown from the seeds of the original Washington Sycamore Tree in White Plains, New York. The original tree is between 250-300 years old and shaded the bedroom window of the U.S. President George Washington.

RESOLVED, that the Town Board does hereby receive and file the following Reports:

- Building Inspectors Monthly Report & Building Permits for the month(s) of October and November, 2008.

The resolution was unanimously adopted.

There being no further business, on motion by Supervisor Travers Murphy, seconded by Councilman Graber, to wit, the meeting was adjourned at 9:10 PM (local time).

Respectfully Submitted,

Janis A. Colarusso
Town Clerk