

PLANNING BOARD APRIL MEETING MINUTES

MEMBERS: Harold Fabinsky, Chairman
Nicholas Baich
Henry Heppner
David Kaczor
Julia Mombrea,
Philip Murray
Karen Byrne, Alternate

EXCUSED: Joseph Liberti, is on a leave of absence.
John Bailey, Deputy Town Attorney

OTHERS PRESENT: Remy C. Orffeo, Acting Planning Coordinator
Steven Bremer, Supervising Code Enforcement Officer
Thomas Ostrander, Assistant Town Municipal Engineer
Timothy Gallagher, Town Attorney
Rose Messina, Planning Board Secretary

The Chair 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 Chair noted that this evening we do not have a full Board. Therefore, our Alternate, Ms. Byrne will be a voting member.

Upon a motion duly made and seconded, the reading of the February 2021 Planning Board Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Heppner made a motion, seconded by Ms. Mombrea to accept the February 11, 2021 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE
BAICH AYE
HEPPNER AYE
KACZOR AYE
MOMBREA AYE
MURRAY AYE
BYRNE AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED.

The Chairman noted that the March meeting minutes are unavailable at this time.

1. **7:00 PUBLIC HEARING, P.B. File #24-2020, V/L Angle Road, Two-Lot Subdivision, 4.54 +/- Acres, located on the east side of Angle Road, north of Milestrip Road, Zoned R-2.** Applicant is seeking Planning Board Preliminary Plat Plan Approval. Pre-Applications Findings were made on 12/10/20. (SBL#153.20-1-25.2) Board tabled this item at their 3/11/21 meeting.

APPEARANCE: Mr. Chris Wood, Carmina • Wood •Morris, Architects

The Chairman called the Public Hearing to order.

IN FAVOR:

*Christopher Wood – Carmina, Wood, & Morris
487 Main Street – Suite 600
Buffalo, New York 14203*

Mr. Wood spoke in favor of the project.

AGAINST: No one.

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

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
HEPPNER	AYE
KACZOR	AYE
MOMBREA	AYE
MURRAY	AYE
BYRNE	AYE

THE VOTE BEING UNANIMOUS, THE MOTION TO CLOSE THE PUBLIC HEARING IS PASSED.

APPEARANCE: Mr. Chris Wood, Carmina • Wood • Morris

Mr. Wood gave a brief presentation, explaining that the owner of the property desires to split the parcel into two (2) building lots, and construct two, single-family homes. The property is on the east side of Angle Road, north of Milestrip Road and is Zoned R-2.

Mr. Murray confirmed with Mr. Wood on the submitted Site Plan, the location of the parcel that will be split into two-lots. He wondered if there will be additional splits. Mr. Wood stated that only the two-splits are allowed as the parcel is too small for any other splits to take place.

Mr. Ostrander, Assistant Town Municipal Engineer, stated that approval was granted for this project by the Town Engineering Department on 4/1/21.

Ms. Mombrea made a **MOTION**, seconded by Mr. Kaczor, to **GRANT** this 4.54 +/- acres V/L, 2-lot Subdivision based on the submitted Preliminary Plat Plan and Survey received 3/02/21 with the following conditions:

1. This is an Unlisted SEQR action based on the submitted Short EAF Part 1 and a Negative Declaration is hereby made on 4/08/21.
2. Pre-Application Findings made on 12/10/20, are REVISED by the Planning Board on 4/08/21.
3. Public Hearing and 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. 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 4/1/21.

ON THE QUESTION:

Mr. Orffeo stated that the Recreation fees have been paid today.

Mr. Kaczor asked for clarification of when Town Engineering approval was granted for Preliminary Plat Plan Approval. Mr. Ostrander stated, "4/1/21".

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
HEPPNER	AYE
KACZOR	AYE
MOMBREA	AYE
MURRAY	AYE
BYRNE	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED FOR PRELIMINARY PLAT PLAN APPROVAL.

Mr. Kaczor made a **MOTION**, seconded by Ms. Byrne, to **WAIVE THE FINAL PLAT PLAN PUBLIC HEARING.**

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
HEPPNER	AYE
KACZOR	AYE
MOMBREA	AYE
MURRAY	AYE
BYRNE	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED TO WAIVE THE FINAL PLAT PLAN PUBLIC HEARING.

The Chair made a motion to "Grant Final Plat Plan Approval" with Stipulations contained in the "Preliminary Plat Plan Approval", seconded by Mr. Heppner. However, through a "Point Of Order" called by Board Member David Kaczor, it was decided that the "Final Plat Plan Approval Motion," with Stipulations, must be read for the record.

Mr. Kaczor made a **MOTION**, seconded by Mr. Fabinsky, to **GRANT FINAL PLAN APPROVAL** to this 4.54 +/- acres V/L, 2-lot subdivision based on the submitted Final Plan received 3/02/21 with the following conditions:

1. This is an Unlisted SEQR action based on the submitted Short EAF Part 1, and a Negative Declaration was made on 4/08/2021.
2. Pre-Application Findings were revised by the Planning Board on 4/08/2021.
3. Preliminary Plat Plan Approval was granted on 4/08/2021.
4. Public Hearing (\$100) and Subdivision Development fees (\$325) are paid.

5. Recreation fees (\$3,300) in accordance with Section 144-70E of the Town Code is paid.
6. One (1) Street Tree per the Conservation Board Street Tree Plan shall be provided on the lot per Section 120-3F of the Town Code.
7. Town Engineering Final Plat Plan Approval has been granted on 4/01/21.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
HEPPNER	AYE
KACZOR	AYE
MOMBREA	AYE
MURRAY	AYE
BYRNE	AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED.

2. P.B. File #10-21, 3290 California Road, located between Abbott Road and California Road, off Summit Avenue, north of Route 20, Zoned B2. Craig Mychajluk of the “Mansard Fine Drink & Eatery” is requesting to construct a 670 +/- sq. ft. Out-Door patio deck. (SBL#151.16-6-16.11)

APPEARANCE: Mr. Craig Mychajluk, Petitioner, Property Owner
Mr. Michael Morgan, Petitioner, Property Owner

Mr. Mychajluk presented information and explained his request for an Out-Door patio deck to the Board. He stated that he, and Mr. Morgan, had purchase the “Mansard Restaurant” over two-years ago, and that the situation with the COVID-19 Pandemic has shifted their focus for the restaurant to have an outdoor patio.

The members’ questions established the following:

- Chairman Fabinsky confirmed that a residential home is located on the right of the proposed Out-Door patio deck. However, you cannot see it, as it is located on a heavily wooded parcel. The deck area will be constructed on the same level as the existing first floor restaurant and there is no elevated view of the residence
- Mr. Baich discussed the hours of operation with the Owners and established that they must currently follow the daily Erie County COVID mandates. The Out-Door patio will not remain open when the restaurant is closed. Currently, their kitchen closes at 9:00 P.M.
- Mr. Mombrea discussed the lighting planned for the deck area. She established that there is existing lighting in the front of the buildings 3-ft. overhang. Mr. Mychajluk stated that they most likely will use string lighting, or solar lights. He further confirmed that they may have a one-man band on Friday’s for “Happy Hour”.
- Ms. Byrne discussed the restaurant and the outdoor patios’ accessibility with Mr. Mychajluk.
- Chairman Fabinsky discussed the hours of operation during the COVID Pandemic with Mr. Mychajluk. Mr. Mychajluk also explained what their hours would be during “Non-Covid” times, noting that they are not a “late night” establishment. During the week, the kitchen would close by 9:00 P.M. and the restaurant is closed by 10:00 P.M.; on weekends they may be open until midnight.

- Mr. Kaczor discussed what time establishments of this type close with Mr. Bremer. Mr. Kaczor feels a stipulation should be added to the motion to end music and noise by 11:00 P.M. for the neighbors.
- Chairman Fabinsky feels that lights should be turned off by midnight. Mr. Mychajluk stated that the lights are on a timer, and generally shut off just after they leave. He will make sure all lights are off by 11:30 P.M.

Mr. Baich stated that this restaurant has been a “mainstay” of Orchard Park for many years, and that as new owners, they have kept its reputation.

Mr. Heppner agrees with Mr. Baich. He also noted that it was very helpful to have the aerial photo provided by the Petitioner that indicates the topography and the location of the nearest residence. He feels this is a great project for Orchard Park, and that the “Mansard Restaurant” has a great reputation.

Chairman Fabinsky also expressed the belief that the “Mansard Restaurant” is an Orchard Park tradition.

Acting Planning Coordinator Orffeo noted that a correspondence was received from Mayor Jo Ann Litwin Clinton, stating that she supports this project. She feels it is important to support businesses and enable economic recovery and stability.

Chairman Fabinsky stated that this is important for the Town to address.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Baich, to **Grant** a request to construct a patio for outdoor seating with a roof, based on the submitted sketch plan received 3/26/21 and the following applies:

1. All public notices have been filed.
2. This is a Type II SEQR Action, and therefore no determination of significance is required.
3. Music, as may be provided, will be able to continue no later than 11:00 P.M.
4. Lighting is to be on no later than 11:30 P.M.
5. Any substance of lighting will be facing inward.

ON THE QUESTION:

Mr. Murray asked how many chairs and tables will be on the patio area. Mr. Mychajluk noted whatever the Fire Marshal allows, based on the current regulations. He estimates approximately 20 to 25-people can be spaced-out on the patio.

Mr. Mychajluk also confirmed that there are approximately 92-parking spaces located here, as well as a dirt lot area to park at.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
HEPPNER	AYE
KACZOR	AYE
MOMBREA	AYE
MURRAY	AYE

BYRNE

AYE

THE VOTE BEING UNANIMOUS, THE MOTION IS PASSED.

There being no further business, the Acting Chairman adjourned the meeting at 7:30 P.M.

DATED: 5/04/21

REVIEWED: 5/18/21

Respectfully submitted,
Rosemary M. Messina
Planning Board Secretary

Harold Fabinsky
Planning Board Chairman