

PLANNING BOARD NOVEMBER MEETING MINUTES

- MEMBERS:** Harold Fabinsky, Chairman
Nicholas Baich
Henry Heppner
David Kaczor
Julia Mombrea
Karen Byrne, Alternate
- EXCUSED:** Joseph Liberti, is on a leave of absence.
Philip Murray
- OTHERS PRESENT:** Remy C. Orffeo, Acting Planning Coordinator
Steven Bremer, Supervising Code Enforcement Officer
Thomas Ostrander,
John Bailey, Deputy Town Attorney
Rose Messina, Planning Board Secretary

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.

Ms. Byrne, the Alternate member, will be voting in the absence of Mr. Liberti and Mr. Murray.

The July, August, September, and October meeting minutes were not available to be voted on.

REGULAR BUSINESS:

1. P.B. File #05-2021, 3330 Orchard Park Road, V/L located on the west side of Orchard Park Road, south of Rte. 20, across from the Hammocks, Zoned B-2. (SBL#152.16-6-3 & 152.16-6-2). Petitioner is requesting Planning Board review of a SEQR determination, currently listed as a Type 1 SEQR action, for this project.

The Petitioner asked to be removed from the agenda, and rescheduled to the December 9, 2021 Agenda.

The Board voted to **UNANIMOUSLY TABLE THIS CASE UNTIL THE DECEMBER 9, 2021 PLANNING BOARD MEETING.**

2. 7:00 Public Hearing for P.B. File #20-21, Alliance Homes, proposed 5-Lot Subdivision, located on the south side of Seufert Road, Zoned A-1. (SBL# 197.00-4-2.11) Pre-Application Findings were made on August 12, 2021. Applicant is seeking Preliminary Plat Plan Approval, per Section 121-10 of the Town Code, and a SEQR Determination.

APPEARANCE: Mr. Christopher Wood, Engineer – Carmina • Wood • Morris Architects
Mr. Andrew Romanowski, Developer – Alliance Homes
Mr. Bill Burke, Alliance Homes

The Chairman called the Public Hearing to order.

IN FAVOR:

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

Mr. Wood stated that he is in favor of the proposed project.

*Mr. Andrew Romanowski, Developer
Alliance Homes
4727 Camp Road
Hamburg, New York 14075*

Mr. Romanowski spoke in favor of the project to construct five-quality homes.

*Mr. Michael Cormare & Ms Mary Cormare
Owner of proposed Vacant Lot #1 of the Subdivision
Orchard Park, New York 14127*

Mr. Cormare stated that he and his wife support the proposed subdivision.

*Mr. Bill Burke, Alliance Homes
4727 Camp Road
Hamburg, New York 14075*

Mr. Burke spoke in favor of the proposed project.

AGAINST:

*Mr. David F. Werner
6185 Seufert Road
Orchard Park, New York 14127*

Mr. Werner feels that constructing five (5) residential homes here is too many. The property is an "animal thruway" for wild life, and he feels it will be disturbed with the construction of the homes. He also stated that a neighboring home is located adjacent to this project, and he does not want to see a new home erected right next to his neighbors' residence.

*Mr. Arthur Lipp (adjacent neighbor)
5809 Seufert Road
Orchard Park, New York, 14127*

Mr. Lipp stated that he does not support the proposed 5-lot subdivision. He noted that this property was in a "Conservation Easement" for a number of years, which he believes is consistent with the "Orchard Park Master Plan" developed to maintain Green Space in the Town of Orchard Park. The proposed five driveways are shown on the plan as located behind two "blind" fill areas. He feels the two blind grades are a significant concern that will create a potential safety problem for traffic. He, also, finds that no consideration for a Traffic Impact Study (TIS) was made for this project.

Mr. Lipp stated that one of the proposed homes, adjacent to his residence, is going to be placed on 7.7-acres, which is 335,000-sq.ft., which is 66.5-ft. from his property line, right next to his residence. The leech field and septic system are going to be constructed in the 40-ft. setback, leeching into two Utility pipelines. His vegetable garden and fruit trees are also located here. Will there be a negative impact to his plantings? Also, is there a study with the County Health Department regarding this?

Thomas Ostrander, Assistant Town Municipal Engineer stated that the County Health Department has signed-off on the Septic System for this project.

Mr. Lipp also discussed the Town Ordinance regarding large trees and their documentation. He questions if the forest here was given consideration, per the Town Code. He concluded that he sent a letter (today) asking for a meeting with the Planning Board.

Attorney John Bailey stated that a private meeting with the Planning Board is not allowed, as the meeting must be open to the public.

Mr. George Preshoff
5721 Seufert Road
Orchard Park, New York 14127

Mr. Preshoff stated that he does not support the proposed subdivision. This is "Farm Land", and he is very dismayed that three of the properties are under 5-acres each. This makes the properties non-compliant, with the Town's Farm Land Regulation. He feels the houses proposed are "hodgepodge" and questions why there are different lot sizes. Lot number one (a flag pole lot) is only 110-ft. wide; and the property is along the back, behind another residence. Mr. Preshoff, a Volunteer Fireman, explained the difficulty emergency vehicles have in accessing a flag-lot residence, and he told the Board that he does not support flag pole lots. He further stated that there is a total of 947-ft. of road frontage for this project. The Ordinance calls for a minimum of 160-ft. per lot. If you divide 947-ft. by the proposed 5-Lots, it comes roughly to 194-ft. of road frontage for each lot. He cannot understand why 3-Lots are narrower than this. Lot #1 has to construct utility lines underneath the existing lines. Mr. Preshoff, also, told the members that he feels the utility lines need to be replaced, as they are from the 1950's. There are wetlands here, and he questions if a "perk-test" was performed. He further spoke regarding Mr. Lipp's concerns voiced regarding traffic safety with the blind spot. He also agrees that a TIS needs to be performed.

Mr. Preshoff does not like the placement of the front setbacks for the proposed homes, as indicated on the proposed Site Plan, and he feels five-lots are a hazard. He would like to see each lot made to 5-acres minimum, per the Farm Land Regulation.

Ms. Rose Santuci-Sofranco
5886 Seufert Road
Orchard Park, New York 14127

Ms. Santuci-Sofranco stated her concerns, and her siblings concerns regarding the existing water tank on her property. She is concerned that the developer may need to dig in her yard to access water and gas lines; that noise will increase from additional residents, as well as during construction; that taxes may increase due to new expensive homes on the street; and that, there will be more traffic. She feels 5-houses is too many. This is rural Farm Land, and she is opposed to this project. She does not want to see her neighborhood change.

Mr. Leonard Govenettio
V/L Seufert Road
Orchard Park, New York 14127

Mr. Govenettio had heard that this project was a "done deal", and he has questions about the planning process. Also, he would like to know the answers to the questions brought up tonight. He is concerned about the number of proposed houses, and the loss of green space.

Chairman Fabinsky explained the planning process. He concluded that there is another public meeting to be held.

Ms. Jennifer Preshoff
6194 Boston Ridge Road
Orchard Park, New York 14127

Ms. Preshoff feels five houses is too many, and that the neighbors have not had enough input. Her

property is “around the corner” from her father’s on Seufert Road, and she enjoys the Green Space in Orchard Park. She is opposed to the “Flag Lot” and feels that lot is not compliant with the Town Code. She questions if this project needs a Variance for the “Flag Lot”. She told the members that she would like the character maintained in their neighborhood.

*Ms. Stephanie Williams
5830 Seufert Road
Orchard Park, NY 14127*

Ms. Williams stated her opinion that there were Preliminary Plans made without neighbors being consulted, and now she feels this is a “done deal”, and not a proposal any longer. She feels these proposed homes will change the character of the street, and that five-houses is too many.

*Mr. Arthur Lipp (adjacent neighbor)
5809 Seufert Road
Orchard Park, New York, 14127*

Mr. Lipp asked to see the approval from the County Health Department. It was established that this was a matter of Public Record, and that he should contact the Town Engineering Department. Further discussion of the existing trees here concluded with the resident advised to attend a Conservation Board meeting for this project.

*Mr. George Preshoff
5721 Seufert Road
Orchard Park, New York 14127*

Mr. Preshoff spoke again and stated he owns 20-acres, with 11-acres in a Conservation Easement on Seufert Road. He has lived on Seufert Road all his life, and he is opposed to this project.

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

THE VOTE ON THE MOTION BEING:

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

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

APPEARANCE: Mr. Christopher Wood, Engineer – Carmina • Wood • Morris Architects
Mr. Andrew Romanowski, Developer – Alliance Homes
Mr. Bill Burke, Alliance Homes

Mr. Burke distributed Site Plans to the members for their review.

Chairman Fabinsky stated that several questions were raised during the Public Hearing. He inquired if the proposed frontage is permissible under the Town Code, and he asked about wetlands at the site.

Mr. Wood stated the frontage can be as narrow as 30-ft. from the roadway, and what they are proposing is permissible under the Town Code.

Thomas Ostrander, Assistant Town Municipal Engineer, explained that the wetlands will not be disturbed by this project.

Mr. Kaczor asked for further clarification regarding the wetlands.

Thomas Ostrander, Assistant Town Municipal Engineer stated that the wetlands have been delineated, and no construction will occur on them. He further explained that the homes are located either ahead of, or behind, the wetlands.

Chairman Fabinsky asked for further information regarding the utility lines.

Mr. Wood explained that the gas line is on the west side of Lots #4 and #5. The gas line continues, and has been crossed many times for the same types of usage.

Mr. Heppner inquired if National Fuel had to approve the proposed plans.

Mr. Wood stated they would be consulting with National Fuel for service of these homes.

Mr. Romanowski clarified that they have to give notice, and schedule a field meeting with National Fuel.

Mr. Wood stated the property is Zoned A-1, and the required lot frontage is 160-ft., which they exceed on four of the five lots. The minimum lot area is 1.25-acres, and the proposed lots exceed this by a large margin. With regards to the large trees, they are building along the north side of the wood line. The trees will be behind the proposed houses, and will not be impacted by construction. Also, with regards to line-of-site-issues, the road slopes high on the east and low on the west towards Boston, New York. The driveways proposed will be no different than the existing driveways here; existing ones located across the street from their site, adjacent to the site, or further up the road.

Ms. Mombrea inquired if there were potential buyers. She also raised concerns about the septic systems and inquired about the prospective time-frame for construction, and lot shapes.

Mr. Romanowski stated that in response to the neighbor's concerns, they are willing to adjust the house and septic tank placement.

Mr. Wood stated they have every intention to be as respectful as they can to all the neighbors, and he offered to meet with Mr. Lipp. He is unsure about the construction time-frame, but stated they have one committed buyer, and anticipate a high demand for these lots. They hope to move forward with construction in the 2022 building season. The Buyer for Lot #1 requested a larger back yard, which altered the shape of the lots, and Lot 5, naturally, curves to the west.

Mr. Romanowski further clarified that the layout of the lots is specifically designed to maintain the topography of the site, and minimize impact and tree removal.

Mr. Baich inquired about the Master Plan that is referenced in the public discussion.

Mr. Romanowski stated that this property is not a "dedicated" Conservation Easement/Open Space area.

Mr. Kaczor does not support Flag Lots.

Mr. Wood stated that our Flag Lot does comply with the Code.

Mr. Heppner discussed the request before the Board and had additional comments.

Chairman Fabinsky responded and asked for someone to make a motion.

Mr. Heppner made a **MOTION**, seconded by Ms. Byrne, to **GRANT PRELIMINARY PLAN APPROVAL** to this 27.57 +/- acres V/L, 5-lot Subdivision based on the submitted Preliminary Plan and Survey received 11/8/21 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 11/9/21.
2. Pre-Application Findings were made on 10/14/21.
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 Plan Approval has been granted on 11/8/21.

THE VOTE ON THE MOTION BEING:

BAICH	NAY
HEPPNER	AYE
MOMBREA	NAY
BRYNE	NAY
FABINSKI	NAY

THE VOTE BEING FOUR (4) AGAINST, AND ONE (1) IN FAVOR, THE MOTION FAILS.

The Chairman stated that the Petitioner will need to address the issues put forth in the public hearing.

Mr. Wood asked that a list be provided.

Mr. Romanowski stated, that besides the location of the houses and septic systems he is not aware of any other specific changes. However, there have been a lot of comments.

Acting Planning Coordinator Remy Orffeo stated that we will comprise a list of the tape conversations and provide it to the Petitioner, who will then have time to respond to the issues.

Mr. Kaczor stated that obviously the project design is not "comfortable", as seen by the comments made.

3. P.B. File #36-21 Smarty Pants Child Care, 3490 California Road, located on the Western side of California Road and south of Southwestern Boulevard, currently Sports Focus Physical Therapy Zoned I-1. (SBL# 161.00-5-49). Petitioner is requesting a "Special Use Permit" to operate a Child Care Facility at this location. (Town Board referred to Planning Board on October 6th, 2021.)

APPEARANCE: Mr. Marco Donato, Petitioner

Mr. Donato told the Board that his wife owns a Child Care Facility in the Town of Hamburg that is at full capacity. She is seeking to expand her business and this building fits most of the criteria she needs. However, there is no Orchard Park Zoning Code for "Child Care", therefore, they are seeking a "Special

Use Permit” from the Town Board. They are requesting that the Planning Board review their request and recommend to the Town Board that they issue the “Special Use Permit”. The property has been for sale for 4-years, and its tenants are moving out and relocating.

Mr. Kaczor established that the Hamburg location has been operating for 9-years, and will continue to operate. The Orchard Park Facility will have approximately 120 to 130-children. There are approximately 40-parking spaces at this site, with a planned express drop-off lane and pick-up area for children. The children and play equipment will not be seen from the roadway.

Ms. Mombrea feels that there is a need in Orchard Park for additional child care facilities. She discussed the planned express drop-off lane and pick-up area further with Mr. Donato.

Chairman Fabinsky, discussed the hours of operation, and established that the traffic with the planned express drop-off lane and pick-up area will not impact them or the neighboring business “McGard” with shift changes.

Mr. Kaczor made a **MOTION**, seconded by Mr. Heppner to **RECOMMEND** to the Town Board that the request for a “Special Exception Use Permit” to operate a Child Care Facility, at 3490 California Road, Zoned I-1, per the Town Schedule of Use Controls be **APPROVED**, based on the following:

1. This is an Unlisted SEQR action based on the submitted Short EAF Part 1, and a Negative Declaration shall be made.
2. Public Hearing fees must be paid prior to the public hearing, Section 144-69 of the Town Code.
3. Article VI (Section 144-43(c) (1-11)) has been satisfactorily addressed as follows:
 - a. The proposed project is in compliance with the Town's long-range Comprehensive Plan.
 - b. The applicant has demonstrated a need for the project.
 - c. The project is compatible with adjoining land uses and proposed developments, and will not have a negative impact on the adjacent land value or public safety.
 - d. The applicant has demonstrated an orderly flow of traffic ingress and egress.
 - e. The applicant has provided suitable parking facilities.
 - f. Free area for recreation is not required.
 - g. The nearness and impact on schools and utilities is not an issue.
 - h. The health and safety of adjacent properties is not affected.

THE VOTE ON THE MOTION BEING:

FABINSKI	AYE
BAICH	AYE
HEPPNER	AYE
MOMBREA	AYE
MURRAY	AYE

THE VOTE BEING FIVE (5) IN FAVOR, THE MOTION IS PASSED.

There being no further business, the Chairman adjourned the meeting at 8:23 P.M.

DATED: 11/24/2021

REVIEWED: 11/29/2021

Respectfully submitted,
Rosemary Messina
Planning Board Secretary

Harold Fabinsky
Planning Board Chairman