

PLANNING BOARD FEBRUARY MEETING MINUTES

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

EXCUSED: David Mellerski, Jr., Alternate

OTHERS PRESENT: Gene Majchrzak, Town Supervisor, Board Liaison
 Remy C. Orffeo, Acting Planning Coordinator
 Wayne Bieler, Town Municipal Engineer
 Steven Bremer, Supervising Code Enforcement Officer
 Thomas Ostrander, Assistant Town Municipal Engineer
 John Bailey, Deputy Town Attorney
 Timothy Gallagher, 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.

The Chairman stated that the January 2022 Planning Board Meeting minutes will be voted on at the next Planning Board meeting.

The Chairman called for a motion to open a public hearing for discussion of the "Quaker Lake Terrace", proposed Eighteen-Lot Subdivision. The Affidavit of Publication and Posting, was published February 3, 2022 in the "Orchard Park Bee" and filed by the Planning Board Secretary.

Mr. Kaczor made a **MOTION**, seconded by Mr. Heppner, to **OPEN** the Public Hearing.

THE VOTE ON THE MOTION BEING:

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

The **VOTE** on the **MOTION** being **(8)** in **FAVOR**, the **meeting** is **called to order**.

1. **7:00 Public Hearing** for 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. (SBL# 173.00-1-2.11) Pre-Application Findings were made on 2/13/20. Applicant is seeking Planning Board 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. Peter Liberatore, Developer/Petitioner

Mr. Wood explained the proposed project to construct 18-Single Family homes on the presented Site Plan. He stated that this project will extend Quaker Lake Terrace at the South end. Currently, it is a dead-end street located at the Northern side of Mr. Liberatore's 36.4-acre property which is Zoned R-1. He told the members that lot sizes range from 25,000 sq.ft. to approximately 700,000-sq.ft.

Mr. Wood further explained that the project needs a SPEDES Permit as there is just over a one-acre disturbance to a Federal Wetland. The Storm Water Management area for this project requires 73,000-cubic feet of storage for a 100-year storm event. He noted that they are providing 200,000 cu. ft. of storage. That is actually 2.7-times more than what is needed. The topography of the project is lower than the Old Farm and Winterhall Subdivisions, which would prevent water from leaving the site. He, also discussed the sanitary sewer requirements of the NYS DEC inflow reduction program and the traffic this project will generate. A peak hour is reported to generate 18-vehicles. They are not required to do a TIS unless there are more than 100-vehicles per hour. In addition, all utilities will be underground, so connection points will not be disturbed. NYSEG will be installing a "fuse" at the connection point; if anything would happened to go wrong the fuse will "pop". We would be self-contained if anything happens to the connection. It was learned that this project could have an additional 8-lots proposed, as it was originally approved for the construction of 26-lots.

Mr. Baich confirmed that this project has Engineering Preliminary Plat Plan approval, and that the Highway Superintendent, Mr. Andrew Slotman, has no problem with having cul-de-sacs here.

Mr. Kaczor spoke of issues with power outages, and he wonders if this project will improve this issue, or impact it further.

Mr. Wood stated that he had correspondence from NYSEG that discusses the tie-in for this project.

Mr. Heppner expressed concerns for power outages, and the drainage of the water from this site, along with the water from the Winterhall Road area.

Mr. Murray discussed his concerns regarding water issues here.

Assistant Town Municipal Engineer Thomas Ostrander explained that the project will control the neighbors' water and have it go directly into Smokes Creek. The retention pond will hold 2.7-times more water; they will not be adding to the water issues. They, also, will be taking drainage from Stonehenge onto this site.

The chairman established that Mr. Wood has a checklist to follow for their approvals. He feels the Public Safety Committee should be contacted for review of "speed limits" and "stop signs".

The Chairman called for those who wish to speak IN FAVOR:

*Mr. James Jerge
7645 Quaker Road
Orchard Park, New York 14127*

Mr. Jerge stated that he supports this project. He feels that it makes a significant difference that the project was reduced from 26-Lots, to an 18-Lot Subdivision. He has no real concerns with the project, as the Town has stringent requirements and he hopes this is an improvement to the neighborhood.

*Mr. Murray Covello
249 Fox Meadow Lane
Orchard Park, New York 14127*

Mr. Covello stated that he mostly supports the request; however, he hopes the subdivision does not add to the NYSEG outage problems. He is, also, concerned about the validity of NYSEG's commitment. He feels the developer should be asked to commit to repairing the roadway, as it will be damaged from dump trucks and other construction vehicles involved as the development is carried out.

*Ms. Molly Vendura
27 Winterhall Road
Orchard Park, New York 14127*

Ms. Vendura stated that she is not opposed to this project, it is a very solid plan. However, she is very disappointed that the Conservation Board recommends taking Recreation Fees, rather than land, as they feel there is nothing for the land to connect to. This is very short-sighted. She feels the Town needs to have a vision. This part of the Town, is east of the Village, north of Jewett-Holmwood, and Birdsong. There are no walking trails, pocket parks, playgrounds, or recreational amenities what-so-ever. Something has to come first; the Town needs to review that there is vacant land here all the way to Transit Road, down to Bird Song. The potential is there, if the Town had the vision, to create a series of connected pathways, as this land gets developed in the future. Maybe a pocket park can be put in, or a playground. She feels the Town cannot keep the attitude that, "we don't need a recreational amenity when doing new developments as there is nothing to connect to". That would be a disservice to the people of that new development and the existing adjacent communities. She requests that the Town spend the \$38,000 recreational fee money on a recreational amenity that is within a five-minute walk of the new development or it will not be providing service to this new development or to those affected by it.

Chairman Fabinsky commented on having Green Space.

Mr. Kaczor noted that there is a trail that goes to Milestrip Road.

Ms. Vendura would like to know why the Conservation Board concluded there is nothing there to connect to.

The Chairman stated that Mrs. Vendura should contact the Engineering Department to find out information regarding the trails in Orchard Park.

*Mr. David Hart
7667 Quaker Road
Orchard Park, New York 14127*

Mr. Hart stated that he is an abutting neighbor at the southern part of the proposed project. He has had private conversations with the developer and the engineer. Based on this he feels the project is designed

properly, zoned properly, and the drainage run-off at the site is over-accommodated. Therefore, he is satisfied with this project.

*Mr. Marvin Schwab
48 Quaker Lake Terrace
Orchard Park, New York 14127*

Mr. Schwab stated that he supports this project as he feels the new development will make a difference in the power outages and water retention of the area. There are a lot of positives, as NYSEG may fix the old equipment here.

The Chairman called for those who wish to speak AGAINST:

*Mr. Tom McNaulty
78 Old Farm Road
Orchard Park, New York 14127*

Mr. McNaulty stated that he is against the clandestine altering of the climate, topography and neighborhood safety outside his door step. The development of homes on Wayfair/Winterhall/Stonehenge and beyond, created issues involving flooding, erosion, and swale deterioration at his property and the surrounding area. He also discussed the traffic that uses Quaker Lake Terrace as a short cut, often at excessive speeds, creating safety issues for their neighborhood. He noted that studies have been performed with Quaker Lake, by Cornell University, finding that fertilizer accumulation is present in the run-off water. He feels the proposed project is a detriment to their neighborhood and children. There are no sidewalks here, or street lights at night.

*Mr. Theodore Pudhorodsky
21 Old Farm Road
Orchard Park, New York 14127*

Mr. Pudhorodsky spoke of flooding issues at his residence, noting that the existing dam is old and needs to be repaired, as it gets "blocked-up" and is creating flooding conditions for the area. He is concerned that the proposed subdivision will change the land further, and create more silt, adding to the problems they already have. Several years ago they contacted the NYS DEC to come in to review their situation. They were told that the Lake must be dredged, and the sediment removed. If the sediment is not removed from the Lake, it will increase flooding the area. The neighbors that are on the Lake will see their property values go down from the flooding. Approximately three feet of sediment exists in the Lake bed and flooding will be worse than it was in the past.

*Ms. Marta Kowtun
49 Old Farm Road
Orchard Park, New York 14127*

Ms. Kowtun spoke against this project. She established that the setbacks with the proposed homes are per the Town Code. She also questions if the water discharged from the proposed subdivision into Smokes Creek will impact the water level of the creek.

The Chairman stated that they will have someone get back to Ms. Kowtun with an answer to this question.

*Ms. Ellen Schreier
13 Quaker Lake Terrace
Orchard Park, New York 14127*

Ms. Schreier does not support the subdivision request. She described that, when the Winterhall development was built her drainage changed from a dry basement, with no sump pump, to water damage that has never been resolved. She has no objection to having new people in the neighborhood, but she cannot be sure that this subdivision will not increase her water problems.

*Ms. Jackie Daugherty
80 Quaker Lake Terrace
Orchard Park, New York 14127*

Ms. Daugherty stated that she does not support this request. She lives at the end of Quaker Lake Terrace and reports that there have been water issues on her lot, and her neighbor's. The back end of her lot is wet and she is not able to mow the grass until the end of June. In addition, her sump pump runs non-stop. One neighbor had the Town come out and dig a drainage ditch so their basement would not flood any longer. She, also, mentioned a "wild-life" study of the area was performed, and she wonders what happened to this study. She is concerned about conservation and traffic issues. She inquired if street lights were included on the plan. She agrees with Mr. McNaulty, with the fact that their street cannot take an additional 50-vehicles per day.

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

Mr. Schamann is concerned about tree removal that will cause further drainage problems, and a road shown on the submitted plan behind his home. He is also concerned about power outages, which occur frequently in this neighborhood.

*Toni & Debbie Zappia, represented by Ms. Ann McFeely
32 Quaker Lake Terrace
Orchard Park, New York 14127*

Ms. McFeely read a letter from the Zappia's, as they could not attend the meeting. The Zappia's are concerned about power outages and traffic. They would like the Board, if they have the authority, to put this project *on hold* until NYSEG upgrades their system. She also asked if the Developer is willing to put-up a Construction Bond, to cover road damage during construction of the project.

*Mr. Kevin McFeely
26 Quaker Lake Terrace
Orchard Park, New York 14127*

Mr. McFeely stated his concerns regarding the retention pond, and power outages increasing with the construction of this Subdivision. He stated that part of Quaker Lake Terrace is narrow and that several accidents have occurred in this area. He, also, inquired if a study was done on the impact of the extra water in the Lake. He confirmed on the presented plan that his house will not be "sandwich-in" between two roads.

*Ms. Joanne Scolese
16 Quaker Lake Terrace*

Orchard Park, New York 14127

Ms. Scolese stated that, in the past the, residents requested a Speed Limit change here from the Public Safety Committee. She feels motorists still go too fast on their road, and the speed needs to be reduced further.

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

Mr. Maute expressed his concerns regarding traffic and speeding, noting that he would like to have stop signs added. He feels that Orchard Park seems to have an animosity towards sidewalks and there are no street lights. He is disappointed with the proposed plan submitted by the Developer, and would like to see more concessions to the Community that is there, such as a nature trail. Mr. Maute would like the Board to take the opportunity to send Orchard Park in a better direction.

*Ms. Julie Stiles
5 Quaker Lake Terrace
Orchard Park, New York 14127*

Ms. Stiles described the speeding cars on her street. She feels the traffic increased with the development of Stonehenge and Fox Meadow. She also stated their street is narrow, and is in need of repairs.

*Mr. Scott McBride
28 Quaker Lake Terrace
Orchard Park, New York 14127*

Mr. McBride has concerns about Quaker Lake. He is not opposed to new homes, but he would like that, "care be given to this process".

*Mr. Tom Farenholtz
41 Winterhall
Orchard Park, New York 14127*

Mr. Farenholtz stated that when he purchased his home he was told by his real estate agent that the area behind his home was "greenspace", and that it could not be developed. He would like to know what "greenspace" means. He feels the undeveloped area behind his home is valuable to the community, and that the space here should remain undeveloped.

*Ms. Elizabeth Maute
44 Quaker Lake Terrace
Orchard Park, New York 14127*

Ms. Maute implored the Board to use every development as an opportunity to improve Orchard Park. In the past, she has complained to the Town, regarding the problems with the traffic on her street, but the request was met with a "small speed monitoring sign" that did nothing to alleviate the problem. In 2021 an out-of-control van came into her front yard, wiping out her mail box, and hitting her neighbor's tree. She noted that her children are usually playing in their front yard, and that she is thankful they weren't this day. Ms. Maute concluded that she would like to have sidewalks constructed, the road widened, and asphalt repaired. She, also, is concerned that construction vehicles will cause further damage to the street.

*Mr. Jeff Bardaro
40 Quaker Lake Terrace
Orchard Park, New York 14127*

Mr. Bardaro described the traffic accident that Liz Maute mentioned, and stated if the tree hadn't been there, he would have been hit by the van, as he was outside in his driveway snow blowing. He has concerns regarding the traffic and speeding, and would like the Board to take a hard-look to have their community, along with the proposed new community, safe.

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

THE VOTE ON THE MOTION BEING:

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

The vote on the **MOTION** being **UNANIMOUS**, the **PUBLIC HEARING** is **CLOSED**.

BOARD DISCUSSION:

APPEARANCE: Mr. Christopher Wood, Engineer – Carmina • Wood • Morris Architects
Mr. Peter Liberatore, Developer/Petitioner

Mr. Kaczor noted that there were several questions brought up during the public hearing, such as, “Will there be street lights?”

Mr. Wood stated that the Town standard is that, “there be street lights for a new road”; so yes, there will be 3-street lights on the main access road into the proposed subdivision.

Mr. Baich spoke of his concern for the water issues raised by the neighbors.

Mr. Fabinsky stated that there are a lot of complex issues that were voiced, regarding “cumulative impact” with soil, drainage and NYSEG. He wants assurances from Mr. Wood regarding these concerns. He asked Mr. Wood to return with answers for the residents.

Mr. Wood stated that he documented the questions and issues voiced by the neighbors. He will review his notes and get back to the residents.

Mr. Wood further stated that they have repaired a portion of the Quaker Lake Terrace roadway leading into the proposed subdivision, and that they plan on doing more road repairs. He discussed the Quaker Lake Dam, noting that it was replaced several years ago. In response to a clear-cutting question, Mr. Wood stated that they will not clear-cut the property and remove the existing trees. He describe preparing access into the site, noting that the Owners of each lot, after the issuance of a Building Permit, are allowed to clear the lot to construct their home.

Mr. Wood explained the Storm Water Retention Basin system, and he concluded that there will be less water leaving this site than there is now. He, also, spoke of the Stormwater Management Plan.

Mr. Murray feels the Board must take a “hard look” at this project through the SEQR process. He asked Mr. Orffeo what the next step is.

Acting Planning Coordinator Remy Orffeo noted that a Short SEQR was submitted, and he feels the Board should make a SEQR Determination. Once the SEQR determination is made, the Board may ask to be provided with a Traffic Study (TIS). Mr. Orffeo feels that the Applicant has sent in a good package. However, there were additional questions raised here tonight by the residents that require the Board to take a hard look at. He feels the Board should ask the Public Safety Committee and Highway Superintendent for their input on the speed limit and the road condition of Quaker Lake Terrace. He will follow through with this request on the Boards’ behalf.

Mr. Kaczor made a **MOTION**, seconded by Mr. Heppner to have the Acting Planning Coordinator **REFER** this **PROJECT TO PUBLIC SAFETY** and **THE HIGHWAY DEPARTMENT** for a review of the Speed Limit and the road condition of Quaker Lake Terrace.

THE VOTE ON THE MOTION BEING:

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

The **VOTE** on the **MOTION** being **UNANIMOUS**, the **MOTION** is **PASSED**.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor to **TABLE** the review of this project.

THE VOTE ON THE MOTION BEING:

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

THE VOTE ON THE MOTION BEING (6) SIX IN FAVOR, AND (1) ONE AGAINST, THE MOTION TO TABLE IS PASSED.

Mr. Wood stated that he did not understand why the Board tabled their review. The Public Hearing for Preliminary was “Closed” and he does not understand why a vote cannot be taken on “Preliminary Plat Plan Approval”. He feels the Board should reconsider “Tabling” this item, as Preliminary just allows him to move forward with the process. Without Preliminary Approval the Applicant is at the same point he is now. They must address every item prior to Final Plat Plan Approval; this is where the decision is made.

Mr. Orffeo's preference is that Preliminary Approval should be sought as it forces the Board to make a SEQR determination. This enables him to request items that the Board requires for further review, based on the analysis of SEQR, such as a Traffic Impact Study (TIS). Nothing happens until Final Approval is granted.

The Chairman consulted Town Attorney Tim Gallagher on issuing a SEQR Determination. Town Attorney Tim Gallagher advised that it was within the Board's purview to rescind the Tabling. This would allow the Board to seek items for review from the Applicant, as they must have the SEQR Declaration made in the Preliminary Plat Plan Approval motion. Discussion also consisted of the Public Hearing that was closed, and if this should be rescinded.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor to **RESCIND THE MOTION TO TABLE THE REVIEW OF THIS PROJECT**.

THE VOTE ON THE MOTION BEING:

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

The vote on the **MOTION** being **(5) IN FAVOR, AND (2) AGAINST**, the **MOTION TO RESCIND** is **PASSED**.

An irate resident questioned the proceedings and Chairman Fabinsky explained the process to her.

Mr. Kaczor made a **MOTION**, seconded by **Mr. Heppner**, to **GRANT PRELIMINARY PLAT PLAN APPROVAL** to this 36.4 +/- acres V/L, 18-lot Subdivision based on the submitted Preliminary Plat Plan and Survey received 9/28/21 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 2/10/22.
2. Pre-Application Findings were made on 2/13/20.
3. Public Hearing and Subdivision Development fees shall be paid prior to Final Plat Plan Approval.
4. Recreation fees in accordance with Section 144-70E of the Town Code shall be paid prior to Final Plat Plan 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 2/8/22.
7. Prior to scheduling a public hearing for Final Approval the Board must provide a list of all questions and concerns to the developers, so they may address issues and concerns voiced.

THE **VOTE** ON THE **MOTION** BEING:

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

The **VOTE** on the **MOTION** being **(7) in FAVOR**, and **(1) ONE AGAINST**, the **MOTION IS PASSED**.

2. P.B. File #04-2022, V/L, Lake Avenue, located between 6007 and 5971 Lake Avenue. (SBL #152.15-1-16) Applicant is requesting to Rezone property from I-1 to R-3. Town Board referred to Planning Board on 2/2/22.

APPEARANCE: Mr. Paul Reamsnyder, Property Owner/Petitioner

Mr. Reamsnyder explained his need to rezone his property from I-1 to R-3 and to have it put on the market for sale.

Chairman Fabinsky stated that the adjacent zoning here is R-3, so the request is not “spot zoning”. He canvassed the Board members for their questions or comments:

Mr. Kaczor stated that he is a member of the Economic Development Committee (EDC). This Committee is very protective when it comes to Industrial property in the Town, because Orchard Park does not have a lot of Industrial Property remaining. This Committee is currently working with the Supervisor to find areas where they can potentially rezone property to I-1. However, as this property is located adjacent to a R-3 Zone, they support the rezoning request. In addition, the Chair to the Zoning Board of Appeals had sent a memo to the Town Supervisor advising of their support to rezone this parcel. Mr. Kaczor concluded that he is in favor of the rezoning.

Mr. Heppner responded that he supports this request, also.

Mr. Heppner made a **MOTION**, seconded by Mr. Kaczor to recommend the Town Board **APPROVE** the requested rezoning from I-1 to R-3 with the following stipulation(s):

1. Fees shall be paid in accordance with Section 144-70C, of the Town Code prior to publication of the Public Hearing Notice.

THE **VOTE** ON THE **MOTION** BEING:

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

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

- 3. P.B. File #31-2021, 6131 Newton Road, located on the north side of Newton Road, near Burton Road, Zoned A-1. (SBL#184.00-4-13.121) "Holy Face Chapel" is requesting Planning Board recommendation to Town Board for Site Plan Approval, and Issuance of a Building Permit, for a Retreat Center. Town Board referred to Planning Board on 9/1/21. Conservation Board approved Landscape Plan on 10/5/2021.

APPEARANCE: Mr. Andrew Gow, Nussbaumer & Clarke
 Mr. John Wabick, Property Owner/Petitioner

The Chairman stated there is an issue with a reflecting pond and water flow. However, Mr. Ostrander told the Board that the project has Engineering approval and they are awaiting approval from Erie County.

There were no Board members questions.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner to **RECOMMEND** that the Town Board **APPROVE** the presented Site Plan and **AUTHORIZE** a Building Permit, to construct a 2,300 sq. ft. Retreat Center, per the plan received on 2/10/22, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR Action, based on the Short EAF submitted on 11/12/21, and a **Negative Declaration** is made.
3. The site lighting is limited to those fixtures and poles indicated on the approved site plan. Light fixtures shall have flat lenses, and all lighting is to be directed downward and toward the site.
4. No outside storage or display is permitted.
5. An updated Landscape Plan, received 1/12/22, meets all Green Space regulations with 300-Sq. Ft.-Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$2,650 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$1,325) Conservation Board approval was granted on 10/05/2021.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. Town Engineering **APPROVAL** was **GRANTED** on 2/10/22.

THE VOTE ON THE MOTION BEING:

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

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

- 4. P.B. File #02-2022, 6145 West Quaker Street, located on the south side of West Quaker Street, East of Thorn Avenue, Zoned B-2. Kitchen Tune-Up is requesting a “Change of Use Permit” to operate a Kitchen Showroom and Sales Floor. (SBL# 172.08-4-28.2) Town Board referred to Planning Board on 1/19/22.

APPEARANCE: Mr. James Bammel, Bammel Architects

Mr. Bammel presented and explained the proposed plans for “Kitchen Tune-Up”, a kitchen design business, to occupy what was once an old car wash building that has remained vacant for approximately 6-years. The business operates during the day; they restore or custom build kitchen cabinetry, and are a client based business by appointment only. Mr. Bammel further explained that the building’s appearance will be focused on and that the interior will be upgraded. There will be 3-vans and a pick-up truck, with one employee on site. Vehicles will be on the road during the day, and parked behind the building during the evening.

Mr. Heppner discussed the change in use with Building Inspector Steve Bremer.

Mr. Kaczor stated it is good to see a business move into this site to stabilize this area.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor, to **RECOMMEND** that the Town Board **APPROVE** the requested “Change in Use” at 6145 West Quaker Street from garage repair shop to Kitchen Showroom and Sales floor, based on the following conditions and stipulations:

- 1. This is a Type II SEQR Action and therefore no determination of significance is required.

THE VOTE ON THE MOTION BEING:

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

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

- 5. P.B. File #03-2022, V/L Bussendorfer Road, Proposed 3-Lot Subdivision, Located on the east side of Bussendorfer Road, north of Armor Duells Road, Zoned R-2. (SBL# 172.00-2-8.21) Applicant is requesting Planning Board Pre-Application Findings.

APPEARANCE: Mr. Jeremy Wassel, Ellicott Development
Mr. Christopher Wood, Engineer – Carmina • Wood • Morris Architects

Mr. Wassel presented and explained the proposed project details for a 3-Lot Subdivision to the Board. He stated that Niagara Mohawk has granted an easement for a 20-ft. wide ingress and egress into the site, along with utilities. They, also, received an Area Variance on 11/21/17 from the Zoning Board of Appeals for having less than 30-ft. frontage on a dedicated street.

Thomas Ostrander stated that he has strong concerns with this project; he explained that there is only a single driveway, and he questioned if the area is wide enough for utilities.

Mr. Wood explained the easement with Niagara Mohawk would allow them to run utilities, and that 20-ft. would be sufficient. He stated that per the Fire Code, they could have up to 30-homes off a single access.

The Chair stated that the Town had a history of problems with private roads. He noted that there have been serious chronic drainage problems impacting residents of the area and that the Town is engaged in the development of a complex drainage system to resolve them. Adding more impervious surface to a chronic problem area could offset improvements currently in process.

Mr. Wood stated that they would have to look closely at drainage as the plan develops. The family owns this property and the lot behind it, which has ponds that water can be directed to.

Mr. Kaczor established that utilities will be run under the driveway, and if there is a need for repair, the driveway would have to be dug up. Mr. Kaczor expressed numerous concerns regarding this project.

Mr. Heppner and Mr. Long agreed with concerns raised by Mr. Kaczor and the Chair.

Chairman Fabinsky made a **MOTION**, seconded by Mr. Kaczor, to **DECLINE TO ISSUE PRE-APPLICATION FINDINGS** based on concerns raised by the Board.

THE VOTE ON THE MOTION BEING:

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

THE VOTE ON THE MOTION BEING UNANIMOUS THE MOTION TO DECLINE PRE-APPLICATION FINDINGS IS PASSED.

CONCEPT REVIEW

1. P.B. File #50-08, #13-10, Birdsong Subdivision, various parts (#2, #6, #7, #8) with various zoning designations (R-1, CMO). Applicant to present proposed changes and updates.

APPEARANCE: Mr. Ken Zollitsch, Greenman Pederson (GPI)
Dave Capretto, Forbes Homes, Developer

Mr. Zollitsch explained that this is an ongoing project, and that Part 3b is currently under construction. They would like to revise the Concept Plan, but will leave Part 8 as it was previously approved. Parts 2, 7 and 6 are altered. These areas can be serviced by existing sewers, whereas other portions will require a new pumping station. For part 6 they are proposing 4-Lots on septic systems. Part 7 would come off the Parkway which is currently part of 3b, and they are reducing the number of lots to 3 (which would be on septic) from 5 or 6 lots. For part 2 they are proposing using the Conservation Management Overlay (CMO) Code to provide a more modest home size.

The Chair is comfortable with the lots on Transit Road, noting that with regards to the CMO, issues will need to be worked out with Engineering.

Mr. Murray would like to see further clarification of the difference between what was originally proposed and the new proposal. He also inquired about water issues and a timeline for this project.

Mr. Capretto explained they would be submitting more information about the changes to the over-all plan as the process moves forward. He stated that the economics of what was proposed prevented this project from moving forward. He feels that what they are proposing now will help move the project forward. The intent is to develop several phases to recoup money, which can then be reinvested in the project. He further explained that there is no water issue severe enough that cannot be remediated with engineering as the project develops. He stated they are not increasing the number of lots, they are rearranging them.

Mr. Zollitsch explained that the bridge that was replaced on Freeman Road helped with water issues. They had also determined that the Eagle Heights Subdivision was responsible for some of the water issues, not Birdsong. Mr. Zollitsch stated that they are willing to provide an Engineering Statement that confirms they will comply with all drainage requirements, put forth by the Town, and the NY DEC. He stated that they can provide the most recent Approved Plan, and the current Concept Plan.

Mr. Ostrander stated when the CMO was granted for Part 8, it may have been stipulated that Part 2 must have normal houses, and Engineering is currently looking into this. Part 6 and Part 7 are a betterment in the eyes of the Town.

Mr. Kaczor inquired if there is adequate greenspace in the proposed CMO. The Applicant stated there is.

Mr. Baich stated his support for this project.

Remy C. Orffeo explained the process for moving forward, specifically, with Part 6.

There being no further business, the Chairman adjourned the meeting at 10:06 P.M.

DATED: 3/04 /2022
REVIEWED: 3/21/2022

Harold Fabinsky
Planning Board Chairman

Respectfully submitted,
Rosemary Messina
Planning Board Secretary