

PLANNING BOARD SEPTEMBER MEETING MINUTES

MEMBERS: Harold Fabinsky, Chairman
Nicholas Baich
Henry Heppner
Alex Long
David Mellerski, Jr., Alternate
Philip Murray

EXCUSED: David Kaczor
Gregory Bennett
Steven Bremer, Supervising Code Enforcement Officer

OTHERS PRESENT: Remy C. Orffeo, Acting Planning Coordinator
Thomas Ostrander, Assistant Town Municipal Engineer
John Bailey, Deputy Town Attorney
Rose Messina, Recording 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 Chair stated that two members are excused this evening, therefore, the Alternate member Mr. Mellerski will be a voting member. Upon a motion duly made and seconded, the reading of the July and August 2022 Planning Board Meeting minutes is unanimously waived as each Board Member had previously received a copy.

Mr. Baich made a motion, seconded by Mr. Mellerski, to accept the July 14, 2022 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE
BAICH AYE
LONG AYE
MURRAY AYE
MELLERSKI AYE

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

Mr. Heppner made a motion, seconded by Mr. Mellerski, to accept the August 11, 2022 meeting minutes.

THE VOTE ON THE MOTION BEING:

FABINSKY AYE
BAICH AYE
LONG AYE
MURRAY AYE
MELLERSKI AYE

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

The Chairman explained the Public Hearing procedure to those present and noted that the petitioner is allowed to present an update following which each interested person is allowed one opportunity to of four-minutes to speak either "for" or "against" the project. Those speaking "in favor" will be called then, those wishing to speak against. There will be no separate opportunity for questions so they must be raised in one of the two mentioned categories. The Affidavit of Publication and Posting, published August 2022 was presented and filed with the Board by the Planning Board Secretary.

UPON A MOTION DULY MADE AND SECONDED, THE PLANNING BOARD PUBLIC HEARING WAS CONVENED.

1. **7:00 P.M. PUBLIC HEARING, P.B. File #08-22 (50-08), Birdsong Subdivision, Part 6, Four-lots bordering on Transit Road, Zoned R-1.** Applicant is seeking Preliminary Plat Plan Approval, per §121-10 of the Town Code. Pre-Application Findings were made, and approved by the Planning Board, on 3/10/22.

APPEARANCE: Mr. Jason Burford, PMP Project Manager, Greenman Pederson (GPI)
Mr. David Capretto, Petitioner, property Owner

PRESENTATION:

Mr. Capretto explained that the project originally proposed to construct 23-single family homes. The plan was revised, and they are now proposing to construct 4-single family homes.

THE BOARD MEMBERS' QUESTIONS, established that this is an improvement from the original plan, as there will be less run-off water by having less impervious surfaces constructed.

In addition, Mr. Murray suggested that the SEQR process be revisited because of the change in this phase. However, the consensus of the Board was that this is not necessary as the initial SEQR addressed the full project including all phases and that the reduction in the number of lots from 23 to 4 for phase six would inherently reduce associated impacts.

Thomas Ostrander, Assistant Town Municipal Engineer, confirmed that the Town Engineering Department approves of this project moving forward.

PUBLIC INPUT:

The Chairman asked if there is anyone who would like to speak *in favor* of this project. (Asking 3-times).

IN FAVOR: *No one spoke.*

The Chairman asked if there is anyone who would like to speak *against* this project. (Asking 3-times).

AGAINST: *No one spoke.*

BOARD ACTION: Mr. Heppner made a **MOTION**, seconded by Mr. Baich, to **CLOSE** the public hearing.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
LONG	AYE
MURRAY	AYE
MELLERSKI	AYE

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

Mr. Heppner made a **MOTION**, seconded by Mr. Fabinsky, to **GRANT PRELIMINARY PLAT PLAN APPROVAL** to this 8.7 +/- acres V/L, 4-lot Subdivision based on the submitted Preliminary Plat Plan and survey received 7/26/22 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 9/8/22.
2. Pre-Application Findings were made on 3/10/22.
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 9/08/2022.

ON THE QUESTION: Mr. Heppner commented that the reduction in the number of homes constructed is fine. He also is pleased that the cul-de-sacs were eliminated.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
LONG	AYE
MURRAY	AYE
MELLERSKI	AYE

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

2. **7:00 P.M. PUBLIC HEARING, P.B. File #14-22, Oak Orchard Development, 4-Lot Subdivision, Located at the stub end of Grove Road, in the Riley Meadows West residential community, Zoned R-2.** Applicant is seeking Preliminary Plat Plan Approval, per §121-10 of the Town Code. Pre-Application Findings were made, and approved by the Planning Board, on 4/14/22.

APPEARANCE: Mr. Chris Wood, Carmina-Wood Designs
Mr. Bill Burke, Alliance Homes

PRESENTATION:

Mr. Wood presented and explained details for the proposed "Riley Meadows West" 4-lot subdivision, 6.32 acre +/- site, located at the stub street end of Grove Road. He noted that; each lot is 60,000 +/-sq.ft. in size; has 110-ft. road frontage; a private sewage ejection pump; and a private force main. In addition, all Town Ordinances are met.

THE BOARD MEMBERS' QUESTIONS, discussed the private pumping stations. It was learned that each property owner will be responsible for their individual station. Also, this is the only area of development that will have their own pumping stations.

PUBLIC INPUT:

The Chairman asked if there is anyone who would like to speak *in favor* of this project. (Asking 3-times).

IN FAVOR:

*Mr. Chris Wood
Carmina-Wood Designs
487 Main Street, Suite 500
Buffalo, New York 14203*
Mr. Wood stated that he supports this project.

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

Mr. Burke stated that he supports this project.

The Chairman asked if there is anyone who would like to speak *against* this project. (Asking 3-times).

AGAINST:

*Mr. Brian Forbes
2 Grove Road
Orchard Park, New York 14127*

Mr. Forbes stated that he has concerns for an existing row of mature trees located here, running along the outside edge of the property. He requests additional information regarding the tree line and the developers' intentions with the trees; "Will they be moved or remain there?"

*Mr. Greg Clabeaux
5098 Murphy Road
Orchard Park, New York 14127*

Mr. Clabeaux stated that his 6-acre back property borders the project site. He explained his concerns regarding water issues that exist here to the members. When he purchased this property he was told that the water issues would be improved with a planned retention pond; it was not. They now have standing water and two new streams. He wants to be sure the water issues on his property do not become worse with the construction of this project.

*Ms. Bernie Clabeaux
5098 Murphy Road
Orchard Park, New York 14127*

Ms. Clabeaux stated that the back of her property borders this site. She explained why she feels an Environmental Impact Statement (EIS) must be performed in addition to what the Applicant has submitted because of the wetlands located here. She further explained the need for an additional retention pond to help alleviate water problems. She also expressed her concerns for the migratory birds and animals that are located here.

Chairman Fabinsky confirmed that Ms. Clabeauxs' primary concerns are water, the migratory birds, and animals here.

BOARD ACTION: Mr. Heppner made a **MOTION**, seconded by Mr. Baich, to **CLOSE** the public hearing.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
LONG	AYE
MURRAY	AYE
MELLERSKI	AYE

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

Chairman Fabinsky stated that he has concerns for the tree line located here. He asked Acting Planning Coordinator Orffeo for his recommendation regarding the tree line and other concerns that were brought forward by the public.

Mr. Orffeo feels, (1) we should go back and take a look at the SEQR. We did this as an "Unlisted Action", however, he was unaware of some of the things that were brought up. We might want to make this a Type I Action, and do a deeper dive into the effect of the wetlands back there and involve Engineering in that. Certainly most people, not all, but most people in Orchard Park like trees, so that would be a consideration to look at too, if there is a way to mitigate, making sure that the tree line is minimally impacted. His recommendation is that we "table" this, and we go back and take a look at the SEQR. If the Board passes this motion they are making this an Unlisted SEQR Action, and he feels that there might be some things here that make it a Type 1.

Mr. Wood spoke on the row of trees and the drainage issues that were brought up.

Chairman Fabinsky stated that he would want confirmation from Engineering in this matter.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Baich, to **TABLE** this case pending further review as he was unaware of some of the issues brought up during the public hearing.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
LONG	AYE
MURRAY	AYE
MELLERSKI	AYE

THE VOTE ON THE MOTION TO TABLE IS UNANIMOUSLY PASSED.

REMOVED BY APPLICANT:

- 3. **P.B. File #15-2022, Woodridge Park Association, 10 Hastings Drive, Zoned R-3.** Applicant is requesting Planning Board approval of proposed Subdivision signage, per §144-37 B (1) of the Town Code. The Zoning Board of Appeals granted an Area Variance on 6/21/22 for size of signage. The review of this item was tabled at the Planning Board meetings on 7/14/22 and 8/11/22.

CONCEPT REVIEW:

- 1. **P.B. File #24-2022, Tops Plaza, 3201 Southwestern Boulevard, Zone B-2.** (SBL#152.16-7-1.1). Mr. John August, representing Chase Bank, is requesting to construct and locate a 3,500-sq.ft. Chase Bank in a Tops' Plaza out-parcel.

APPEARANCE: Mr. John August, Chase Bank
Mr. Frank Daniele, Chase Bank

Attorney John Bailey advised the Board that the Petitioners must apply for a parking Variance from the Zoning Board of Appeals. He does not feel they should be allowed to present their project until they are granted the Variance. The Petitioner will return after they obtain the Variance.

2. **P.B. File #25-2022, 6017 Big Tree Road, located on the south side of Big Tree Road.** Mr. Broadway of the “The Broadway Group”, is requesting to construct a 10,640+/-sq.ft. Dollar General Store at this location. (SBL #'s 172.08-4-5 and 172.08-4-4).

APPEARANCE: Ms. Tera Bennett, Broadway Group
Mr. Frank Armortu, Broadway Group

Ms. Bennett presented and explained the Broadway Groups’ proposed project to construct a Dollar General Store on two-vacant lots located across from the existing “84 Lumber” store on Big Tree Road. She stated that the lots will be merged into a single lot, and that approximately 1-acre of the site will be disturbed. She noted that the Army Corps of Engineers and the NYS DEC are reviewing this project as Smokes Creek is located at the back of the property. Ms. Bennett stated that they do not need the number of parking spaces that the Town regulation requires. Therefore, they will visit the Zoning Board of Appeals for a Variance to reduce the number of parking spaces. She also discussed the need for a retaining wall at the back of the site, and asked the Board for their questions and comments on the project.

The members discussed their concerns regarding the traffic issues here and feel a Traffic Impact Study (TIS) should be performed. They also would like the store facade to be a “little dressed-up”. Several members stated that they are concerned for the *community character*, the *residents that live here*, and the fact that this is a *heavily traveled roadway* that *welcomes* people into the Town and Village of Orchard Park. The members feel that the Conservation Board should be consulted for screening of the site.

Ms. Bennett stated that she will look into the facade choices further and meet with the Conservation Board regarding screening of the site.

Mr. Orffeo confirmed with Deputy Attorney John Bailey that this project must go to the Zoning Board of Appeals first.

3. **P.B. File 26-2022, V/L North east corner of Milestrip and Abbott Roads.** “Royal Car Wash” is proposing to construct a new car wash facility at this location.

APPEARANCE: Mr. Chris Wood, Carmina-Wood Designs
Mr. Anthony Daniel, Manager Royal Car Wash

Mr. Wood noted that this project is located on the north east corner of Milestrip and Abbott Roads. It is currently vacant and is bounded on the east by the South Branch of Smoke Creek, with existing retail across Milestrip to the south, an unknown structure to the north and a residential use across Abbott Road to the west in the Town of Hamburg. They need to seek a “Special Use Permit” to build an “outside car wash” on the west portion of the site at the corner. The east portion will remain vacant at this time for potential future development. There are approximately 4.2-acres here and the topography at the site has steep embankments. Site access was explained to the members. Mr. Wood also stated that there will be stacking for 32-vehicles, with additional stacking spaces in the driveway. There are 20-vacuuming parking spaces and 4-employee parking spaces.

The members discussed the proposed Site Plan and established the following:

1. There are concerns for traffic; especially during the Holiday times;
2. The maximum number of employees is 4 to 6;
3. Royal Car Wash locations in our area total to 14.

Mr. Ostrander wonders if they know that in the east side of the property there is the ECDEP Sanitary Trunk line.

Mr. Wood responded that he will look into this.

OTHER BUSINESS:

Members' discussion of dumpster and gas pump situation at 5455 Webster Road, "Guitar Factory" (Simoncelli property). Acting Planning Coordinator Orffeo and Chairman Fabinsky are to visit the site and report back to the members.

There being no further business, the Chairman adjourned the meeting at 8:05 P.M.

DATED: 10/05/2022

REVIEWED: 10/9/2022

Respectfully submitted,
Rose Messina
Recording Secretary

Harold Fabinsky, Planning Board Chairman