

PLANNING BOARD AUGUST MEETING MINUTES

MEMBERS: Harold Fabinsky, Chairman
 Nicholas Baich
 Gregory Bennett
 Mr. Heppner
 David Kaczor
 David Mellerski, Alternate
 Philip Murray

EXCUSED: Alex Long

OTHERS PRESENT: Remy C. Orffeo, Acting Planning Coordinator
 Thomas Ostrander, Assistant Town Municipal Engineer
 Thomas Minor, Supervising Code Enforcement Officer
 John Bailey, Deputy Town Attorney
 Rosemary Messina, Secretary

The Chairman announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:01 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 alternate, Mr. Mellerski, will be voting this evening in the absence of Mr. Long.

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

Mr. Bennett made a **MOTION**, seconded by Mr. Heppner to accept the July 13, 2023 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

1. P.B. File #24-23, 3201 Southwestern Blvd., located in the Tops Plaza. GreenDrop is seeking permission for an Outside Display to place a donation trailer for the Red Cross at this site.

APPEARANCE: Mr. Ronald Dee, Director

Mr. Dee is requesting the members grant an Outside Display Permit for a self-contained trailer parked at the Tops Plaza. The trailer will be used to store donations of clothing and other household items weighing less than 50-lbs. Mr. Dee explained a contractual agreement exists between "GreenDrops" and the "American Red Cross" where GreenDrops pays the American Red Cross an agreed upon amount for the collected donations. The funds support the Red Cross's mission in our local communities. He further stated that;

- The trailer is manned with two employees, who collect the items.

- Mr. Dee is working with Mr. Michael Smith, the Leasing Director for the plaza.
- The operation is open daily and closed only on Thanksgiving and Christmas Day.
- The trailer uses five-parking spaces.
- The trailer is cleaned by a cleaning service and has a bathroom inside of it.
- Its placement is shown on the submitted Plaza Site Plan presented to the members.
- No items are stored or left outside of the trailer.

Mr. Dee described the operation further, and noted that the money raised goes to the Red Cross and is used in our local area. Items are processed at a "Savers" store as saleable inventory, any refuse is disposed of, and the remaining inventory is sold overseas to wholesalers.

The members discussed the following topics and established the following;

- No hazardous material or alcohol is accepted.
- Snow removal and trash at the site was discussed briefly.
- It was reconfirmed that the GreenDrops trailer will occupy five-parking spaces.
- The Red Cross's financial aspects with this operation are not known to Mr. Dee.

Mr. Baich stated that he is impressed with this operation.

Dr. Bennett made a **MOTION**, seconded by Mr. Baich, to **GRANT** an Outside Display, based on the letter of intent received 7/20/2023, and the following conditions and stipulations are to apply:

1. All public notices have been filed.
2. This is a Type II SEQR action and, therefore, no SEQR determination is required.
3. There will be no additional outside lighting for the display or temporary structure.
4. There will be no banners or additional signage for this facility.
5. The 2024-Year approval will be contingent upon the recommendation of the Building Inspector.
6.
 - a. No items are to be placed or stored outside next to the trailer.
 - b. No additional lighting is allowed.

ON THE QUESTION:

Mr. Kaczor established that Stipulation 6, "a" and "b" are added to the motion.

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

2. P.B. File #23-23, 5640 Armor Duells Road; 3-Lot Subdivision, located on the north side of Armor Duells Road, east of Bussendorfer Road, 16.2-Acres, Zoned R-2. Applicant is seeking Planning Board approval of Pre-application findings. (SBL# 172.00-2-15.1)

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

Mr. Wood explained that there they are proposing to create three-Buildable Lots upon 16.2-Acres. The Property Owner plans on constructing a 3,500-sq.ft. home on one of the lots, and intends to sell the remaining two lots. Mr. Wood distributed information regarding the project to the members and explained the proposed lot dimensions, noting that the existing Single-Family home shown on the Site Plan will be demolished. He also discussed grading and Storm Water Control at the site.

Chairman Fabinsky discussed and reviewed the information submitted to the Board with Mr. Wood. The lots will require private septic systems. Public water will be provided by tapping the existing ECWA water

main on Armor Duells Road, and the Gas and Electric utilities are available along the property frontage. The Chair discussed preserving the indigenous woodlands located here with Mr. Wood.

Mr. Kaczor established that the project meets all Town Codes and that these are not Flag Lots.

Mr. Fabinsky made a **MOTION**, seconded by Mr. Heppner for the following Pre-Application Findings, based on the submitted Sketch Plan received 7/17/2023 and the Applicant has detailed:

- The total acreage is 16.2 +/- acres.
 - The desired zoning classification is R2 Zone.
 - The number of possible stages of completion is one (1).
 - The applicant's position with respect to title is "Owner"
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Armor Duells Road.
 4. Recreation fees will be provided in accordance with Section 144-70E of the Town Code and shall be paid, or provided, prior to the Final Plat Plan Public Hearing.
 5. Subdivision Development fees, per Section 144-70D of the Town Code, shall be paid prior to the Preliminary Plat Plan Public Hearing.
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. The Applicant has completed and submitted the Short EAF, for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

3. P.B. File #19-2022, 275 Thorn Avenue, located on the south side of Thorn Avenue, east of Duerr Road, Zoned B-2. Applicant is requesting a Building Permit and Site Plan Approval to construct a Warehouse/Office Building, with associated Parking and Site Improvements, at this site. (SBL# 172.11-1-5)

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

The Chairman asked several questions establishing that:

- NYS SOIL Phase 1 was performed for this project.
- There are 27-parking spaces provided.
- The Conservation Board approved the Landscaping Plan at their November 11/1/2023 meeting.
- Mr. Wood was unaware of any fuel tanks on this property.

Mr. Wood, presented the proposed plan to construct a new building at this location and he explained that the rear portion of the lot is sometimes rented-out for parking.

Mr. Wood discussed the Bio-Retention Pond and Stormwater SPEDE Permit. He also commented that if there had been fuel tanks, he feels that they would have been addressed under the Phase 1.

Mr. Bennett confirmed that the Zoning classification is B-2.

Acting Planning Coordinator Orffeo noted that the business name is "275 Thorn Property LLC", and that the property address is, *273 Thorn Avenue*.

Mr. Baich established a Negative Declaration for SEQR.

Mr. Heppner established that a new building will be raised and the old one demolished at the site.

Building Inspector Thomas Minor verified that this is not an addition; they are proposing a new building to be constructed.

The green space at the site was discussed along with the impervious area. Mr. Wood indicated on the plan where trees will be planted at the rear of the site.

Mr. Kaczor established that the area behind the building has the potential for further expansion efforts. He also commented that he welcomes a new building, as he feels the existing building, adjacent to the Village Industrial area, is an eyesore.

Mr. Heppner made a **MOTION**, seconded by Mr. Kaczor to recommend that the Town Board **APPROVE** the presented Site Plan and **AUTHORIZE** a Building Permit, to construct a 10,000-square foot new building, per the plan received on May 26, 2023, based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is a Type 1 SEQR Action, based on the Short EAF and a Negative Declaration was made on 8/10/2023.
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. A Landscape Plan, received, 11/01/2022 meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$15,255 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$7,627.50) Conservation Board approval was granted on 11/1/2022.
6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. The Applicant is to provide the Town of Orchard Park Assessor with an "independent" appraisal for the completed project by a Certified Commercial Appraiser.
8. As a condition of approval, the Applicant is required to provide proof that a fuel tank is not present on the site, or if there was, or is a fuel tank on the site, the site has been remediated to NYS DEC standards. (Submission of a Phase 1 NYS Feasibility Study)
9. Engineering Approval was granted on 8/2/2023.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

4. P.B. File #19-23, 2881 Southwestern Boulevard, located on the south side of Southwestern Boulevard, west of Angle Road, 3.69-Acres, Zoned R-3 and B-2. Timbar Properties LLC, Timothy R. Wood, is

requesting to rezone this property to entirely B-3, to erect a cold storage Pole Barn to store his snow plow equipment and tools. (SBL#153.06-2-3)

APPEARANCE: Mr. Timothy Wood, Property Owner/Petitioner

Mr. Wood explained that his property is located in two Zoning Classifications, "R-3 and B-2". He currently has five (5) rental tenants located here. He would like to have his entire property Zoned to B-2 so he can construct a cold storage Building to store his maintenance equipment on site. He is requesting to have zoning of the rear of his property changed from R-3, to **B-2**, to make his entire property Zoned B-2.

The members reaffirmed the following facts:

- The site is a total of 3.69-acres.
- The proposed building is 35-ft. x 45-ft. in size.
- The items for storage are personal, and maintenance equipment used at the site, such as plowing.

Mr. Baich made a **MOTION**, seconded by Mr. Kaczor, to recommend the Town Board **APPROVE** the requested rezoning from R-3 to B-2 based on the following conditions and stipulations:

1. All public notices have been filed.
2. This is an Unlisted SEQR action based on the submitted Short EAF, Parts One and Two, and Negative Declaration is recommended.
3. Fees shall be paid in accordance with Section 144-70C, of the Town Code prior to publication of the Public Hearing Notice.
4. The recommendation is contingent upon the Applicant completing the project as proposed on the preliminary development plans, and shall revert to its original Zoning Classification if the project is not completed per Section 144-67 of the Town Code.
5. The rezoning is supported by the Orchard Park Economic Development Committee.
6. The Town Comprehensive Plan, as originally adopted on September 19, 2007 (and with subsequent revisions), has a goal to "encourage the expansion of Business and Industrial uses such as light manufacturing, and other non-polluting industries in locations proximate to necessary transportation, water, and sewer infrastructure".
7. The Town of Orchard Park, with less than 5% of its land mass zoned Industrial is under-served in the amount of currently Zoned Industrial land.
8. The Rezoning will create a single Zoning Classification for the entire parcel.

NOW THEREFORE, under the authority of the Town of Orchard Park Ordinances Sections 144-66 through 144-69, be it

RESOLVED, that;

- 1) Notice to adjoining landowners be sent as required by Section 144-67 concerning the proposed rezoning, and
- 2) A hearing to consider said rezoning be scheduled for Wednesday September 6, 2023 at 7:00 PM in the Municipal Center, 4295 South Buffalo Street.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE

KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

5. P.B. File #26-2022, Proposed Royal Wash Development LLC, V/L at Northeast corner of Abbott & Milestrip Roads, Zoned B-2. Applicant is requesting a Building Permit and Site Plan Approval to construct a car wash at this site. Town Board approval of a Special Use Permit was granted on 7/19/2023. (SBL#'s 152.17-1-8 & 9)

APPEARANCE: Mr. Christopher Wood, Carmina – Wood Designs

Mr. Wood distributed information regarding this project to the members for their review and explained the projects' details. He told the members that all necessary approvals have been received, including Town Engineering approval. He also reported that the stacking lanes provide 33-spaces for queuing.

Chairman Fabinsky stated that the Conservation Board had included conditions with their review and approval of their submitted Landscaping Plan and the Planning members discussed these. The Chairman noted that he supports additional Pine trees requested for the plan by the Conservation Board, as Orchard Park is made distinctive by its treed character.

Mr. Wood discussed drainage at this site and stated that there is a drop in the topography at this site, and he indicated on the plan where the drop is and the catch basins are located.

Mr. Kaczor established that the "house on the hill" is not part of this project or property. He also discussed the turn into the property, noting that it must be well-thought out.

The Chairman feels access to Abbott Road is the best option here.

Mr. Baich established that there are currently eighteen (18) "Go Car Washes" in the Western New York area.

Mr. Kaczor 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 4,096-Sq.ft. Car Wash Facility, per the plan received on May 24, 2023, based on the following conditions and stipulations:

1. All public notices have been filed.
2. The Town Board granted a "Special Exception Use" permit for this project on 7/19/2023.
3. This is a Type 1 SEQR Action, based on the Short EAF and a Negative Declaration was made on 8/10/2023.
4. 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.
5. No outside storage or display is permitted.
6. An updated Landscape Plan, received, 1/19/2023 meets all Green Space regulations. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$27,775 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$13,887.50) Conservation Board approval was granted on 2/7/2023 with the following stipulations:
Approval is conditioned upon:
 - modifying the plan with the required Green Space calculations on it,
 - adding Pine trees to create additional buffering for the adjacent resident on the North side, and
 - resubmitting the updated Landscape Plan and Landscaping Estimation Form to the Planning Department by September 5, 2023.

- 7. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
- 8. The Applicant is to provide the Town of Orchard Park Assessor with an "independent" appraisal for the completed project by a Certified Commercial Appraiser.
- 9. Engineering Approval was granted on 8/10/2023.

ON THE QUESTION:

Mr. Fabinsky noted having had concerns regarding the location of a project at an intersection with as heavy Traffic as this but felt the access/egress plan presented by the petitioner would minimize problems.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

- 6. P.B. File #20-23, 4038 California, Maple Grove Apartments, located on the west side of California Road, south of Southwestern Blvd., Town Board to refer request to the Planning Board for determination of rezoning from R-4 to I-1. (SBL#161.03-1-4)

Applicant requested to table and reschedule this item for the September Planning Board meeting.

Mr. Orffeo distributed information provided by the Applicant to the Board members.

Mr. Baich made a **MOTION**, seconded by Mr. Heppner to **TABLE** this case as requested by the Petitioner.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
HEPPNER	AYE
KACZOR	AYE
MELLERSKI	AYE
MURRAY	AYE

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

There being no further business, the Chairman adjourned the meeting at 8:12 P.M.

DATED: 8/22/2023
REVIEWED: 8/31/2023

Respectfully submitted,
Rose Messina,
Recording Secretary

Harold Fabinsky, Planning Board Chairman