

PLANNING BOARD DECEMBER 14, 2023, MEETING MINUTES**MEMBERS:**

Harold Fabinsky, Chairman
Nicholas Baich
Dr. Gregory Bennett
Henry Heppner
Alex Long
Philip Murray

EXCUSED:

David Kaczor
David Mellerski, Alternate

OTHERS PRESENT:

Julia Mombrea, Town Council Woman
Remy C. Orffeo, Acting Planning Coordinator
Thomas Ostrander, Assistant Town Municipal Engineer
Thomas Minor, Supervising Code Enforcement Officer
John Bailey, Deputy Town Attorney
Don Lorentz, Orchard Park Chamber of Commerce
Rosemary Messina, Secretary

6:30 P.M. - Introduction of "International Visitor Leadership Program" from Nepal

Honorable Baburam GAUTAM, Minister for Economic Affairs, Koshi Province Assembly
Honorable Sarswoti GURUNG, Honorable Member, Gandaki Province Assembly
Honorable Aman Kumar MASKEY, Member, Bagmati Province Assembly
Honorable Santoshi SHAHI, Member, Karnali Provincial Assembly
Honorable Lalita Devi SUNAR, Member, Sudur Paschim Provincial Assembly
Honorable Nirmala Devi THARU, Member, Lumbini Provincial Assembly
Honorable Sanjay Kumar YADAV, Minister, Madhesh Provincial Government Ministry of Finance
(Accompanied by three U.S. Department of State Translators)

Chairman Fabinsky welcomed seven Nepalese Legislators and Government Ministers present at our Planning Board meeting. He noted that three translators from the U.S. State Department were also present to help with communication. The Nepalese questions focused on how the laws and policies of our different levels of government collaborate and also include public input.

Chairman Fabinsky, Town Board member Julia Mombrea, Acting Planning Coordinator Remy Orffeo and the Planning Board members, discussed the various Orchard Park Town Boards working together. The visitors stayed through the Planning Board meeting and observed the review of each scheduled agenda item. Afterwards, the Planning Board members and Nepalese visitors met for further discussion and photos. There is a possibility that the Nepalese visitors may return to Orchard Park in the future.

7:00 P.M.

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.

Upon a motion duly made and seconded, the reading of the October and November 2023 Planning Board Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Baich made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the October 12, 2023 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

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

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

Mr. Baich made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the November 9, 2023 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

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

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

PUBLIC HEARING:

1. **7:00 Public Hearing, P.B. File #17-23, 65 & 66 Coventry Lane, Proposed 2-Lot Subdivision, Zoned R-1.**
Applicant is seeking Planning Board Preliminary Plat Plan Approval. Pre-application findings were made on 6/08/2023. (SBL#173.07-4-48)

APPEARANCE: Mr. Chris Wood, Carmina – Wood Designs

Mr. Wood explained that the two existing homes located here were built in the 1970’s and were not processed, or approved, through the Town of Orchard Park Subdivision laws. The two owners share one Sub Lot number and they wish to have their properties separated and identified with individual Sub Lot numbers. The Town Engineering Department has reviewed the property and determined that all necessary permits and approvals have been granted, including Town Engineering approval.

The Chairman opened the Public Hearing.

IN FAVOR: No one spoke.

AGAINST: No one spoke.

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

THE VOTE ON THE MOTION BEING:

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

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

The Chair established that the Board had no further questions regarding this project.

Mr. Heppner made a **MOTION**, seconded by Mr. Fabinsky to **GRANT PRELIMINARY PLAT PLAN APPROVAL** to this 5.0+/- acres V/L, 2-lot Subdivision, Zoned R1 based on the submitted Preliminary Plat Plan and Survey received 5/11/2023 with the following conditions:

1. All public notices have been filed.
2. This is an Unlisted SEQR action based on the submitted Short EAF Part 1 and a Negative Declaration is hereby made on 12/14/2023.
3. Pre-Application Findings were made on 6/08/2023.
4. In accordance with Section 144-70E of the Town Code, the Public Hearing, Recreation, and Subdivision Developmental fees must be paid prior to the issuance of a Building Permit.
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 Conditional Engineering Preliminary Plat Plan Approval has been granted on 11/07/2023.

THE VOTE ON THE MOTION BEING:

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

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

A MOTION IS MADE, by Mr. Heppner and seconded by Dr. Bennett to **WAIVE** the **FINAL PLAT PLAN PUBLIC HEARING**.

THE VOTE ON THE MOTION BEING:

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

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

Chairman Fabinsky explained that the Home Owners desire to have separate ownership of their parcel.

Mr. Heppner made a MOTION, seconded by Mr. Baich to GRANT Final Plat Plan Approval to this 5.0+/- acres V/L, two-lot subdivision based on the submitted Final Plat Plan received 5/11/2023 with the following conditions:

1. This is an Unlisted SEQR action based on the submitted Short EAF and a Negative Declaration was made on 12/14/2023.
2. Pre-Application Findings were made by the Planning Board on 6/08/2023.
3. Preliminary Plat Plan Approval was granted on 12/14/2023.
4. In accordance with Section 144-70E of the Town Code, the Public Hearing, Recreation, and Subdivision Developmental fees must be paid prior to the issuance of a Building Permit.
- *5. 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.
6. Town Engineering Final Plat Plan Approval has been granted on 11/07/2023.
7. **Final approval is granted conditionally** based on the approval of the PPI Plan and installation of the Sanitary Sewer.

ON THE QUESTION:

- * Acting Planning Coordinator Orffeo noted that Item #5 in the motion, indicates that “one (1) Street Tree per the Conservation Board Street Tree Plan shall be provided”. He stated that because this is a mature lot, per the Code, if we cannot plant the Street Tree on the lot, we are required to plant the (2) trees elsewhere in the Town.

THE VOTE ON THE MOTION BEING:

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

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

2. **Set Public Hearing Date for Preliminary Plat Plan Approval, P.B. File #04-18, 6700 Scherff Road, “Brink” 1-Lot Subdivision, Zoned A-1.** Pre-Application findings were made on 7/11/19. (SBL#198.00-6-16.131)

APPEARANCE: Mr. Chris Wood, Carmina & Wood Designs

Building Inspector Thomas Minor advised that the setback for the side yard needs to be addressed.

A **MOTION** is made, by **MR. BAICH**, and **SECONDED** by **DR. BENNETT** to **AUTHORIZE** the **CHAIRMAN** to set a Preliminary Plat Plan public hearing date for **“BRINK” 1-LOT SUBDIVISION, 6700 Scherff Road.**

THE VOTE ON THE MOTION BEING:

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

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

REGULAR BUSINESS:

1. **P.B. File #37-23, 3697 Abbott Road, located on the east side of Abbott, north of Webster Road Zoned B-2.** Tom Kam, of Armor Heating, is requesting to erect a fence. (SBL#161.09-1-3)

APPEARANCE: Mr. Thomas Kam, Applicant/Property Owner

Mr. Kam, owner of Armor Heating, told the Board members that his business is located adjacent to Vacant Land where the property boundary line is indicated by a wooded and grass area running alongside of it. He told the members that attendees of the Buffalo Bills Football games park their vehicles on the Vacant Lot and usually have their vehicle overhang onto his property. Recently, a fire started in the wooded and grass area that required the Orchard Park Fire Company to come and extinguish it. In the interest of possible injuries and liability issues Mr. Kam is requesting to erect a Chain Link fence to keep people from parking over the property line and onto his property.

After much discussion, Deputy Attorney John Bailey stated that the Town Code prohibits this type of fence in a B-2 Zoning District. A Variance request and approval would be needed from the Zoning Board of Appeals to erect a Chain Link fence here. The members suggested that Mr. Kam erect a temporary snow fence during the football season.

CONCEPT REVIEW:

1. **P.B. File #32-23, 3552 Southwestern Boulevard located on the west side of Southwestern Boulevard, Zoned I-1.** Nussbaumer & Clarke, on behalf of their client, is requesting a Building Permit and Site Plan approval to construct a (3,040 +/-sq.ft.) two-story building addition. (SBL161.07-7-2)

APPEARANCE: Mr. Rob Pidanick, Nussbaumer & Clarke
Mr. Jim Mulka, AIA, Director of Facility Operations

Mr. Pidanick explained that West Herr would like to add a Building addition and expand their parking lot at their new Corporate Headquarters.

The Chairman noted that work took place on the property in 2021 without the Planning Board's review and approval. The Board tabled their review and advised the Applicant to work closely with the Town Engineering Department.

Mr. Ostrander commented that drainage at the site must be reviewed for a pond.

Mr. Orffeo stated that a cover sheet detailing the contents of a submission made will help speed-up the process.

2. **P.B. File #34-23, 5701 Burton Road. "Providence Farm Collective"** is requesting to construct a 6,000 +/- sq.ft. Pole Barn, Hub Facility. Presentation of project.

APPEARANCE: Mr. James Bammel, Bammel Architects
Mr. Michael Lubkowski, Bammel Architects
Mr. Paul Weiss, Representing Providence Farm

Discussion of this project concluded that a "Special Planning Board Meeting" should be held, due to the urgency of the approaching 2024 growing season. It was also determined that the Short SEQR form is not necessary for this project.

Mr. Heppner made a **MOTION**, seconded by Dr. Bennett, to have the Chairman call for a **SPECIAL**

MEETING to review and vote on the Providence Farm Collective project on Burton Road.

THE VOTE ON THE MOTION BEING:

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

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

- 3. **P.B. File #36-23, Birdsong Lakes LLC**, is requesting to rezone 63.7-acres in Part 5 of the Birdsong Development, from R-1 to a Conservation Management Overlay (CMO) District.

APPEARANCE: Mr. David Capretto, Owner/Developer
Mr. Sean Hopkins, Attorney

Mr. Hopkins gave a brief history of the Bird Song property development noting that it expands over 3-decades. He explained that the “Part 2 plan” was proposed as a CMO. He feels the CMO controversy that existed in 2010 for this proposed project was caused by its location, backing up to the existing Bird Song neighbors. The Project Site now consists of the remaining portions of Birdsong, Parts 2, 4, 5, and 8. What they are proposing now, is a residential subdivision development of undeveloped portions of the overall approximately 473-acres of the remaining Birdsong Subdivision property. This development will be built according to our R-1 and CMO District codes:

- Part 2 - R1 Zoning 52 lots on 75.3 acres;**
- Part 4 - R1 Zoning 30 lots on 61.3 acres;**
- Part 5 -CMO Zoning for 84 lots on 63.8 acres (Rezoning from R-1 to CMO Overlay District);**
- and Part 8 – CMO Zoning for 23 lots on 15.7 acres (zoned CMO Overlay District).**

The action has been defined broadly to include all required discretionary approvals and permits from the Municipal Boards of the Town of Orchard Park and involved agencies, as well as all Site Improvements, including detached Single Family homes on individual lots, internal roadways, curb cuts, driveways, storm water improvements, wetland impacts, wetland mitigation and all required utility improvements. The project is a Type I Action pursuant to SEQRA and was the subject of a coordinated environmental review pursuant to SEQRA that resulted in the issuance of a Findings Statement by the Planning Board in connection with the original plan. The Board must consider if changes from that plan require a separate review process or a broader review of the subdivision findings as a whole.

Mr. Capretto gave a summary of the development of planned phases.

Mr. Baich established that Mr. Capretto would like to construct 1-1/2–single story homes, selling for approximately \$700,000 each. The average home will be minimally 2,600 to 4,500 sq. ft. in size. He also discussed the time table of the project as taking approximately four to five-years, depending upon when approvals are granted. Further discussion included that there is no development currently in Part 2, and that the connection of the Birdsong Parkway to Wood Thrush needs to be established.

Acting Planning Coordinator Orffeo spoke further regarding Part 2 and having this be a focal point in moving forward. He requests that street names be provided for consideration.

Dr. Bennett also established that Green Space trails were constructed in the Birdsong Subdivision, and that Mr. Capretto does not envision putting in more, due to the topography of the remaining property.

Mr. Heppner discussed the sewage pumping station, and thanked Mr. Hopkins for explaining the entire Subdivision Plan.

The Board also discussed Part 7 of the project.

The Chairman concluded that he is glad that direction for the project is planned.

4. **P.B. File #20-23, Maple Grove Apartments**, Alliance Homes is proposing a Residential Community with a mix of Townhouses and Apartments.

APPEARANCE: Andrew Romanowski, Alliance Homes, Developer
Mr. Sean Hopkins, Attorney

Mr. Hopkins presented “Maple Grove Apartments” to the members, noting that Mr. Romanowski would like to construct a Residential Community with a mix of Townhouses and Apartments, similar to the existing “Orchard Grove” project he developed in 2019, located on California Road, south of this proposed 80-Residential Unit project.

Attorney John Bailey discussed the Town Code with the Applicants. There is a disagreement as to the number of homes that can be built here. The Owner feels that he bought the property and is grandfathered-in with the code that prevailed at that time. The current code allows less units to be constructed.

Mr. Hopkins noted that they have a wait list to justify this project and are Code Compliant. The plans were distributed for review by the Board members.

Mr. Hopkins would like to have the Coordinated Review process to start, noting that the Long SEQR was submitted. He stated that there are no wetlands here, they have approval from SHIPPO, and he suggests that the Board members visit the nearby “Orchard Grove” complex to see a similar complex that was built by Mr. Romanowski.

Mr. Heppner established that there will be a Townhouse Association.

The Applicant was asked to start to put together the materials needed for their Coordinated Review to be mailed out.

There being no further business, the Chairman adjourned the meeting at 8:16 P.M.

DATED: 01/09/2024
REVIEWED: 01/30/2024

Respectfully submitted,
Rose Messina, Recording Secretary

Harold Fabinsky, Planning Board Chairman