

PLANNING BOARD AUGUST MEETING MINUTES

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

The Chair 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 noted that we have a minimum quorum that allows us to proceed with our meeting. He further noted that the Planning Board Meeting minutes are not available and will be voted on at the next Planning Board meeting.

The Chair introduced Ms. Anna Worang-Zizzi to the members and welcomed her to the meeting. Mr. Orffeo stated that Ms. Worang-Zizzi is working along with Ms. Messina in the Planning Department.

1. P.B. File #50-08, Birdsong Subdivision, Phase I, Zoned R-1. Planning Board to consider dividing Phase 2 into Phase 2A and 2B, then adding Phase 2A into Phase 1 as recommended by the Town Engineer. Town Board granted conditional approval based on Planning Board approval. All fees, bonds and insurances have been provided.

APPEARANCE: No one.

The Chairman noted that no one is present to represent this request, as it is an Administrative action. He asked Assistant Town Municipal Engineer, Thomas Ostrander, to give a brief explanation of the request being made.

Mr. Ostrander explained that the project is completely approved; however, the new Owner would like to break it down into an additional phase. He explained the request to the Board noting that, in retrospect, the original Owner should have requested four-phases. He concluded that he sees no reason to deny this request.

The Chairman affirmed with Attorney John Bailey, that, the entire project was already approved. All that is being requested is an alteration in the number of the phases.

Mr. Bailey responded, "Correct".

The Chairman established with Mr. Ostrander that there will be no detriment to the area; the storm water and pumping station have already been approved. The Engineering Department sees a benefit to the Town, and no detriment with the request.

The Chairman confirmed with Mr. Bailey that it is within the Planning Boards' authority to make this decision.

Mr. Kaczor established with Mr. Ostrander that the "regional retention pond", is able to serve the additional lots.

Mr. Heppner spoke regarding the construction of the pond, noting that it sounds reasonable to him that the pond be constructed now, rather than re-disturbed a second time later.

Mr. Kaczor made a **MOTION**, seconded by Mr. Baich, to **GRANT** a request to divide Phase 2, into Phase 2A and 2B, then adding Phase 2A into Phase 1 as recommended by the Town Engineer. The Town Board has granted a Conditional Approval, based on the Planning Board's decision. All fees, bonds and insurance have been provided.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
KACZOR	AYE
HEPPNER	AYE

THE **VOTE ON THE MOTION BEING FOUR (4) IN FAVOR, THE MOTION IS PASSED.**

2. P. B. File #19-21, Quaker Crossing Plaza, located on the north side of Milestrip Road, Zoned B-1. Gerald Buchheit is seeking Planning Board recommendation to the Town Board for a Special Exception Use Permit to convert the former Northwest Bank site to an Urgent Care Facility.

APPEARANCE: Mr. Gerald Buchheit, Petitioner/Developer & Owner

Mr. Buchheit explained his desire to convert a vacant building, formerly a Northwest Bank, into an Urgent Care facility. He clarified that the former overhead drive thru would be enclosed. He noted that there would be no Green Space destroyed, in fact they would be increasing the Green Space. He also stated they would be making use of an existing building which has been vacant for 8-months.

Mr. Fabinsky inquired if a statement had been filed stating the benefits and detriments.

Mr. Buchheit told the members that he had completed and submitted the statement for the Boards' review. He further told the members that the hours of operation will be Monday through Friday, 9:00 A.M. thru 9:00 P.M., with Saturday and Sunday hours of 9:00 A.M. thru 8:00 P.M. He further stated that there is no option to increase these hours.

Mr. Heppner inquired about the number of Urgent Care facilities nearby and if there had been a study to determine if there is a need for another.

Mr. Buchheit told the members that he had a study performed that indicates there is a need for an additional care facility.

Mr. Baich inquired if this plan would alter the number of parking spaces.

Mr. Buchheit indicated that the plan increased the number of parking spaces by 6. In addition, green space was added to the site.

Mr. Kaczor noted that since 1989 Orchard Park has added many medical professionals, specialists and

health care facilities locate here, resulting in increased competition and improved health care for our residents.

Mr. Fabinsky noted that he feels it is a positive result to have additional medical professionals in Orchard Park. There is less driving out-of-the area, which could be arduous for our older population. He questioned if the facility is prepared to deal with COVID.

Mr. Buchheit stated that the facility is prepared to take-on COVID.

Mr. Baich made a **MOTION**, seconded by Mr. Fabinsky, to **RECOMMEND** to the Town Board that the request for a **"Special Exception Use Permit"** to convert the former "Northwest Bank" site, Zoned B-1, to an "Urgent Care Facility", per the Town Schedule Of Use Controls be **APPROVED**, based on the following:

1. This is an Unlisted SEQR action based on the submitted Full EAF Parts 1 & 2, 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. Landscaping as indicated on the proposed plan will provide adequate screening.
 - g. Free area for recreation is not required.
 - h. The nearness and impact on schools and utilities is not an issue.
 - i. The health and safety of adjacent properties is not affected.
4. The project shall revert to its original Zoning Classification if the project is not completed per Section 144-67 of the Town Code.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
KACZOR	AYE
HEPPNER	AYE

THE **VOTE ON THE MOTION BEING FOUR (4) IN FAVOR, THE MOTION IS PASSED.**

3. P.B. File #20-21, "Alliance Homes, proposed 5-Lot Subdivision", 27.57+/- Acres located on the south side of Seufert Road, Zoned A-1. Requesting Planning Board to make Pre-Application Findings on a five (5) lot subdivision.

APPEARANCE: Christopher Wood - Architect
Andrew Romanowski, Petitioner/Developer

Mr. Fabinsky explained the Subdivision Approval process for those attending the meeting that may be unaware.

Mr. Wood explained the proposed 5-Lot Subdivision to the members. He stated that all lots are road fronted lots, meaning no variances would be needed. He noted that the lots exceed the Town minimum requirement for size. They will average around 5-acres, with the largest being 7.3 acres.

Mr. Kaczor established that the proposed subdivision will have septic systems constructed. He also inquired about the size of the homes.

Mr. Romanowski stated that the homes will range from 2,500 to 3,000-sq. ft. in size.

Mr. Fabinsky questioned how the traffic flow here may be affected.

Mr. Wood answered that each resident will have a driveway similar to neighboring properties. He feels that with 5-additional homes the traffic is unlikely to have a large impact on the existing community.

Mr. Fabinsky established that residents will access Route 219 either with Chestnut Ridge or Boston State Roads.

Mr. Heppner questions the reasoning for the varying size of the lots.

Mr. Wood explained that the area is scenic, with interesting typography. Some of the larger lots will have walking trails at the rear of the lot. In addition, house fronts are staggered to make the tree scape more attractive. He further explained that the house on the first lot will be nearly invisible from the street.

Mr. Baich inquired how large the houses will be.

Mr. Romanowski replied, "On average about 3,000-sq. ft."

Mr. Kaczor established that a portion of the land had been previously farmed and the farm land is located on Lot #1. He also established that there are no "Conservation Easements" on this property.

Mr. Heppner made a **MOTION**, seconded by Mr. Kaczor, regarding Planning Board Subdivision File #20-2021, the following Pre-Application Findings are made based on the submitted Sketch Plan received 6/30/21 and the applicant has detailed:

- The total acreage is 27.57 +/- acres.
 - The desired zoning classification is A-1.
 - The number of possible stages of completion is one (1).
 - The applicant's position with respect to title is "Owner" Contract to sell.
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Seufert 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. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lot per Section 120-3F of the Town Code.

8. The applicant has completed and submitted the Short EAF, Part 1 for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
KACZOR	AYE
HEPPNER	AYE

THE **VOTE ON THE MOTION BEING FOUR (4) IN FAVOR, THE MOTION IS PASSED.**

4. P.B. File #21-21, "Thomas Johnson, proposed 32-Lot Subdivision", 27.2 +/- Acres located on the west side of Ellicott Road, Zoned R-2. Requesting Planning Board to make Pre-Application Findings on a thirty-two (32) lot subdivision.

APPEARANCE: Thomas Johnson - Developer
Christopher Wood - Architect

Mr. Fabinsky stated that this item is being reviewed preliminarily only, and that no action will be taken by the Board at this time.

Mr. Johnson explained his proposal for a 32-lot, "upscale subdivision" on Ellicott Road. The project is Zoned R-2, and would require no variances. This property has been in the Stromecki family for several generations, and he has an agreement to seek the proposed project and move forward.

Mr. Wood added that there will be 2-access points on Ellicott Road for ingress and egress, with the road circling through the site. No lots will have fronting on Ellicott Road. The homes will have sewer systems, and with regards to the donation of "Recreation Land", the Petitioner is proposing a split, where a portion would be Recreation Land donated within the subdivision (1.3 acres) and the remainder acreage would be paid in Recreation Fees.

Mr. Orffeo explained that the Town Code allows receiving up to 9% (2.4 acres in this case) of Recreation Land. He clarified that the Board's three options include, collecting Recreation Fees from each parcel, taking a portion of land combined with fees, or taking the total 9% in land.

Mr. Wood stated that they would be willing to go before the Conservation Board, if necessary, to have this worked out.

Mr. Fabinsky established that residents would access Interstate 219 via Armor Dulles Road. He also told the Petitioners that he desires to see a Traffic Impact Study (TIS) submitted. He further expressed interest in maintaining the existing streetscape.

Mr. Wood noted that the corner lots face inward and are farther set back from Ellicott, which was purposely done to preserve the streetscape.

Mr. Fabinsky noted his desire to maintain existing trees and the woodland area.

Mr. Wood noted that this land, being previously farmland, afforded them the opportunity to add-in additional trees and landscaping.

Mr. Johnson affirmed their plan to add in landscaped areas.

Mr. Heppner discussed the Recreation Fees, and he questions whether this item should be sent the Recreation Commission.

Mr. Orffeo stated that, usually, it would be sent to the Trails Task Force, but it could be sent to the Recreation Commission.

Mr. Heppner feels the Recreation Commission has a broad view of recreational opportunities that they'd like to see the Town develop. He believes their review will be useful in this case.

Mr. Wood feels that they could have gone with Recreation Fees, exclusively; however, they felt residents would appreciate the recreation land added in this project.

Mr. Heppner told the Petitioners that he would like a TIS submitted. He also expressed concern regarding water flow. He stated that the project site slopes towards Ellicott Road, and there are several homes on Ellicott Road within the bounds of this project.

Mr. Wood noted that the current Owner is keeping a portion of the land, and water retention is important to the Owner, as well. The Site Plan includes two potential water basins; one where water naturally ends up, tie together, and then channels into an existing culvert across Ellicott Road.

Mr. Kaczor stated that it is the Board's desire is to see rural areas of Orchard Park preserved. He further stated that moving forward they would be interested in stronger stipulations in order to maintain the rural character of the Town. They would also like to see developers locating subdivisions back from the road in order to maintain character.

Mr. Baich established that the homes constructed will be one, and two-story residences. They are expecting a mix of "downsizing" and "young families, with homes 2,500-3,000 sq. ft. in size. They anticipate a start date for this project in approximately 1-1/2 years from now.

Mr. Kaczor made a **MOTION**, seconded by Mr. Baich, regarding Planning Board Subdivision File #21-2021, the following Pre-Application Findings are made based on the submitted Sketch Plan received 7/29/21 and the applicant has detailed:

- The total acreage is 27.2 +/- acres.
 - The desired zoning classification is R-2.
 - The number of possible stages of completion is one (1).
 - The applicant's position with respect to title is Owner authorized Petitioner to represent them.
1. All public notices have been filed.
 2. The zoning will remain as is.
 3. Access to surrounding properties is through Ellicott Road.
 4. Recreation fees to be determined.
 5. Subdivision Development fees to be determined
 6. Public Hearing fees shall be paid prior to the Preliminary Plat Plan Public Hearing.
 7. One (1) Street Tree per the Conservation Board's Street Tree Plan shall be provided for each lot per Section 120-3F of the Town Code.
 8. The applicant has completed and submitted the Short EAF, Part 1 for this Unlisted SEQR Action.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE

KACZOR
HEPPNER

AYE
AYE

THE **VOTE** ON THE **MOTION BEING FOUR (4) IN FAVOR, THE MOTION IS PASSED.**

5. P.B. File #25-21, Simoncelli, 5455 Webster Road, located on the north side of Webster Road, Zoned I-1. Petitioner is requesting Planning Board recommendation to the Town Board for Site Plan Approval and the Issuance of a Building Permit, to construct a 5,800+/- sq. ft. metal building addition with associated site improvements. (SBL#161.09-5-3.21)

APPEARANCE: Mr. Jack Simoncelli - Owner
Jim Bammel – Bammel Architects

Mr. Simoncelli explained his desire to add a 5,800-sq. ft. addition to an existing 13,000-sq. ft. structure.

Mr. Bammel stated that Engineering performed a thorough review. He also stated no variances were needed. The structure will be 17-ft. tall, and the project was reviewed by the Conservation Board, with a total of 64% Green Space.

Mr. Fabinsky inquired if the structure will located over a paved area, or Green Space. Mr. Bammel responded a portion would be over paved area, and a portion over Green Space.

Mr. Kaczor established that their existing tenants will reside here. (An Electrical Business, and West Herr) He also established that there is no loss of parking spaces at the site.

Mr. Heppner asked for clarification that the parking had simply been shifted, to which Mr. Simoncelli responded, "Correct". He also asked what West Herr would potentially be storing at this site. Mr. Simoncelli responded, "Their personal cars".

Mr. Fabinsky asked Mr. Ostrander, Assistant Town Municipal Engineer, to comment on the Engineering review of this project.

Mr. Ostrander explained, that, although there was a condensed time, everything with this project seems in order. He also stated that, per the Town Code, the Board could approve the project, "contingent on Engineering approval".

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 5,800+/- sq. ft. metal building addition with the associated site improvements, per the plan received on 7/18/21, 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 8/06/21, 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 7/29/21, meets all Green Space regulations with 20% Green Space. In accordance with Section 144-44(c)(1)(a)(2), a Certified Check amounting to 50% of the \$6,130 Landscaping Estimate Value shall be deposited with the Town Clerk. (\$3,065) Conservation Board approval was granted on 8/3/21.

6. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
7. The Site Plan and authorization of a Building Permit are approved conditionally upon Town Engineering approval.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
KACZOR	AYE
HEPPNER	AYE

THE **VOTE ON THE MOTION BEING FOUR (4) IN FAVOR, THE MOTION IS PASSED.**

CONCEPT REVIEW:

1. P.B. File #29-21, West Herr, proposed parking lot expansion.

This item has been tabled until September.

2. P.B. File #24-21, V/L located on the west side of Burton Road at Powers Road, Zoned R-2 and A-1. "Cornell Cooperative Extension of Erie County" (CCE) is requesting to construct an Educational Facility with an Agricultural Campus, including associated Site and Utility improvements, (SBL#184.15-1-5.13)

APPEARANCE: Diane Held - Executive Director,
Chris Wood, Carmina, Wood & Morris
Jim Bammel, Bammel Architects

Ms. Held described the proposed project, noting that it will involve the construction of an Educational Facility, as well as an Outdoor Agricultural Facility, where workshops will take place. She noted that they have a similar facility in East Aurora, New York.

Mr. Fabinsky noted that the intention of this project seems to be to preserve agricultural land, which aligns with the Towns goals and would benefit the Agricultural sector.

Mr. Baich established that 15-Acres exists here, and the, with the vast majority remains Agricultural.

Mr. Kaczor stated that he was very much in favor of the project. He also established that the Co-Op in East Aurora does not assist with their ground keeping, and that this is primarily an educational facility. If there is an educational need they may be able to assist.

Mr. Fabinsky discussed a possible collaboration with the Botanical Gardens in the future.

Ms. Held stated that they collaborate with over 200-organizations.

Mr. Heppner established that there is no structure on this property. He also stated that he feels this is a suitable project and a good way to preserve Green Space.

Mr. Orffeo asked Building Inspector Bremer to clarify what, if any, portions of this project needed to appear before the Town Board.

Mr. Bremer answered that the A-1 portion does not; however, the R-1 portion does.

Mr. Wood stated his intention is to begin with the engineering portion of this project, and then come back before the Planning Board.

Mr. Fabinsky thanked them for their appearance.

There being no further business, the Chairman adjourned the meeting at 8:17 P.M.

DATED: 11/09/21

REVIEWED: 11/15/21

Harold Fabinsky
Planning Board Chairman

Respectfully submitted,
Anna Worang-Zizzi
Planning Board Secretary