

**PLANNING BOARD FEBRUARY, 2025 MEETING MINUTES**

**MEMBERS:** Harold Fabinsky, Chairman  
Nicholas Baich  
Gregory Bennett  
Henry Heppner  
David Kaczor  
Alex Long  
David Mellerski, Alternate

**EXCUSED:** Philip Murray

**OTHERS PRESENT:** Anna Worang-Zizzi, Director of Community Development  
John Bailey, Deputy Town Attorney  
Thomas Ostrander Assistant Municipal Engineer  
Thomas Minor, Supervising Code Enforcement Officer

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 Regular Meeting minutes from November 2024, December 2024, January 2025, and the "Special Meeting" minutes from December 2024 will be voted upon. The reading of these 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 Minutes of the **November 14, 2024**, meeting as presented.

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

Mr. Baich made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the Minutes of the **December 12, 2024**, meeting as presented.

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

Mr. Baich made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the "Special Meeting" Minutes of the **December 18, 2024**, meeting as presented.

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

Mr. Baich made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the Meeting Minutes of the **January 9, 2025** meeting as presented.

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

**7:00 PM PUBLIC HEARING:**

1. **P.B. File #37-21, 6940 Milestrip Road, Alliance Homes, proposed 23-Lot Single-Family Home Subdivision, located on the north side of Milestrip Road, west of Baker Road, across from the Town Compost Center, Zoned R2 and R3. (SBL# 153.17-1-8).** Preliminary Plat Plan Public Hearing.

Chairman Fabinsky explained the Public Hearing procedure.

APPEARANCE: *Sean Hopkins – Attorney*  
*Andy Romanowski – Alliance Homes*  
*Patrick Sheedy – Carmina Wood Design*

Mr. Hopkins explained that the Zoning Law allows Single-Family homes to be constructed here. The Applicant is proposing to construct 23-Building Lots, and have the remaining lot dedicated to the Town of Orchard Park for Storm Water Management. As requested, the Applicant submitted the Long EAF and the Jurisdictional Determination from the Army Corps of Engineers (USACE). The project will not impact the existing wetlands. Also a Storm Water summary, and a “no impact letter” related to Archeology from the County was submitted.

Mr. Hopkins noted that due to a set of Planning Board minutes not being available online, it is not clear if a Coordinated Review was performed. He requested that the Board make a motion to Seek Lead Agency Status, in case it is later determined that this was not completed. Ms. Worang-Zizzi felt the request was reasonable.

Mr. Baich established that the homes would be between 2,500 to 4,000 square feet in size on lots averaging 20,000 square feet.

The Chair inquired about the setback requirements and established that they are Code Compliant.

The Applicants explained that the houses have not been designed yet, however they will be seeking a uniform look with the setbacks and comply with the Town Code.

Dr. Bennett inquired about the traffic impact the project will have in this area.

Mr. Hopkins stated that while there may be some impact, they are well below the New York State DOT

threshold for a Traffic Impact Study (TIS).

The Chair opened the Public Hearing, explaining that members of the public can speak either in “favor” or “against” a project.

**IN FAVOR:**

No one spoke.

**AGAINST:**

*Mr. Mike Pikula speaking for his mother, Susan Pikula  
6974 Milestrip Road  
Orchard Park, NY 14127*

Mr. Pikula spoke on behalf of his mother. They are opposed to this project because of concerns regarding construction dust and noise.

*Mr. Timothy Ebersole  
6990 Milestrip Road  
Orchard Park, NY 14127*

Mr. Ebersole is opposed to this project and has concerns for traffic, and feels that there currently are too many homes in this area.

*Ms. Joann Stanton  
Resident*

Ms. Stanton stated her concerns for traffic.

*Ms. Mary O’Leary  
137 Southwick Drive  
Orchard Park, NY 14127*

Ms. O’Leary is not necessarily opposed, but discussed her concerns regarding the wetlands and drainage at this site.

The Chair noted that Orchard Park has stringent standards with regard to Engineering.

*Ms. Sandra Wahl  
121 Southwick Drive  
Orchard Park, NY 14127*

Ms. Wahl was not in favor, or against, the project. She asked questions regarding the proposed subdivision and asked for clarification on the presented Site Plan.

*Mr. Patrick Wahl  
121 Southwick Drive  
Orchard Park, NY 14127*

Mr. Wahl asked if there were plans for the parcel that is not being developed.

Mr. Romanowski stated that there are no plans to develop the back parcel as Smokes Creek has wetlands located here.

*Ms. Linda Gomez  
21 Crabapple Park  
Orchard Park, NY 14127*

Ms. Gomez stated she has concerns related to sewers.

**The Chair spoke about the Town Engineering approval process and the attention to detail.**

Mr. Heppner made a **MOTION**, seconded by Dr. Bennett to **ADJOURN** the Public Hearing.

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

Mr. Hopkins discussed the proposed project further, noting that the property is Zoned properly; will have screening provided where needed; and that the project does not meet the standards to require a TIS. The wetlands here are jurisdictional, and Orchard Park has stringent standards that does not allow drainage onto a neighboring property.

Mr. Heppner stated that this project must be respectful of neighbors. The construction dust, can be kept down with water spraying trucks. There should be portable restrooms available for the workers.

Chairman Fabinsky feels that the work hours must be restricted and enforced.

Mr. Baich made a MOTION, seconded by Dr. Bennett, to have the Planning Board SEEK LEAD AGENCY STATUS.

Mr. Heppner noted that there will be a notification sent to the residents for future scheduled public hearings.

**REGULAR BUSINESS:**

- 1. P.B. File #27-22 – Birdsong Part 2, proposed 51-Lot Subdivision, located at the terminus of Rock Dove Lane, Zoned R-1 (SBL#s 173.11-1-15, 173.11-1-16, 173.02-1-2, 173.02-1-3).**

Planning Board to seek Lead Agency Status. This is not a CMO.

**APPEARANCE:** Mr. Sean Hopkins, Attorney  
Mr. David Capretto, Applicant, Developer  
Mr. Jason Burford, Greenman-Pedersen, Engineering Inc.

Mr. Hopkins stated that Part 2 of the Birdsong project was changed from a “CMO District” to a 51-Lot Single Family Subdivision. He noted that a stub street connection is no longer planned, as wetland changes have occurred.

Mr. Baich made a **MOTION**, seconded by Mr. Mellerski, that the Planning Board seek **LEAD AGENCY STATUS** for this Unlisted SEQR Action, with a Coordinated Review, for this proposed 51-Lot Subdivision

**THE VOTE ON THE MOTION BEING**

FABINSKY	AYE
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BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

2. **P.B. File #38-21 – Michael Development, proposed 12-Lot Single-Family Subdivision, located at the terminus of Woodhaven Road, Zoned R-2. (SBL#’s 162.05-2-22 & -23).** Planning Board to seek Lead Agency Status.

APPEARANCE: Mr. Pat Sheedy, Carmina – Wood Designs

Mr. Sheedy stated that the engineering drawings are being prepared in detail for this project. They are awaiting outside approvals.

Mr. Heppner made a **MOTION**, seconded by Mr. Long, that the Planning Board seek Lead Agency Status for this Unlisted SEQR Action, with a Coordinated Review, for a proposed 51-Lot Subdivision

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

3. **P.B. File #37-24 – 50 Cobham Drive, located east of California Road and north of 20A, Zoned I-1. (SBL # 161.18-2-4.12).** The Krog Group is seeking Planning Board Approval for a Parking Expansion adding 98-parking spaces for a total of 205 spaces.

APPEARANCE: Mr. Peter Krog, Applicant/Owner

Chairman Fabinsky stated that Town Engineering approval was not granted due to several minor revisions. He noted that they will adjourn the review of this project.

Mr. Heppner stated that he would like to see the project move forward and does not want to set a precedent. He feels they are a reputable company and do great work.

Mr. Baich made a **MOTION**, seconded by Mr. Heppner to table this item.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

4. **P.B. File #34-24 - Lexington Heights (Birdsong Parts 4 & 5), located west of Transit Road and North of Jewett Holmwood, Zoned R-1 (SBL # 173.04-2-25.1).** Applicant requesting a SEQR Determination and Planning Board rezoning recommendation to the Town Board. Rezoning recommendation: proposed rezoning of 125 +/- acres from R-1 to R-1 with a Conservation Management Overlay designation.

APPEARANCE: Mr. Sean Hopkins, Attorney  
Mr. David Capretto, Applicant, Developer  
Mr. Jason Burford, Greenman-Pedersen, Engineering Inc.

Chairman Fabinsky explained that this project has several items that must be resolved to move forward. He stated that Parts 4 & 5 of the Birdsong Subdivision have been joined and are now known as "Lexington Heights". He further stated that the Applicant is asking the Board to make a recommendation to the Town Board on a SEQR Determination, and also the rezoning of the property from R-1, to R-1 with a CMO Designation.

Mr. Hopkins gave a history of this project that included submission dates and various meetings that were held. He asks that the Board make a Negative Determination pursuant to SEQRA, and a recommend the rezoning request to allow the CMO. He summarized the following:

- The Project Sponsor will limit construction access for Parts 4 & 5 of the Subdivision to Transit Road only.
- The name of the proposed CMO will be "Lexington Heights".
- Gated and locked "emergency access" only connections will be between the Lexington Heights CMO (Parts 4 & 5) and the Birdsong Subdivision.
- Emergency access only connections will be subject to a Declaration of Restrictions to be recorded at the Erie County Clerk's Office prohibiting the gated emergency access connections from being changed to public access connections between the Lexington Heights CMO and the Birdsong Subdivision at any time in the future.

The Chairman stated that the Fire Departments' review of the SEQR Document indicated a safety issue with using an emergency gate to separate the proposed CMO Subdivision from the neighboring Birdsong Subdivision. A "Knox Box" will be available for gaining entrance through the gate for emergencies.

Dr. Bennett questioned if "first responders" may experience a delay in response time to emergency calls. The Applicant feels that they would not.

Mr. Hopkins stated the response time will be more rapid to the existing sections of Birdsong, since there is no connection to Transit Road there currently. For the new homes, there would be two access points onto Transit Road, which would comply with the current Fire Code, noting that this Code was not in effect when Birdsong Prime was completed.

Mr. Heppner stated that he has concerns regarding the emergency gates and opening them, although he appreciates the Applicants efforts, and feels this is a good project in general.

Dr. Bennett appreciates the efforts, but is hesitant to go forward. He feels there is the potential for snow and ice to make the gates inaccessible, though emergency responders would expect to use them, which would be a hazard and a liability to the Town.

The Board members were in agreement.

The Applicant suggested alternative layouts with no connection to Birdsong Prime. Director of Community Development, Anna Worang-Zizzi, suggested adjourning until a representative from the Engineering Department could be present.

Mr. Heppner made a **MOTION**, seconded by Mr. Baich to **ADJOURN** their review of this project.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

5. **P.B. File # 36-24 – Buffalo Topsoil, located on the west side of North Benzing Road, south of Lake Ave, Zoned I-1, (SBL# 152.13-3-23.3).** Applicant is proposing a 44-foot by 80-foot warehouse/shop building to be used for storage for this proposed topsoil business.

**APPEARANCE:** Mr. Nicholas DeMarco, Attorney  
Mr. Alan Huegel, Applicant/Property Owner

Mr. DeMarco discussed the history this case, noting the prior attorney had passed away. He noted the complicated nature, making note of violations filed by the Building Inspector, and various court appearances. He feels that his client should be allowed to proceed having electricity connected and rebuilding a warehouse that had burned down, stating that they had submitted a comprehensive Site Plan package. He feels the Site Plan submission requested was outside the scope of their request to rebuild the warehouse and have the electricity turned on.

Mr. Fabinsky stated that the Applicant should speak with the Board's attorney or the Town prosecutor for clarification.

Mr. Heppner stated that the Planning Board's attorney could not be at this meeting, and for that reason, he suggested Adjourning the review.

Dr. Bennett made a **MOTION**, seconded by Mr. Mellerski as follows, to **ADJOURN** the application of Buffalo Topsoil for the construction of a warehouse/shop building (SBL# 152.13-3-23.3)

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
BAICH	AYE
BENNETT	AYE
KACZOR	AYE
HEPPNER	AYE
LONG	AYE
MELLERSKI	AYE

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

**CONCEPT REVIEW:**

1. **P.B. File #39-24, V/L Taylor Road, northwest of New Taylor Road – Zoned R-D. (SBL#161.19-2-1).** Updated Proposal for a flex warehouse. Came before the Planning Board for a Concept Review in November 2024.

**APPEARANCE:** Mr. Sean Hopkins, Attorney  
Mr. Elliot Lasky, Pleasant Acres West LLC

Chairman Fabinsky stated that this project has been updated with the structures rotated 90<sup>0</sup>. He noted the proximity of a scenic byway, which may add additional requirements under SEQR.

The Chair and Mr. Hopkins discussed the classification of this item related to SEQR. The Chair feels that it may be a Type 1 SEQR action due to proximity to a scenic byway and Town land, while Mr. Hopkins feels it should not be classified that way.

Mr. Lasky feels that it is in keeping with the neighborhood, and that it is a permitted use in this Zone.

Mr. Hopkins noted that this parcel was rezoned by the Town Board.

Dr. Bennett inquired about other potential uses. The Applicant stated that there was no demand for an office building at this location. The limitations of the Site were discussed, including the size and limited access.

The Applicant was directed to submit plans in order to start SEQR review noting that there were complicating factors, and the Board would be reviewing carefully.

There being no further business, the Chairman adjourned the meeting at 9:02 P.M.

DATED: 5/19/25  
REVIEWED: 6/5/2025

Respectfully submitted,  
Rose Messina  
Planning Secretary

Harold Fabinsky, Planning Board Chairman