

PLANNING BOARD APRIL 11, 2024, MEETING MINUTES

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

EXCUSED: David Kaczor
David Mellerski, Alternate

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, Planning Board 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.

Upon a motion duly made and seconded, the reading of the February 2024 Planning Board Meeting minutes was unanimously waived as each Board Member had previously received a copy.

Mr. Long made a **MOTION**, seconded by Dr. Bennett, to **APPROVE** the February 8, 2024 meeting minutes as presented.

THE VOTE ON THE MOTION BEING:

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

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

The minutes of the March 2024 meeting are not available and will be voted on at a later date.

The Chair announced that the Petitioner in Regular Business #1, will be heard first. The Public Hearing will take place at 7:15 P.M.

PUBLIC HEARING @ 7:15 P.M.

1. **7:15 PUBLIC HEARING, P.B. File #04-2018, Scherff Road, "Brink", One-Lot Subdivision, 6700 Scherff Road located on the west side of Scherff Road, V/L, 11.0 +/- Acres Zoned A-1.** Petitioner is

seeking Planning Board approval for Preliminary Plat Plan Approval. Pre Application findings were made by Board on 7/11/2019. (SBL#198.006-16.131)

APPEARANCE: Mr. Brink, Petitioner
Mr. Chris Wood, Carmina – Wood Designs

The Chair explained the procedure for the Public Hearing.

Mr. Wood presented the project to the members. He stated that Mr. Brink currently lives on the home located here. He plans to divide his property for a home for his relative. The proposed lots meet all Code requirements.

IN FAVOR:

Michael Brink
6700 Scherff Road
Orchard Park, NY 14127

Mr. Brink explained that their daughter would like to buy their current home, and they would like to develop a new home nearer the road.

AGAINST:

No one.

A **MOTION** was made, and by Unanimous Approval, the Public hearing was **CLOSED**.

BOARD DISCUSSION

Mr. Ostrander stated for the record that Engineering is not opposed to Preliminary Plat Plan Approval.

Mr. Wood stated that they have a letter from the Department of Health stating it is possible to place a septic system at this site.

Mr. Long made a **MOTION**, seconded by Mr. Heppner, to **GRANT** Preliminary Plan Approval to this 11.0 +/- acres V/L, 1-lot Subdivision, Zoned A-1, based on the submitted Preliminary Plat Plan and survey received 4/03/2024 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 4/11/2024.
3. Pre-Application Findings were made on 7/11/2019.
4. Public Hearing and Subdivision Development fees have been paid prior to Final Plat Plan Approval.

- 5. Recreation fees in accordance with Section 144-70E of the Town Code have been paid.
- 6. 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.
- 7. Town Engineering Preliminary Plat Plan Approval has been granted on 4/3/24.

THE VOTE ON THE MOTION BEING

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

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

Mr. Heppner made a **MOTION**, seconded by Mr. Baich to **WAIVE** the Final Plan Public Hearing.

THE VOTE ON THE MOTION BEING:

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

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

Mr. Heppner made a **MOTION**, seconded by Mr. Baich, to **GRANT** Final Plat Plan Approval to this 11.0 +/- acres V/L, 1-lot Subdivision, Zoned A-1, based on the submitted Plans received 1/23/2024 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 was made on 4/11/2024.
- 3. Pre-Application Findings were made by the Planning Board on 7/11/2019.
- 4. Preliminary Plat Plan Approval was granted on 4/11/2024.
- 5. Public Hearing and Subdivision Development fees have been paid.
- 6. Recreation fees in accordance with Section 144-70E of the Town Code have been paid.
- 7. 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.

8. This Approval is conditioned upon Town Engineering Final Plat Plan Approval.
9. All necessary Approvals from Erie County shall be in place before a Permit is issued.

THE VOTE ON THE MOTION BEING:

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

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

REGULAR BUSINESS:

1. P.B File #05-2024, Kettles, 3719 Abbott Road, located on the east side of Abbott Road, north of Route 20, Zoned B-2. Applicant is requesting a three-year renewal for an Outside Display Permit for a weekly "Car Kruiise" show on Monday's in their parking lot, Zoned B-2. (SBL#161.09-1-4.11)

APPEARANCE: Joel Janish – Owner

Ms. Janish explained that she plans to run a car show from June through August on Monday nights from 5:30 to 9:30. They have held this event for 16 years and are requesting a three year approval.

Mr. Baich stated he has attended this event and feels that it is well run.

Mr. Heppner and the Chair were in agreement.

Mr. Heppner made a **MOTION**, seconded by Mr. Baich, to **GRANT** Outside Display, for a Monday 5:30 P.M. to 8:30 P.M., weekly Classic Car meet, June through August, 2024, in the parking lot of Kettles Corner, 3719 Abbott Road, based on the location plan received 2/2/2024 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. Security and sanitation facilities shall be provided by the Petitioner.
6. Granted for three years 2024, 2025 and 2026, based on the Town of Orchard Park Police Chiefs' approval for the second year and third, 2025 and 2026.

THE VOTE ON THE MOTION BEING:

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

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

2. P.B. File #15-2024, 3740, Wayland Brewing Company, located at the Northwest corner of North Buffalo and Webster Roads, Zoned B-3. Petitioner is requesting an Outside Display Permit for live music on Thursday early evenings, and Sunday afternoons, and for other occasions, such as Festivals or Special Events. The music will not be amplified. (SBL#161.08-3-34.1)

APPEARANCE: Ryan Cam – Attorney
Caryn Dujanovich - Owner

The Petitioner explained that, previously Wayland Brewery had hosted some live bands in their courtyard, which had led to complaints from neighbors. At this point they would like to find a resolution whereby they can address the complaints but still allow live performances in their courtyard, which they feel is vital to their business.

The Petitioner proposed allowing acoustic music with a guitar and a microphone. They would allow music not past 9:30pm on Thursday, and not past 8:00pm on Sunday and as well as during special events.

The Chair commented on the complaints from the neighbors. He asked Building Inspector, Tom Minor to comment on any zoning issues.

Mr. Minor stated that acoustic music is clearly permitted, however amplification, is not allowed.

The Petitioner stated that some of the acts they had last year did not fit the “family dynamic” and they are looking to limit the performers moving forward with the Board’s input.

Deputy Town Attorney, John Bailey suggested the Board adjourn this item until more information can be provided. The Petitioner inquired what the Board would be looking for.

Dr. Bennett inquired if a microphone was essential, or if performers could perform without a microphone. The Petitioner stated that they require a microphone.

The Chair inquired if the Petitioner would be comfortable working with the Building Inspector if a resolution could be found.

The Petitioner noted that they have been proactive trying to reach a resolution and that summer, when the courtyard would be utilized was quickly approaching, however they are willing to do whatever is necessary.

Mr. Cam noted that the courtyard was nearly fully enclosed, and therefore the Town Code is unclear, in his opinion. The Petitioner noted that if this item was postponed for another month, they will lose business.

Mr. Bailey feels this item should be adjourned until next month. The Chair was in agreement to adjourn at this time but noted the petitioner’s request for an expeditious decision in order to finalize their seasonal business plan.

Mr. Heppner inquired if the Petitioner had events scheduled for the end of the month. The Petitioner answered affirmatively.

Mr. Bailey again stated that he feels this item should be adjourned.

Dr. Bennett made a **MOTION**, seconded by Mr. Heppner to adjourn the review of this item.

THE VOTE ON THE MOTION BEING:

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

THE VOTE ON THE MOTION THREE (3) IN FAVOR and THREE (3) OBSTAINED, THE MOTION IS PASSED.

- 3. P.B. File #8-2024, 3847 Southwestern Boulevard, located on the south east corner of Southwestern Boulevard and Abbott Road, Zoned B-2. Bills’ Babes, is requesting a two-year renewal for an Outdoor Display Permit for an Art/Craft Show in the Prohibition Restaurant parking lot. (SBL# 161.00-5-18)

APPEARANCE: No one.

As there was no petitioner present, Mr. Heppner made a **MOTION**, seconded by Mr. Baich to table the review of this item.

THE VOTE ON THE MOTION BEING:

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

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

- 4. P.B. File #10-2024 Bend Creek Subdivision, V/L proposed single family Subdivision, located on the north side of Milestrip Road, Zoned B-2 and R-3. Petitioner is requesting to rezone B-2 portion of property to R-3 Residential. (SBL#153.17-1-1.1)

APPEARANCE: Chris Andrewjeski – Developer

Mr. Andrewjeski explained that this land is currently zoned under two different zoning designations. They are requesting the entirety of the property be zoned R-3 so that it can be developed.

The Acting Planning Coordinator, Mr. Remy Orffeo noted that the Metes and Bounds will be necessary to set a Public Hearing.

Mr. Baich made a **MOTION**, seconded by Mr. Heppner to recommend the Town Board **APPROVE** the request to rezone 5.5 +/- Acres V/L from B-2 to R-3 Residential, to develop a 9 - Lot Single Family Subdivision, 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 a 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 Planning Board recommends the Town Board set a Public Hearing date for this rezoning.

THE VOTE ON THE MOTION BEING:

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

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

- 5. P.B. File #11-2024, Tops Plaza, 3201 Southwestern Boulevard, “Bobs’ Furniture”, located in former Stein Mart store at Tops Plaza, Zoned B-2. Planning Board to review proposed signage. (SB#152.16-7-1.11)

APPEARANCE: No one.

As there was no petitioner present, Mr. Baich made a **MOTION**, seconded by Mr. Fabinsky to **TABLE** the review of this item.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
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BENNETT	AYE
HEPPNER	AYE
LONG	AYE
MURRAY	AYE

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

CONCEPT REVIEW – (No action will be taken)

1. P.B. File #9-2024, 7 Cobham, located in the Quaker Industrial Park, Zoned I-1. Applicant is requesting to erect a 30-ft. x 40-ft. Pole Barn.

APPEARANCE: Thomas Bieniek – Curbell representative

The Petitioner explained the project. They would like to construct a heated pole barn partially on what is currently the parking lot, and partially on what is currently greenspace.

The Chair inquired if the required amount of greenspace would be maintained. The Petitioner answered affirmatively.

The Petitioner presented a map showing the barn’s planned location.

Dr. Bennett established that the barn would be 30 feet by 40 feet. The Applicant could not recall the exact size of the lot, however they believe it to be over 5 acres.

Mr. Heppner inquired about the number of parking spots. The Petitioners noted that they will be removing a shed to regain the parking spots.

Mr. Orffeo inquired about the nearest residential neighbor. The Petitioner stated they are not near any residences.

The Board would like an aerial photo noting the location of the barn.

There being no further business, the Chairman adjourned the meeting at 7:52 P.M.

DATED: 5/30/24
REVIEWED: 6/4/24

Respectfully submitted,
Anna Worang-Zizzi,
Recording Secretary

Harold Fabinsky, Planning Board Chairman