

PLANNING BOARD APRIL 9, 2026 MEETING MINUTES

MEMBERS PRESENT:

Harold Fabinsky, Chairman
Henry Heppner
David Kaczor
Alex Long
Richard Schechter

EXCUSED:

Nicholas Baich
John Deluca
David Mellerski, Alternate

OTHERS PRESENT:

Gregory Bennett, Liaison to Town Board
Thomas Minor, Supervising Code Enforcement Officer
Tom Ostrander, Assistant Municipal Engineer
Maura Seibold, Deputy Attorney
Anna Worang-Zizzi, Director of Community Development
Kristin B. Mahoney, Recording Secretary

The Acting Chairman announced exit procedures in the event of a fire alarm and called the Planning Board meeting to order at 7:02 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.

REGULAR BUSINESS:

1. **P.B. File #07-26, 3740 North Buffalo Street, Wayland Brewing Company, located at the Northwest corner of North Buffalo Street and Webster Road, Zoned B-3.** Petitioner is requesting an Outside Display Permit for live acoustic music between the dates of April 15, 2026 and November 15, 2026, no earlier than 12:00 p.m. and no later than 9:30 p.m. Sundays through Thursdays and no later than 10:30 p.m. on Saturdays. The music will be acoustic in nature, and the only amplification of any noise will be a microphone for vocalists and acoustic guitars. (SBL#161.08-3-34.1)

APPEARANCE: *Richard Bala, Controller, Wayland Brewing*

The Applicant is seeking to offer acoustic music Sundays and Thursdays in their courtyard.

The Chair established with Mr. Minor that there were no complaints last year.

Mr. Heppner stated that there was a concern that on the west side of the property that there was supposed to be a fence.

Mr. Bala stated that they obtained the Fence Building Permit three (3) months ago and have contracted with Picket Fence of Amherst, New York to build the fence.

There was a discussion about timing of providing the fence contract to the Building Department and installing the fence.

Mr. Bala did not feel that this would be a problem, and that he would speak to his superiors and provide those dates to the Building Department.

Mr. Heppner made a **MOTION**, seconded by Mr. Kaczor, to **GRANT** an **Outside Display Permit** for live outdoor acoustic music at 3740 North Buffalo Road, and the following conditions and stipulations are to apply:

1. This is a Type II SEQR action and therefore no SEQR determination is required.
2. There will be no additional outside lighting for the events.
3. There will be no banners or additional signage for this facility.
4. Security and sanitation facilities shall be provided by the Petitioner.

5. Granted for the period from April 15, 2026 through November 15, 2026, based on the following:
 - a. Such outdoor music would only be played no earlier than 12:00 p.m. and no later than 9:30 p.m. on Sundays and Thursdays, and no later than 10:30 p.m. on Saturdays.
 - b. Such outdoor music will only be acoustic in nature.
 - c. The only amplification of any noise would be a microphone for vocalists and acoustic guitars.
 - d. The volume of any such music would always be maintained at levels so as not to cause any unreasonable nuisance for the community or neighbors.
6. If any issues or complaints arise, the Building Inspector is to submit a report to the Planning Board.
7. The Petitioner will provide the Building Department with a contract between the Applicant and a licensed fencing installer within 45 days of today, including an anticipated installation date.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
SCHECHTER	AYE

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

2. **P.B. File #13-25, 2868 Southwestern Boulevard, located on the north side of Southwestern Blvd. west of Angle Road, Zoned B-2/R-3.** Applicant is requesting to construct a 7,500 square foot Pole Barn for his business, Miris Building Supplies. (SBL# 153.06-1-25)

APPEARANCE: *Lucas Metzger, Applicant Representative*

Mr. Metzger stated that the requested pole barn will be 7250 square feet, it will be used for cold storage, and it will have electrical. He also stated that the back part of the property is zoned R-3.

Mr. Heppner inquired if there were any plans to develop the R-3 portion into the business.

Mr. Minor answered that the portion of the property is landlocked and the Applicant cannot build more onto the parcel.

Mr. Kaczor inquired if the Applicant could do storage there.

Mr. Minor stated that the Applicant is allowed a certain amount of encroachment into the R-3 zone and that they have reached it already.

Mr. Kaczor established that there were no neighbors in close proximity to the back of the property.

Mr. Kaczor made a **MOTION**, seconded by Mr. Long, recommending that the Town Board **approve** the presented Site Plan and **authorize** a Building Permit, to construct a Pole Barn per the plan received on February 26, 2026, based on the following conditions and stipulations:

1. A referral to the Erie County Division of Planning was made in compliance with NYS General Municipal law §239 l-nn on November 5, 2025, with comments received on November 20, 2025. No recommendation was made.
2. This is an UNLISTED SEQR Action, based on the Short EAF submitted on September 26, 2025, and a Negative Declaration is made.
3. No additional outside lighting is proposed, and should lighting be considered in the future, the Applicant is directed to return to the Planning Board.
4. No outside storage or display is permitted.
5. Any future dumpsters shall be screened, in accordance with Section 144-25 of the Town Code.
6. The applicant is to provide the Town of Orchard Park Assessor with an "independent" appraisal for the completed project by a Certified Commercial Appraiser.

7. Engineering Approval was granted on April 9, 2026.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
SCHECHTER	AYE

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

3. **P.B. File #11-26, 3201-3227 Southwestern Boulevard, located in the Tops Plaza (Crossroads Centre) parking lot, Zoned B-2.** TNT Fireworks is seeking permission for an "Outside Display" for a tent sale to operate from June 20, 2026 through July 5, 2026, to sell fireworks. (SBL # 152.16-7-1.11)

APPEARANCE: *Frank Dreucci, Applicant*

The Applicant stated that the operation will be the same as it was last year. Operators will be onsite during working hours and the merchandise will be locked up during non-working hours.

Mr. Minor confirmed that there have been no complaints with the Applicant in the past.

Mr. Heppner confirmed that the merchandise to be sold consists exclusively of ground-based sparkling devices.

Mr. Long made a **MOTION**, seconded by Mr. Heppner, to **GRANT** an Outside Display Permit for "TNT FIREWORKS" to sell fireworks in the Tops Plaza (Crossroads Centre), per the location plan received March 27, 2026, and the following conditions and stipulations are to apply:

1. This is a Type II SEQR Action and, therefore, no SEQR determination is required.
2. There will be no additional outside lighting for the display or temporary structure.
3. There will be no banners or additional signage for this facility. Signage at the tent is permitted as approved by the Building Inspector.
4. Sales are to take place in a tent.
5. The hours of operation are 9:00 AM to 9:00 PM daily, from June 20th through July 5th.
6. If any issues or complaints arise, the Building Inspector is to submit a report to the Planning Board detailing the complaint.
7. Planning Fees shall be paid prior to a permit being granted.
8. All product will be locked in a secure storage facility during non-operating hours.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
LONG	AYE
SCHECHTER	AYE

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

4. **P.B. File #09-26, 3205 Orchard Park Road, Delta Sonic Carwash Systems Inc., Zoned B-2.**

Applicant is seeking approval for a 10 foot high fence, located in the interior of the site, separating the Car Wash tunnel and the Detail Shop tunnel. Will also require ZBA Approval for a 10 foot fence.

APPEARANCE: *Matthew Oates, Director, Engineering, Benderson Development*
Milton Quandt, Delta Sonic

Mr. Long is recusing himself from this matter.

Mr. Oates explained that Delta Sonic used to have an 8 foot fence in this area. They feel they need a 10 foot fence due to overspray, which creates an operational hazard for their employees and potential water spots on customer vehicles.

Mr. Heppner confirmed that the new fence is not longer than the prior fence.

Mr. Kaczor established that there will be a gate in the fence for emergency egress, and confirmed that they did not realize that they needed a variance for their new fence.

Mr. Oates stated that they will have "Trex-style" decking on both sides of the fence, once they are allowed to resume building it.

The Applicant agreed to acquire some live and/or artificial plantings on the side facing Southwestern Boulevard to increase curb appeal.

Mr. Schechter made a **MOTION**, seconded by the Chair, to **GRANT Approval** for a 10 foot high fence, located in the interior of the site, separating the Car Wash tunnel from the Detail Shop tunnel, based on the survey dated March 25, 2026.

1. This is a Type II SEQR Action and, therefore, no SEQR determination is required.
2. This is contingent on the ZBA granting approval.
3. If any issues or complaints arise, the Building Inspector is to submit a report to the Planning Board detailing the complaint.
4. Petitioner will do its best to add planting on the Detail tunnel side.

THE VOTE ON THE MOTION BEING:

FABINSKY	AYE
HEPPNER	AYE
KACZOR	AYE
SCHECHTER	AYE

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

CONCEPT REVIEW: No Action Will Be Taken

1. **Proposed Development of "Old Saville's Property"**. Ellicott Development is proposing the development of the area to the rear of Buffalo Medical Group, between Holland Lane and Webster Road. This project will require rezoning a portion to R-1 with a Conservation Management Overlay and rezoning another portion to the future "Gateway Mixed Use" zoning designation. Applicant is proposing a mix of patio homes, town homes, apartments, mixed use and commercial buildings. Applicant is seeking informal Planning Board feedback on Concept Drawings.

APPEARANCE: *Tom Fox, Ellicott Development*
 Sean Hopkins, Attorney for Applicant
 Chris Wood, Engineer for Applicant

The Applicant provided a handout regarding the project. The following points were discussed:

- There are two (2) basic parts to the project: CMO and Mixed-Use
- The sense of the Town at this point is to balance the mix of commercial and residential development to the most strategic extent possible.
- Today's presentation by Ellicott Development is based upon if the current DEC regulation is NOT successfully challenged.
- The Applicant seeks to remove as few trees as possible from the property.
- The Applicant seeks to have the roads and trails maintained by the Town.
- Trails in the development will link to existing trails.
- There will be a total of 337 housing units, restaurants, regional businesses, and medical offices.
- A Traffic Impact Study will be forthcoming.

- The Applicant is seeking to make the project fiscally positive for the Town, and it will provide additional information on this to the Town.
- The Board has concerns over Webster Road's ability to handle the additional traffic. The Applicant will address this with the County.
- Broom Road and Mid-County Drive are Town roads.
- The latest version of the still-in-development GMU zone looks like it will not allow stand-alone apartments.
- The Board has concerns about density, lack of "community areas," and snow removal.
- The Board hopes that the developers think about businesses complementary to those existing in the Village of OP, which is within walking distance to the proposed development.
- There is an issue of whether the Planning Board or Town Board will be the Lead Agency.

There being no further business, the Acting Chairman adjourned the meeting at 8:14 pm.

DATED: 04/16/2026
REVIEWED: 09/23/2026
APPROVED: 10/08/2026

Respectfully submitted,
Kristin B. Mahoney, Recording Secretary

Harold Fabinsky, Planning Board Chairman