

Chairman Larry Ruth called the meeting to order at 7:33 P.M. Members present were Gene Bavis, Larry Ruth, Deb Amsler and Pete Schillaci. Elaine Leasure was absent. Also present was Phil Williamson, Norm Druschel, Brendan Bystrak and Patti Marini.

Pete Schillaci made a motion, seconded by Gene Bavis, to dispense with the formal reading of the legal notice. Motion carried.

Gene Bavis made a motion, seconded by Deb Amsler, to approve the minutes of December 11, 2007 meeting as presented.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

- 1. Concept discussion of possible 1-lot subdivision for property located at 1504 Plank Road, at the corner of Lewis Road, owned by William Calder. Property is zoned: RR-2**

There was no one present to represent the application.

- 2. Letter to withdraw application of Daniel & Erma Keyes to subdivide property located at 4712 Ontario Center Road. Property is zoned: RR-2.**

The Board was in receipt of a letter from Daniel and Erma Keyes, addressed to Phil Williamson, dated December 28, 2006 that stated:

“We have decided to include the lot 300’ x 300’, on the west side of Route 350, on the south line, to have an easement for Farm Preservation to the State and Federal Government. Therefore, we no longer wish to have that lot subdivided...”

Gene Bavis questioned whether the Planning Board could take action without another public hearing? Phil Williamson explained that the map had not been filed with the County, therefore the land was never officially subdivided. No further Planning Board action is required.

- 3. Application for modification of the Orchard View Subdivision Cluster Development as approved by the Town of Walworth Planning Board in April of 2002 pursuant to Chapter 180-18 Cluster Development of the Town of Walworth Municipal Code and Section 278 of the Town Law, of the State of New York. The proposed modifications are itemized below and outline the code requirements, reduced threshold for cluster development and requested modifications associated with this application:**

**Orchard View Subdivision modifications**

- Increase the number of Lots from the previously approved 124 to 142 (18 additional. Town code permits a maximum of 164 (2 per acre).
- Modification of Front Setback from the previously approved 40 feet, requesting 25 feet. Town code requires 60 feet.
- Modification of Front Corner from the previously approved 40 feet, requesting 20 feet. Town code requires 60 feet.
- Modification to lot area from the previously approved 15,300 ft<sup>2</sup>, requesting 6,600 ft<sup>2</sup> minimum. Town code requires 21,780 ft<sup>2</sup>.
- Modification to lot width from the previously approved 85 feet, requesting 60 feet. Town Code requires 100 feet.
- Modification to Access (Right-of-Ways) requesting 40 feet. Town Code requires 60 feet as private roads within Homeowner’s Association.

**These modifications apply to the original limited portions of phase 2b and phases 3 and 4 of the approved cluster development. In addition to the above modifications the applicant is requesting preliminary and final site plan subdivision approval for phase 3A consisting of 13 lots off Orchard Street.**

Larry Heining, of HBMA Architecture, Engineering and Land Surveying was present along with Anthony Evans and Paul Dimmick of Orchard View Development and Dawn VanPatten, Sales Agent from Nothnagle.

Larry Heining presented a drawing showing the layout of the Cluster Development. Mr. Heining stated that the next phase under construction (phase 3A) will consist of 13 lots off Orchard Street targeting the active adult community. "Empty nesters" seeking to downsize once their children have left home, are requesting single-floor living on smaller lots requiring less yard maintenance. They want to stay in the Walworth community, but are unable to find the type of housing they desire. The Developer is answering a need, which until now has not been addressed. A Home Owners Association will oversee maintenance of the park and the two private roads.

Larry Heining indicated that one important benefit to the Town is that the \$180,000 – 200,000 homes proposed for the active adult section, will generate approximately 8 million in taxable assessed value, yet have little impact on the school system as it will be a age restricted community for those 55 and older.

Larry Heining explained that modifications to the cluster concept, originally approved in April of 2002, would increase the number of lots from 142 from 124 situated on 82 acres. It was further explained that the modifications from the front setback (40 ft. to 25 ft.) is the same setback as Parkview Green which has proven to be very successful with the homes 110 feet front door to front door. Narrower roadways will reduce traffic speed.

To minimize the impact of traffic on Orchard Street a temporary road has been built for construction vehicles.

Larry Heining stated that Brendan Bystrak had reviewed the modifications and made a several technical comments of a minor nature. Mr. Heining provided a letter outlining his evaluation of the water distribution system for fire flow conditions along Orchard Street. The computation indicated that adequate pressures and volumes were available to support the approval of Phase 3A.

Larry Ruth read a letter from the Town Board, dated January 5, 2007 that stated:

Please be advised that the regularly scheduled Town Board Meeting of January 4, 2007, a Public Hearing for Orchard View Subdivision Modification was held. After the Public Hearing, Council members approved the subdivision modification to the cluster plan and rendered it back to the Planning Board for a final hearing. Councilman Yale, encouraged all interested parties to attend the Planning Board Meeting on Monday, January 8.

Chairman Ruth invited those present to come forward.

#### **Dolores Hart – 3890 Orchard Street**

Dolores Hart stated that it was her opinion that some of the homes are "too small" to fit the character of the neighborhood.

Ms. Hart also questioned if someone were to purchase a home and sell it at a future date would the 55 or older requirement still apply? Chairman Ruth responded, "yes". She further questioned if the developer was unable to find enough buyers in that age group, would the developer be allowed to market the homes to a younger population with children? Chairman Ruth stated that any changes would need to come before the Planning Board for another modification.

Ms. Hart stated that the 25-foot buffer zone between her homes and subdivision is inadequate. She commented that her house is situated on the top of the hill, and would look down on the rooftops of the new homes and she would like to be separated by "more than a bunch of weeds". She questioned if the developer intends to plant any trees? Tony Evan responded, "the buffer zone will eventually be dedicated to the Town and it will not be my land, but you can plant trees on your land if you want to". Phil Williamson commented that it is not a unique situation where lots back up to other lots. Discussion ensued about the possibility of setting up a conservation easement on lots 301, 302 and 303 in the subdivision that would allow the homeowner of the new homes the right to plant trees in the buffer zone. Ms. Hart responded that she still felt that the Developer should plant the trees.

#### **Sherry Williams – 3900 Orchard Street**

Sherry Williams stated that she her home is at the top of the hill and she is greatly impacted by the project. For 18 years her family has enjoyed a beautiful spot, but now has a road on one side of her property and an impending house backing up to her backyard. With the excavation and the removal of trees she stated she could now see traffic and lights clear to Walworth-Ontario Road. Ms. Williams expressed concern that with the declining real estate market, the subdivision will remain sparsely built with unfinished areas. Ms. Williams stated that "the beauty and view is gone forever" and she did not feel it was too much to ask that the developer plant a few nice quality evergreen trees that would buffer the Orchard Street homes from the new homes being built.

**Jim French – 3860 Orchard Street**

Jim French stated that he has a concern that if there is a failure to set up a Homeowner's Association who will maintain the roads? Tony Evans responded that until the Homeowner Association is set up, the Developer would be responsible. He added that as soon as he has approval, the paperwork would be sent to the State of New York to begin the process. Pete Schillaci stated that it was his understanding that 50% of the homes had to be sold before the Homeowner's Association would be put into place. Tony Evans responded that this was true.

In what time frame do you feel that you will sell 50% of the houses? Tony Evans replied "two or three years". Jim French responded, "that is quite optimistic, in my opinion. Patio homes are doing very well in other parts of Rochester, but this is Walworth, not Penfield". Tony Evans responded that he thought he was selling Walworth short, as there are many people interested in living here. "Penfield is filling up and Walworth is next".

Jim French stated that the Developer was moving forward with Phase 3 when Phase 2 has only sold a few homes and questioned if the Town shared this concern? Phil Williamson clarified that approval is needed for each phase, but there is no contingency stating that one phase has to be completed before beginning the next.

**Ken Morrison – 1720 Maple Avenue, Palmyra**

Mr. Morrison stated that he is doing the excavation work for Orchard View Development.

He spoke from his own personal experience as the owner of ten acres in Palmyra that back up to the former airport. The airport is now the site of low-income government subsidized housing. He stated that he has taken the initiative to plant a row of trees on his property at his own expense and did not feel that the developer should be responsible for planting trees.

Mr. Morrison further stated that he is being selective about what trees are being removed during the excavation and is saving as many trees as possible.

**Michael Cook – 3837 Orchard Street**

Mr. Cook expressed concern in regard to the silt barriers and the catch basins that are not properly maintained. Mr. Cook stated that Johnny Lane to Orchard Street and onto Route 441 is "a disgusting disgrace". Mr. Cook has given the Town a computer disc of pictures that he has taken that clearly show where the storm basins are full of mud and stone on top of the road surface.

Tony Evans responded that Costich Engineering does a site survey every time it rains more than 1" and a log is kept and a report is forwarded to the DEC. Larry Heininger added the Storm Water Prevention Plan is required for all residential property where more than 5 acres of land is disturbed. Both Chairman Ruth and Tony Evan encouraged anyone who notice a problem with runoff or drainage to let the Developer know so the situation can be addressed.

Mr. Cook expressed concern about water pressure and the impact on sewers. Larry Heininger stated that most homes in the active adult section will have only two people, instead of four which will translate into less gallons per day water usage.

Mr. Cook pointed out that seniors today are more active than ever, often traveling back and forth several times a day, so he did not feel that traffic volume would be any less. The narrow streets are a concern and he questioned where guests would park if there were holiday parties and large family picnics? He stated that most people today have two cars; therefore, each home should ideally have a two-car garage. Larry Heininger stated that the roads are designed according to American Planning Association Standards and there is adequate pavement for cars to easily pass a parked vehicle. Chairman Ruth stated that the fire department had reviewed the plans and offered their comments.

Mr. Cook stated that the 25-foot buffer zone is full of tractor tracks that would make it very difficult for anyone to walk through the area without breaking an ankle. Mr. Evan responded that he would clean up the debris and rubbish that neighbors have thrown in the buffer zone through the years.

**Ray Freeman – 3932 Orchard Street**

Ray Freeman commented that the size of the lots had been "downgraded" from the original plan and he questioned, "What is the next step – would there be a mobile home park allowed for example?"

Chairman Ruth stated that he has misinterpreted what a cluster is. A cluster is a legal way to develop land that has specific requirements. It is not a matter of the Planning Board carelessly deciding to change building codes. Gene Bavis added, "Downgrading is an improper term, in my opinion". Phil Williamson read from the Town Code, the definition and reason behind the cluster concept. Phil Williamson further stated that the cluster concept has been in place for many years and there is no "downgrading" involved and the plan is exactly like the cluster development is intended.

Chairman Ruth stated the Orchard Street residents have enjoyed for many years "flora and fauna" in their backyard, but the reality is that development is inevitable and the owner of the land has a right to develop his own land. He encouraged everyone to work together for the benefit of the community.

**Frank Guelli – 4459 Ontario Center Road**

Frank Guelli spoke in support of Anthony Evans. Mr. Guelli stated that as a resident of the Town for 37 years and the former Town Supervisor for three terms, he has worked with many Developers. Mr. Gueilli described Mr. Evans, as "cooperative, dependable and a man of integrity who has always followed through with his promises".

Secondly, he expressed that this type of active adult community is needed in the Town. Two of his friends, seeking to downsize, had recently moved to Ontario because they were unable to find the type of housing they wanted in Walworth. He urged the Board to allow Tony Evans to fill this void in the community.

Gene Bavis made a move to close the public hearing, seconded by Pete Schillaci.

Motion carried.

The Board has determined the SEQR is in order.

Gene Bavis made the following motion, seconded by Deb Amsler that the action be classified as an unlisted action.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Peter Schillaci	Aye

Motion carried.

After reviewing the Full (Short) Environmental Assessment Form submitted by the applicant, all the criteria to determine whether or not there is a significant impact on the environment as set forth in 6NYCRR part 617.7c, the comments from the public, and after an in depth evaluation has been made by the Board of all potential environmental impacts and, more particularly, finding that there is no substantial adverse change in existing air quality, ground or surface water, quality or quantity, traffic or noise; no substantial increase in solid waste production; no substantial increase in potential for erosion, flooding, leaking or drainage problems; that there are no significant adverse impacts on municipal facilities/services; that there is no material conflict with the community's current plans or goals as officially approved or adopted; that there is no change in the use or intensity of use of land including agricultural, open space or recreational resources or in its capacity to support existing uses; that the granting of applicant's application will not encourage or attract a large number of people to a place or places for more than a few days, compared to the number of people who would come to such place absent the action; and the project will not impair historical or archeological resources or wildlife or natural resources, I MOVE in regard to the pending application that the action is one that will not have significant adverse impact on the environment and that a Negative Declaration be declared.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Peter Schillaci	Aye

Motion carried.

Gene Bavis made a motion, seconded by Pete Schillaci to approve the following modifications to the original limited portions of phase 2b and phases 3 and 4 of the cluster development, previously approved in April 2002.

Orchard View Subdivision modifications

- Increase the number of Lots from the previously approved 124 to 142 (18 additional. Town code permits a maximum of 164 (2 per acre).
- Modification of Front Setback from the previously approved 40 feet, requesting 25 feet. Town code requires 60 feet.
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- Modification to Access (Right-of-Ways) requesting 40 feet. Town Code requires 60 feet as private roads within Homeowner's Association.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Pete Schillaci made a motion, seconded by Gene Bavis that preliminary and final subdivision plan approval for phase 3A consisting of 13 lots off Orchard Street be granted with the following condition:

- Any and all outstanding engineering issues shall be addressed to the satisfaction of the Town Engineer (Parrone Engineering).

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

Gene Bavis made the following motion, seconded by Pete Schillaci.

In order to impose a parks and recreation fee, the Planning Board must evaluate the present and anticipated future needs for park and recreation facilities in the Town of Walworth based upon projected population growth to which the particular subdivision will contribute. The population in the Town of Walworth is growing at a fast rate, that over the last several years, the Town has issued numerous building permits per year for new homes, that the master plan of the Town indicates that there is a major demand for new parks, playgrounds, baseball fields, soccer fields and other recreational facilities and that in the immediate neighborhood of the proposed subdivision there is a need for additional facilities. Based upon this need for new parks, playgrounds, baseball fields, soccer fields and other recreational facilities:

I MOVE that the Board find (2) that a proper case exists for requiring the Developer to show on the Plat a park or parks suitably located for playgrounds or other recreational purposes: and (2) that a suitable park or parks of adequate size cannot be properly located in any such plat or I otherwise not practicable. Therefore, a parks and recreation fee, in lieu of construction of park within said parcel and/or lot, shall be assessed on each lot in an amount established by the Town Board and same shall be paid prior to the issuance of a building permit and said requirement for the payment of parks and recreation fee shall be noted on the plat.

Roll Vote:	Gene Bavis	Aye
	Elaine Leasure	Absent
	Larry Ruth	Aye
	Deb Amsler	Aye
	Pete Schillaci	Aye

Motion carried.

**4. Application of Jim Bremer for discussion for Special Use Permit to erect a private, noncommercial antenna system for ham radio use licensed by the FCC. Property is located at 390 Hillside Circle. Property is zoned: R.**

The Board was in receipt of a letter from the legal firm of Hinman, Howard & Kattell, Binghamton, NY, dated January 2, 2006. Albert Millus, Jr., is the attorney who is representing Mr. Bremer in connection with his application for a special use permit to erect an amateur radio tower and antenna. On April 17, 2005, Mr. Bremer first came before the Board. At that time, Mr. Bremer was told that an engineering review by experts in the telecommunication field was needed. Mr. Millus attests in the letter that a costly engineering review of the application is unnecessary given the routine nature of this installation. Phil Williamson has spoken at length with Mr. Millus, and given the fact that Paul Russell is no longer Town Engineer, the letter and all related information will be forwarded onto Parrone Engineering for review and comments.

Gene Bavis questioned whether the Town Attorney had reviewed the application? Phil responded that Dick Morris, the previous Town Attorney, had originally reviewed the application. Chairman Ruth stated that Art Williams should also review it from a legal prospective before making a final recommendation.

Pete Schillaci questioned if there was a setback requirement? Phil Williamson responded that Town Code requires the setback to be a minimum of the height of the tower and this would be enforced. In the unlikely event of a structural failure, the tower would then fall on the owner property, not the neighbor's.

**5. Other – Home Occupation Complaint**

At the December 11, 2006 meeting Phil Williamson spoke to the Board about a Home Occupation complaint he had received on property located at 656 Jacobs Road, owned by Angelo Affronti. Since that meeting, Phil Williamson has contacted Mr. Affronti who has made steady progress in cleaning up the property. Mr. Affronti will continue to work to bring the property into compliance during the next several weeks and Phil Williamson will take pictures of the progress.

On January 8, Mr. Affronti and Mr. Williamson met with Art Williams, Town Attorney to discuss the situation. Mr. Affronti was asked to formulate a plan on how he will bring the property into compliance and come before the Planning Board at a future worksession for input.

Gene Bavis stated that it was his understanding that the home occupation has grown considerably and a modification of the Special Use Permit could be in order. Phil Williamson stated that this possibility had been discussed at the meeting with the Town Attorney.

Deb Amsler made a motion, seconded by Pete Schillaci to adjourn the meeting.

Chairman Ruth adjourned the meeting at 9:08 P.M.

Gail Rutkowski, Clerk