

**PLANNING BOARD
TOWN OF ROCHESTER
ULSTER COUNTY
ACCORD, NY
845-626-2434**

MEETING MINUTES OF March 11th, 2024, REGULAR MEETING OF Town of Rochester **PLANNING BOARD** held at **6:30PM** at the Harold Lipton Community Center and streamed live via YouTube.

Chair Grasso called the meeting to order at 6:30 PM and asked everyone to stand for the Pledge of Allegiance.

Secretary Wilhelm did roll call attendance.

PRESENT:

Chair Marc Grasso
Member Rick Jones
Member Zachary Jarvis
Member Cindy Graham
Member Ann Marie Maloney
Member Zorian Pinsky
Member Peter Nelson
Alternate Halina Duda

ABSENT:

ALSO PRESENT: Secretary Jazmyne Wilhelm, Dave Gordon Attorney for Planning Board, Dave Church Planner for Planning Board, Greg Bolner CPL

APPLICATION REVIEW:

Application # PB 2023-657 **Applicant/Owner:** Twin Track Promotions/ Accord Speedway
Type: SPA **Representative:** Gary Palmer **Zoning:** R5 **Property Location:** 299 Whitfield Rd
SBL: 69.1-1-5 **SEQRA:** Undecided **Status:** Continued Application / PUBLIC HEARING
DESCRIPTION: The applicant proposes to add 12 Commercial Events to their already approved Site Plan.

Rebecca Horner “I went for a walk on Cooper Street yesterday, where I live, and I took some pictures as I was walking along. I just distributed a few of those pictures. What words come to mind when you see images of Cooper Street? It's rural, it's country. The road is narrow in spots and wider in others. It's straight in some places, but it's pretty twisty and winding. We even have a 90 degree turn at the Whitfield-end of Cooper Street. There are no shoulders, the macadam tends to crumble along the edges, we get potholes in the Spring, and there are no white lines to guide you. The ditches are deep and muddy, especially along the mountain. I sometimes see tire tracks in the ditches, where someone's tires has stepped off the edge. When I'm driving, I often have to slow right down when facing oncoming traffic, so that I ride the edge of the road to let

someone go by. It can be challenging on a dark, rainy night! I love Cooper Street. BUT this is NOT a road that is constructed to handle a lot of traffic, nor is it built to handle large, heavy vehicles. The wear and tear on the road would be considerable if there were more traffic. I could take similar photos of ALL of the other small country roads in our neighborhood. Whitfield, Upper Whitfield, Airport, Bone Hollow, etc. On race day, there is an onslaught of additional traffic in our area. We do not want more traffic on our roads, which is what would happen if there were more events at the raceway. It's not good for us, and it's not good for the roads. We do not have the infrastructure to handle an increase in traffic. On another topic ... Through the Freedom of Information Act (FOIA), we were able to obtain the materials that Gary Palmer has provided to you so far in his application for special events. BUT, looking at the local laws 140.46, in particular: Application and Site Plan Required, it looks to me as if there are more pieces to this puzzle. According to local law 140.46, a site plan should ALSO include 140.46 B. Natural resource restrictions, floodplains, wetlands, and ecologically sensitive areas. 140.46 C. Land use including stormwater management, sewage disposal and water supply systems. 140.46 M. A completed State Environmental Quality Review Assessment form (commonly referred to as SEQR.) 140.46 N. Topology of the site using two-foot contour intervals, ... along with detailed grading systems and stormwater pollution prevention plans. 140.46 O. ... Proposed conveyance, storage, distribution, generation, use, treatment or disposal of any stormwater and sewage, including an estimate of daily flows. 140.46 Q. The stormwater pollution prevention plan (SWPPP) is required (detailed in local law 140.22.) 140.46 T. Wetlands, as mapped by the ...DEC in NY and/or the Army Corps of Engineers. Under section 140.47 Waivers, local law says that the planning board cannot waive the State Environmental Quality Review (SEQR) requirements. Under section 140.48 Hearing and Decision, it is stated that the planning board cannot "grant approval before a decision has been made with respect to environmental impacts pursuant to SEQRA." We trust that the planning board will follow all of the local laws, when considering the application for special events at the Accord Speedway, and that you will follow the same strict application regimen that is required of every other applicant who comes to you for permission to hold special commercial events. It is our request that the Public Hearings be kept open when all application materials are completed and made available for everyone to read and consider. If you read local law 140.55 Special Use Review Criteria the first item on the list kind of sums up what the planning board must think about when looking at an application. Without quoting the legal jargon, it says that the planning board must consider "Whether the proposed use will have a detrimental or positive impact on adjacent properties, or the health, safety and welfare of the residents ..."

TD David "I own a home on Cooper St. in Accord, NY, and I have witnessed firsthand a lack of enforcement of town code within the Town of Rochester. When one business creates overspill effects on adjacent properties, reducing quality of life for residents, and creating health impacts due to noise and air pollution, we need our Town to provide relief. Based on some of the wording in the new draft code, I'll assume you are all well aware of these ongoing offenses, which is why the draft code language adds stricter conditions for commercial events. Arrowood Farms Brewery seems to be a well-known offender. In summertime, we often hear Arrowood's events on our street which is miles away; I know how disruptive that must be for their neighbors because I live next door to the Accord Speedway, which generates sound so loud it can be heard all the way to Kerhonkson. In a town where a positive declaration is almost never issued, and when enforcement is well-known to be profoundly lacking, residents are abandoned to the whims

of the business owner, whose interests may be antithetical to theirs. To illustrate: When the problem of enforcement in our town was raised at the 12-11-23 TOR Planning Board meeting concerning Accord Speedway, Chair Marc Grasso told board member Zorian Pinsky, "I don't care about what Arrowood's doing," despite member Pinsky attempting to make the point that the issue is related as another example of the Planning Board approving site plans and amendments, knowing the conditions for these approved site plans will go unenforced and unregulated. More recently, in the first SEQRA training session with the Town's attorney, David Gordon, advised member Pinsky and the rest of the Planning Board, that they should not approve a site plan or site plan amendment if they believe the conditions for their approval cannot be enforced. Within this meeting, the Town's lack of enforcement capability was invoked at several junctures. If the conditions for an approval cannot be enforced, attorney Gordon advised the Planning Board, "you should deny the application," and explain to the applicant that "We can't guarantee this is going to comply with the code. We can't guarantee that it's going to be a non-significant impact because it might be a significant impact. We can't control this; therefore, this application is denied." In this same meeting, it was admitted that the Planning Board almost never issues a positive declaration concerning environmental impacts on any proposal put forward to them. So, we have plenty of site plan approvals that will have serious environmental impacts, but virtually no enforcement! During public comments on the current Speedway proposal, Chair Grasso has repeatedly emphasized to the public that any of their comments re: current activities at the racetrack will not be deemed relevant to this proposal. But the Planning Board is, in fact, obliged to deny an application that may have environmental and human health impacts, if they cannot enforce the conditions outlined in an approval; to do otherwise, is a flagrant dereliction of duty. So, how does this dereliction of duty play out? Well, for homeowners near Arrowood, it must be very noisy indeed. For those of us near the track, it comes as a double whammy of undeniable air pollution and noise pollution. In our own neighborhood, we have to stay indoors when the Accord Speedway hosts events or risk our health due to toxic levels of noise and air pollution that continue to go unregulated or enforced. The Town of Rochester also allows the Accord Speedway to provide sound measurements using their own "sound guy." To knowingly allow "the fox to guard the henhouse," is to collude with the fox. But there is a clear alternative: Do not allow businesses to supply their own data on noise; instead, require them to pay a fee for the Town to take the measurements. Noise and air pollution are well known to have serious consequences for human health. We are not living in 1992, when the initial site plan for the Speedway was approved. In the intervening years, we have accumulated an enormous body of scientific data showing the negative effects of both air and noise pollution on human health. In this town, a single business is allowed to pollute the yards and homes of neighbors, forcing them to seal up their windows on a summer weekend. During the public comment period, the Planning Board heard complaints of "fumes" by several members of our community. But instead of enforcement, we get lectured on our "intolerance." Inhalation of fuel emissions increases the likelihood of various diseases, including cancer, heart attacks, stroke, asthma, Alzheimer's, and even lower IQs among children in surrounding neighborhoods. If residents in the town of Rochester are getting blanketed in air pollution on a weekly basis, should the Accord Speedway be entrusted to self-regulate? Most people who visit the track will incorrectly assume it's well-regulated, and that there will be no long-term health consequences for themselves and their children. Unfortunately, they are wrong. Most of us just live with it and cut our losses, but now we're being asked to give up entire weekends with back-to-back days and nights filled with even more instances of unhealthy noise. I challenge any member of this Planning Board to give up

your hard-earned weekends to enrich another man's business. I'm asking this Planning Board to do whatever it can to reduce the environmental impacts, including impacts upon human health, for members of this community. There needs to be a better balance.”

Melina Hammer “Due to the fact there are substantial gaps in the speedway application I request that the public hearing be kept open.”

Jim Lafferty “There is a lack of detail in this application. 2,000 cars could fit here, the town should have a way to mitigate this traffic concern. I would hope that we would see more proactiveness on this application.”

Neil Vora “There is a way to meet in the middle. If this is not properly addressed, we will have more issues. We request that the public hearing stay open.”

Kristy Dubour “I remain surprised how hard it is to view public information in this town. Other towns post their documents on their websites for public view. I implore the planning board look into doing this and keep the public hearing open.”

Ruth “I am concerned about the willingness of the town to allow Mr. Palmer to do extra events at the track. I have not seen any studies that are needed to have been done even with the FOIL request. This is about doing what is right and legal. I request that the public hearing is kept open until all items are reviewed.”

Alternate Member Duda will be an acting member on this application and Member Nelson will be recused. Chair Grasso went over the new information on site plans with Mr. Church. Mr. Palmers daughter Melissa explained the proposed events and their locations. Chair Grasso asked the board for comments.

Member Pinsky “This proposal is kind of sketchy. We need an exact number of cars able to be parked in each space, the times of the events, exact list of events, location of parking for participants of events vs general admissions parking, safety measures, lighting when its dark, and a noise study done by a professional.”

Alternate Member Duda “The primary concern was noise from concerts which was removed from this proposal. In regard to the SEQRA type 1 threshold, we are on the right track with a reduction in the number of cars to the 499-car limit. Also, according to the NYSDEC noise guidance, another way to minimize noise impacts is based on the hours of operation.”

Member Graham “I believe we are on the right track. I think the plans are good.”

Member Jarvis “The plans look good to me, and this will bring good things to our community.”

Member Jones “This is the best managed event space that I have seen, the lighting, management of ticket sales, and emergency services provided. The concert has been eliminated which is good. The main concern is traffic which will be less than a typical racing event. This is an accessory use to an existing site plan which does not require the same testing and process as a new application.”

Chair Grasso and Mr. Gordon discussed if the 499-car limit includes employees working the events as well as members of the public attending the event. They agreed that the 499-car limit does include the employees.

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Member Jones made a motion to close the public hearing. Member Jarvis 2nd the motion. All in favor, 6 yes, 1 no Member Pinsky, 1 abstain Member Nelson.

The board went over SEQRA pt 2.

Alternate Member Duda made a motion to type as an unlisted action/ negative declaration. Member Jones 2nd the motion. All in favor, 6 yes, 0 no, 2 abstain Member Pinsky and Member Nelson.

The board read through the resolution and made comments.

Member Jones made a motion to gran waiver of code 140-47 for site plan submittal requirements due to nothing changing on the site. Member Graham 2nd the motion. All in favor 7 yes, 0 no, 1 abstain Member Nelson.

Member Jones made a motion to approve the resolution and agreed upon changes. Member Moloney 2nd the motion. All in favor 6 yes, 1 no Member Pinsky, 1 abstain Member Nelson.

Application # PB 2024-07 Applicant/Owner: Terrapin Preserve, LLC, c/o Bruce Bell
Type: LLI **Representative:** Bill Eggers, Medenbach & Eggers PC **Zoning:** R-5 **Property Location:** TBD Samsonville **SBL:** 60.1-1-1,60.1-1-3, 60.1-1-4.220 **SEQRA:** Type II **Status:** NEW APPLICATION **DESCRIPTION:** The applicant proposes the elimination of 3 lot lines to combine the parcel into one 103.29-acre parcel.

Alternate Member Duda is recused for this application. Member Nelson is an acting member for this application.

Chair Grasso and Mr. Eggers explained the application.

Member Jarvis made a motion to certify the lot line improvement. Member Maloney 2nd the motion. All in favor, 7 yes, 0 no, 0 abstain.

Application # PB 2021-516 Applicant/Owner: DeJager Realty LLC **Type:** Major SBD
Representative: Nadine Carney / Peak Engineering **Zoning:** AR-3 **Property Location:** Lucas Ave / Peninsula Lane **SBL:** 77.1-2-33.510 **SEQRA:** Type I (Oct 22) PB lead Agency (Dec 22) **Status:** Continued Application/ DECISION REVIEW **DESCRIPTION:** The applicant proposes a 10 - lot conservation subdivision. The new submission packet includes an updated wetland study, revised maps, SWPPP, revised lot sizes and road structure.

Alternate Member Duda and Member Nelson are recused for this application. Ms. Carney explained the application and recent updates. Mr. Gordon explained his discussions with the applicant's attorney ad well as what documents he reviewed. The board explained their concerns to Ms. Carney, Mr. Gordon, and Mr. Bolner. The board went over the draft resolution and made comments. The board agreed that they need to review the updated documents before voting on this application.

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Application # PB 2024-02 Applicant/Owner: Barry Turner & Others **Type:** Minor SBD
Representative: Patricia Brooks, Control Point Associates, Inc. **Zoning:** R-5 **Property Location:** 345 Tow Path Rd **SBL:** 77.2-4-43.100 / 77.2-4-43.200 **SEQRA:** Undecided
Status: Continued Application **DESCRIPTION:** The applicant proposes a 4-lot subdivision of 151 acres of existing lands between 4 owners on Tow Path Rd neighboring the historic Hamlet of Alligerville.

Ms. Brooks explained the updates made to the map. Chair Grasso asked if any board members had any concerns.

Member Jones made a motion to set the public hearing for the next meeting. Member Jarvis 2nd motion. All in favor 7 yes, 0 no, 0 abstain.

Application # PB 2024-003 Applicant/Owner: Big Net LLC **Type:** SUP **Representative:** James O'Shea , Bjorn Quenomoen **Zoning:** B **Property Location:** 5164 Rte. 209 **SBL:** 76.2-2.20.200 **SEQRA:** Undecided **Status:** Continued Application **DESCRIPTION:** The applicant proposes a Light Manufacturing expansion of 10,000 sq. ft. located inside the existing vacant storage portion of SkateTime 209.

The applicant explained all new proposed information. Mr. Church made comments on the application as well as next steps. Member Pinsky asked that a map of the interior showing fire exits be included in the next submittal.

Member Nelson made a motion to set the public hearing for the next meeting. Member Jarvis 2nd the motion. All in favor 7 yes, 0 no, 0 abstain.

Application # PB 2024-08 Applicant/Owner: The Granary, Renn Hawkey/Henry Rich **Type:** SPA **Representative:** Allan Dumais, Brinnier & Larios PC **Zoning:** H **Property Location:** 2 Tow Path Rd **SBL:** 77.9-1-25 **SEQRA:** Completed by Town Board **Status:** NEW APPLICATION

DESCRIPTION: The applicant proposes a site plan approval of the former Anderson Feed mill, and the use of an already approved EEO site for the use of a restaurant, café, co-working space, etc.

The applicants explained their proposal as well as the information provided to the board. Mr. Church went over his review of the application.

Member Jones made a motion to agree that this is not a substantial conformance of the approved EEO. Member Jarvis 2nd the motion. All in favor, 7 yes, 0 no, 0 abstain. Member Jarvis made a motion to set public hearing for next meeting. Member Nelson 2nd the motion. All in favor, 7 yes, 0 no, 0 abstain. Member Jarvis made a motion to send application to UCPB. Member Moloney 2nd the motion. All in favor 7 yes, 0 no, 0 abstain.
The board set an ESCROW of \$2,000.

Application # PB 2024-06 Applicant/Owner: Giordani/Bennett **Type:** Minor SBD
Representative: Bill Eggers, Medenbach & Eggers PC **Zoning:** R-5 **Property Location:** 1832

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Samsonville Rd **SBL:** 60.1-2-18.111 **SEQRA:** Undecided **Status:** NEW APPLICATION
DESCRIPTION: The applicant proposes a 2-lot subdivision of 56.59 acres where zoning requirements have been met.

Chair Grasso introduced the application. Mr. Eggers explained the application. The board discussed which boards to submit this application to for review. The board set an ESCROW of \$1,000.

OTHER MATTERS:

- Annual Training Hours Requirement
- Workshop Meeting Training/Discussion

The board discussed training hours requirement.

Member Jarvis made a motion to cancel the March workshop meeting. Member Moloney 2nd the motion. All in favor 7 yes, 0 no, 0 abstain.

ACTION ON MINUTES:

- Approval of February 12th, 2024, Meeting Minutes

Member Jarvis made a motion to approve the February 12th, 2024 meeting minutes. Member Maloney 2nd the motion. All in favor 7 yes, 0 no, 0 abstain.

ADJOURNMENT:

Member Moloney made a motion to adjourn at 10:25pm. Chair Grasso 2nd the motion. All in favor 7 yes, 0 no, 0 abstain.

**Respectfully submitted,
Jazmyne Wilhelm,
Secretary**