

Chairperson Landry called the regular meeting of the Planning Board to order at 6:30PM. Members present were Chairperson Landry, Patricia Marini, Lou Villanova, Kristen Rush, and Christopher Paap. Also present were Brett Malafeew, Code Enforcement Officer; Norm Druschel, Building Inspector; Donald Young, Attorney for the Town (Young Law of WNY); and Michael Simon of LaBella Engineering. Doug Flye, Planning Board member, was not present.

Chairperson Landry asked the Board if there were any corrections that needed to be made regarding the minutes of November 12, 2024. Patricia Marini made a motion, seconded by Christopher Paap, to accept the November 12, 2024 minutes. All members were in favor.

Chairperson Landry addressed the first item on the agenda:

1. Application for Angelo Delmonte for approval of a site plan at 1145 Plank Road, Town of Walworth, and County of Wayne. Property is zoned RR1-Rural Residential 1. (Public Hearing)

Michael G. Sponable, P.E. of Greene Land Surveying, PLLC came forward to speak before the Board. Mr. Sponable presented a subdivision concept to show that a subdivision could work with the existing property. Mr. Sponable said the applicant proposes to build a house Parcel B so he is here for site plan approval. Mr. Malafeew said 24.75 feet is not wide enough to go back to the proposed lot since it needs to be 35 feet. Mr. Sponable said Parcel B and C will be made into one lot on the subdivision concept. Mr. Sponable said the driveway will come through an access easement. Mr. Malafeew said the second residence on the lot is acceptable.

Chairperson Landry asked if there were any comments from the Board. No issues were brought forward. Chairperson Landry asked if there were any comments from the public. No issues were brought forward.

Christopher Paap made a motion, seconded by Patricia Marini, to close public hearing. All members were in favor. Chairperson Landry closed the public hearing at 6:38PM.

Mr. Simon said this application is not subject to SEQR since it is a single-family residence, and said the lot lines should not be on the site plan when the plan is signed.

Christopher Paap made a motion, seconded by Kristen Rush, to approve the site plan on the condition that the lot lines be removed before signatures.

Roll Vote:	Chairperson Landry	Aye
	Lou Villanova	Aye
	Christopher Paap	Aye
	Patrica Marini	Aye
	Kristen Rush	Aye

Motion carried.

2. Application of Jason Calder of Calder Homes Remodeling, Inc. for approval of signs at 959 Route 441, Town of Walworth, and County of Wayne. Property is zoned B-Business. (Public Hearing)

Kristen Rush made a motion, seconded by Christopher Paap, to open the public hearing. All members were in favor. Chairperson Landry opened the public hearing at 6:41PM.

Jason Calder of Calder Homes Remodeling, Inc. came forward to speak before the Board. Mr. Calder said he is the owner of the Ballroom at Carey Lake at 959 Route 441 and Calder Homes Remodeling, Inc. Mr. Calder said he proposes to install 3 signs, one is a 2-sided road sign and is lit, one is against the building and is backlit, and one is a small entrance sign at the back entrance. Chairperson Landry asked where the road sign will be on the property. Mr. Calder said it will be 12 feet from the road, which is the same spot as the existing sign, and it will be a little bigger with the lights facing the sign.

Chairperson Landry asked if there were any comments from the Board. No issues were brought forward. Chairperson Landry asked if there were any comments from the public. No issues were brought forward.

Christopher Paap made a motion, seconded by Patricia Marini, to close public hearing. All members were in favor. Chairperson Landry closed the public hearing at 6:43PM.

Christopher Paap made a motion, seconded by Lou Villanova, to approve the three signs at 959 Route 441.

Roll Vote: Chairperson Landry Aye
Lou Villanova Aye
Christopher Paap Aye
Patrica Marini Aye
Kristen Rush Aye

Motion carried.

3. Application of Gerber Homes & Additions for approval of a subdivision and site plan at VL Mykola Road with access from Walworth-Ontario Road, Town of Walworth, and County of Wayne. Property is zoned R-Residential. (Public Hearing)

Patricia Marini made a motion, seconded by Christopher Paap, to approve the Resolution to Approve Amended Negative Declaration for Subdivision and Site Plan Application of Gerber Homes & Additions for Property at or about Mykola Road with Access to be from Walworth Ontario Road, said Property Sometimes Associated with Orchard View Subdivision as written:

WHEREAS, Gerber Homes & Additions (the “Applicant”) has submitted an application to the Town of Walworth (the Town”) requesting subdivision and site plan approval (the “Application”) from the Town of Walworth Planning Board (the “Board”) for the development of a residential subdivision with seven proposed residential lots (and the remainder of lands to remain in a separate, eighth lot) (the “Development”) at property located at or about between Mykola Road and Walworth Ontario Road, said property (the “Property”) sometimes associated with part of the development known as and/or referred to as “Orchard View” subdivision in the Town of Walworth, said Property, location and details all as more fully detailed in Application materials on file with the Town where they are available for review by the public; and

WHEREAS, the Property the subject of the Development was previously reviewed for residential subdivision pursuant to the State Environmental Quality Review Act (“SEQR”), such SEQR review comprising the review of a larger residential subdivision (of which the Property was a part) sometimes known and/or referred to as “Orchard View” subdivision in the Town of Walworth (the “Original SEQR Review”); and

WHEREAS, pursuant to such Original SEQR Review, on or about June 10, 2002, the Town of Walworth Planning Board issued a negative declaration (the “Original Negative Declaration”); and

WHEREAS, at the time of said Original SEQR Review and issuance of the Original Negative Declaration, the development then proposed at the Property and assessed by way of the Original SEQR Review resulting in the Original Negative Declaration apparently comprised a proposed 14 residential lots (the “2002 Proposal for the Property”); and

WHEREAS, given the time which has passed since such Original SEQR Review, including given that the Application is near wetlands and significant time had passed since the completion the wetland delineation for the Original SEQR Review, and given that the 2002 Proposal for the Property has been revised, including but not limited to such that the number of lots proposed has been reduced to eight (with seven home lots), and that the secondary access which would traverse close to the wetlands has been proposed to be eliminated, the Planning Board has assessed current Application and has considered the manner in which SEQR might be addressed, including whether an amendment of the Original Negative Declaration would be appropriate; and

WHEREAS, the Planning Board has reviewed Original SEQR Review, including the Original Negative Declaration, has familiarized itself with and reviewed the 2002 Proposal for the Property, and has considered this Application and associated materials for many months (the date of Application is May 17, 2024).

NOW, THEREFORE, BE IT, RESOLVED, that, the Planning Board has considered the Application and all supplemental submissions and revisions thereto, and all relevant materials and information relating to the same, including but not limited to the EAF and all parts thereof, an updated wetland analysis, and the letters of the Engineer for the Town and any responses thereto, and has engaged in an assessment as to whether an amendment of the Original Negative Declaration would be appropriate for purposes of satisfying SEQR; and, be it further

RESOVLED, that the Planning Board has thoroughly analyzed the identified relevant areas of environmental concern to determine if the Development as now proposed may have a significant adverse impact on the environment, including considering those criteria required to be considered pursuant to SEQR, carefully considering and taking a hard

look at all potential environmental impacts, including considering relevant documentary, testimonial, and other evidence presented; and, be it further

RESOLVED, that, in sum, given the circumstances/new information, including for example but not limited to the results of the updated wetland analysis, and given for example but not limited to the changes comprising the reduction in the number of lots from fourteen to seven residential home lots (eight lots total), and for all those reasons as more fully set forth in the SEQR reasoned elaboration attached hereto and made a part hereof, the Town of Walworth Planning Board finds that the Development as now proposed will not result in any significant adverse environmental impacts, and thus hereby issues an amended negative declaration to address its SEQR review of the Application, including approval of the associated EAF utilized to arrive at such amended negative declaration, thus concluding SEQR review for the Application, with documentation comprising such amended negative declaration including a reasoned elaboration being attached hereto and made a part hereof; and, be it further

RESOLVED, that the Town Clerk or designee (such as the Secretary for the Planning Board), with the assistance of the Engineer for the Town, file, distribute and publish the SEQR documentation in accordance with the requirements of SEQR, including as per 6 NYCRR Section 617.12(b) and (c).

Roll Vote:	Chairperson Landry	Aye
	Lou Villanova	Aye
	Christopher Paap	Aye
	Patrica Marini	Aye
	Kristen Rush	Abstain

Motion carried.

Patricia Marini made a motion, seconded by Christopher Paap, to open the public hearing. All members were in favor. Chairperson Landry opened the public hearing at 6:46PM.

John Graziose of Gerber Homes & Additions, Ryan Hayes of Lacy Katzen, LLP as counsel for Gerber Homes, and Michael G. Sponable, P.E. of Greene Land Surveying, PLLC came forward to speak before the Board. Mr. Graziose said they are proposing a 7-lot private drive off Walworth-Ontario Road, and they have addressed all the engineering comments. Mr. Hayes said it would be helpful to explain the CPS7. Mr. Hayes said the CPS7 deals with the de minimis HOA and includes private driveways and roadways. Mr. Hayes said this deals with approximately one acre of an easement area of which a certain portion of it will be developed into a private drive. Mr. Hayes said the Attorney General's office is tasked with approving these types of applications. Mr. Hayes said a declaration will provide an ingress and egress easement to the property owners, and the property owners who will be responsible for maintaining the drive will receive the documentation at the closing when they purchase the property. Mr. Hayes said this is not based on the number of lots.

Mr. Hayes said he has reviewed the deeds in regard to any potential concerns with any neighboring parcels, and he does not find there is any claim under any body of law including adverse possession since adverse possession is disfavored in the State of New York, and the Town should not be involved in this neighbor dispute.

Chairperson Landry asked if one lot is sold, is that person responsible for the plowing of the whole road. Mr. Hayes said that owner will pay one seventh of that, and Gerber will pay the remainder since they own the other 6 lots.

Chairperson Landry asked if there were any comments from the Board. No issues were brought forward.

Christopher Paap made a motion, seconded by Lou Villanova, to open the public hearing. All members were in favor. Chairperson Landry opened the public hearing at 7:0PM.

Chairperson Landry asked if there were any comments from the public.

Daniel Teske Sr. of 3947 Walworth-Ontario Road came forward to speak before the Board. Mr. Teske said the Attorney General has to approve this, and it only takes one neighbor to shut this driveway down. Mr. Teske said his shallow well is too close according to the State. Mr. Teske said this meeting was not posted on the internet, but it may have been posted in the Wayne County Times.

Chairperson Landry asked if there were any more comments from the public. No more issues were brought forward.

Christopher Paap made a motion, seconded by Lou Villanova, to close public hearing. All members were in favor. Chairperson Landry closed the public hearing at 7:05PM.

Christopher Paap made a motion, seconded by Patricia Marini, to approve the Resolution to Approve Subdivision and Site Plan Application of Gerber Homes & Additions for Property at or about Mykola Road with Access to be from Walworth Ontario Road, said Property Sometimes Associated with Orchard View Subdivision as written.

WHEREAS, Gerber Homes & Additions (the “Applicant”) has submitted an application to the Town of Walworth (the “Town”) requesting subdivision and site plan approval (the “Application”) from the Town of Walworth Planning Board (the “Board”) for the development of a residential subdivision with seven proposed residential lots (and the remainder of lands to remain in a separate, eighth lot) (the “Development”) at property located at or about between Mykola Road and Walworth Ontario Road, said property (the “Property”) sometimes associated with part of the development known as and/or referred to as “Orchard View” subdivision in the Town of Walworth, said Property, location and details all as more fully detailed in Application materials on file with the Town where they are available for review by the public; and

WHEREAS, the Application, dated May 17, 2024, was received by the Town and has been subject to review by the Town since that time, including a number of appearances before the Planning Board over the past several months; and

WHEREAS, the Application under consideration includes a plan set for subdivision and site plan approval, such plan set including sheets 1-3 of plans entitled “Orchard View Estates,” “Preliminary / Final Plan of Land to be developed by Gerber Homes and Additions,” said plans with a last revised date of December 3, 2024 (the “Plans”); and

WHEREAS, the Planning Board has considered the Application and all supplemental submissions and revisions thereto, and all relevant materials and information relating to the same, including but not limited to the EAF and all parts thereof, an updated wetland analysis, and the review and resultant comment letters of the Engineer for the Town and any responses thereto; and

WHEREAS, the Planning Board has considered the Comprehensive Plan and the Parks and Recreation Master Plan to determine whether a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town, including an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular subdivision plat will contribute; and

WHEREAS, said Application was referred to the Wayne County Planning Board on or about August 28, 2024; and

WHEREAS, an amended negative declaration was duly issued relative to the Application by the Planning Board on December 9, 2024; and

WHEREAS, a public hearing was duly held relative to the Application on December, 9, 2024.

NOW, THEREFORE, BE IT RESOLVED, that, in response to a waiver request, the Planning Board finds that strict compliance with the Town’s Design Standards is not appropriate or requisite in the interest of public health, safety and general welfare as it relates to gutters / concrete gutters for the private right of way based upon its review of the Project, including that because the private drive appears to be crowned, and drainage swales have been proposed for the north side of the proposed

roadway, with accompanying culvert drainage under driveways, and also given that the density of the Project has been reduced by approximately half from as originally proposed thus further reducing runoff, and thus the requirement for such gutters / concrete gutters is hereby waived; and, be it further

RESOLVED, that, in response to a waiver request, the Planning Board finds that strict compliance with the Town’s Design Standards is not appropriate or requisite in the interest of public health, safety and general welfare as it relates to the private right of way and the minimum right of way width of 60 feet, finding the private right of way as proposed (a minimum ~47.5 feet) is sufficient, particularly given that the density of the Project has been reduced by approximately half from as originally proposed such that only seven residential lots are proposed, thus reducing the traffic which would traverse the right of way, and given that such width would fully accommodate the roadway surface as constructed with much room to spare, as well as any utilities to be included therein, and given that the roadway width itself will nonetheless be required to meet Design and Construction Standards, and thus such requirement for the minimum right of way width is hereby waived and the private right of way as proposed (a minimum of 47.5 +/- feet) is sufficient; and, be it further

RESOLVED, that as it relates to parks and recreational facilities, the Planning Board finds that a) the proposed subdivision will increase the population of the Town of Walworth and will create additional need and/or further demand for recreational facilities within the Town; and b) the Parks and Recreation Master Plan of 2019 (the “Rec Plan”) provides that the Town’s growth rate indicates a demand for continued enhancement of the quality and quantity of parks and recreational facilities in Town; and c) the Building Department has advised that the Town continues to issue numerous building permits year after year for residential homes, thus also indicating growth within the Town and continued demand for parks and recreation facilities; and d) the Rec Plan clearly finds that there is a need for expansion of parks, trails and indoor facilities in the Town, inclusive of improvements to existing parks and development of outdoor recreational facilities, including athletic field, indoor facilities, picnic areas, etc.; and e) while the Rec Plan does allow for land acquisition, a focus is the improvement and development of its existing parklands, including that the Town shall seek a fee in lieu of parkland equal to \$650.00 per new residential lot to fund such improvements; and f) given the above, the proposed Development supports a proper case for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town pursuant to Town Law; and g) the Town currently has a number of acres of parklands that are undeveloped, and it appears that additional vacant or minimally developed parklands would not be suitable in addressing the Town’s parks needs; and h) given the above, including the particulars of this Application, as well as given the fact that the Rec Plan calls for improved parks, including outdoor and indoor recreational facilities, the Planning Board finds that a suitable park cannot be located on the subject lands or is otherwise not practical, and thus, a sum of money (commonly known as a parks and recreation fee) shall be provided in lieu thereof; and i) such sum of money in lieu thereof shall be equal to \$650.00 per residential lot included in the subject subdivision, per the Rec Plan, which sum shall be deposited into a trust fund to be used by the Town exclusively for park, playground or other recreational purposes; and, be it further

RESOLVED, that the Planning Board finds, for all the reasons set forth in the record, including but not limited to pursuant to its SEQR review, the Application materials and revisions thereto, and all relevant materials and information relating to the same, including but not limited to the EAF and all parts thereof, an updated wetland analysis, and the review and resultant comment letters of the Engineer for the Town and any responses thereto, that, as set forth herein, including, subject to the conditions set forth herein, the Application meets the requirements necessary for approval, including, for example, that:

- SEQR has been completed and the Planning Board has determined that the Development will not result in any significant adverse environmental impacts,
- The Application itself and the SEQR review (inclusive of the “Original SEQR Review”) provides sufficient information to conclude that the Development will not negatively impact the Town’s sewer capacity, water system, drainage and traffic flow, and that per the EAF the Development is not proximate to a hazardous waste site,
- The Application is consistent with the Town’s Zoning Chapter of the Code, requirements of the Town’s Subdivision and Site Plan Chapter of the Code, and the Town’s Comprehensive Plan,
- The Development is consistent and harmonizes with the character of the neighborhood, including as it relates to landscaping, said Development being proximate to the existing Orchard View Subdivision and other residences,
- The Development provides sufficient access, including for emergency vehicles, circulation and parking for the seven proposed building lots,
- Drainage for the Development has been sufficiently addressed, including that the private roadway is crowned, drainage swales have been proposed for the north side of the proposed roadway with accompanying culvert drainage under driveways, and also given that the density of the Project has been reduced by approximately half from as originally proposed,
- Wetlands have been reviewed and addressed, including by way of an updated delineation,
- Utilities have been sufficiently considered and addressed, and
- The Application is otherwise consistent with relevant Town Law provisions; and

BE IT FURTHER, RESOLVED, that the Application and associated Plans is hereby approved, subject to the conditions set forth herein, including that preliminary approval of the subdivision is hereby approved, no additional hearing is required beyond that held on December 9, 2024 given that preliminary/final subdivision is consistent, final

approval of the subdivision is hereby approved, and site plan approval is hereby issued, such subdivision and site plan approvals subject to the following conditions:

1. Outstanding comments set forth in the final comment letter of the Engineer for the Town, Labella Associates, dated December 3, 2024, shall be addressed to the satisfaction of the Town Code Enforcement Officer, such outstanding comments specifically including: Comment # 2(b) and (e) relative to the private drive and driveway details;
 - a. Comment #10 relative to SWPPP, including review for adequacy and acceptance of the SWPPP by the Town;
 - b. Comment #s 11 and 15 relative to plan set; and
 - c. Comment # 12 relative to MPRs.
2. Relative to the private right of way proposed to provide ingress/egress to the Development:
 - a. That the label for the same be clarified to include language clearly indicating it is a private right of way for ingress/egress;
 - b. Such right of way be revised on the Plans and constructed such that its paved width measures 22 feet wide, and additionally that it have shoulders on each side measuring 2 feet which may comprise gravel or other material, so long as the total 26 feet is compliant with the NY State Fire Code requirements including relative to load rating to the satisfaction of the Town's Fire Marshal or designee, with such plan revision subject to review and acceptance by the Engineer for the Town or designee; and
 - c. The legal establishment of such private right of way and the method(s) by which the same will be maintained, including the instrument(s) used for the same and filings required or associated therewith (e.g., easement(s), agreement(s), including any associated filings related to a home owners association / "de minimus cooperative interest" [e.g. by way of a "CPS-7"]), shall be reviewed by and determined to be sufficient and acceptable to real estate counsel for the Town (Morgenstern Devoesick or such other counsel so designated by the Town); and
 - d. Given apparent potential encumbrance(s) possibly associated with property neighboring the proposed private right of way, the Applicant shall provide sufficient proof of its legal rights over the lands comprising the private right of way, the same to be reviewed by and determined to be sufficient and acceptable to real estate counsel for the Town (Morgenstern Devoesick or such other counsel so designated by the Town), including that such review and acceptance also addresses such rights as it pertains to granting the Town utility easements.
3. Performance security shall be submitted to the Town as per the Town Code (Section 151-7).
4. All easements required by the Town, including as shown on the plans, be provided.
5. Formal offer(s) of cession shall be made to the Town, including, for example, but not necessarily limited to as it relates to utilities as per the Town Code (Section 151-7).
6. Necessary action be taken as it may relate to improvement districts for utilities, including as per Comment #12 of the letter of Labella Associates.
7. As per the above, a fee of \$650.00 per residential lot a part of this Development shall be paid to the Town, all in accordance with Town Law Section 277 and in lieu of a set side of parkland, as set forth herein.

Roll Vote:	Chairperson Landry	Aye
	Lou Villanova	Aye
	Christopher Paap	Aye
	Patrica Marini	Aye
	Kristen Rush	Abstain

Motion carried.

2. Application of Steve Cooper of 4164 Walworth-Ontario Road for approval of a 3-lot Subdivision at 4164 Walworth-Ontario Road, Town of Walworth, and County of Wayne. Property is zoned RR1-Rural Residential 1. (Public Hearing)

Patricia Marini made a motion, seconded by Lou Villanova, to open the public hearing. All members were in favor. Chairperson Landry opened the public hearing at 6:46PM.

Steve Cooper of 4164 Walworth-Ontario Road came forward to speak before the Board. Mr. Cooper requested approval of the proposed subdivision as drawn by Greene Land Surveying, PLLC on map revision dated November 21, 2024. Mr.

Cooper said he received a variance from the Walworth Zoning Board on Monday, December 2, 2024 for the distance to the property lines for both ponds on the property as drawn.

Chairperson Landry asked if the drainage has been figured out involving the neighbor and was everything taken care of with the Walworth Highway Department. Mr. Cooper said the drainage passed muster during the past two rainstorms, and he will continue the enhancements to the drainage in the spring. Mr. Malafeew said Mr. Cooper has met what the Town has requested for the drainage for the most part, and the Town has asked Mr. Cooper to widen and clean out the drainage to assist with the heavy stream flow. Mr. Malafeew said the Highway Department is still waiting to be paid for when they had to dig it out when there was an emergency. Mr. Cooper said he has widened the drainage by about 50% and it can be widened more.

Chairperson Landry asked if there were any comments from the Board. No issues more were brought forward. Chairperson Landry asked if there were any comments from the public. No issues were brought forward.

Patricia Marini made a motion, seconded by Christopher Paap, to close public hearing. All members were in favor. Chairperson Landry closed the public hearing at 7:10PM.

Patricia Marini made a motion, seconded by Christopher Paap, to approve the Scooper Subdivision as written.

**TOWN OF WALWORTH
FINAL RESOLUTION
SCOOPER SUBDIVISION
4164 WALWORTH-ONTARIO ROAD**

At a meeting of the Planning Board of the Town of Walworth held on the 9th day of December 2024, at the Town Hall in said Town, Board member _____ moved adoption of the following resolution; Board member _____ seconded the motion:

WHEREAS, the Planning Board of the Town of Walworth has reviewed the proposed action to subdivide Tax I.D. No.63115-00-812000 consisting of 41.7+/- acres into 3 lots. Lot 1 will be 1.3+/- acres, Lot 2 will be 1.1 +/- acres and Lot 3 will be 39.5+/- acres as show on a maps prepared Greene Land Surveying dated November 15, 2023 revised through November 21, 2024.

WHEREAS, the Planning Board has reviewed Part 1 of State Environmental Quality Review (SEQR) Short Environmental Assessment Form (EAF) completed by the Applicant and;

WHEREAS, the Planning Board has completed Part 2 & 3 of the EAF therefore;

BE IT RESOLVED, that the Planning Board has determined that the proposed action is an "Unlisted Action" as defined under SEQR and based on the information and supporting documentation provided by the applicant and Town staff, the Board determined that the proposed action will not result in any significant environmental impacts.

BE IT FURTHER RESOLVED, that the Planning Board hereby grants Final Subdivision approval for the Scooper Subdivision and Site Plan located at 4164 Walworth-Ontario Road.

Upon being put to a vote, the resolution was _____ . AYE_____ NAY_____

STATE OF NEW YORK:
COUNTY OF WAYNE: ss
TOWN OF WALWORTH:

I, Aimee Phillips, Town Clerk of the Town of Walworth, Wayne County, New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Planning Board of the Town of Walworth on the 9th day of December 2024 with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

DATED: 2024

(SEAL)

Town Clerk

Roll Vote:	Chairperson Landry	Aye
	Lou Villanova	Aye
	Christopher Paap	Aye
	Patrica Marini	Aye
	Kristen Rush	Aye

Motion carried.

Chrisopher Paap made a motion, seconded by Patricia Marini, to adjourn the meeting. All members were in favor. Chairperson Landry adjourned the meeting at 7:11 PM.

Respectfully Submitted,

Barbara Goulette, Clerk

DRAFT