

**Town of Charlton  
Planning Board Minutes  
758 Charlton Road  
Charlton, New York 12019**

Minutes of the Planning Board Meeting – January 20, 2014

Chairman Jay Wilkinson called the meeting to order at 7:10 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, John Kadlecek, Connie Wood, Chris Mitchell, Dawn Szurek, Marilyn Phillips, Bill Keniry, Esq., Planning Board Attorney, Mike McNamara, Town Engineer, Susan York, Planning Board Clerk, Kim Caron, Recording Secretary and Bryan Sell, Planning Board alternate.

**AGENDA MEETING**

Mr. Wilkinson stated that there is a quorum.

Minutes

Mr. Wilkinson stated that the draft of the November 18, 2013 meeting minutes needed to be approved. Mrs. York previously provided comments. Mr. Wilkinson and Ms. Phillips provided comments. No other comments were provided. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

Mr. Wilkinson stated that there are no Public Hearings.

Site Plan Review, Special Use Permit, and Lot Line Change

Charlton Tavern aka Maloney/Snyder (246.12-1-21 and 19.1)

Mr. Wilkinson stated that everyone should have received a package pertaining to the site plan review for this application. Mr. Wilkinson stated that the Planning Board and the Zoning Board held a joint public hearing. Mr. Wilkinson stated that the Planning Board cannot move forward until the Exceptional Use Permit that the Tavern operates under is amended by the Town Board which is the lead agency. Mr. Wilkinson stated that in October, 2013, the Town Board passed Resolution 38 acknowledging receipt of the Special Exception Permit application from Mr. Maloney, which included the lot line change. Mr. Wilkinson stated that the Planning Board was asked to perform a site plan review and the ZBA was asked to review the application. Mr. Wilkinson stated that the ZBA passed a

Resolution approving the lot line change on November 13, 2013. Mr. Wilkinson stated that the Planning Board has received revised site plans dated December 27, 2013. Mr. Wilkinson stated that the latest revision addressed issues identified by the Planning Board in the November 5, 2013 letter to the Town Board. Mr. Wilkinson stated that he has drafted a letter to the Town Board to close out the application. Mr. Wilkinson stated that there are minor issues. Mr. Wilkinson stated that page 10 of the Zoning Ordinance itemizes what the Planning Board is looking for. Mr. Wilkinson stated that the last revision corrected a lot of issues and also changed the lighting in the back of the Tavern to put in a new lamp post that turns at 90 degrees.

Mr. Wilkinson stated that he would like to discuss the Planning Board's obligations with counsel before the business meeting.

### Subdivision Applications

#### Deer Run Phase 3 Final Approval

Mr. Wilkinson stated that the Board has received a final subdivision application for Phase 3 for the Deer Run Subdivision. Mr. Wilkinson stated that Mr. McNamara has provided comments and is present to discuss those comments. Mr. Wilkinson stated that a majority of the comments are technical in nature with the exception of comment #13 pertaining to the mailbox kiosk that would be constructed for this phase. Mr. Wilkinson stated that the Board needs to provide the applicant with comments on this issue. Mr. Wilkinson stated that Mr. McNamara had made the comment stating that he did not feel that it was located in the right spot. Mr. Wilkinson stated that the location does raise some questions.

#### Schmidt/Schweizer (224.-1-46.31)

Mr. Wilkinson stated that the applicant is proposing a subdivision of a 33 acre parcel with frontage on Route 147 and Route 67. Mr. Wilkinson stated that the proposal is to create two new lots with frontages on Route 67. Mr. Wilkinson stated that both new lots will be about 2.5 acres. Mr. Wilkinson stated that the Board has received comments from Mr. McNamara dated December 11, 2013 and comments from the County Planning Board regarding the necessity of approval from the State to put a road cut in for the highway. Mr. Wilkinson stated that further comments were received from Mike Valentine, Saratoga County Senior Planner, based on an email map the applicant's consultant sent to him showing the wetlands and the lay of the land. Mr. Wilkinson stated that the Board could discuss the comments at the business meeting. Mr. Wilkinson stated that the Board also needs to discuss the 40 foot easement.

#### Pre-Application Conference

None.

Zoning Report

Mr. Wilkinson stated that the Board has received the reports for review.

Correspondence

Mr. Wilkinson stated that the Planning Conference is on January 29<sup>th</sup>.

Mr. Wilkinson welcomed Marilyn Philips as a permanent member of the Board. Mr. Wilkinson stated that Bryan Sell will be the new alternate.

Town Board Liaison

Mrs. Verola was not present.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Kadlecsek. All were in favor. Agenda meeting closed at 7:20 p.m.

**BUSINESS MEETING**

Opened at 7:30 p.m. with the Pledge of Allegiance.

Mr. Wilkinson asked Mr. Sell to join the meeting. Mr. Wilkinson introduced Mr. Sell as the new alternate to the Board.

**Minutes**

Mr. Wilkinson made the motion to approve the draft of the November 18, 2013 minutes with change incorporated. Mrs. Wood seconded the motion. All were in favor. Ms. Phillips and Mr. Sell abstained.

**SITE PLAN REVIEW, SPECIAL USE PERMIT AND LOT LINE CHANGE**

**Charlton Tavern aka Maloney/Snyder (246.12-1-21 and 19.1)**

Mr. Wilkinson stated that the Board received a revised drawing dated December 27, 2013 which included a majority of the items in the Board's November letter to the Town Board. Mr. Wilkinson stated that since another revision to the site plan was received, the Board should advise the Town Board of its findings. Mr. Wilkinson stated that he has drafted a letter to the Town Board. Mr. Wilkinson read the letter aloud. Mr. Wilkinson asked the Board to reply with revisions by Wednesday to get it to the Town Board before their next meeting.

## **SUBDIVISION APPLICATIONS**

### **Schmidt/Schweizer (224.-1-46.31)**

Mr. Schweizer appeared before the Board.

Mr. Wilkinson stated that this is a subdivision of a 33.6 acre parcel with frontages on Route 67 and Route 147 into two 2.5 acre parcels with frontage on Route 67. Mr. Wilkinson stated that the Board has received comments from Mr. McNamara to review. Mr. Wilkinson stated that the Board has also received comments from the County Planning Board for review.

Mr. Wilkinson stated that Mr. McNamara has commented that since there was a 3 lot subdivision in April of 2003 and a lot line adjustment in February of 2005, the earlier actions categorize the current project as a major subdivision under the Charlton Subdivision Regulations. Mr. Wilkinson stated that the long form EAF will need to be completed.

Mr. Wilkinson stated that the letter from Mr. McNamara dated December 11, 2013 had several comments to discuss.

Mr. Schweizer stated that, in reference to comment 1, there is an agreement that the applicant does use Fowle's driveway to get in and out of there.

Mr. Wilkinson stated that the Board would like a copy of the agreement between the Schmidt's and the Fowle's.

Mr. Keniry inquired if there was a written recorded agreement.

Mr. Schweizer stated that he has not been able to locate any recorded agreement.

Mr. Keniry inquired if there was an unrecorded agreement between the parties.

Mr. Schweizer stated that he does not think one exists.

Mr. Keniry inquired if there was an intention to complete a written agreement. Mr. Keniry stated that it is uncertain in terms of the terms.

Mr. Schweizer stated that the issue arises if the Fowle's sell the property and the right of way is no longer there.

Mr. Keniry stated that the subsequent owner will be under no legal obligation to let them use the ROW.

Mr. Schweizer stated that they can use the other 40 feet and can move away from using the Fowle ROW. Mr. Schweizer stated that they would have to put some gravel in where the 40 feet is located. Mr. Schweizer stated that they do not need that ROW.

Mrs. Wood inquired if an additional road cut was necessary.

Mr. Schweizer stated yes. Mr. Schweizer stated that they have spoken to DOT and they do not see a problem with having a road cut in that area.

Mr. Keniry stated that the use of the ROW is up to the owners and there is no impediment from moving forward without a written agreement.

Mr. Wilkinson stated that comment 2 requested the Zoning Boundary be added to the map with a chart of the area and the setback distance.

Mr. Schweizer stated that would be done.

Mr. Wilkinson stated that comment 3 is ok.

Mr. Wilkinson stated that comment 4 pertains to adding the edge of the woods and guide rails be shown on the drawing. Mr. Wilkinson stated that the Board would like to see that on the drawing.

Mr. Schweizer stated that they will be added.

Mr. Wilkinson stated that comment 5 is ok.

Mr. Wilkinson stated that comment 6 pertains to curb cut permits from NYSDOT.

Mr. Schweizer stated that he has already spoken to DOT and the proposed driveways will be shown on the drawing.

Mr. Kadlecek suggested the applicants consider paired or shared driveways.

Mr. Wilkinson inquired if the applicant would be willing to bring the driveways down along side each other.

Mr. Schweizer stated that would be ok.

Mr. Wilkinson stated that the letter from the County Planning Board dated December 20, 2013 stated approval subject to the applicant applying to NYSDOT for the driveway cuts. Mr. Wilkinson stated that there was a second comment via email from Mike Valentine requesting that the driveways and the building envelope be shown on the drawing.

Mr. Wilkinson stated that the Board and the applicant's representative discussed requesting the applicant put a note on the drawing regarding no further subdivision of the property.

Mr. Schweizer stated that the applicant declined to have that note put on the drawing. Mr. Schweizer stated that there is not enough usable land to do any further subdividing.

Mr. Wilkinson asked that the driveways be shown on the drawing together with the building envelope, the pond setback to the property line and the zoning district be added.

Mr. Keniry stated that he will research the necessity of the applicant completing the 4 page EAF versus the 13 page EAF and let the applicant know.

Mr. Wilkinson made the motion to schedule the Public Hearing for February 17, 2014 at 7:30 p.m. seconded by Mr. Kadlec. All were in favor. Mr. Sell abstained.

### **Deer Run Phase 3 Final Approval (246.-3-100.1)**

Dave Ingalls, from Ingalls & Associates, appeared before the Board.

Mr. Ingalls stated that 3 years ago they were before the Board for final approval of the Phase 2 of the Deer Run Subdivision, which was an additional 9 lots. Mr. Ingalls stated that they come before the Board for final approval of Phase 3, which are the final 15 lots. Mr. Ingalls stated that all of the roadways are constructed in Phase 1 and Phase 2. Mr. Ingalls pointed out the roadways on the drawing. Mr. Ingalls stated that they have received Mr. McNamara's comments. Mr. Ingalls stated that the entire site is 132.4 acres. Mr. Ingalls stated that in this Phase the 15 lots consist of approximately 16 acres encompassing the lots. Mr. Ingalls stated that this was designed within the RA Zoning but with the cluster provision, the lots are ½ acre minimum area and 100 foot minimum lot width. Mr. Ingalls stated that there is approximately 85 acres of green space on the drawing which is open space being preserved in perpetuity with the stewardship under an HOA.

Mr. Ingalls stated that the public access easement, which is 16 acres just off the map, would be an easement to the Town. Mr. Ingalls stated that he is researching if the easement has already been executed as part of the Phase 2 approvals and approval of the subdivision.

Mr. McNamara stated that he did not find an executed public access easement.

Mr. Ingalls stated that he will check with Don Zee, Esq.

Mr. Ingalls stated that in 2007 they spent a lot of time updating the original 1993 plans that were approved. Mr. Ingalls stated that they eliminated all of the ditches and open drainage creating a closed drainage system with a series of catch basins and closed pipe system that captures and conveys the drainage to two principal storm water management areas. Mr. Ingalls pointed out the SWM locations. Mr. Ingalls stated that they also delineated the wetlands that were on the site and permitted [obtained permits for] all of the appropriate wetlands with the army corp. Mr. Ingalls stated that there is a wetland mitigation site located just off of one of the storm water management ponds. Mr. Ingalls stated that they have updated the plans to modern day plans. Mr. Ingalls stated that all of the roadways,

utilities and stormwater system, and the storm water pollution prevention plan were reviewed and approved at that point in time. Mr. Ingalls stated that the last remaining items are those listed in the letter from Mr. McNamara. Mr. Ingalls stated that they are looking for conditional approval. Mr. Ingalls stated that they are aware that come springtime they have to test the soils, both with the Town and with NYSDOH for final approval of those 15 lots for the septic systems. Mr. Ingalls stated that there was a water district formed as part of this project, water district 1 extension #4 that was granted approval by the Town Board in October of 2010. Mr. Ingalls stated that all of the water lines are constructed in the roadways as well as all of the storm drainage for Phases 1 and 2. Mr. Ingalls stated that there are stubbed water lines ready to go into the Phase 3 Cosgrove so that the water is looped on both ends of Cosgrove connecting to Deer Run. Mr. Ingalls showed the high point of the area and where that area drains. Mr. Ingalls stated that they are requesting final approval for the final Phase 3.

Mr. Ingalls stated that most of the comments from Mr. McNamara are technical in nature. Mr. Ingalls stated that they agree with all of the comments. Mr. Ingalls stated that they will prepare a written response to all of the comments. Mr. Ingalls stated that one of the key features was the roadways. Mr. Ingalls stated that the Town standard calls for 11 foot lanes. Mr. Ingalls stated that all of these roads here were constructed under the old standard of 9 foot lanes. Mr. Ingalls stated that the applicant has agreed to increasing the lanes making them 11 feet for the Phase 3. Mr. Ingalls stated that the applicant is aware that the septic testing still has to be done on the soils. Mr. Ingalls stated that the mailbox kiosk was the subject of a comment. Mr. Ingalls stated that the documentation from the applicant shows that the location was coordinated through the postmaster and they would like to keep its location where it is. Mr. Ingalls stated that it is located on the north side of the road. Mr. Ingalls stated that he could not tell if there was any sort of pull off to accommodate the snow plowing. Mr. Ingalls stated that he could suggest that it be made more user friendly.

Mr. McNamara stated that was one of the concerns of the highway department.

Mr. Ingalls stated that they could take a look at it.

Mr. McNamara inquired if the postmaster would agree to moving it around the corner.

Mr. Ingalls stated that the postmaster would like the location left as is.

Mr. Wilkinson stated that he would like to have a Public Hearing for Phase 3 as the Board held one for Phase 2.

Mr. Ingalls stated that they can have a written response to Mr. McNamara's letter within 1 to 2 days.

Mrs. York stated that a revised neighbor list was needed.

Mr. Wilkinson polled the Board about scheduling a Public Hearing.

The Board agreed to hold a Public Hearing for Phase 3.

The Board further discussed the location of the mailbox kiosk.

Mr. Ingalls will provide a proposal for everyone to review pertaining to the location of the mailbox kiosk.

Mr. Wilkinson made the motion to schedule the Public Hearing for February 17, 2014 at 7:45 p.m. seconded by Mr. Mitchell. All were in favor. Mr. Sell abstained.

Mrs. York stated that a new neighbor list will need to be provided with the completed neighbor cards.

Mr. Ingalls stated that they will update the list.

Mrs. York provided the Public Hearing cards and will mail additional ones.

Mr. Ingalls inquired if the 2011 EAF would be acceptable.

Mr. Keniry stated that since this is another action, a new long EAF would need to be completed.

Mr. Wilkinson stated that there was a discrepancy on the address for the applicant on the application.

Mr. Ingalls stated that he will update the application and correct the address.

Mrs. York stated that she would need a complete extra set of plans for the County referral.

Mr. Wilkinson asked for 15 copies of the revised plans.

### **ZONING REPORT**

The Board reviewed the reports for November and December.

### **CORRESPONDENCE**

Mr. Wilkinson stated that there are Oath's of Office for the Board members to sign.

Mr. Wilkinson reminded the Board of the conference on January 29<sup>th</sup>.

**TOWN BOARD LIAISON**

Mrs. Verola was not present.

Mr. Wilkinson made a motion to adjourn the meeting. Mrs. Wood seconded the motion. All were in favor.

The meeting was adjourned at 8:50 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary