

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

Minutes of the Planning Board Meeting – March 21, 2011

Chairman Jay Wilkinson called the meeting to order at 7:00 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, John Kadlecek, Connie Wood, Marilyn Phillips, Bill Keniry, Planning Board Attorney, Mike McNamara, Town Engineer, Susan York, Planning Board Clerk and Kim Caron, Recording Secretary. Dawn Szurek joined the meeting at 7:15 p.m.

AGENDA MEETING

Mr. Wilkinson stated that there were two Board members absent.

Mr. Wilkinson stated that tonight the Board would be utilizing the new sound system. Mr. Wilkinson gave a brief explanation of how the system worked.

Minutes

Mr. Wilkinson stated that the draft of the February 21, 2011 meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York provided comments. Ms. Phillips provided two comments. Mr. Wilkinson stated that the Board could not vote on the minutes unless there is a quorum.

Subdivision Applications

Cinella/Schweizer (223-1-2.2)

Mr. Wilkinson stated that this is a subdivision of a 24 acre parcel on Westline Road to simply divide it in half. Mr. Wilkinson stated that the proposed plan is to subdivide the parcel with the house and out buildings sold with half of the property on one parcel, to be sold, and the remaining 12.5 acres will be retained by the current owners. Mr. Wilkinson stated that the Board is waiting for perk test results.

Mr. Wilkinson stated that the Right To Farm note had extra language that the Board asked to be removed. Mr. Wilkinson stated that he has spoken to Dave Schweizer and that he would

not be present at this meeting but they are still on track for the perk test and deep hole tests when the weather breaks. Mr. Wilkinson stated that he would also have the RTF note revised.

Mr. Wilkinson stated that the Board could do a conditional approval or wait for the perk test results. Mr. Wilkinson stated that the field that the Cinella's are going to retain is an active hay field and he does not want to mess it up trying to get in there now with a backhoe and make a mess of the field.

Schmidt/Katz/Van Guilder (237.-1-70.11)

Mr. Wilkinson stated that this is a subdivision of a 34 acre parcel located on Sweetman Road. Mr. Wilkinson stated that the Board requested clarification of the two acre triangle piece of land that Mark Katz is currently building a house on. Mr. Wilkinson stated that he spoke to Anna Stanko at Real Property Services and she gave a brief history of the parcel. Mr. Wilkinson stated that it is a legal lot that meets the zoning requirements with acreage and frontage. Mr. Wilkinson stated that in 1996, the Director of Real Property Tax Services made a decision that any property that was bisected, subdivided or sectioned off by power lines, railroad tracks, or a road, would be issued a separate tax id number. Mr. Wilkinson stated that the parcel was divided by power lines. Mr. Wilkinson stated that the Board is in a position to move forward. Mr. Wilkinson stated that access to the remaining lands needs to be resolved. Mr. Wilkinson stated that the Board requested a merging of deeds. Mr. Wilkinson stated that proposed deeds merging the parcels were sent to Mr. Keniry for review.

Bordeau (246.-3-99, 100 and 256.-1-98, 30.10, and 1 through 27)

Mr. Wilkinson stated that there would be a Public Hearing on this application. Mr. Wilkinson stated that the Town Engineer Mike McNamara is present to answer questions.

Heflin/Lansing (255.-1-41.1, 41, 43.1, 43.2, 43.3)

Mr. Wilkinson stated that the Heflin/Lansing application was just added to the agenda. Mr. Wilkinson stated that Scott Lansing was present with an update for the Board.

Zoning Report

Mr. Wilkinson stated that the Board has received the February report but not the January report. Mr. Wilkinson stated that Mrs. York has requested that the Zoning Office provide the reports in advance of the meetings. Mr. Wilkinson stated that Mrs. York is working with the Zoning Office to get the January report.

Town Board Liaison

Mrs. Verola was present.

Correspondence

Mr. Wilkinson stated that Mr. McNamara has provided a stormwater management fact sheet for the Board to review.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Kadlecsek. All were in favor. Agenda meeting closed at 7:25 p.m.

BUSINESS MEETING

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

Minutes

Mr. Wilkinson made the motion to approve the draft of the February 21, 2011 minutes with changes incorporated. Mr. Kadlecsek seconded the motion. All were in favor. Mrs. Wood abstained.

PUBLIC HEARING 7:30 P.M.**Bordeau Builders/Deer Run Phase 2 (246.-3-99, 100 and 256.-1-98, 30.10 and 1 through 27)**

Mr. Wilkinson opened the Public Hearing at 7:30 p.m. Mr. Wilkinson reviewed the Public Hearing process with those in attendance.

Mr. Wilkinson gave a brief history of the project.

Donald Zee, Esq.: Good evening, my name is Donald Zee and I am the attorney for Bordeau Builders which is the applicant for Phase 2 of the Deer Run Subdivision. With me tonight is Dave Ingalls of the Engineering Firm Ingalls and Associates. They will discuss any technical questions that the Board or the public may have with regard to this project. As the chairman has noted, this project has been around for quite a few years. In fact, Phase 1 of this project, Deer Run, received final approval from the Town of Charlton Planning Board on November 15, 1993. At that point in time, Phase 2, which consists of nine single-family building lots on approximately 6.6 acres, also received preliminary approval.

Mr. Zee showed Phase 1 and Phase 2 on the drawings.

Donald Zee, Esq.: It is important to note for the record that these gray lines are in fact the road ways that would service both Phase 1 and our proposed Phase 2. Phase 1, we have already started the site construction and some clearing and the roadways for Phase 1, 25 lots, would be serviced by those roads as well as this road from Swaggertown Road to Crooked Street. Currently we do not have a curb cut onto Crooked Street because as part of the

agreements with the Town and the approvals we didn't want to place a curb cut there until the road was ready for paving because we did not want to have any construction vehicles enter Crooked Street. As part of the approvals for Phase 1 it should be noted that existing homes along Crooked Street will be serviced or have public water available to them installed at the expense of my client. We would put a water line in Crooked Street as well as make availabilities for laterals to be hooked into the homes on Crooked Street. As you drive up Swaggertown Road you will be able to see the entrance way for this and right now we have stopped construction because of the great weather we are having in the northeast currently. But we expect to start very shortly when the snow clears and the ground gets a little bit drier. It is important to note that these roads were already in or have been approved and would be constructed for the construction of Phase 1 because these lots in here as shown in fact will be on existing road frontage; and so really they are lines on a sheet of paper because the land is there and the roads are going to be installed pursuant to part of Phase 1. In 1993 the Town Planning Board did do a SEQRA review of this project, though additional information has been submitted to the Town and has been reviewed by this Board as well as by the Town Board and the Town Engineer and Town Attorney. Some of the information that has been submitted with regard to this project is in fact we have received from the Historic Organization for the State that there is no impact of this proposed project on any historic artifacts. We have received from both New York State DEC as well as the US Fish and Wildlife, letters saying that there are no endangered species that would be impacted by this proposed development. Part of the new information that has been submitted post 1993 was that we went out and re-examined potential impacts on wetlands and we have in fact received an analysis by the ACOE and received a permit from the ACOE to do some wetland disturbance as well as requiring my clients to do some wetland mitigation. That wetland mitigation has all been completed and reports have been submitted to the ACOE by Ingalls and Associates with regard to the planting of wetland mitigation plantings and the mitigation area and to make sure that they are maintained and will properly grow in the coming years. The monitoring for that is for an extensive period of time, meaning several years moving forward. Also there is a correspondence from Mr. McNamara about stormwater management. Because this project goes back to 1993, and prior to our commencing construction this past fall, a stormwater pollution prevention plan was submitted to NYS DEC. They have reviewed it and accepted it and in addition to filing the SWPPP, a Notice of Intent which indicates that they acknowledged receipt of it and we can proceed with regard to the grading and clearing. That was submitted and received from DEC back in April of 2009. We also received from the County, the curb cut to Swaggertown Road. The project will be serviced by public water. We went through a lengthy process with the Town and NYS DEC and NYS DOH to get a water district extension created for this project and those permits have been issued. At this point in time, we did have soil borings done so that we know where the ground water table is and the report of that information has been put on the plans and reviewed by the Town Engineer as well. So at this point in time that is our presentation and we welcome any comments or questions from the public.

Mr. Wilkinson stated that there was a Public Hearing notice published in the Schenectady Gazette on March 14, 2011.

Marv Livingston, 760 Swaggertown Road: I am one of the neighbors. May I use the map? I've got the property in this area over here and on Swaggertown Road. Right in this area, there is a small stream that comes through the property here over through this wooded area right along this fence line and over through here and there doesn't seem to be any plan to drain this area. I don't know if, well, right where the construction equipment stopped, it appears that their equipment got bogged down in this wet area right in this area that's why they didn't break into Crooked Street. I'd just like to confirm that there is a drain off in this area.

Mr. McNamara asked Mr. Livingston to point to the area on the drawing.

Mr. Livingston approached the drawing and showed the area in question.

Marv Livingston: Right along this line of trees, there is a stream that goes right through here.

Dave Ingalls: That is not normally something involved in this project. It is off the property.

Marv Livingston: Ok and the stream.....

Unidentified person: They go right behind my house

Unidentified person: There are actually power lines that that run along Swaggertown and it follows the power lines

Marv Livingston: See this is the Parker property here. There is a stream that goes right through here and all of the sudden it seems to end right here. It's a huge wet area right in here. It's not a wetland area but it is wet here. If this stream is blocked up its going to back in to this whole area.

Mr. Ingalls showed where the two stormwater detention areas were located on the drawings.

Dave Ingalls: This is stormwater detention area number 2 up here and stormwater detention area number 1. There were some wetlands in this general area here. We actually did delineate some wetlands that were in this area here and if there is any drainage that continues on through we will make sure that there is a cross culvert that goes underneath the new roadway coming off of Crooked Street here. I believe that we do have cross culverts in the roadway to continue that drainage through so there is no backup.

Gina Parker, 62 Crooked Street: I have just seen on the plan (inaudible) we built our house in 2002 and the plan was changed.

Dave Ingalls: We'd be glad to verify that we are accommodating all of the drainage.

Marv Livingston: That stream has always been there.

Mr. Kadlecek: Is what I am looking at the stream in question?

Dave Ingalls: Yes, that continues through the roadway.

Mr. Kadlecek: And you are aware of the stream?

Dave Ingalls: Yes and there is a plan for a culvert. The proposed drainage is shown on the SWPPP under a map entitled "Proposed Drainage".

George Eggleston, 11 Florence Avenue: I border up against the back side of their property. I was wondering if there was any possibility that we could get access. I have about a three acre parcel that is on their side of the creek; to get through there to get to my three acres.

Mr. Wilkinson: That would be a conversation that you should have with the property owners.

Gary Bordeau: The one thing that's set forth is that we are not supposed to do any tree cutting in the HOA land, and it is HOA land that is encompassing that piece there, so there are strict guidelines as far as any type of cutting or existing rock wall moving so at that point I would probably say that it would be pretty difficult to get down in there with a straight shot.

George Eggleston: There is an existing farm road.

Gary Bordeau: That's encompassed in the land in the new lots right now. That roadway actually goes through backyards of the subdivision proposed lots. There is public access off of Swaggertown Road and if you can access it and that encompasses that area I don't see any problem with you being able to get down to your property there.

George Eggleston: Can I speak to you after?

Gary Bordeau: Sure.

Roberta Sarrutto, 63 Crooked Street: I am also wondering about the water. I am number 63 and I hear that you are going to end it at 61 and I was just wondering if there was any chance of getting access to that water. I am right there on the corner and I need it desperately. Who would I speak with?

Don Zee, Esq.: Can you show us your property on the map?

Gary Bordeau: I think the question would be answered by the Water Department, by Mr. Morgan. There was all sorts of documentation that was sent out in the mail prior to this forming of the water district. So if it's an outside user outside of that district that was

created you have to talk to Mr. Morgan and he could steer you in the right direction on how that could be accomplished.

Donald Zee, Esq.: I know that Mr. Bordeau, approximately four or five years ago when we were seeking the approval of the water district, at the request of the Town Board, we contacted residents along Crooked Street. There was a meeting out on Crooked Street inviting all of the neighbors in that vicinity to come out to see if they wanted to be part of the water district and I know that because I stood out there and met with several of the residents who co-signed a petition for the water district. We utilized the people who would sign that petition four or five years ago in forming the boundaries of the water district. That was further filled in pursuant to the Town Board's request because not all of the residents going in the other direction to the east had signed on but the Town asked us to incorporate those in the district and we did. It isn't because we didn't chose not to do it. We did take the steps that the Town Board had asked us several years ago.

Andy Parker, 62 Crooked Street: Is the Town planning on widening the road eventually down the road. The road is very narrow and when you are coming down it, two big trucks, there is trouble crossing without being pushed off.

Mr. Wilkinson: The Board has no knowledge of that. That would be a question for the Town Supervisor.

Janet Reville, 53 Crooked Street: I know water is coming down Crooked, are you also planning on bringing natural gas down?

Gary Bordeau: Yes we are.

Joe Marchesiello, 61 Crooked Street: Is this rendering an old rendering? Has the road going into the development been moved to the right of my property?

Dave Ingalls: It is the current plan.

Joe Marchesiello: What is the current plan, that or moving the road to the right where it was agreed it would be moved?

Gary Bordeau: That's the plan that was approved in 1993.

Joe Marchesiello: That was the plan that originally was proposed in 1993 and we had meetings after that where you agreed to move the road to the right.

Mr. Wilkinson: That is the current plan. It has been approved.

Gary Bordeau: It's been filed.

Jay Wilkinson: Its gone through the whole approval process the Town Engineer has looked at it.

Joe Marchesiello: This isn't going back to 1993; this is going back to when you started the latest approval process.

Jay Wilkinson: Can you show us on the map what you are talking about?

Joe Marchesiello: I'd like to know where the entrance on Crooked Street is in relationship to my property.

Gary Bordeau showed the location on the filed map and the road is 110 feet from Mr. Marchesiello property.

There were discussions among the audience looking at the drawings.

Joe Marchesiello: Where are the markings on Crooked Street as to where the center line will be?

Dave Ingalls: (inaudible) there may be flags there, there may not going all the way out to Crooked Street. We would have to take a look.

Dean Durst: (inaudible) Mr. Durst said something to the effect that he was at the meeting that Mr. Marchesiello attended where it was agreed that the cut would be moved.

Joe Marchesiello: That's when it was agreed to move it to the right. So how do I get confirmation that it has been moved?

Jay Wilkinson: Is there anything about this is the written agreement?

Joe Marchesiello: Connie, you remember the discussions.

Connie Wood: I remember vaguely that you were here and that there was some discussion about that.

Joe Marchesiello: Even for myself as to the timing so to be honest with you I didn't plan on coming up here to even discuss it until Andy said something with pointing to the map.

Jay Wilkinson: We don't know all of the particulars from the background of that and our Town Engineer...

Joe Marchesiello: I have a simple question or request, please mark it so that it is visible on Crooked Street so we can see the center line. Right now there is no center line.

Mike McNamara: I suggest we go through this one step at a time. Do you remember how much road was to be moved?

Joe Marchesiello: It was going to be somewhere right on the edge of my property versus right across the street from my driveway.

Mike McNamara: I don't remember that (inaudible)

Joe Marchesiello: Well it would have been roughly 70 to 80 feet.

Mike McNamara: It couldn't be moved by that much.

Joe Marchesiello: When can you show the center line on Crooked Street?

Jay Wilkinson: Is that something that can be shown when the weather gets better and you are back working again?

Don Zee, Esq.: When we get back under construction, yes we will do that and if you leave your name and number with Mr. Ingalls, we will have an opportunity to meet you out in the field and show you where it is going to be done. It should be noted that the location of that road is not before the Board tonight whatsoever.

Jay Wilkinson: Right. It is a done deal and it has been on the books since 1993, long before I was ever involved and a lot of this Board was not involved in this project but it is what it is.

Donald Zee, Esq.: As an accommodation, we are willing to do that.

Dave Ingalls: I just gave him my business card and will meet him out there to go over the location.

Jay Wilkinson: To be clear, the Board is not asking anyone to move a road or anything. That is not on the table here. I don't want you to leave here with the wrong impression.

Joe Marchesiello: I do have the wrong impression.

Jay Wilkinson: This project has been approved and preliminary approval was given in 1993. I don't know what transpired in the conversation you are referring to; it didn't get any farther than a conversation because it never got into a record or changed. The project that is before us has been engineered and approved. I think the applicant is willing to meet you and show you where it is but I don't know anything more this Board can do for you.

Joe Marchesiello: Ok.

Jay Wilkinson: Anyone else, questions, comments?

Jay Wilkinson: If there are no other comments, I move that we close the Public Hearing for the Deer Run Subdivision, is there a second?

John Kadlecsek: Second.

Jay Wilkinson: All in favor?

John Kadlecsek: Aye.

Connie Wood: Aye.

Dawn Szurek: Aye.

Marilyn Phillips: Aye.

Mr. Wilkinson: Aye.

Public Hearing closed at 8:05 p.m.

SUBDIVISION APPLICATIONS

Bordeau Builders/Deer Run Phase 2 (246.-3-99, 100 and 256.-1-98, 30.10, and 1 through 27)

Mr. Zee stated that the application before the Board is complete. Mr. Zee stated that this project already has preliminary approval and the roadway design has already been predetermined with the development and the approval of Phase 1. Mr. Zee stated that they have already addressed any environmental impacts that would be caused by the Phase 2, nine lots. The lots proposed as a result of the cluster arrangement that had been desired by the Planning Board back in 1993 still conforms with what we are showing here today.

Mr. Wilkinson stated that the applicants have provided all of the information requested. Mr. Wilkinson stated that last month the Board reviewed the Town Engineer's comments and the applicants have made all of the requested changes. Mr. Wilkinson stated that the Board is in a position to move forward.

Mr. Wilkinson stated that since this application has been ongoing since 1991, the full EAF was dated 2/22/90. Mr. Wilkinson stated that on 8/19/91 the Planning Board made a negative declaration concerning environmental significance. Mr. Wilkinson stated that the Board did request that the applicant submit a full EAF, which they have done. Mr. Wilkinson stated that the Board is mindful of not dividing the environmental review of this project and instead exercise discretion to ascertain whether there were significant changes to the project. Mr. Wilkinson stated that there were no significant changes, no newly

discovered information and circumstances have not changed that were not originally considered from the original project.

Mr. Wilkinson made the motion to classify the action as an unlisted action and affirm the negative declaration of significance. Mr. Kadlecek seconded the motion. All were in favor.

Mrs. Wood asked for clarification of the answer to question #23 on page 7 of the EAF.

Mr. Ingalls clarified that the answer was 12,250.

Mr. Wilkinson made a motion to approve Phase 2 of the Deer Run/Bordeau Builders Subdivision on Swaggertown Road and Crooked Street. Mrs. Wood seconded the motion. All were in favor. Ms. Phillips abstained as alternate.

Resolution 2011-02 was made.

Cinella/Schweizer (223.-1-2.2)

Mr. Wilkinson stated that this is a subdivision on Westline Road. Mr. Wilkinson stated that he received a call from the applicants representative that he would be unable to attend tonight's meeting due to another obligation. Mr. Wilkinson stated that at last month's meeting the Board requested perk tests and deep hole tests and a revision to the Right to Farm note. Mr. Wilkinson stated that the applicant is waiting for warmer weather to conduct the perk tests and the RTF note will be revised.

Mr. Wilkinson asked the Board if approval with conditions would be acceptable.

Mrs. Wood inquired if the County Planning Board had responded to the Board's referral.

Mr. Wilkinson stated that the Board did receive a response from the County and they responded that there was no impact.

Mr. Wilkinson stated that the Board has taken lead agency and needs to review the EAF.

Mrs. Wood made the motion to classify the action as an unlisted action for the purposes of SEQRA with a negative declaration. Mr. Kadlecek seconded the motion. All were in favor.

The Board reviewed Part II of the EAF.

Mr. Wilkinson made the motion to approve the Cinella/Schweizer subdivision contingent upon adequate perk test results and the revision to the RTF note and authorize the chairman to sign the Mylar's. Mrs. Wood seconded the motion. All were in favor.

Resolution 2011-03 was made.

Mr. Wilkinson asked Mrs. York to send a status letter to the applicants.

Schmidt/Katz/Van Guilder (237.-1-70.11)

Duane Rabideau appeared before the Board and distributed reduced size copies of the map that show proposed changes.

Mr. Rabideau stated that they have revised the maps and provided a smaller version. Mr. Rabideau stated that they have made the changes the Board requested. Mr. Rabideau stated that they have moved the well out of the 100 foot buffer area on Lot 1. Mr. Rabideau stated that the area in back of Lots 1, 2 and 3 and to the east of the NIMO power line will be annexed to the homestead parcel 620 Charlton Road and draft language for the deed merge was sent to Mr. Keniry for review.

Mr. Wilkinson inquired if the language was acceptable.

Mr. Keniry responded that assuming that the map language matches the deed language then it is acceptable.

Ms. Phillips inquired how close the new well was located to the driveway on the next lot.

Mr. Rabideau stated 50-60 feet.

Mr. Wilkinson stated that the Board took lead agency in February. Mr. Wilkinson stated that the issues from last months meeting have been corrected. Mr. Wilkinson stated that the Board has a complete application and is in a position to schedule the Public Hearing. Mr. Wilkinson scheduled the Public Hearing for April 18, 2011 at 7:30 p.m. Mr. Wilkinson stated that Mrs. York would provide the neighbor notice cards for the applicant to distribute for the neighboring property owners.

Helfin/Lansing (255.-1-41.1, 41, 43.1, 43.2, 43.3)

Scott Lansing appeared before the Board. Mr. Lansing thanked the Board for the late addition to the Agenda.

Mr. Lansing stated that they have not made a formal submission to the Board but they wanted to give an update of the project. Mr. Lansing stated that at the last meeting in October, 2010 the Board had several comments that they have been working diligently on. Mr. Lansing stated that it was suggested that the open space located at the back portion of the parcel be shifted to the front along the main roadway. Mr. Lansing stated that the Town Engineer has suggested swapping the stormwater management area and shifting the lots more towards the back of the parcel. Mr. Lansing stated that pertaining to the odd shape existing parcel in the back which had a different owner, it was suggested to tie that into the roadways so that there would be access to it and to possibly see if the applicant could acquire that lot and reconfigure the lots in the back of the parcel to make a better project.

Mr. Lansing stated that the lot in the front has been moved to the back as suggested by the Board. Mr. Lansing stated that the stormwater management area has been shifted and the residential lot has been shifted back. Mr. Lansing stated that the applicant is in the process of finalizing a deal with the Parks for the landlocked parcel. Mr. Lansing stated that the number of lots has remained the same. Mr. Lansing stated that the NYS stormwater management design guidelines have changed and they will revise their design accordingly. Mr. Lansing stated that they would like to set up a workshop with the Board to discuss the new guidelines and determine what is acceptable to the Town.

Mr. Wilkinson stated that a workshop would be a good idea and that the Board would invite the ECC, Mr. McNamara, Y. Scott Lansing and the Highway Superintendent.

Two dates were proposed: 4/4/11 at 7:00 p.m. or 4/6/11 at 7:00 p.m. Mr. Wilkinson stated that he would find out everyone's availability and schedule the workshop for one of those dates.

Zoning Report

The Board reviewed the February Zoning Report.

Town Board Liaison

Ms. Verola inquired if the Town Board should be at the workshop.

Mr. Wilkinson stated that it was just a workshop but anyone was welcome.

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

The meeting was adjourned at 9:00 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary