

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

Minutes of the Planning Board Meeting – July 18, 2011

Chairman Jay Wilkinson called the meeting to order at 7:05 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, John Kadlecek, Connie Wood, Mark Hodgkins, Mike Armer, Marilyn Phillips, Bill Keniry, Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Recording Secretary. Chris Mitchell joined the meeting at 7:30 p.m.

**AGENDA MEETING**

Mr. Wilkinson stated that there is a quorum.

Mr. Wilkinson reminded the Board of the new sound system.

Minutes

Mr. Wilkinson stated that the draft of the June 20, 2011 meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York provided comments. Ms. Phillips provided a comment. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Subdivision Applications

Mayer (236.-1-97)

Mr. Wilkinson stated that this is a proposal for a two-lot subdivision of a 12 acre parcel located on Maple Avenue. Mr. Wilkinson stated that one lot will contain the existing house and improvements on a two acre parcel and the applicant plans to build a home on the remaining 10 acres. Mr. Wilkinson stated that the survey has been done by John Gay.

Mr. Armer inquired if Mrs. Mayer's son was going to retain the parcel with the existing house.

Mr. Wilkinson stated that was mentioned at a pre-application conference. Mr. Wilkinson stated that the plans look complete. Mr. Wilkinson stated that the curb cut note was missing the name of the Town and that would need to be inserted on the final maps.

Mr. Armer inquired if the wetlands were delineated.

Mr. Wilkinson stated that the wetlands were not delineated but based on the latest DEC maps.

Mr. Armer stated that the narrative provided by the applicant referred to wet areas due to snow melt.

Mr. Wilkinson stated that there is a ditch under the driveway. Mr. Wilkinson stated that the Board could ask the applicant for more detail.

Rossdeutscher (246.-3-46.111)

Mr. Wilkinson stated that this property is located on Vines Road. Mr. Wilkinson stated that the Board walked the property on July 9<sup>th</sup> with the applicant. Mr. Wilkinson stated that the proposal is for a subdivision with one lot consisting of 11.58 acres with the existing house and outbuildings to be sold and the other lot will be the remaining 17+ acres that the applicant will be building a house for herself on. Mr. Wilkinson stated that the concern is that the deed has a restriction that no subdivision will be allowed as long as the Miner's live at 35 Vines Road.

Ms. Phillips stated that the applicant said she had that restriction lifted.

Mr. Wilkinson stated that the Board needs to have proof of the removal of the deed restriction to move forward. Mr. Wilkinson stated that the drawing note for long driveways is missing. Mr. Wilkinson stated that the pinch point is still there which the Board voiced concern over at the pre-application conference. Mr. Wilkinson stated that if the applicant went to the ZBA to apply for less than 200 feet of frontage, say 60 feet, the line could go straight back.

Mr. Armer inquired if the reason for the pinch point was to preserve the hay crops in the front of the parcel.

Mr. Wilkinson stated that there is a row of hay there. Mr. Wilkinson stated that during the walk of the property the applicant stated that she does not want to give up any more land.

Mrs. Wood raised concern with the easement for future owners. Mrs. Wood also raised concern with not being able to access the creek for maintenance purposes.

Mr. Wilkinson stated that the Board would request clarification of the easement.

Pre-Application Conference

Davis (246.-3-1.1)

Mr. Wilkinson stated that this is a subdivision on Charlton Road. Mr. Wilkinson stated that the whole parcel is 78 acres and the Davis' are looking to subdivide a two acre parcel for their granddaughter off of that parcel.

Ellms (237.-1-24.2)

Mr. Wilkinson stated that this is a lot line change to move a lot line on a lot that the Ellms own off of Root Road. Mr. Wilkinson stated that the lot line change would create a 3 ¾ acre parcel while connecting the rest of the property to their parcel on Charlton Road.

ZBA Referral

None.

Correspondence

Mrs. York distributed copies of the Pickett application for a Use Variance and Special Use Permit as a potential ZBA referral to the Planning Board.

Mr. Wilkinson stated that he has spoken to Mr. Schermerhorn and will discuss the application at the end of the business meeting.

Zoning Report

Mr. Wilkinson stated that the Board has received the current report for review. The Board reviewed the report.

Town Board Liaison

Mrs. Verola was present.

Mrs. Verola stated that there has been a Resolution passed for subdivisions for estate purposes on agricultural lands to be exempt from the park fee. Mrs. Verola will discuss the language pertaining to agricultural lands versus agricultural/residential lands with the Town Board.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mrs. Wood. All were in favor. Agenda meeting closed at 7:33 p.m.

**BUSINESS MEETING**

Opened at 7:34 p.m. with the Pledge of Allegiance.

**Minutes**

Mr. Wilkinson made the motion to approve the draft of the June 20, 2011 minutes with changes incorporated. Mr. Kadlecek seconded the motion. All were in favor.

### **SUBDIVISION APPLICATIONS**

#### **Mayer (236.-1-97)**

Mrs. Mayer appeared before the Board.

Mr. Wilkinson stated that this application was heard in May by the Board in a pre-application conference. Mr. Wilkinson asked Mrs. Mayer to put the proposed drawing on the easel and present her plan.

Mrs. Mayer stated that she is subdividing a two acre parcel with 200 feet of frontage that will contain the existing house that her son will be living in. Mrs. Mayer stated that she wants to retain the larger parcel for tax purposes. Mrs. Mayer stated that the proposed house location will be in the back of the parcel because when the pond of the northern neighbor overflows it brings flowing water on the property. Mrs. Mayer stated that the house is located in the back to avoid the flowing water. Mrs. Mayer stated that perk tests were done and the results were good. Mrs. Mayer stated that the well will be located on the other side of the proposed house.

Mr. Wilkinson inquired if the small shed was being relocated.

Mrs. Mayer inquired if it had to be moved. Mrs. Mayer stated that it housed a horse but the horse will stay on the larger parcel.

Mr. Wilkinson stated that the Board would need to know the distance of the shed to the edge of the new property line.

Mrs. Mayer stated that there is a discrepancy on the tax bill as it currently lists the acreage as 12.04 acres.

Mr. Wilkinson stated that was a non-issue.

The Board clarified that the shed that housed the horse has doors and windows therefore it is a barn.

Mr. Hodgkins stated that the setback requirement is 100 feet.

Mr. Wilkinson stated that if the applicant wants to leave the barn where it is then ZBA would have to be involved since it would not meet the 100 foot side yard setback requirement.

Mrs. Mayer stated that she would move the barn.

Mr. Wilkinson stated that the Board would need to see revised drawings showing the new location of the horse barn and the curb cut note would need to be revised.

Mr. Wilkinson stated that Mrs. York would be sending a follow up letter detailing the Board's requests.

Mrs. York provided the correct language for the curb cut note and the pages from the Zoning Ordinance pertaining to a horse barn.

**Rossdeutscher (246.-3-46.111)**

Duane Rabideau appeared before the Board.

Mr. Wilkinson stated that the Board walked the property on July 9<sup>th</sup>. Mr. Wilkinson asked Mr. Rabideau to put the proposed drawing on the easel and present the plan.

Mr. Rabideau stated that this is a two lot subdivision. Mr. Rabideau stated that the whole parcel consists of 30 acres and is located on Vines Road. Mr. Rabideau stated that Lot one would consist of 18 acres with the plan to build a house for the applicant and Lot 2 would be 12 acres and the existing house and improvements together with the existing driveway. Mr. Rabideau stated that the setbacks to the pond have been met. Mr. Wilkinson stated that the new lot will have onsite septic and onsite drilled well.

Mr. Wilkinson asked for clarification of the ingress/egress easement.

Mr. Rabideau stated that there is a steep bank where there is some grass that you can drive a tractor to get to the lower level of the flood plain and it is the only way to get down there. Mr. Rabideau stated that the cross easement allows both property owners to access that area. Mr. Rabideau stated that it was the logical location.

Mr. Wilkinson inquired if there was an agreement with the people who are currently using the driveway.

Mr. Rabideau stated that they will tighten up the existing agreement with the new owners so it can still be used as a common driveway. Mr. Rabideau stated that they have been using it as a common driveway for a long time.

Mr. Wilkinson stated that the 500 foot driveway note would need to be added to the drawing.

Mr. Rabideau asked if the driveway cutout would also be required.

Mr. Wilkinson stated that the Planning Board would prefer it.

Mr. Wilkinson clarified the language the Board was requiring for the curb cut note.

Mrs. York provided the Board's required language for the curb cut note.

Mr. Wilkinson stated that the remaining issue pertained to the deed restriction. Mr. Wilkinson stated that in order for the Board to move forward with the application, proof that the deed restriction has been lifted by Mr. Miner is required.

Ms. Rossdquetscher stated that she provided a copy of the removal of the deed restriction.

Mr. Keniry reviewed the release. Mr. Keniry stated that chain of title in the County Clerk's office reflects legal impediment of the subdivision. Mr. Keniry stated that once the release is recorded and the information is provided to the Board then they can move forward.

Ms. Rossdquetscher stated that her attorney may have already recorded the release.

Mr. Wilkinson stated that once a recorded copy has been reviewed by Mr. Keniry, the Board could move forward.

Mrs. Wood stated that she still has concern about the easement and the future owners. Mrs. Wood inquired if the applicant was going to put in restrictions i.e. types of vehicles that could be used there and the times of day they could be used. Mrs. Wood stated that she is concerned for both owners protection in the future.

Ms. Rossdquetscher stated that she does not want to restrict the owners to use their own property.

The Board continued discussions about the easement.

Ms. Rossdquetscher clarified that the easement is 16 feet by 65 feet and the rest of the land around the pond is the other owners.

Mr. Keniry questioned the purpose.

Mr. Rabideau stated that it was an easy way of doing it as there is only a 16 foot section that you can physically drive down.

Mr. Keniry inquired why not be consistent the whole way.

Mr. Rabideau stated that it was the ease of doing it.

Mr. Keniry explained that if easements are granted for specific purposes to what extent do you further delineate under what conditions the easement could be used. Mr. Keniry stated that restrictions are between property owners depending on the usage.

Mrs. Wood stated that the problem is when the parties change.

Ms. Rosduetscher stated that even if the owners change it is vitally important for both owners to get down there and maintain that area.

Mr. Kadlecek inquired if they could change the shape of the easement.

Mr. Rabideau stated that it could be modified but more area would be needed to make it work. Mr. Rabideau stated that the intent was to find the best way through.

Mr. Wilkinson stated that the Board is requesting revisions to the driveway note and the curb cut note to match Charlton's standard notes. Mr. Wilkinson stated that the Board would like to see restriction on the use of the easement but acknowledge the applicants preference. Mr. Wilkinson stated that the Board also needs the recorded release.

Mr. Rabideau stated that they would like the Board to schedule the Public Hearing. Mr. Rabideau stated that the new owners have a child that would be starting Kindergarten in September and they need to be in the district to register.

Mr. Keniry stated that the Board could proceed and if the applicant fails to fulfill the commitment of providing the requested documentation then the Board could adjourn the Public Hearing. Mr. Keniry stated that legally, it is up to the Board. Mr. Keniry stated that the risk is that there is a problem with the signor or the recording information. Mr. Keniry stated that the other problem is that the Board has representation from the applicant that they will provide the requested documentation and if they don't then the Board can vote no on the subdivision application since the deed has a restrictive covenant of no further subdivision.

Mr. Wilkinson polled the Board:

Mr. Wilkinson stated that he is not comfortable with moving forward without the documentation and wants to wait.

Mr. Armer stated that the Board should move forward.

Mr. Hodgkins stated that the Board should move forward.

Mr. Mitchell stated that the Board should wait.

Ms Phillips stated that the Board should wait.

Mrs. Wood stated that the Board should wait.

Mr. Kadlecek stated that the Board should wait.

Mr. Wilkinson stated that the Board would schedule the Public Hearing at next month's meeting if the information is received.

### **Pre-application Conference**

#### **Davis (246.-3-1.1)**

Donald Davis appeared before the Board.

Mr. Davis stated that he would like to subdivide a lot for his granddaughter. Mr. Davis showed the property on the tax map. Mr. Davis stated that the parcel would be two acres. Mr. Davis stated that perk tests were done and have been approved by Mr. Gizzi. Mr. Davis stated that Jed Hayden from DEC has come out and delineated the wetlands. Mr. Davis stated that it is currently being surveyed by Mr. Gay. Mr. Davis stated that they have not drilled the well yet. Mr. Davis stated that there will continue to be farming on the 60 acres. Mr. Davis inquired what he needed to do next.

Mr. Wilkinson stated that the Board needs a completed application together with a neighboring property owners list including farms within 500 feet. Mr. Wilkinson stated that Mrs. York can help complete the paperwork and Mrs. Caron can help provide a neighbor list. Mr. Wilkinson stated that the Board also needs an affidavit from M. Dawn Davis authorizing Mr. Davis to speak on her behalf. Mr. Wilkinson stated that the Board needs the documents two weeks before the August meeting. Mr. Wilkinson stated then the Board will send copies to the County and the Town Engineer for their comments.

Mr. Hodgkins asked that the contour lines be shown on the drawing.

Mr. Wilkinson asked that the proposed building envelope also be shown on the drawing.

Mr. Davis stated that they were planning on a modular home.

**Ellms (237.-1-24.2)**

Sally Ellms appeared before the Board.

Mrs. Ellms stated that she did not have a large map for display. Mrs. Ellms stated that the proposal is that the southern boundary line on the existing lot will be moved north creating a 3.75 acre parcel with 200 feet of frontage on Root Road.

Mr. Mitchell inquired if they owned the land on the Ballston side.

Mrs. Ellms stated that they own property up to the Town of Ballston line. Mrs. Elms stated that they are not subdividing, just a lot line change.

Mr. Wilkinson inquired if there was access to the 56.09 acre parcel now.

Mrs. Ellms stated that they own it.

Mr. Wilkinson inquired if there was access from the Charlton Road side.

Mrs. Ellms stated yes.

Mr. Wilkinson inquired if there would still be access once the line was moved.

Mrs. Ellms stated yes. Mrs. Ellms stated that the 56 acres was the original parcel then they split the western piece for their daughter.

Mr. Hodgkins inquired where the access was to the 74.09 acre parcel.

Mrs. Ellms stated that access was on Charlton Road and that the 56 acres fronts on Charlton Road.

Mrs. Wood stated that merging the deeds for the 18.40 acre parcel with the 56 acre parcel would then leave a 3.75 acres parcel with a separate entrance from Root Road as a separate lot.

Mrs. Ellms stated yes there will still only be two lots they are just changing the sizes.

Mr. Wilkinson stated that the Board would need drawings, a current survey showing the new line and a completed application.

Mrs. Ellms inquired about the fee.

Mr. Wilkinson stated that for a lot line change, the Board usually waives the fee, Public Hearing and engineer review. Mr. Wilkinson stated that the Board needs to see an application before a decision can be made to waive anything.

Mrs. Ellms inquired if perk tests were required.

Mr. Wilkinson stated that as long as it is a legal lot perk tests are required.

Mr. Keniry stated that a copy of the application would need to be sent to the Town of Ballston since the property is located on the town line.

### **Zoning Report**

The Board reviewed the Zoning Report.

### **Town Board Liaison**

No report.

### **Correspondence**

Mr. Wilkinson stated that the Pickett application is for a gun shop. Mr. Wilkinson stated that Mr. Pickett has already purchased a gun shop and would like to move it to his house. Mr. Wilkinson stated that the Board would await referral from the ZBA.

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

The meeting was adjourned at 9:03 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary