

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

Minutes of Planning Board Meeting – January 18, 2010

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

Present: Jay Wilkinson, Chairman, John Kadlecsek, Mark Hodgkins, Connie Wood, Dawn Szurek, Mike Armer, Ray Black, William Keniry, Planning Board Attorney, Susan York, Planning Board Clerk and acting Recording Secretary. Chris Mitchell joined the meeting at 7:22 p.m.

At the beginning of the meeting, Mr. Wilkinson asked Mr. Armer to sit in for Mr. Mitchell. When Mr. Mitchell arrived, the Planning Board had a full 7-member representation. Mr. Armer's votes would only count when other Planning Board members are recused from an application.

AGENDA MEETING:

Minutes

Mr. Wilkinson stated that the draft of the November meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York provided comments. Two other comments were presented. Mr. Wilkinson stated that the Board would approve the minutes during the business meeting.

Public Hearings

Mr. Wilkinson stated that there would not be any Public Hearings.

Old Business

Mr. Wilkinson stated that there was no old business.

Pre-application Conference

Nickles (223-1-31 and 223-1-32)

A sketch plan was provided.

Mr. Black asked Mr. Keniry if it is the applicants intent to make the ten acres subject to no further subdivision, how is that enforced? Mr. Black stated that the 10-acre parcel was mostly wetlands.

Mr. Wilkinson asked how the restriction of no further subdivision is enforced.

Mr. Armer inquired how it was known that it was wetlands without a survey map.

Mr. Keniry stated that the Board should ask the applicant what her intent for the parcel is. Mr. Keniry stated that the restraint needs to be on the map so that the County has the record of it on file. Mr. Keniry stated that a title searcher would never see the minutes. Mr. Keniry stated that the subdivider would need to commit to putting the restraint on the map. Mr. Keniry stated that careful attorneys check deeds for restraints but not necessarily the maps.

Subdivision Applications

Muscanell (237-1-24.12)

Mr. Wilkinson stated that the intent is to divide 59 acres to create a 5-acre building lot for his son. Mr. Wilkinson stated that he would be recusing himself and Mr. Kadlecek would be the chair now and in February.

Stack (225-1-12.1)

Mr. Wilkinson stated that this is a subdivision of 35+ acres on Route 67 into two parcels. Mr. Wilkinson stated that the Board has received the requested information.

Oaks/Trowbridge (236-1-16.12 and 236-1-18)

Mr. Wilkinson stated that this is a lot line change on Cook Road. Mr. Wilkinson stated that the intent is for the Trowbridge's to purchase 18 acres from the Oaks.

Heflin/Durst (255-1-40.1, 41, 43.1, 43.2, 43.3)

Mr. Wilkinson stated that Scott Lansing would be giving a presentation.

Miller/LaFountain (225-1-46.112)

Mr. Wilkinson stated that this was a 7 lot residential subdivision.

Ward (225-1-15.1)

Mr. Wilkinson stated that this application has been on hold for over a year. Mr. Ward has sent the Board a letter stating that, due to problems with the proposed subdivision and health related issues, he is withdrawing his application.

ZBA Referrals

Mr. Wilkinson stated that there were two referrals from the Zoning Board of Appeals.

Mrs. Wood stated that the house on the Palma property has been torn down.

Mr. Wilkinson stated that the ZBA is looking for input and he will write a letter.

Correspondence

Mr. Wilkinson reminded the Board of the Planning and Zoning Conference on Tuesday.

Mr. Wilkinson made a motion to close the Agenda meeting at 7:31 p.m. seconded by Mr. Black. All were in favor.

BUSINESS MEETING

Opened at 7:32 p.m. with the Pledge of Allegiance.

Minutes

Mrs. Wood made the motion to approve the draft of the November 16, 2009 minutes with change incorporated. Ms. Szurek seconded the motion. All were in favor.

Public Hearings

None.

Pre-Application Conference

Nickles (223-1-31 and 223-1-32)

Deborah Nickles appeared before the Board.

Mr. Black stated that this was a lot line change.

Mr. Armer inquired if lots A and B exist and the intent is to create lot C.

Mrs. Nickles stated correct. Mrs. Nickles stated that there is a pond located on lot B that she would like to put on lot A and pull 10 acres out of lot B and sell the new smaller parcel. Mrs. Nickles stated that she would like lots A and C to remain.

Mr. Black stated the Board would like to request the restriction of no further subdivision of the 10-acre parcel.

Mrs. Nickles stated that the 10-acre parcel had lots of wetlands.

Mr. Black inquired if the intent was to keep the 10-acre parcel for one house.

Mrs. Nickles stated that there is a house located there now.

Mr. Black asked Mrs. Nickles to put the restriction in the deed.

Mrs. Nickles stated that she would like to put lots A and B together with C being the newly created lot.

Mr. Wilkinson stated that there would need to be a 40-foot setback from the pond to the property line.

Mr. Black explained the lot line change. Mr. Black stated that if there is intent to build a new house, a perc test would be required. The Planning Board would also like to request placing a restriction in the new deed for no further subdivision.

Mrs. Nickles stated that she would be selling lot C, as she wants nothing to do with the house there.

Mr. Wilkinson stated that the survey map would need to show the house location, the location of the well and septic and delineate the wetlands. Mr. Wilkinson provided the map requirements. Mr. Wilkinson stated that the survey map would need to show both parcels and all that is included with any existing infrastructures, the standard map notes, the revision block and the signature block. Mr. Wilkinson stated that in order for this application to be on the February agenda, the drawings would need to be into the Board two weeks before the meeting on the 15th of February. Mr. Wilkinson stated that a Power of Attorney would also be required.

Subdivision Applications

Muscanell (237-1-24.12)

Mr. Wilkinson recused himself from discussions.

Ron and Brian Muscanell appeared before the Board.

Brian presented Mr. Kadlecek with a copy of a letter from Brad Sherwood of the Upstate New York Department of the Army. For the details, see **Attachment 1**.

Mr. Kadlecek stated that elevation lines at the well and septic are the only additions to the drawing.

Mr. Kadlecek inquired as to the status of the permits.

Brian Muscanell stated that he received the permit from the ACOE and expects the DEC

permit next week.

Mr. Black stated that the Board needs copies of both permits.

Mrs. Wood read from the ACOE letter.

Mr. Kadlecek stated that the Board will review the letter provided for the February meeting. Mr. Kadlecek stated that the Board would not take the time now.

Brian Muscanell stated that the turnaround within 100 feet of the house may be brought 20 feet closer.

Mr. Mitchell commented on the pocket of wetlands and advised using a culvert. Mr. Mitchell stated that it is a decent lot once you get back in there.

Mr. Black explained the need for elevations where the well and septic are located. Mr. Black stated that the setback is increased when the septic is higher than the well. Mr. Black stated that you need 200 feet instead of 100 feet.

Mr. Kadlecek made the motion for the Planning Board to be designated lead agency for the purposes of SEQRA. Mrs. Wood seconded the motion. All were in favor.

Mr. Kadlecek made the motion to schedule the Public Hearing for the February 15, 2010 meeting at 7:45 p.m. Mrs. Wood seconded the motion. All were in favor.

Stack (225-1-12.1)

Mr. Stack appeared before the Board.

Mr. Wilkinson checked off the items the Board requested in the letter to Mr. Stack.

Mrs. Wood stated that on the subdivision application form it says that there are no wetlands and there are wetlands.

Mr. Stack stated that after Mrs. York's comment, he went back to the surveyor and got the data.

Mrs. Wood stated that she would like to see the wetlands on the application.

Mr. Stack stated that there are 9.4 acres of wetlands on the total property.

Mr. Wilkinson made the motion to designate the Planning Board as lead agency for the purposes of SEQRA. Mrs. Wood seconded the motion. All were in favor.

Mr. Wilkinson made the motion to schedule the Public Hearing for the February 15, 2010 meeting at 8:00 p.m. Mrs. Wood seconded the motion. All were in favor.

Oaks/Trowbridge (236-1-16.12 and 236-1-18)

Mr. Black recused himself from discussions.

Mr. Trowbridge appeared before the Board.

Mr. Trowbridge provided the Oaks affidavit for the Board. Mr. Trowbridge stated that the Oaks are selling the property to include 5 acres with the transfer of 18 acres to himself. Mr. Trowbridge stated that Mr. Blackstone's map lacks a few things. Mr. Trowbridge stated that he prepared the SEQRA form, the AG data statement, and the application form and has copies of the deeds. Mr. Trowbridge stated that he has no intent to add anything to the property. Mr. Trowbridge stated that he wants to leave the 18 acres as is.

Mr. Wilkinson stated that the drawing needs the standard notes listed, the inset map and to show the tax parcel numbers and the zoning district. Mr. Wilkinson stated that everything else the Board requested is on the map.

Mr. Wilkinson stated that the Board could do a contingent approval.

Mr. Wilkinson made the motion to designate the Planning Board as lead agency for purposes of SEQRA. Mrs. Wood seconded the motion. All were in favor.

The Board completed the SEQRA form.

Mr. Wilkinson made the motion to approve the subdivision contingent upon the map additions of the standard notes, the inset map, the tax parcel numbers and the zoning district and authorize the chair to sign the corrected mylars. Mrs. Wood seconded the motion. All were in favor.

Resolution 2010-01 was made.

Heflin/Durst (255-1-40.1, 41, 43.1, 43.2, 43.3)

Mr. Wilkinson stated that this application has been ongoing. Mr. Wilkinson stated that Scott Lansing from Lansing Engineering was present with an updated plan to review with the Board.

Mr. McNamara sent a comment letter dated December 28, 2009. A copy of the letter is annexed hereto as **Attachment 2**.

Mr. Lansing provided the latest cluster plan for the 84.96-acre parcel for the Board to review. Mr. Lansing stated that the parcel is primarily vacant.

Mr. Lansing stated that a wetland delineation was done on the parcel three years ago. Mr. Lansing stated that the delineation has expired. Mr. Lansing stated that they needed to re-delineate the wetlands. Mr. Lansing stated that there are both ACOE and DEC wetlands present. Mr. Lansing showed the Board the wetlands. Mr. Lansing stated that they had the proposed septic locations surveyed.

Mr. Lansing reviewed Mr. McNamara's letter and provided comments. Mr. Lansing stated that the proposal is for 22 lots not 23 lots. Mr. Lansing stated that one lot was eliminated. Mr. Lansing stated that numbering on the map is odd due to the elimination.

Mr. Lansing stated that the setback issue has been addressed on Lots 17 and 20 with the setbacks being changed to 60 feet.

Mr. Lansing stated that DEC has approved the wetland jurisdiction.

Mr. Lansing stated that according to the test pit data, several lots might require raised bed systems. Mr. Lansing stated that he agrees and will adjust the map for that.

Mr. Lansing stated that the plans were sent to the highway superintendent Mike Emerich. Mr. Emerich was present and agreed.

Mr. Lansing stated that he will submit revisions to Mike McNamara for his review.

Mrs. Wood inquired as to the ownership of the open land.

Mr. Lansing stated that some of the land will go to the Town.

Mr. Wilkinson inquired how will they move forward.

Mr. Lansing stated that they needed public water.

Mr. Armer stated that lots 7, 8 and 10 need more setback of the sides from Swaggertown.

Mr. Black inquired about the land locked lot owned by someone else.

Mr. Lansing stated that access right of way was given to it.

Mr. Black stated that if they were given 60 feet of width instead of 30 feet, it could become a driveway.

Mr. Black inquired what becomes of the open space.

Mr. Lansing stated that it would be given to the Town.

Mr. Black inquired about the two stormwater management areas.

Mr. Lansing stated that would be dedicated to the town.

Mr. Black commented, then the Town gets to maintain the stormwater management areas.

Ms. Szurek inquired as to the access road setback from the existing home and parcel.

Mr. Lansing stated 50 to 60 feet.

Ms. Szurek inquired if they could give it more of a setback to become 60 feet from a town road.

Mr. Black stated that the lot was shown, as it exists today.

Mr. Black asked the Town Board members that were present about the process of transfer.

Mr. Grattidge stated that it has not yet come to the Town Board. Mr. Grattidge stated that the Board may want it turned over to a Homeowners Association. Regarding the stormwater management areas, Mr. Grattidge stated that traditionally, towns need access for maintenance and would take them over.

Mrs. Wood stated that it is an expense to the Town and taxpayers when stormwater projects fail.

Mr. Lansing stated that the stormwater systems are done to DEC standards. Mr. Lansing described the 4 bay design; sediment falls into 1st bay and will need to be periodically cleaned.

Mr. Black stated that there are three stormwater systems that need water routed to them. Mr. Black stated that on the aerial photo, it appears that the layout of the road puts the lots in the woods and in the fields. Mr. Black inquired if the cluster plan could have the aerial overlay.

Mr. Lansing stated yes that was easy to do.

Mr. Black inquired about the public water.

Mr. Wilkinson inquired if the proposal has been sent to the fire district.

Mr. Black stated that the road becomes the responsibility of the Town for maintenance.

Mr. Black stated that if the Town accepts the 16 acres of open land, could the land be used for a park.

Mr. Wilkinson inquired how to get to the open land if it becomes a park.

Mr. Black commented that Lot 11 is located on the curve and occupies a lot of wetlands. Mr. Black stated that as the water flows to the retention pond, there might be a need for access and suggested reducing the size of Lot 11.

Mr. Lansing explained that culverts for drainage would be accessible to the Town for maintenance.

Mr. Lansing stated that lots 7, 8, and 10 would be reconfigured and he would check the clarification width of the right of way.

Mr. Mitchell asked for proposed alternatives.

Ms. Szurek inquired what the distance between the two new roads was.

Mr. Lansing stated 450 feet.

Mr. Wilkinson inquired how long the road was.

Mr. Lansing stated that he did not know.

Mr. Wilkinson stated that the County will decide if a traffic study is needed when they apply for the curb cut permit.

Mr. Lansing stated that the road is two-way traffic.

Mr. Lansing will return next month.

Miller/LaFountain (225-1-46.112)

Mrs. Wood recused herself from this application.

Mr. Lansing presented for the LaFountains.

Mr. Lansing stated that all of the parcels are located in the Agricultural zone. Mr. Lansing stated that the lots would be positioned along Cook Road and Route 67. Mr.

Lansing stated that the soil test pits were done and are on the maps together with the proposed well locations.

Mr. Lansing requested a waiver of the cluster plan. Mr. Lansing stated that there is an open wooded area in the northwest corner and they are trying to use the land efficiently. Mr. Lansing stated that the cluster plan would detract from that and would involve extensive clearing of the wooded area.

Mr. Lansing requested a Public Hearing in February.

Mr. Wilkinson stated that he would like Mike McNamara to review the changes and provide comments as to the cluster plan. Mr. Wilkinson stated that the Board should walk the property.

Mr. Mitchell stated that they are hay fields not corn.

Mr. Kadlecik inquired if the Board had permission to walk the property.

Mr. LaFountain responded yes.

Mr. Lansing stated that he had a quick sketch of the cluster plan that he would give to Mr. McNamara.

Mr. Lansing stated that the 7 proposed lots will utilize the existing roads and avoids road construction.

Mr. Black stated that it makes more sense to make lot 1 larger and follow the stone line.

Mr. Lansing discussed paired driveways on Route 67 and separating the driveways out for the lots on Route 67.

Mr. Armer inquired if all of the houses would have a 60 foot setback.

Mr. Lansing stated that it would be up to the individual's preference.

Mr. LaFountain stated that the building envelopes were only proposals.

Mr. Wilkinson stated that it is too early to waive the cluster plan. Mr. Wilkinson stated that they wanted to get Mr. McNamara's input first. Mr. Wilkinson stated that deliberation can resume in February. Mr. Wilkinson stated that the Board would like to see the goals for the community addressed for maintaining open space. Mr. Wilkinson stated that the Board would like to see other ideas including moving the houses back so that they are not all at 60 feet of setback.

Mr. Black stated that, if the intent is to create 7 lots, he wants to see an alternate plan that utilizes the woods..

Mr. LaFountain stated that they want to keep the woods and the two lots for their family.

Mr. Black stated that it would be his desire to avoid lots on Route 67.

Mr. Mitchell discussed the cluster sketch.

Mr. Wilkinson said that the Planning Board would send the application to Mr. McNamara tomorrow.

Mr. Wilkinson asked Mr. LaFountain to provide the Planning Board with copies of his sales agreement with the Millers

Ward (225-1-15.1)

Mr. Wilkinson stated that this project has been on hold since January of 2009 and that a letter for withdrawal has been received from the applicant.

Mr. Wilkinson made a motion to accept the applicant's withdrawal of the application. Mrs. Wood seconded the motion. All were in favor.

Mr. Wilkinson stated that the remaining, unspent engineering escrow would be refunded.

ZBA Referrals

Jacobs (213-1-6)

Mr. Wilkinson stated that the applicants are looking for a use variance to live in the old existing house while the new house is being built.

Mr. Hodgkins suggested checking the ordinance.

Mr. Grattidge stated that the Board should be able to achieve protection via the CO being denied until the old house is demolished.

Mr. LaFountain stated that the building permit was denied. Mr. LaFountain stated that it started as an area variance and is now a use variance.

Ms. Szurek stated that it is a large parcel.

Mr. Grattidge stated that reasonable conditions can be set by the ZBA to protect the town.

Mr. Wilkinson stated that in the letter to the ZBA the Board will ask them to ensure that the house is torn down on a timely basis.

Mr. Wilkinson stated that he would draft a letter to the ZBA with the recommendation that the old house is removed in a timely manner.

Mr. LaFountain stated that they would give only a temporary CO and leave it up to the ZBA as to the timing of the removal of the old house.

Palma (226-1-29)

Mrs. Wood stated that the shack has already been torn down.

Mr. Wilkinson stated that the property is encumbered with wetlands in the front and on the side. Mr. Wilkinson stated that there is not enough road frontage as well as required setbacks to well and leach fields.

Mr. Mitchell stated that if they were not able to get good perc that they still could not build on it.

Mr. Black stated that in this case, a house torn down is a house non-existent. Mr. Black stated that there would be a problem getting well and septic and the proper setbacks. It would require substantial variances and present safety problems. Mr. Black stated that the question is the well down from the septic. Mr. Black stated that this should be treated as a lot without a pre-existing house. Mr. Black stated that the setback is only 60 feet from Route 67.

Mr. Keniry stated that the rule has changed. Mr. Keniry stated that it is a balance test, is the hardship self-imposed. Mr. Keniry stated that a remedy is purchase more land from the neighbors.

Mrs. Wood stated that it is not a buildable lot. Mrs. Wood agreed with buying more land from the neighbors.

Mr. Black stated that they are self-created hardships.

Mr. Wilkinson referred to page 25 of the zoning ordinance.

Mr. Keniry stated that the applicant is looking to grandfather this situation. Mr. Keniry stated that he would have to look at the ordinance when the house was built.

Mr. LaFountain stated that the Greens had two years to rebuild to have it grandfathered. Mr. LaFountain stated that if they had waited longer they could not have grandfathered. Mr. LaFountain stated that this application is similar.

Mr. Wilkinson stated that he would write a letter to the ZBA.

Mr. Black stated that it should be pointed out that this is a self-created hardship and there are other solutions besides variances.

Zoning Administrator Report

Mr. LaFountain provided reports for November and December.

Town Board Liaison

Mr. Grattidge gave a report for Mrs. Verola. Mr. Grattidge stated that the Farmland Protection plan was approved and there will be a meeting on February 8th with a Public Hearing. Mr. Grattidge stated that there is an amendment to the Comprehensive Plan that is accessible on the website.

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

The meeting was adjourned at 9:50 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary

Edits were incorporated by Susan York who was present at the meeting and could supplement incomplete tape recording.

A copy of Attachment #1 can be requested by calling the Planning Board at 384-0152, extension 216.

December 28, 2009

Mr. Jay Wilkinson
Planning Board Chairman
Town of Charlton Town Hall
784 Charlton Road
Charlton, N.Y. 12019

Attachment #2

Re: Major Subdivision – Heflin-Durst
Tax Map Parcel Nos. 255.00-1- 40.1, 41, 43.1, 43.2, 43.3

Dear Chairman Wilkinson:

We have received additional materials related to the above referenced application. Our review included a plan entitled “Cluster Plan with Soil Appraisal” as prepared by Lansing Engineering PC dated December 15, 2009, a map entitled “Topographic and Wetland Map of Lands of Garry R. Heflin, Inc. (et. al.)” dated September 10, 2009 as prepared by Santo Associates Land Surveying and Engineering, PC and a NYS DEC wetland jurisdiction letter dated November 4, 2009.

As you are aware, we have reviewed previous plans showing greater detail and expressed our comments in a letter dated May 16, 2007. The current concept plan has changed significantly from that earlier configuration including the depiction of a second entrance onto Swaggertown Road. Although plan specific remarks from our prior letter may no longer be applicable, many of the general comments remain valid and will need to be addressed by the applicant as the project proceeds. We offer the following for your consideration of the current material.

1. The site statistics and numbering scheme would seem to indicate 23 proposed lots in addition to the existing home. There are only 22 new lots shown but a test pit and reserved area are located to the west of lot #2. The applicant should clarify whether a 23rd lot is proposed at this location.
2. Side setbacks of only 30 feet from Swaggertown Road are shown for lot#17 and #20. The Board should consider whether the application of the front setback for the underlying zoning (60 feet) would be more appropriate along Swaggertown Road.
3. Wetland permits from both NYS DEC and the U.S. Army Corps of Engineers will be necessary for the proposed development. Although DEC has provided a validation letter, there appears to be a discrepancy with the 100 foot setback line on the west side of the wetland near the south boundary of the project. The setback closes into the wetland rather than continuing to parallel its edge. It is unclear whether this is an error or if the DEC simply

did not take jurisdiction of the entire wetland. Clarification should be provided on this matter as it could significantly change the amount of disturbance within the setback zone and may influence the location of the proposed road.

4. Soil test pits and percolation tests were performed on each of the proposed lots. These tests were at least partially witnessed by both the town Zoning Administrator and a representative of the New York State Department of Health. The test hole results for lots 7, 8, 10, 22 and 23 indicate that compliance with Charlton's separation requirements to either impervious layers or groundwater cannot be satisfied with conventional septic systems. These lots will need a Charlton "built-up" system as outlined in Article IV, Section 3 of the zoning ordinance. These designs require significantly more area to construct and the feasibility of the lots should be demonstrated. Lots 7, 8 and 10 are of particular concern due to their small size and the proximity of wetlands. Lot 22 is also of concern as the shallow depth to mottling may require an alternative system as defined in DOH Appendix 75-A.9.
5. We recommend that plans be submitted to the Highway Superintendent for comment.

Please feel free to call if you have any questions.

Very truly yours,

Michael McNamara, P.E.
The Environmental Design Partnership

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Cc: Planning Board Members
Bill Keniry
Ingrid Klafehn (Lansing Engineering, PC)