

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

Minutes of Planning Board Meeting – February 15, 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, Dawn Szurek, Mike Armer, Tracey Bullett, Acting Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Recording Secretary. Chris Mitchell joined the meeting at 7:15 p.m. Mike Armer left the meeting at 8:30 p.m.

At the beginning of the meeting, Mr. Wilkinson asked Mr. Armer to stay, as Mr. Black, Mrs. Wood and Mr. Hodgkins would not be in attendance. When Mr. Mitchell arrived, the Planning Board had a 5-member representation.

AGENDA MEETING:

Minutes

Mr. Wilkinson stated that the draft of the January meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York provided comments. Mr. Wilkinson also provided comments. Mr. Wilkinson stated that the Board could approve the minutes during the business meeting.

Public Hearings

Mr. Wilkinson stated that there would be two Public Hearings. Mr. Wilkinson stated that the Muscanell Public Hearing would take place at 7:45 p.m. and the Stack Public Hearing would take place at 8:00 p.m.

Old Business

Mr. Wilkinson stated that there was no old business.

Subdivision Applications and Lot Line Changes

Muscanell (237-1-24.12)

Mr. Wilkinson stated that this is a subdivision of a 5.4-acre parcel off of an existing 59-acre parcel to create a building lot for the applicant's son.

Mr. Wilkinson stated that there would be a Public Hearing on this application tonight. Mr. Wilkinson stated that he would be recusing himself and Mr. Kadlecsek would be chairing this application.

Mr. Kadlecek stated that the remaining issue is the disturbance permit. Mr. Kadlecek stated that the drawing was ok but the disturbance permit was needed to move forward.

Stack (225-1-12.1)

Mr. Wilkinson stated that this is a 35-acre parcel on Route 67. Mr. Wilkinson stated that the applicant would like to subdivide the existing house and barn with three acres and split that off from the 35 acres leaving 30 + acres of an existing tree farm. Mr. Wilkinson stated that the applicant would like to add the tree farm to his AG exemption and needs to do so by the March 1st deadline.

Mr. Wilkinson stated that the County reply would not be in before the deadline. Mr. Wilkinson stated that the County meets the third Thursday, which is after this meeting. Mr. Wilkinson stated that the Board could issue a contingency approval. Mr. Wilkinson stated that the Board has taken lead agency.

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

Mr. Wilkinson stated that Scott Lansing was present.

Miller/LaFountain (225-1-46.112)

Mr. Wilkinson stated that Mr. Lansing was present.

Nielsen (234-1-17.2)

Mr. Wilkinson stated that this was a lot line change. Mr. Wilkinson stated that the applicants were before the Board in 2009 for a subdivision of this parcel. Mr. Wilkinson stated that the intent is to make the lot an acre smaller to allow access to the farm road from the original property.

Mr. Wilkinson asked Mr. LaFountain if the applicants had obtained a permit and begun work because a majority of the property had already been bulldozed.

Mr. LaFountain stated that he was not sure and would look into it tomorrow.

Mr. Armer stated that it appeared that over an acre had been bulldozed and the upper area had been trenched.

Mr. Kadlecek inquired if there was stormwater protection in place.

Mr. LaFountain stated that the applicants have not been in to see him yet.

Mrs. Bullett stated that the Town of Glenville would need notice.

Mr. Wilkinson stated that the Board would notify them.

Mrs. Bullett stated that she would advise that the Public Hearing not be waived due to the presence of a barn.

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

Mr. Wilkinson stated that this is a lot line change located on Westline Road. Mr. Wilkinson stated that the Board should not waive the Public Hearing on this because it has not been an active farm and the intent is to be a horse farm. Mr. Wilkinson stated that there is a discrepancy between the drawing submitted and the original narrative regarding the parcel size. Mr. Wilkinson stated that the Board would need clarification.

ZBA Referrals

Mr. Wilkinson stated that there were no referrals from the Zoning Board.

Zoning Administrator Report

Mr. LaFountain provided his report for the month of January.

Town Board Liaison

Mr. Wilkinson stated that there would be a report if Mrs. Verola were available.

Correspondence

Mr. Wilkinson stated that the Board has an opportunity to make a submission to the next newsletter. Mr. Wilkinson stated that February 26th was the deadline.

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

BUSINESS MEETING

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

Minutes

Mr. Wilkinson made the motion to approve the draft of the January 18, 2010 minutes with change incorporated. Mr. Kadlecek seconded the motion. All were in favor.

Public Hearings

Mr. Wilkinson stated that the Muscanell Public hearing would be at 7:45p.m. and the Stack Public Hearing would be at 8:00 p.m.

Mr. Wilkinson explained the Public Hearing process to the public.

The Board took a recess at 7:35 p.m.

Mr. Wilkinson called the meeting back to order at 7:45 p.m.

Public Hearings

Muscanell (237-1-24.12) 7:45 p.m.

Mr. Wilkinson recused himself. Mr. Kadlecek took over as chairman.

Mr. Kadlecek stated that post cards were sent to the neighbors in notification of the Public Hearing on January 22, 2010. Mr. Kadlecek stated that the public notice was published in the Daily Gazette on February 8, 2010. Mr. Kadlecek read the public notice into the record.

Mr. Kadlecek asked the applicants to make a presentation.

Brian and Ronald Muscanell made the following presentation:

- property location is on the south side of Root Road;
- proposal is to break off 5 ½ acres on east boundary to be known as Lot 2;

Mr. Kadlecek asked Mr. Muscanell to describe the drawing.

Brian Muscanell showed the intersections on the drawing.

Cheryl Doyle, 15 Featherbed Lane: Are there wetlands?

Brian Muscanell: Yes, permits have been received and delineations are done.

Ronald Muscanell showed the wetlands on the drawing.

Ronald Muscanell: 700 foot back is the residence. There is a buffer in place.

Kristen Short, 292 Sweetman Road: What is the road frontage of the piece you are breaking off?

Brian Muscanell: 240 feet

Kristen Short, 292 Sweetman Road: What is the road frontage of the remaining parcel?

Ronald Muscanell: 441 feet.

Kristen Short, 292 Sweetman Road: What is the intent for the rest of the property? Will there be further subdivisions?

Ronald Muscanell: The property will remain forever wild after this subdivision.

Chip Ellms, 468 Charlton Road: I own property to the east and wanted to say that I have no problem with this subdivision.

Mr. Kadlecek closed the public comment part of the Public Hearing.

Mr. Kadlecek read the letter from the Environmental Conservation Commission dated February 12, 2010. A copy of the letter is annexed hereto as **Attachment 1**.

Mr. Kadlecek stated that the Board would be deliberating this application during the business meeting.

Brian Muscanell provided a letter from DEC for the Board to review.

Public Hearing closed at 7:55 p.m.

Stack (225-1-12.1) 8:00 p.m.

Mr. Wilkinson stated that this is a subdivision on Route 67.

Mr. Wilkinson read the Public Hearing notice into the record.

Mr. Wilkinson asked Mr. Stack to make a presentation.

Mr. Stack made the following presentation:

- currently owns a Christmas tree plantation in Milton where primary residence is located;
- purchased the lot on Route 67 8 months ago;
- intent is to separate the existing house and barn on three acres;
- remaining 30 + acres will remain a Christmas tree farm;
- there is 320 feet of road frontage;
- plan to retain land and tree operation to expand operation in Milton.

Cheryl Doyle, 15 Featherbed Lane: You are going to subdivide the house and sell it or keep it the same?

Mr. Stack: Yes. I currently have the house rented.

Cheryl Doyle, 15 Featherbed Lane: You have no plans for development?

Mr. Stack: I have no intention of development. The extent of my plans is to remove the overgrown trees and replant in the front section.

Mr. Wilkinson stated that the Board received a letter from the Environmental Conservation Commission dated February 12, 2010. A copy of the letter is annexed hereto as **Attachment 2**.

Jay Price, 1 Featherbed Lane: What is the amount of road frontage left?

Mr. Stack: 371 feet.

Public Hearing closed at 8:05 p.m.

Subdivision Applications

Muscanell (237-1-24.12)

Mr. Wilkinson recused himself from discussions. Mr. Kadlecsek took over as chairman.

Brian and Ronald Muscanell appeared before the Board.

Brian Muscanell provided a color copy of the wetlands delineation for the Board to review.

Mr. Kadlecsek stated that the Board had received an updated map, which had all of the Board's requests except for the new location for the well. Mr. Kadlecsek stated that the new drawings now have the location of the well so the map is complete. Mr. Kadlecsek stated that he had a suggestion for the well. Mr. Kadlecsek suggested that the applicants move the setback to more than 15 feet to be sure that they are far enough away.

Mr. Kadlecsek stated that the town engineer's letter of January 29, 2010 requests deep hole test pit data and septic design as well as necessary permits.

Ron Muscanell stated that they are aware they need the septic design.

Mr. Kadlecsek inquired if they were using the James Douglas design.

Ronald Muscanell responded yes.

Mr. Kadlecek inquired if the applicants had conformed to what DEC was requiring post construction

Ronald Muscanell responded yes.

Mr. Kadlecek stated that the Board has sent this application to the County Planning Board for their review. Mr. Kadlecek stated that they will meet on the 18th to discuss this application. Mr. Kadlecek stated that the County will respond by letter after they have reviewed the application. Mr. Kadlecek stated that the Board will wait for County response before making approval.

Mr. Kadlecek stated that the Board would need to see a copy of the road cut permit.

Brian Muscanell stated that he got the permit from Mr. Emerich.

Mr. Kadlecek asked Mr. Muscanell to bring a copy to next months meeting.

Stack (225-1-12.1)

Mr. Wilkinson stated that the Board is waiting for a response from the County Planning Board. Mr. Wilkinson inquired what would happen to the AG exemption if the Board did not grant approval of the subdivision until the next meeting.

Mr. Stack stated that his paperwork has to be in to the County by March 1st.

Mr. Mitchell stated that the Board has a complete application.

Mr. Wilkinson stated that the County meeting is on the 18th. Mr. Wilkinson stated that the Board could grant contingency approval if everyone agrees. Mr. Wilkinson stated that the application is complete, the Board took lead agency status on January 18, 2010, it is an unlisted action, and there is a complete AG Data Statement and a copy of the deed.

The Board completed SEQRA review.

Mr. Wilkinson stated that the park fee would need to be paid.

Ms. Szurek inquired if there was a perk test.

Mr. Wilkinson stated that it is notated on the drawing.

Mr. Stack inquired how many mylars were required.

Mrs. York stated two original and 2 copies and how ever many else the applicant wanted.

Mr. Wilkinson stated that the town needs an original and a copy of the mylar.

Mrs. York provided the filing instructions to Mr. Stack.

Mr. Mitchell made the motion to approve the subdivision contingent upon receiving County Planning Board approval and payment of all fees and authorize the chairman to sign the mylars. Ms. Szurek seconded the motion. All were in favor.

Resolution 2010-02 was made.

Mr. Wilkinson stated that Mrs. York would call the applicant upon receiving response from the County.

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

Scott Lansing appeared before the Board.

Mr. Wilkinson stated that there was a workshop on February 4, 2010 to discuss maintaining open space, maintaining the rural character and using only one road cut on Swaggertown Road for this application. Mr. Wilkinson asked Mr. Lansing to update the Board.

Mr. Lansing stated that the wetlands have been updated. Mr. Lansing stated that they have updated soils information and test pit information. Mr. Lansing stated that the current plan has two curb cuts along Swaggertown Road. Mr. Lansing stated that per the workshop, they went back to the original plan, which had only one curb cut across from Crooked Street and developed the current plan. Mr. Lansing stated that the number of lots up front has changed and the lots are now larger. Mr. Lansing stated that it is still the same number of lots just a little tighter. Mr. Lansing stated that they have maintained the open space in the back. Mr. Lansing stated that Mr. McNamara requested drainage, sewer and stormwater management information. Mr. Lansing stated that in order to bring in Town water, they need Town Board approval.

Mr. Kadlecik inquired, in the lower right of the parcel, if the properties were encroaching on NYS wetlands.

Mr. Lansing stated yes they do slightly. Mr. Lansing stated that the building line will coincide with the 100-foot buffer.

Ms. Szurek inquired what something was on the drawing.

Mr. Lansing stated that it is one very large lot .

Ms. Szurek inquired where the driveway location was for the large lot.

Mr. Lansing responded Swaggertown Road.

Mr. Lansing stated that the former plan had 6 lots in the front and the new plan proposes 4 new lots in the front.

Mr. Mitchell inquired about the triangle behind the 4 lots on the curve.

Mr. Lansing responded open space area. Mr. Lansing stated that the lot lines could be extended back or it could be an open space area.

Ms. Szurek inquired how big the smaller lots were.

Mr. Lansing responded one acre.

Ms. Szurek asked Mr. Lansing to point out on the drawing the areas of open space.

Mr. Wilkinson stated that the applicants took what the Board was asking for into consideration and this plan is a big improvement.

Mr. Lansing stated that they did lose about 1,000 linear feet of roadway.

Mr. Wilkinson suggested moving the lot lines back on the parcels on the curve.

Mr. Mitchell stated that if they leave the open space with the front lot it could be used as a horse farm. Mr. Mitchell stated that there would be three lots big enough for horses.

Ms. Szurek asked the acreage.

Mr. Lansing stated 4.74 acres for Lot 10 and the rest are about 5 acres.

Mr. Mitchell inquired if the woodland area in the back had suitable soils.

Mr. Lansing stated that there was a mix. Mr. Lansing stated that there is a DEC wetland in the far area.

Mr. Kadlecek stated that he liked the new plan. Mr. Kadlecek stated that he would like to see if the properties have enough usable space.

Mr. Mitchell stated that he liked the new plan.

Mr. Lansing inquired if the next step was preliminary engineering.

Mr. Wilkinson responded yes.

Mr. Lansing stated that they would continue to work with the Town Board for the water.

Mrs. York asked Mr. Lansing to get copies of the drawings to the Board.

Mr. Lansing stated that he would provide conceptual copies to the Board.

Miller/LaFountain (225-1-46.112)

Mr. Lansing appeared before the Board.

Mr. Wilkinson stated that the goals of the Board are to maintain open space, maintain the rural character of the area and to eliminate driveways onto Route 67.

Mr. Lansing stated that they are still using the same plan. Mr. Lansing stated that the plan proposes 7 lots. Mr. Lansing stated that they took into consideration the layouts provided by Mr. McNamara. Mr. Lansing stated that the parcel is 55 acres with 10.52 acres of wetlands. Mr. Lansing stated that that leaves 45 useable land acres. Mr. Lansing stated that with a cluster plan, using 2-acre lots, they could get 20 lots on that parcel. Mr. Lansing stated that the applicant's desire is to only put 7 lots on the parcel. Mr. Lansing stated that this plan is what works best for the applicants. Mr. Lansing stated that they are requesting that the Board waive the requirement of a cluster plan submission and advance to acceptance of the application and the scheduling of a Public Hearing.

Mr. Wilkinson inquired if there were any changes to the drawing since the workshop.

Mr. Lansing responded no.

Mr. Wilkinson stated that at the workshop the Board made their goals clear. Mr. Wilkinson stated that the Board wants to eliminate driveways onto Route 67, maintain the farmlands, rural character and maintain the open space. Mr. Wilkinson stated that the Board understands the applicant's desire to keep the two 16 acre parcels for his family. Mr. Wilkinson stated that the current plan before the Board does not reach the Planning Board's goals. Mr. Wilkinson stated that there were several suggestions at the workshop. Mr. Wilkinson inquired if the applicants were willing to discuss other options or was this the plan the applicants want to move forward with.

Mr. LaFountain inquired if the Board would accept the application as presented.

Mr. Wilkinson responded no. Mr. Wilkinson stated that the Zoning Ordinance requires two plans to be submitted. Mr. Wilkinson stated that the Board only has one plan. Mr. Wilkinson stated that Mr. McNamara provided three cluster plans as alternatives. Mr. Wilkinson inquired if the applicants would be willing to sit down and negotiate. Mr. Wilkinson stated that the Board needs a formal plan for engineering review. Mr.

Wilkinson stated that if the applicants are willing to sit down with the Board again to discuss other options the Board is willing to do so. Mr. Wilkinson stated that if the applicants are standing on the plan as currently presented, the Board would be taking an executive session to discuss the matter with counsel.

The Zoning Ordinance was reviewed to determine the regulation.

The Board entered Executive Session at 9:08 p.m.

The Board returned from Executive Session at 9:23 p.m.

Mr. Wilkinson stated that the request for a waiver of the cluster plan is denied for the following reasons:

- the site plan can technically support a plan as the town engineer provided three plans;
- sufficient technical information has not yet been submitted for the Board to act on for a cluster plan;
- the Board does not have enough time and data information to make a determination at this time until we have a complete package; the requirements say the Board has two, a traditional plan and a cluster plan.

Mr. Wilkinson stated that the cluster plan is in keeping with section 1 of the subdivision requirements and the traditional plan is not. Mr. Wilkinson stated that it is in the best interests of what the Town is trying to achieve right now, and our goals with the comprehensive plan and the farmland protection plan that was just passed. Mr. Wilkinson stated that the Board's goals are open space and protection of farmland.

Mr. Lansing stated that the applicants are willing to come to another workshop to discuss options.

The Board and the applicants will be holding a workshop on March 3, 2010 at 7:00 p.m. at Town Hall.

Mr. LaFountain asked Mr. Wilkinson for the Board's priorities.

Mr. Wilkinson stated that the Board does not want to see driveways on Route 67, maintain rural character, maintain open space and protect the farmland. Mr. Wilkinson stated that he will ask Mr. McNamara to attend the workshop.

Nielsen (234-1-17.2)

Brian Dunn appeared before the Board.

Mr. Wilkinson stated that this was a subdivision in May of 2009. Mr. Wilkinson stated that the applicants would like to move the lot lines.

Mr. Dunn stated that they would like to shift the lot line between his in-laws land and his just over to the right to give them extra room along the stonewall so there will no longer be a common driveway. Mr. Nielsen stated that the back line now follows the tree line.

Mr. Wilkinson inquired if the gift never happened.

Mr. Dunn stated no. Mr. Dunn stated that his father-in-law, John Nielsen, had been overseas when the subdivision was done. Mr. Dunn stated that the gift will happen after the lot line adjustment.

Mr. Wilkinson stated that the Board needs an affidavit authorizing Mr. Dunn to speak on his in-laws behalf or Mr. VanGuilder needs to be present at the next meeting in that the affidavit submitted authorized Gilbert VanGuilder to represent the Nielsen's.

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

Deborah Nickles appeared before the Board.

Mr. Wilkinson stated that there is a discrepancy in the total amount of acres. Mr. Wilkinson stated that the application has the right numbers but the map is wrong. Mr. Wilkinson stated that there is a pre-existing condition of the barn being located on the property line.

Ms. Szurek stated that there is a typo in the Right to Farm note. Ms. Szurek asked Mrs. Nickles to change "his" to "this".

Mr. Wilkinson stated that the application has been sent to the County for review and the Board is waiting for a response. Mr. Wilkinson stated that the Board needs a corrected drawing to move forward. Mr. Wilkinson stated that since it is a farm that could be used for horses, the Board will not waive the Public Hearing and notification to the neighbors. Mr. Wilkinson stated that it is a change in use since it has not been active in years.

Mrs. Nickles stated that it had been over 50 years.

The Board determined that 9 horses could be kept on the property.

Mr. Wilkinson explained the Public Hearing process and the time clock that starts running once it has closed.

The Board and the applicant agreed that an extension of time would be agreed upon if there was a need for one.

Mr. Wilkinson scheduled the Public Hearing for March 15, 2010 at 7:30 p.m.

Mrs. York provided the Public hearing process information to the applicant.

Mrs. Nickles inquired as to the submission date.

Mr. Wilkinson stated that the submission date for the next meeting is 3/1/10. Mr. Wilkinson stated that the map needs to show that the district is AG district #2, the Right to Farm note revised to change "his" to "this", remove the line for parcel 223-1-31 that is being added to the larger parcel 223-1-32 and to correct the stated acreage so that it adds up to the acreage that you started with. Mr. Wilkinson stated that Mrs. York would provide a follow-up letter with the information the Board was requesting.

ZBA Referrals

None.

Zoning Administrator Report

Mr. LaFountain provided a report for January.

Correspondence

The Board decided that it did not have any information for submission to the newsletter.

Town Board Liaison

Mrs. Verola was not in attendance.

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

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary



Charlton Environmental Conservation Commission

Jay Wilkinson, Chairman
Town of Charlton Planning Board
758 Charlton Road
Charlton, NY 12019

February 12, 2010

Attachment 1

Subject: Muscanell Subdivision Application

The updated subject application from Ronald and Sandra Muscanell to subdivide a 59 acre parcel on Root Road into two lots was reviewed for a second time by the Charlton Environmental Conservation Commission at its January 26, 2010 meeting. The Planning Board asked the ECC to review plans for subdividing this land into two lots consisting of a 5.4 acre property split off from the 59 acre property along the eastern boundary of the existing parcel. A visual inspection of the property was conducted last November by members of the ECC as part of this review.

The original comments by the ECC were transmitted to the Planning Board by letter, dated November 16, 2009. In that letter the ECC had recommended that the applicant notify the NYS DEC and the Army Corps of Engineers (ACOE) and apply for a wetland disturbance permit for the driveway before any action is taken on the subdivision application. The ECC notes that notification to both agencies has occurred and that a wetland delineation has been performed. However, the DEC wetland disturbance permit has not yet been issued. Furthermore, the ACOE letter authorizing the proposed work requires the installation and maintenance of proper soil erosion and sediment controls during construction. The applicant should provide a plan for the installation and maintenance of the required soil erosion and sediment controls before any final action is taken to approve the project by the Planning Board. As noted in its November 16, 2009 letter, the ECC also recommends that no final action be taken on the application until the DEC wetland disturbance permit is received in addition to receipt of a plan for the measures to be taken to protect the wetland during construction.

The ECC wishes to again note that there have been recent applications for subdivisions that, if granted, could disturb wetlands and streams. As the ECC's previous reviews have stated, even if state and federal agencies are not concerned with the disturbance of a specific wetland, the ECC believes that Charlton has an obligation to future owners of such properties and should not condone these actions on properties that may be, at best, marginal building sites. At a minimum, Charlton should require mitigation or offsets for any wetland disturbance. The ECC also believes that protection of Charlton's watercourses should be a priority in all such reviews.

If we can be of any further help on this matter feel free to contact me at 399-4161.

Marvin M. Schorr, Chairman
Town of Charlton Environmental Conservation Commission

cc: ECC members
D. Salisbury



Charlton Environmental Conservation Commission

Jay Wilkinson, Chairman
Town of Charlton Planning Board
758 Charlton Road
Charlton, NY 12019

February 12, 2010

Attachment 2

Subject: Stack Application for Subdivision of 3 Acres from a 35 Acre Parcel on Amsterdam Road.

The subject application from David G. Stack to subdivide a 35 acre parcel on Amsterdam Road into two lots was reviewed by the Charlton Environmental Conservation Commission at its January 26, 2010 meeting. The Planning Board asked the ECC to review plans for subdividing this land into two lots consisting of a 3+ acre property with house and barns split off from the 35+ acre property. This is essentially just a deed change to separate the house and other structures from a tree farm. The 30+ acre parcel will then be added to an existing tree farm business and added to an existing agricultural tax exemption.

The ECC believes that there will be no significant environmental impact resulting from the proposed action.

If we can be of any further help on this matter feel free to contact me at 399-4161.

Marvin M. Schorr, Chairman
Town of Charlton Environmental Conservation Commission

cc: ECC members
D. Salisbury