

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

Minutes of Planning Board Meeting – January 19, 2009

Chairman Jay Wilkinson called the meeting to order at 7:00 p.m. at the John W. Taylor Hall.

Present: Jay Wilkinson, Chairman, Ray Black, John Kadlecek, Connie Wood, Dawn Szurek, Mike Armer, Bill Keniry, Planning Board Attorney, Dave LaFountain, Zoning Officer, Mike McNamara, Town Engineer, Susan York, Planning Board clerk and Kimberly Caron, Recording Secretary. Mark Hodgkins joined the meeting at 9:00 p.m.

AGENDA MEETING:

Mr. Wilkinson stated that there is a quorum of six members.

Minutes

Mr. Wilkinson asked for comments on the draft of the November meeting minutes. Mrs. York previously provided comments via mail. No other comments were presented.

Public Hearings

Mr. Wilkinson stated that there are no Public Hearings.

Subdivision Applications

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

Mr. Wilkinson stated that this is a placeholder as this matter is on hold.

Ward (225-1-15.1)

Mr. Wilkinson stated that the Public Hearing was scheduled for tonight but a number of things had happened and the Hearing was cancelled. Mr. Wilkinson stated that there was a disagreement between the applicant and the Planning Board pertaining to funding of the engineering escrow account.

Mrs. York stated that the engineering escrow account has now been funded.

Mr. Wilkinson stated that at the time of notice for the Public Hearing and notice to the neighbors, the engineering escrow account had not yet been funded which determined the decision to cancel the Public Hearing.

Mr. Wilkinson stated that there are issues as detailed in the engineering review letter from Michael McNamara dated December 31, 2008. A copy of the letter is annexed hereto as **Attachment 1**.

Mr. Wilkinson stated that the biggest issue pertains to the setback distance to the ACOE wetlands. Mr. Wilkinson stated that the information received from Mr. Ward pertained to DEC wetlands. Mr. Wilkinson suggested that the Board should discuss if there is a reason for requesting requirements on the setback distance to the ACOE wetlands.

Mr. Armer stated that the south area is DEC according to the letter from DEC.

Mr. McNamara stated that was south on the 55-acre parcel. Mr. McNamara stated that all of the wetlands shown on the map are ACOE.

Mr. Wilkinson stated that there are three major points discussed in Mr. McNamara's letter. Mr. Wilkinson stated that comment #2 pertained to a map adjustment that could be easily fixed by the surveyor. Mr. Wilkinson stated that comment #3 pertained to the data collected from the percolation tests required a Charlton built-up septic system with a significantly larger disposal area than the schematic indicated on the subdivision plan. Mr. Wilkinson stated that the test pits were only a shallow hole, to meet the ordinance requirements a deep test is required. Mr. Wilkinson stated that the Board could ask the applicant to have a deep hole test performed.

Mr. Kadlecek inquired if anyone had seen the pit that the information was gathered from. Mr. Kadlecek stated that he has been to the property and did not see the hole.

Mr. Wilkinson stated that the requirement is to notify the zoning officer 48 hours in advance of the test so they can choose to be there.

Mr. LaFountain stated that he was not notified of the test. Mr. LaFountain stated that he would like to be present for any further tests on the property.

Mr. Wilkinson stated that engineering review states that a built-up system would be likely and that the disposal area would have to be larger. Mr. Wilkinson stated that there are wetlands on either side, which does not leave a lot of room to work. Mr. Wilkinson stated that the Board would need the septic system design before approving the application to be sure it will fit.

Mr. Wilkinson stated that the latest drawing does not show who performed the wetlands delineation. Mr. Wilkinson stated that it is important for the Board to understand if the wetlands connect to anything.

Mrs. Wood stated that note #8 on the drawing says that VanGuilder did the delineation.

Mr. Wilkinson stated that he would like to ask the applicant why he wants to put the house in the location he chose, where it is bounded by wetlands on either side.

Mrs. Wood inquired as to the height, composition and failure rate of the raised system.

Mr. LaFountain stated that he couldn't determine that without the deep hole test so they know how much separation is required.

Mr. McNamara stated that the size of the system goes with the size of the house. Mr. McNamara stated that it would be bigger than the square drawn on the map.

Ms. Szurek inquired if the system failed would they be able to relocate the system.

Mr. McNamara stated that on this parcel there is no room to move.

Mr. Wilkinson stated that there is a letter from the Environmental Conservation Commission dated January 19, 2009. A copy of the letter is annexed hereto as **Attachment 2**.

Mr. Schorr distributed copies of this letter to the Planning Board.

Lot Line Change

Tasse/Vincent (226-1-70 and 226-1-658.111)

Mr. Wilkinson stated that the Board is waiting for information.

Pre-Application Conference

Marra/Carnevali (223-1-23)

Mr. Wilkinson stated that there is a pre-application conference on this matter.

Reports

Mr. Wilkinson stated that there would be standard reports.

Correspondence

Mr. Kadleck inquired if the Board was registered for the conference.

Mrs. York stated that it had been sent in.

Mr. Wilkinson stated that the Board received a letter from Tom Lewis regarding some time changes for the conference.

Ward (225-1-15.1) continuing

Mr. Schorr stated that regarding the wetlands, whether they are DEC or ACOE, the ECC would like a 100-foot buffer. Mr. Schorr stated that they would be asking the Zoning Ordinance Review committee to change that in the ordinance. Mr. Schorr stated that the ECC believes that the wetlands on this property should have the same protection as the DEC wetlands.

Mr. Black inquired as to Mr. Schorr's meaning of buffer.

Mr. Schorr stated no new construction in 100-foot distance to the boundary of the wetland.

Mr. Black inquired buildings, septic, and wells.

Mr. Schorr stated yes.

Mr. Black inquired if it could be mowed as lawn.

Mr. Schorr stated yes.

Mr. Schorr stated that the difference between a DEC wetland and an ACOE wetland is acreage. Mr. Schorr stated that a watercourse as defined does not require flow all year.

Mr. Armer stated that with DEC wetlands, the applicant could go and get a variance on the buffer area.

Mr. Schorr stated that there would need to be an offset.

Mr. Armer stated that he does not believe that there has to be an offset.

Mr. Schorr stated that he believes that in order to receive a variance the applicant has to give back a greater acreage than used.

The meeting was closed at 7:30 p.m.

BUSINESS MEETING

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

Minutes

Mrs. Wood made the motion to approve the draft of the November 17, 2008 minutes with changes incorporated. Ms. Szurek seconded the motion. All were in favor.

Subdivision Applications

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

No one representing this matter appeared.

Mr. Wilkinson stated that there has been no action and this is a placeholder.

Ward (225-1-15.1)

Michael Ward appeared before the Board.

Mr. Wilkinson stated that there is a letter from Mr. McNamara dated December 31, 2008. Mr. Wilkinson stated that the Board would need to address the issues in that letter.

Mr. Wilkinson asked Mr. Ward if the 58-acre parcel was his.

Mr. Ward stated that he has two acres of the 58-acre parcel that his father gave him.

Mr. Wilkinson inquired if there was another two-acre parcel on the land that he could build on. Mr. Wilkinson stated that there is a wetland issue.

Mr. Ward stated that the parcel is a farm. Mr. Ward stated that the reason that he picked that two acres was because it was an old pasture that is not used anymore. Mr. Ward stated that the other pastures are being hayed. Mr. Ward inquired if the Board was saying that this subdivision was impossible.

Mr. Wilkinson stated that the Board does not know yet as the Board is lacking information. Mr. Wilkinson stated that the Board is requesting a full deep hole, 7 feet deep percolation test to determine soil conditions.

Mr. Kadlecek stated that the Town was not notified of the first percolation test.

Mr. Ward stated that he told Mr. Rabideau that Mr. LaFountain wanted to be present.

Mr. Wilkinson stated that comment #2 in Mr. McNamara's letter pertained to the corner marking of the lot.

Mr. Ward stated that there are corner markers in all four corners, there are wooden stakes and orange tape in the trees from Mr. VanGuilder.

Mr. McNamara requested that Mr. Ward ask Mr. VanGuilder to add that to the drawing.

Mr. Wilkinson stated that the test pit shows the saturation at 19 inches, which would require a built-up system. Mr. Wilkinson stated that the proposed system on the proposed drawing does not seem large enough.

Mr. Ward stated that he was told to put the proposed system in a proposed spot and that he was not tied down to the proposed spot. Mr. Ward stated that he was told that the septic system could go all the way over to the driveway and the driveway could actually go over another 5 to 8 feet towards Route 67 and the septic could be turned the other way and made bigger. Mr. Ward stated that would give quite a bit of distance to the wetland but what is the Town's actual requirements for setbacks to septic. Mr. Ward stated that it is not clear.

Mr. Wilkinson stated that the Board would determine that and have an answer before the next meeting. Mr. Wilkinson asked Mr. McNamara if the perc tests would have to wait for warmer weather.

Mr. McNamara stated that they could go out now and dig the hole. Mr. McNamara stated that they have already identified the mottling. Mr. McNamara stated that the mottling in the ground water is the tough part to do this time of year. Mr. McNamara stated that it is just a matter of verifying that you don't have rock or some kind of impervious layer. Mr. McNamara stated that could be done now. Mr. McNamara stated that a design could also be done at this time.

Mr. Wilkinson stated that before the Board could move forward, there would need to be a designed system.

Mr. McNamara stated that the reason that this is being done is because this is a lot that doesn't have a lot of room to work with. Mr. McNamara stated that there are wetlands on both sides and there is questionable soil.

Mr. Ward stated that he is out of work for the next twelve weeks and cannot pay for the septic design at this time. Mr. Ward stated that he is looking at summer time before he can pay for a septic design.

Mr. Wilkinson stated that there is no clock running and the Board could place the matter on hold.

Mr. Black stated that the Board has accepted this as a preliminary application and took lead agency.

Mr. Keniry stated that since there has been no Public Hearing there is no clock running.

Mrs. Wood stated that the Board has encouraged that septic systems be at the rear, not in the front.

Mr. Ward stated that this is a nice open spot. Mr. Ward stated that where the house is shown on the drawing, he would like to put a pole barn behind the house for equipment. Mr. Ward stated that he does not think the soil in the back is different from the soil in the front.

Mr. Wilkinson stated that the surveyor needs to look at the property and determine that the wetlands do not flow to another stream.

Mr. Ward stated that he knows that it does not. Mr. Ward stated that you only see standing water after the snow melts.

Mr. McNamara stated that the 100-foot buffer from the disposal field is not a requirement from the Department of Health but a recommendation.

Mr. Wilkinson referenced page 17 of the Zoning Ordinance.

Mr. Ward stated that he asked Mr. VanGuilder if he remembered seeing anything to which he said no, but he said he would look again.

Mr. Wilkinson stated that the Board would also like shown the distance to any existing wells on the parcel.

Mr. Ward stated that his father's well is shown. Mr. Ward stated that his father's septic system is shown also.

Mr. Wilkinson stated that the Board would like to see the distance shown there.

Mr. Ward stated that it is a 4 acre front yard.

Mr. Wilkinson stated that the Board would like to know the distance from the septic to the well and where the new septic will be sighted and the distance to the well.

Mr. Wilkinson stated that the Board will require distance from the septic to the wetland and will get the information to the applicant before the February meeting.

Mr. Wilkinson stated that the Board is requesting:

- modify the survey map to add iron rods at the corners and reference the distance from Route 67;
- septic system design;
- certify that the wetlands do not flow into a stream; and
- distance from septic location to well.

Mr. Armer stated that the septic system design engineer will need the house size.

Mr. Wilkinson suggested that the applicant do nothing until he hears back from the Board as to the buffer to the wetland.

Mr. LaFountain inquired where the Board would be getting the buffer from.

Mr. Wilkinson stated from information from the Health Department.

Mr. McNamara suggested that the applicant look elsewhere on the lot without wetlands that is two acres.

Mr. Ward stated that the other 58 acres belong to his father. Mr. Ward stated that he likes this piece of land because it is across from the orchard.

Mrs. Wood suggested that the applicant obtain quotes for a built-up system.

Mr. LaFountain stated that there will be at least 3 feet of fill.

Mr. Ward inquired what kind.

Mr. LaFountain stated sand.

Mr. Kadlecek stated that the house may need to be elevated, too.

Mr. Wilkinson told Mr. Ward that he would receive a letter from Mrs. York with the Board's decision.

Lot Line Adjustments

Tasse/Vincent (226-1-70 and 226-1-68.111)

Mr. Wilkinson stated that this matter is on hold.

Pre-Application Conference

Marra/Carnevali (223-1-23)

Frank Marra and Janet Carnevali appeared before the Board.

Mr. Armer asked for an exact location of the property.

Mr. Marra gave a description.

Mr. LaFountain pulled the tax maps for the Board to look at.

Mr. Marra showed the parcel on the tax maps.

Mr. Armer inquired why they were proposing to create a keyhole lot.

Mr. Marra stated that the couple that wants to purchase the lot wants to keep horses. Mr. Marra stated that they would like to place the house up front and have the horses in the back.

Mr. Armer inquired if there were wetlands.

Mr. Marra stated no.

Mrs. Wood inquired as to the future plans beyond this proposed subdivision.

Mr. Marra stated that they plan to fix up the existing house. Mr. Marra stated that the plan is to sell off some of the property to finance fixing up their house. Mr. Marra stated that there would be one 10-acre parcel with 300 feet of frontage and two 2-acre parcels with 200 feet of frontage.

Ms. Carnevali stated that they tried to follow all of the stonewalls.

Mr. Armer inquired if they were following the contours of the land.

Mr. Marra stated yes.

Mrs. Wood inquired if they had an AG exemption.

Mr. Marra stated no, there is no lease.

Mr. Wilkinson stated that the next step would be to have a drawing surveyed out.

Mr. Black stated that the Board tries to avoid subdivisions placing a house behind a house.

Mr. Marra stated that the house would be in front and there would be a paddock in the back for horses.

Mr. Black inquired if there would be a horse barn.

Ms. Carnavali stated that they want the house as close to the road as possible with the horse barn behind the house.

Mr. Wilkinson stated that the setbacks are 125 feet from the property line, 45 feet each

side totaling 100 feet, 100 feet in the rear and 100 feet to the house.

Mr. Marra inquired as to the setbacks to the house.

Mr. LaFountain stated 60 feet to the front, 45 feet per side totaling 100 feet and 50 feet to the rear.

Mr. Marra stated that they would like to keep as much property with the house as possible.

Mr. David Schweizer spoke up from the audience and warned Mr. Marra and Ms. Carnevali that, although water in this area of Jolly Road is good, there is rock close to the surface. Test holes, to find rock, should be dug prior to hiring a surveyor.

Mr. Wilkinson stated that the Board would need a drawing surveyed out and perc tests in the middle of the lot. Mr. Wilkinson stated that the Board also suggests moving the one line.

Mr. Marra stated that they would do the perc tests before they contact a surveyor.

Mr. Wilkinson stated that there are specific requirements that need to be on the drawing with standard notes. Mr. Wilkinson stated that the standard features of the land need to be on the drawing with a site location drawn to scale, a signature line for the chairman and a revision record.

Mr. Black stated that for tax map purposes, the entire original parcel should be shown.

Grabo

Mr. Wilkinson stated that Mr. Grabo has stopped in with a question for the Board.

Mr. Grabo appeared before the Board.

Mr. Wilkinson stated that Mr. Grabo has some questions about further division of his land. Mr. Wilkinson stated that as a Board, they cannot tell an applicant how to subdivide. Mr. Wilkinson stated that the Zoning Requirements have to be met of 200 feet of frontage and 2 acres. Mr. Wilkinson stated that the lot in question has 200 feet of frontage but a 25-foot right of way to another parcel behind his.

Mr. Grabo showed the Board on a drawing.

Mr. Black stated that the reason for the 2-acre requirement is to allow for proper septic and well location. Mr. Black stated that the Board tries to avoid subdivisions where houses would be behind houses. Mr. Black stated that what Mr. Grabo is proposing

would create a house behind a house. Mr. Black stated that he does not think this would work. Mr. Black stated that Mr. Grabo could go before the ZBA for a variance but does not think the ZBA would look upon this favorably. Mr. Black stated that trying to fit something in to create a lot where it does not want to be is undesirable.

Mr. Black stated that the sketch presented does not require ZBA as there is 200 feet of frontage and 2 acres. Mr. Black stated that putting a house back there would work with an extremely long driveway. Mr. Black stated that there is enough land there to create a buffer. Mr. Black stated that the Board tries to avoid odd shaped lots unless there is a benefit to the town in some way.

Mr. Grabo asked what if he made it for AG purposes only.

Mr. Black stated that is a different condition under which to go to the ZBA for a variance. Mr. Black stated that for the purposes of a building lot, the ZBA may feel as the Planning Board does, but for agricultural purposes, they may react differently.

Zoning Administrator Report

Mr. LaFountain provided his reports for November and December, 2008. The Board reviewed the report.

Ward (225-1-15.1) continuing discussions

Mr. Wilkinson stated that he would like to discuss policy for setbacks to wetlands.

Mr. Kadlecek inquired if there were things the Board could do.

Mr. Keniry stated that absent amending the Zoning Ordinance or altering the Subdivision Review Rules and Regulations, you can have policies, procedures and guidelines. Mr. Keniry suggested that the Board consider publishing, with the guidelines that are on the website and available to all of the applicants, the subdivision review application and review guide. Mr. Keniry stated that it is currently dated December 14, 2006 effective 1/1/07. Mr. Keniry stated that within that document is a fair statement of what is expected of the applicants and it gives, in plain language, a distillation of the rules. Mr. Keniry stated that the concern is that all of the applications are different. Mr. Keniry stated that the Board has to think of the varying circumstances that may be presented by different characteristics. Mr. Keniry stated that the other aspect of it is, what is the Board going to do if the decision is made to impose a buffer and the applicant comes in with 98 or 99 feet and pulls on the heartstrings of the Board members. Mr. Keniry stated that puts the Board in a situation where it is published. Mr. Keniry suggested leaving it ambiguous and unpublished and look at the applications on the individual merits.

Mrs. Wood inquired if the Board put in the 100-setback requirement to wetlands as part

of the new regulations, if a person came in with a 98 or a 99 they could go to the ZBA.

Mr. Keniry stated yes.

Mr. Kadlecek inquired if the Board should insert this in the guidance as to what the Board is looking for.

Mr. Keniry stated that the Board should have a statement of what the rule is and the guideline that is contained in the handbook. Mr. Keniry stated that the Board should state the facts and where the authority is found.

Mr. McNamara stated that the Health Department wants 100 feet but it is not binding. Mr. McNamara stated that the Board considers the importance and will decide on the Board's own merits.

Mr. Keniry drafted some language for the Board to review. Mr. Keniry read the language to the Board.

Mr. Schorr stated that there should be guidelines. Mr. Schorr stated that the Board could deviate on a case-by-case standard.

Mr. Black stated that the requirement is to maintain a 100-foot separation between septic and well and if there is a downslope the setback is 200 feet. Mr. Black stated that the 100-foot distance is to assure that the system will filter itself. Mr. Black stated that if there is a failure that sewage comes out onto the surface. Mr. Black stated that if the Board imposes the 100-foot buffer on the Ward application, there is not enough room for this subdivision to go through.

The Board continued discussions.

Mr. Black stated that the area Mr. Ward would like to put the house was a pasture. Mr. Black stated that if the wetland does not flow to a stream, even a failure is not going to jeopardize the wetland.

Mrs. Wood stated that her concern is for the future owner. Mrs. Wood stated that if the parcel is sold and then there is a failure, what happens to the new owners.

Mr. McNamara stated that if the septic fails vertically, there is not a lot of room left to work with.

Mr. Schorr stated that the ECC's letter mentions future owners and the ECC believes that in this case, a future owner would not be aware.

Mr. McNamara stated that there is an obligation to make sure the system is to code.

Mr. Schorr stated that he believes that the Town has an obligation to present and future owners.

Mr. Black stated that if the water that would reside in that adjacent wetland is not a flowing water source and the applicant wants to go through the expense of a built-up system then it should be fine. Mr. Black stated that the Board wants to see the design as part of the approval of the subdivision process. Mr. Black stated that there is room to put another system if there is failure.

Mrs. Wood stated that would depend on the well.

Mr. Schorr stated that a wetland is not just wet land. Mr. Schorr stated that it has certain characteristics like flora that are valuable to filter out certain contaminants.

Mr. Black stated that the purpose of a built-up system is to filter.

Mr. Wilkinson stated that he would be comfortable with a 50-foot buffer.

The Board continued discussions.

Mr. Wilkinson polled the Board:

Mrs. Wood does not want less than 50 feet.

Mr. LaFountain stated that he would like to see the 100-foot buffer imposed.

Mr. Armer stated that no buffer should be imposed if the wetland is not flowing into a stream or pond.

Mr. Wilkinson stated that 100 foot buffer is his ideal but he could live with less.

Mr. Kadleck stated that he would like to see at least a 50-foot buffer, that less than 100 feet is ok if there is no flow.

Mr. Black stated that no buffer should be imposed contingent upon evidence of no flow from the wetland to a watercourse.

Mr. Wilkinson suggested asking the applicant to move the septic system to the widest part of the lot to minimize the impact on the wetland.

Mr. Keniry suggested that the Board talk to the consultant.

Mr. Black stated that the Board is in agreement that this is a marginal lot. Mr. Black stated that the Board has the recommendation of the ECC to impose a 100-foot buffer and the Health Department also recommends a 100-foot buffer to a wetland.

Mr. Wilkinson stated that he will draft a letter to the applicant that based on recommendations of the ECC, the Health Department and the Comprehensive Plan, the Board is requiring a 100-foot buffer to the ACOE wetland.

Mr. Wilkinson stated that before the Public Hearing could be scheduled, the Board would need the perc test data and the survey maps with the revisions requested.

Correspondence

Mr. Wilkinson stated that there is a letter from Anna Stanko, Senior Tax Map Technician for the Saratoga County Real Property Tax Services, regarding changing the numbering system for filed maps.

Town Board Liaison

No report.

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

The meeting was adjourned at 10:05 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary

December 31, 2008

Attachment 1

Mr. Raymond E. Black
Planning Board Chairman
Town of Charlton Town Hall
784 Charlton Road
Charlton, N.Y. 12019

Re: 2 Lot Subdivision - Lands of Ray Floyd Ward
Tax Map Parcel No. 225.00-1-15.1

Dear Chairman Black:

We have received a proposed two lot subdivision of lands of Ray Floyd Ward located on the east side of Maple Avenue and the south side of N.Y.S. Route 67. The property was previously subdivided within the last fifteen years. That prior application excludes the project from consideration as an exempt subdivision. The subdivision plan dated October 29, 2008 was prepared by Gilbert VanGuilder, P.L.S. of Gilbert VanGuilder Land Surveyor, PLLC. I reviewed the plans and observed the property on December 30, 2008 and offer the following comments for your consideration.

1. The proposed lot complies with all zoning bulk schedule requirements. There is an existing driveway entrance onto Maple Avenue and adequate site distance is available.
2. The proposed lot is tied down to the parent parcel only by an approximate distance of 450 feet to the south right of way of Route 67. This creates a potential for the lot to "float" several feet in a north and south direction. We recommend that the corners of the lot be field set to definitively establish the proposed lot. As an alternate, more accurate bearings and distances to the existing lot corners could be added to the map.
3. A shallow test pit was excavated and a percolation test was performed on October 29, 2008. The soils information quotes "mottling" and "saturation" at 19 inches below the ground surface. These preliminary results indicate that a Charlton built-up septic system is likely. This system is described in Article IV, Section 3 of the Zoning Ordinance and will require a significantly larger disposal area than the schematic indicated on the subdivision plan.

The proposed lot is encumbered along the north and south boundary by United States Army Corp of Engineers jurisdictional wetlands. The applicant has supplied a letter from New York State DEC confirming that these same wetlands are not under state jurisdiction and, therefore, do not have a formal 100 foot adjacent area. Table 2 of the Health Department's Appendix 75A publication

specifies that a separation distance of 100 feet is required from a “wetland”. In the past, we have confirmed with the Health Department that this requirement does not apply to Federal, Army Corp wetlands, becoming instead a recommended setback in those instances. The schematic currently shows a horizontal separation to the wetlands of only 25 feet.

Since the septic system is likely to be a larger Charlton built-up system, we are concerned that the necessary fill area may encroach upon the wetlands. Furthermore, Charlton’s ordinance for built-up systems requires a 100 foot separation to a “pond or stream” with stream being defined as any watercourse “... which only flow(s) intermittently (for six months or more)”. It is not clear from the plan if there is a stream that would fit this definition within either of the two indicated wetland areas.

In order to ensure that the proposed lot will be compliant with Charlton’s ordinance and will not encroach upon the federal wetlands, we recommend that a formal design for the septic system be prepared as part of the proposed subdivision. A deeper test pit may be necessary to verify Charlton’s required vertical separation to rock and impervious layers. The plan should also reflect whether or not there is an intermittent stream or watercourse. The septic system should be located to maximize the separation to the wetlands. The area behind the proposed home appears to provide the best alternative for this goal. However, the continuation of each wetland may need to be extended to be sure that they do not close onto each other just beyond the rear property line. The distance to the existing well on the Remaining Lands of Ward site should also be noted from the proposed septic field.

If you have any questions concerning this project, please feel free to call.

Very truly yours,

Michael McNamara, P.E.
The Environmental Design Partnership

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Cc: Planning Board Members
Bill Keniry
Gilbert VanGuilder



Charlton Environmental Conservation Commission

Ray Black, Chairman
Town of Charlton Planning Board
1410 Division Street
Charlton, NY 12019

January 19, 2009

Attachment 2

Subject: Two Lot Subdivision on Maple Avenue-Application of Ray Ward

The ECC has performed a preliminary review of the subject application. A final review will be performed at the January 27, 2009 meeting of the ECC.

The ECC has concern regarding the wetlands on the property. The ECC believes that protection of wetlands should be a priority in the review of all projects. A wetland, whether designated as such by the Army Corps of Engineers or by the NYS DEC, should be protected by a minimum buffer zone of 100 feet. Further, as indicated in the review performed by EDP, a built up septic system will require "a 100 foot separation to a pond or stream." Furthermore, the actions to be taken to ensure that the wetlands will not be disturbed by construction of the proposed residence should be clearly spelled out by the applicant.

As it has repeatedly noted in previous reviews, the ECC wishes to again note that there have been several 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