

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

Minutes of Planning Board Meeting – August 17, 2009

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

Present: Jay Wilkinson, Chairman, John Kadlecak, Mark Hodgkins, Connie Wood, Dawn Szurek, Mike Armer, William Keniry, Planning Board Attorney, Susan York, Planning Board Clerk and Kimberly Caron, Recording Secretary. Chris Mitchell joined the meeting at 7:30 p.m.

AGENDA MEETING:

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

Minutes

Mr. Wilkinson stated that the draft of the June meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York provided comments. Mr. Wilkinson stated that he agreed with Mrs. York's comments. Ms. Szurek provided additional comments. Mr. Wilkinson stated that the Board could approve the minutes during the business meeting.

Public Hearings

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

Subdivision Applications

Mr. Wilkinson stated that there were no new applications or new business.

Old Business

Mr. Wilkinson stated that he heard from Mr. Kuehner that they were able to get everything changed and filed and they enrolled their son in the Burnt Hills – Ballston Lake School District. Mr. Wilkinson stated that Mr. Kuehner relayed that Anna Stanko still had issues with their request but it was allowed to go through. Mr. Wilkinson stated that there is one deed and one map. Mr. Wilkinson stated that Mr. Kuehner would get a separate tax bill for the 2 foot x 2 foot square parcel, which was filed. Mr. Wilkinson stated that Mr. Kuehner was very thankful to all of the Board members.

Lot Line Change

McDonald/McDonald (226-1-20.3 and 226-1-20.4)

Mr. Wilkinson stated that this is a lot line change between mother and father and son and daughter-in-law. Mr. Wilkinson stated that the parties live next door. Mr. Wilkinson

stated that the lots were created in 2005. Mr. Wilkinson stated that lots 3 and 4 are the lots in question. Mr. Wilkinson stated that in order to meet the side yard requirement, they need a lot line change or a variance. Mr. Wilkinson stated that the application has been sent to the County for their comments. Mr. Wilkinson stated that the McDonalds couldn't get the Certificate of Occupancy since the lot is non-conforming.

Mr. LaFountain stated that the contractor built five homes and four are in litigation. Mr. LaFountain stated that the contractor never did what he said he was going to do or what he was told to do. Mr. LaFountain stated that he was told to get the foundations surveyed, which he did not. Mr. LaFountain stated that it is required to have the survey before the Certificate of Occupancy is issued. Mr. LaFountain stated that this particular parcel is a few feet short and they cannot issue the Certificate of Occupancy because the parcel is not in compliance with the Zoning Ordinance. Mr. LaFountain stated that the McDonalds have lost money in this project and that the contractor has vanished. Mr. LaFountain stated that there are also issues with the son's house. Mr. LaFountain stated that the contractor put in the septic field upside down.

Ms. Szurek inquired how many feet the lot line change was for.

Mr. Wilkinson stated 9 feet.

Mr. Armer inquired as to the lot line adjustment versus the variance.

Mr. LaFountain stated that that the lot line adjustment is a cleaner deal long-term.

The Board had small group discussions.

Mr. Hodgkins suggested moving the lot line in the NIMO right of way.

Zoning Administrator Report

Mr. LaFountain will provide his report for the months of June and July 2009.

Town Board Liaison

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

Correspondence

Mr. Wilkinson stated there is Right to Farm legislation to review, and training opportunities.

Mr. Wilkinson made the motion to close the agenda meeting seconded by Mr. Kadlecck. The agenda meeting was closed at 7:30 p.m.

BUSINESS MEETING

Opened at 7:31 p.m. with the Pledge of Allegiance.

Minutes

Mr. Wilkinson made the motion to approve the draft of the June 15, 2009 minutes with changes incorporated. Mr. Kadlecsek seconded the motion. All were in favor.

Public Hearings

None.

Subdivision Applications

None.

Lot Line Change

McDonald/McDonald (226-1-20.3 and 226-1-20.4)

Mr. Wilkinson stated that the parcels were located on Sweetman Road north of Route 67. Mr. Wilkinson stated that the lots were created in 2005. Mr. Wilkinson stated that the parties are looking for a lot line change to fix a difficult condition of the house being built to close to the side yard lot line by 9 feet. Mr. Wilkinson stated that without the lot line change, there can be no Certificate of Occupancy and the McDonalds cannot move into their house.

David and Shirleyan McDonald appeared before the Board.

Mr. McDonald stated that the builder put the foundation approximately 10 feet to close to the property line. Mr. McDonald stated that his son lives next door and has agreed to give him 10 feet of their property to make the lot conforming. Mr. McDonald stated that the surveyor proposed this solution.

Mr. Armer inquired as to what was currently on the property line.

Mr. McDonald stated that there were a few trees but mostly all woods.

Mr. LaFountain stated lawn, too.

Mr. Armer inquired if the septic was in the rear of the parcel.

Mr. McDonald stated yes and the well is in the front.

Mr. Wilkinson stated that the Board has some questions. Mr. Wilkinson stated that the Town Zoning Ordinance states that the area of a lot has to have a mean lot width of 200 feet on the son's side and 200 feet in the front. Mr. Wilkinson stated that any land given must be given back in another spot. Mr. Wilkinson stated that the board's preference is a square, a box, which is easier to find. Mr. Wilkinson stated that the Board also suggests giving an extra foot. Mr. Wilkinson stated that the County letter requested giving an extra ½ foot. Mr. Wilkinson stated that, with the extra foot, it would come to 41 feet of setback and then they can give back the same amount anyplace. Mr. Wilkinson stated that the surveyor has spoken to Mr. McNamara, the Town Engineer.

Mr. Mitchell inquired if there was lawn between the two lots.

Mr. McDonald stated yes that there is 97.6 feet in between the two houses.

Mr. LaFountain stated that when giving back land it should be done in the last 50 feet so that it does not interfere with any other building envelope.

Mr. McDonald stated it would be the mirror image.

Mr. Wilkinson stated that the drawing is missing the standard notes that are required.

Mrs. McDonald stated that those notes are on one of the drawings.

Mr. Wilkinson gave Mr. McDonald a copy of the standard notes.

Mr. Wilkinson polled the Board as to what the Board would like to see.

Mr. Armer stated that he would prefer to see this resolved squared off.

Mr. Wilkinson stated that he would prefer to see this resolved as a square.

Mr. Kadlecek stated that he would also prefer to see this resolved as a square.

Mrs. McDonald questioned what they needed to do for the final drawing.

Mr. Wilkinson stated that Mrs. York would be sending them a letter summarizing what the Board has requested. Mr. Wilkinson stated that the drawing needed the standard notes and 41 feet as requested by the Board and any land taken from Lot 4 has to be compensated back to Lot 4. Mr. Wilkinson stated that the Board advised receiving a copy of the revised drawing prior to producing mylars for signature.

Mrs. Wood stated that if the Board approves the drawing, there needs to be 2 copies and

2 mylars.

Mr. Wilkinson made the motion to waive the park fees, engineering fees and the Public Hearing. Mr. Mitchell seconded the motion. All were in favor.

Mr. Wilkinson stated that the application had already been forwarded to the County and their response was a minimum of 40.5 feet of setback but the applicants have agreed to 41 feet. Mr. Wilkinson stated that the Board has a complete application and can move forward.

Mr. Wilkinson made the motion to declare the Planning Board as lead agency for the purposes of SEQRA for the Lot Line Change and classify this as an unlisted action with a negative declaration relative to environmental impact for the McDonald/McDonald Lot Line Change located on Sweetman Road. Mrs. Wood seconded the motion. All were in favor.

Mr. Wilkinson stated that the Board has an affidavit from the McDonald's son and a statement of agreement between the parties to this application.

The Board completed the short form Environmental Assessment form.

Mr. Wilkinson made the motion to approve the McDonald Lot Line Change contingent upon the drawing being changed to give back any land taken out of lot 4 to lot 3 maintaining a distance between the house on lot 3 be 41 feet from adjusted lot line as a minimum, add the standard notes to the drawing and authorize the chairman to sign the mylars.

Mr. LaFountain stated that the plan should also include the remainder dimensions on the other parcel to see the lot line setback.

Mr. Kadlec seconded the motion. All were in favor.

Resolution 2009-04 was made.

Mr. Wilkinson stated that the clerk will send a letter summarizing the Board's decision.

Mr. Wilkinson requested that one copy of the revised drawing be dropped off to the Board for the record and to make sure they are correct before having the mylars printed.

Zoning Administrator Report

Mr. LaFountain provided a report for June and July 2009 for the Board to review.

Correspondence

Mr. Wilkinson inquired if Mr. Keniry had information on the Farm Law Protection Plan.

Mr. Keniry stated that at this time he has no additional information.

Ms. Szurek stated that the proposed plan went to the Town Board and they have to vote to move it to the next level. Ms. Szurek stated that the AG Commissioner gets to review the plan and then the AG Commissioner adopts it if the AG Commissioner blesses it.

Mr. Keniry stated that it is moving along.

Ms. Szurek stated that at the last meeting, not all Town Board members were there and they chose not to vote at that time.

Mr. Grattidge stated that the list was received from the Comprehensive Plan Committee. Mr. Grattidge stated that part of the plan agreed with the recommendations from the Comprehensive Plan Committee and more recommendations were added building on the comprehensive plan. Mr. Grattidge stated that the ZORC committee was just working on recommendations out of the comprehensive plan. Mr. Grattidge stated that it has not been passed by the Town Board yet. Mr. Grattidge stated that a draft was available at the Town website. Mr. Grattidge stated that this is still at the Town Board level and needs to be sent to the Department of Agriculture who provided the grant. Mr. Grattidge stated that it will then be adopted as an addition to the Comprehensive Plan. Mr. Grattidge stated that then it will be determined if SEQRA needs to be done and a public meeting. Mr. Grattidge stated that the time schedule is by the end of the year.

1996 Local Law on the Right to Farm:

There are two statements of the Right to Farm Law. They differ slightly.

Mrs. Wood read from the local law that the Board requires on the mylars.

Mr. Wilkinson stated that one is a legal notice used to sell real estate and the one, that we use, is the legal notice on the mylars. Mr. Wilkinson stated that the reason for this is that each transaction has to meet certain requirements.

Mr. Grattidge stated that this is a stand-alone local law. Mr. Grattidge stated that the copy given to the Board is the law and is to be used on the mylars.

Mr. Keniry stated that the RTF law is worded different from the state statute that relates to the disclosure required between a grantor and a grantee. Mr. Keniry stated that section 310 is the state law that relates to this. Mr. Keniry stated that when any purchase and sale contract is presented for the sale, purchase or exchange of real property located partially or totally within an AG district established pursuant to the provisions of the article. Mr. Keniry stated that the burden is that the prospective grantor shall present to the prospective grantee a disclosure notice, which states the following and that is the text that Mrs. Wood was reading from. Mr. Keniry stated that operationally, that disclosure notice shall be signed by the prospective grantor and grantee prior to sale, purchase or exchange, receipt of the disclosure notice shall be recorded on a property transfer form prescribed by the State Board of Real Property Services and provided in another section of the Real Property Tax Law. Mr. Keniry stated that the language is slightly different on the website but is consistent with the local RTF law.

Mr. Keniry stated that the section of the local law pertains to mylars, real estate contracts and building permits. Mr. Keniry stated that sellers have the obligation to put on the plan that the Planning Board reviews and complies with section 310 of the Real Property Law. Mr. Keniry stated that the burden is on the sellers.

Mr. Wilkinson stated that there is training on September 14th and 15th in Lake Placid.

Mr. Grattidge stated that if there are Board members that want to go to the training, the Town is obligated to pay for hotel, meals and mileage also.

Mrs. Wood stated that she is interested in going.

Town Board Liaison

No report.

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

The meeting was adjourned at 8:35 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary