

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

Minutes of Planning Board Meeting – November 16, 2009

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, Chris Mitchell, Ray Black, William Keniry, Planning Board Attorney, Susan York, Planning Board Clerk and Kimberly Caron, Recording Secretary.

AGENDA MEETING:

Mr. Wilkinson stated that there is full Board.

Minutes

Mr. Wilkinson stated that the draft of the October meeting minutes needed to be approved. Mr. Wilkinson stated that Mrs. York prepared the minutes. One typo was presented. 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.

Old Business

Mr. Wilkinson stated that there was no old business.

Subdivision Applications

Muscanell (237-1-24.12)

Mr. Wilkinson stated that Mr. Muscanell is looking to subdivide 59 acres of land that he owns on Root Road to create a 5.4 acre building lot for his son. Mr. Wilkinson stated that the newly created lot would have 200 feet of frontage on Root Road and be approximately 1000 feet deep.

Mr. Wilkinson stated he would be recusing himself from the discussions on this application and Mr. Black would be taking his place.

Mr. Black stated that there is not sufficient information to accept a preliminary application at this point because it is more like a sketch. Mr. Black stated that there is a lot of information missing from the drawing. Mr. Black stated that he has not seen a short form EAF or the other things that are required for the map. Mr. Black stated that at this meeting, the Board should walk through the deficiencies to try to get a complete

application submitted. Mr. Black stated that since there is typically no meeting in December, the complete application would need to be submitted in early January to allow the Board to accept it as a complete application.

Mr. Wilkinson and Mr. Kadlecek walked the property and there appears to be water very near the surface. Mr. Kadlecek stated that there is also a driveway without any evidence of a permit. Mr. Kadlecek stated that the wetlands would need to be established and there may be the need for a permit to cross. Mr. Kadlecek stated that the driveway was under water in two areas.

Mr. Black stated that it would make more sense to dedicate more property to include the wetlands so the backland becomes more usable. Mr. Black stated that he would like to suggest that to the applicant.

Mrs. Wood stated that it would be nice to know the topography west of the parcel. Mrs. Wood inquired what would make that a saleable piece in the future.

Mr. Armer stated that the survey was done but it is missing information.

Mr. Black stated that there is not much more information provided on the sketch.

Mr. Hodgkins stated that there should be a delineation done of the wetlands.

Pre-Application Conferences

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.

Grabo/Davidson (246-1-61)

Mr. Wilkinson stated that this is a subdivision of an 8-10 acre lot on Crane Street.

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 there is an existing house and barn, which would be on Lot 1, which is two acres. Mr. Wilkinson stated that Lot 2 is the remaining 31+ acres, which is a tree farm.

Zoning Administrator Report

Mr. LaFountain provided his report for the months of September and October 2009.

Town Board Liaison

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

Correspondence

Mr. Wilkinson stated there is a presentation on the Purchase of Development Rights on November 17th from 7:00 p.m. – 9:00 p.m.

Mr. Wilkinson stated that everyone received a printout of the training status feedback from Jamie O'Neill per the October request.

Mr. Wilkinson stated that there is stormwater and wetlands training on November 24th in Hadley.

Mr. Wilkinson stated that there is information to discuss on the Heflin/Durst application.

Mr. Wilkinson made a motion to close the Agenda meeting at 7:25 p.m. seconded by Mr. Black. All were in favor.

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 October 19, 2009 minutes with change incorporated. Mr. Kadleck seconded the motion. All were in favor. Mr. Black abstained from the vote.

Public Hearings

None.

Subdivision Applications

Muscanell (237-1-24.12)

Mr. Wilkinson stated that this is a 59-acre parcel on Root Road. Mr. Wilkinson stated that the intent is to subdivide a 5-acre building lot for his son. Mr. Wilkinson stated that there is 200 feet of frontage and the lot will be 1000 feet deep.

Mr. Wilkinson recused himself from discussions.

Ron and Brian Muscanell appeared before the Board.

Mr. Black stated that the normal process is a complete submittal of information to be accepted as a complete preliminary application. Mr. Black stated that the Board is missing information to have a complete application. Mr. Black stated that the survey map needs to show both parcels, the standard drawing notes, a smaller map locating the parcel, the Right to Farm note and the proposed well and septic locations. Mr. Black stated that the drawing needs to be up to date to meet the requirements.

Mr. Black stated that the application was sent to the Environmental Conservation Commission for review. Mr. Black stated that the ECC responded by letter dated November 16, 2009. A copy of the letter is annexed hereto as **Attachment 1**. Mr. Black stated that the letter addresses wetlands on the property and cites issues with locating the house. Mr. Black stated that the letter requests a wetland delineation with elevations showing the slopes so it is clear where the house can be located. Mr. Black stated that proposals for well and septic locations are also requested together with perk test information.

Brian Muscanell stated that he has a wetland delineation from NYS DOT. Mr. Muscanell stated that there is a small portion of wetlands on the 5-acre parcel but the house location is well outside the 100 buffer area. Mr. Muscanell stated that he also has a perk test done with a rate of 33 minutes 55 seconds.

Mr. LaFountain stated that he has not seen the perk test information.

Mr. Black inquired if the Board could see the wetlands delineation.

Brian Muscanell provided the wetlands delineation to the Board.

Mrs. Wood inquired how much of the remaining adjacent land is wetlands and has it been delineated.

Ron Muscanell stated that a portion of the adjacent land has been delineated on the east side of the property going due west about 300 feet.

Mrs. Wood inquired if the wetland continues on.

Ron Muscanell stated yes where the 5-acre parcel is.

Mrs. Wood inquired if on the remaining land there was a space for additional building.

Ron Muscanell responded yes.

Mrs. Wood stated that her concern is leaving an unbuildable 50 acres. Mrs. Wood stated that could be a sale problem.

Brian Muscanell stated that the report will show that there is sufficient depth to get the minimum requirements to put additional houses there in the future.

Mrs. Wood inquired as to the remaining road frontage.

Ron Muscanell stated that there is 650 feet minus the two hundred feet to his son where the proposed house is.

Brian Muscanell inquired if the Board wanted the topography on the drawing.

Mr. Mitchell stated yes and the perk locations too.

Mr. Black inquired if all of the Board members had a chance to look at the wetlands delineation.

Mr. Armer inquired if the wetlands were DEC and not ACOE.

Brian Muscanell stated that the report incorporated both.

Mr. Black stated that in order to have a complete drawing to accept, the drawing needs to show both parcels, the wetlands delineation on the portion being built on, the proposed house location, proposed septic and well locations, standard notes and location indicator, which is a small map.

Mr. Black stated that Mrs. York would be sending a letter detailing all of the Board's requirements from this meeting.

Mr. Black stated that once the Board has a complete drawing, the application can be accepted as complete and the process could be continued. Mr. Black stated that the road currently being constructed crosses a wetland without a permit. Mr. Black stated that when there is an active subdivision process any work on the parcel in violation of the regulations is against the law.

Brian Muscanell stated that the permit is in process. Ron Muscanell stated that the trail was existing and they are just continuing it on.

Mr. Black stated that since there will be a long driveway that exceeds 500 feet in length, there are specific regulations that the driveway be built to handle a fire truck turnaround.

Mr. LaFountain inquired if the Muscanells had a copy of the regulation.

Ron Muscanell responded yes.

Mr. Black stated that the regulations are substantial and expensive and the Board wants to see that also on the drawing.

Mrs. Wood stated that the Ellms farm is missing from the AG data statement.

Mr. LaFountain inquired who performed the perk test.

Ron Muscanell stated Jim Douglas.

Mr. Mitchell stated that the depths for mottling line and placement of where the perk hole is located also has to be on the drawing. Mr. Mitchell asked if they had the information for mottling.

Brian Muscanell provided the information from the perk test.

Mr. LaFountain stated that he did not witness the perk test but gave permission for them to go ahead without him.

Mr. Black stated that if a licensed engineer performed the test, will the Planning Board accept the results?

Mr. Black stated that he had a suggestion for the application. Mr. Black stated that because of the lay of the land, would the applicants consider having the 5-acre parcel increased to own some of the backland that is unbuildable.

Brian Muscanell stated that was ok with him.

Mr. Black reiterated what the Board was requesting: expand inset showing Sweetman Road and Root Road, the Town line and various parcels, site location map, signature block and standard notes.

Mrs. York provided a copy of the list of standard notes.

Mr. Black stated that copies of the wetlands delineation and the perk test information was needed for the Board's file.

Ron Muscanell inquired as to when the Board was meeting next.

Mr. Black stated that the Board does not usually meet in December so the next meeting would be in January.

Mr. Kadlec stated that the Board would like to see a copy of the crossing permit.

Ms. Szurek stated that the paperwork was not correct in that the application indicated that there is no wetlands, which is wrong.

Mr. Black stated that the short form EAF needs to be corrected.

Pre-Application Conferences

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

Mr. Wilkinson stated that this is a lot line change.

Mr. Black recused himself from discussions.

Mr. Wilkinson stated that the drawings were very clear on intentions.

Mr. and Mrs. Trowbridge appeared before the Board.

Mr. Trowbridge stated that the Oaks own the land behind him. Mr. Trowbridge stated that they are selling the property and moving to Galway. Mr. Trowbridge stated that the land is unbuildable and there is no road. Mr. Trowbridge stated that he is able to get to the property using a pre-existing road. Mr. Trowbridge stated that their intent is to add the chunk of land to their land. Mr. Trowbridge stated that there are woodlands to protect the back land.

Mr. Wilkinson stated that it is a great concept and they provided a nice narrative.

Mr. Trowbridge stated that he did not fill out SEQRA.

Mrs. York stated that it is not needed for a pre-application conference.

Mr. Wilkinson stated that if the Board had no concerns that the next step is to fill out the application and have a survey done.

Mr. Trowbridge inquired if the board wanted a 2-foot elevation plan or a boundary survey.

Mr. Wilkinson stated that this would be an exempt subdivision and contour lines would be needed.

Mr. Trowbridge stated that he would contact a surveyor.

Mr. Wilkinson gave Mr. Trowbridge a copy of the checklist for the Board's requirements.

Mr. Wilkinson stated that Mrs. York would be sending a letter summarizing the Board's requirements.

Mrs. York gave Mr. Trowbridge a copy of the standard notes and map requirements. Mrs. York stated that the applications were located in front of the zoning office.

Mr. Trowbridge thanked Mrs. York for being so helpful.

Mr. Wilkinson stated that the Board would not be meeting in December. Mr. Wilkinson stated that if the application was submitted in time, it could be heard at the January meeting.

Mr. LaFountain inquired if there was going to be a perk test required.

Mr. Wilkinson stated that the lot line changes were exempt from perk tests.

Grabo/Davidson (246-1-61)

Mrs. Davidson appeared before the Board.

Mrs. Davidson stated that Mr. Grabo has offered to subdivide a parcel with 200 feet of frontage with a 200 feet depth for her to purchase. Mrs. Davidson stated that the parcel is parallel to his boundary line. Mrs. Davidson stated that it is actually not the stonewall but is over here. Mrs. Davidson stated that the original surveyor overlapped the pieces.

The Board reviewed the mylar. There was a question of accuracy with the maps and the correct amount of remaining frontage.

Mr. Black inquired as to the purpose of the subdivision.

Mrs. Davidson stated that the intent is to build a house and keep all of the land to keep someone else from building behind her house. Mrs. Davidson stated that they would keep the land attached for now then do a lot line change if needed. Mrs. Davidson stated that it had sandy soil and a conventional septic would be proposed. Mrs. Davidson stated that they would meet all of the setbacks.

Mr. Wilkinson stated that the mean lot width of 200 feet has to be all of the way back. Mr. Wilkinson stated that there is only 300 feet here, the lot is 200 x 400 and you can't get that all of the way back.

Mrs. Davidson stated that she would be keeping all of this in front of the building.

Mr. Wilkinson stated that would make the parcel locked up never to be subdivided again.

Mrs. Davidson stated that was her intent. Mrs. Davidson stated that she could do a lot line change in the future.

Mrs. Wood stated that there are two surveys stamped and filed in conflict. Mrs. Wood stated that the maps should be double-checked.

The Board reviewed all of the mylars and drawings provided.

Mr. Armer stated that the filed mylar says 401 feet remaining frontage.

Mr. Black stated that the amount of remaining frontage is irrelevant to the subdivision potential. Mr. Black stated that the most recent survey, not Land Solutions, should suffice. Mr. Black stated that the issue is with the intended purpose. Mr. Black stated that the issue is if a house is built in the backlands. Mr. Black stated that the Board does not like subdivisions creating houses behind houses. Mr. Black stated that the proposed house location would dictate where the land would go. Mr. Black stated that the issues with the last proposal are resolved with this layout. Mr. Black stated that as long as the setbacks to the existing building are met there does not appear to be any issues.

Mrs. Wood inquired why not do the lot line change now.

Mrs. Davidson stated that she could do it now.

Mrs. Wood stated that she would insist that the building envelope be set in concrete to protect the need to be more specific.

Mr. Wilkinson stated that this would be considered a major subdivision and the long form EAF would need to be completed.

Mr. Mitchell suggested considering the lot line change simultaneously.

Stack (225-1-12.1)

Mr. Stack appeared before the Board.

Mr. Stack stated that the parcel is located on Amsterdam Road and is 33 ½ acres. Mr. Stack stated that the parcel is a house and a Christmas tree plantation. Mr. Stack stated that he would like to subdivide the house from the plantation. Mr. Stack stated that he has a tree plantation in Milton and would like to add the plantation to what he already does there. Mr. Stack stated that he would like to add the parcel to his AG exemption that he already has in Milton. Mr. Stack stated that he has no plans to build.

Mrs. Wood suggested having the parcel with the existing house and barn changed to 3 acres as it may be appealing to someone who has or wants horses and the requirement is

3 acres.

The Board agreed that 3 acres would be more appealing.

Mr. Keniry inquired if there was a plan for access off of Route 67 for the new parcel.

Mr. Stack stated that he would want access.

Mr. LaFountain inquired if there would be retail sales done on the lot.

Mr. Stack stated no that he would keep the sales done in Milton.

Mr. Keniry inquired if the driveway would abut the property due east.

Mr. Stack stated that would depend on what the State says.

Mr. LaFountain inquired where the septic was located.

Mr. Stack stated behind the house and it was installed within the last 3 years.

Mr. Wilkinson asked Mr. Stack to add the septic location to the drawing.

Mr. Wilkinson inquired about the easement.

Mr. Stack stated that there was a cable located there. Mr. Stack stated that you do not see anything when you walk that area. Mr. Stack stated that there are big triangular concrete survey markers. Mr. Stack stated that it is an underground phone cable in the back of the property. Mr. Stack inquired if a perk test was required.

The Board discussed waiving the requirement. Mr. Keniry stated that the Board was not able to waive that requirement.

Mr. LaFountain stated that he could witness the perk test and submit a form to the Board to put on the record.

Mr. Stack inquired if he could get a copy of the checklist.

Mr. Wilkinson provided Mr. Stack with a copy.

Mr. Wilkinson summarized the requirements:

- full completed application
- revisions to drawing from checklist
- standard notes
- signature block

site location map
perc test location and results

Mr. Wilkinson stated that the Board would not be meeting in December but if the information was provided before the January meeting, the application could be heard then.

Mrs. York provided Mr. Stack with a copy of the standard notes.

Zoning Administrator Report

Discussed at the Agenda meeting.

Correspondence

Mr. Wilkinson stated that he would like to update the Board on the Heflin/Durst application. Mr. Wilkinson stated that the Board sent a letter via Mr. Keniry and a response has been received. Mr. Wilkinson read the letter to the Board. Mr. Wilkinson stated that the applicants have provided information based on the Board's previous requests. Mr. Wilkinson stated that the issue is that the information was not received by the deadline given in the letter.

The Board discussed the issue and decided that to terminate the project would be arbitrary and capricious. The Board will send a letter via Mr. Keniry asking a representative to attend the January meeting with a presentation of the information requested.

Town Board Liaison

No report.

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

The meeting was adjourned at 9:31 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary

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

November 16, 2009

Attachment 1

Subject: Muscanell Subdivision Application

The subject application from Ronald and Sandra Muscanell to subdivide a 59 acre parcel on Root Road into two lots was reviewed by the Charlton Environmental Conservation Commission at its October 27, 2009 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 by members of the ECC as part of this review.

The application asserts that there are no wetlands on the property, but this appears to be in error. According to the official NY DEC Wetlands Map for the Burnt Hills Quadrangle, dated 1991, the wetland designated B-6 does exist on the property and the proposed driveway crosses this wetland. A wetland must be protected by a minimum buffer zone of 100 feet so it appears that the proposed location of the residence will meet the buffer distance. However, contrary to the Short Form Environmental Assessment that accompanied the application to the planning Board, it is anticipated that a NYS DEC wetland disturbance permit will be required for at least the driveway. The area of the property closest to Root Road is extremely wet.

The ECC recommends that the applicant notify the NYS DEC and the Army Corps of Engineers and apply for a wetland disturbance permit before any action is taken on the subdivision application. The ECC notes that an unpaved driveway that crosses the wetland has already been constructed on the property without any such permit from the NYS DEC. Furthermore, the ECC recommends that no final action be taken on the application until much more detail is provided regarding the design of the driveway, the measures to be taken to protect the wetland during construction, and the design and proposed location for a septic system, which is not shown on the plot plan. The ECC is concerned that the design of the driveway constructed through the wetland be adequate to accommodate heavy emergency vehicles. While the land slopes upward from Root Road and the wetland, and a dry, elevated area exists for the proposed residence, no detail is given for the septic system location or design.

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