

**Town of Charlton
Saratoga County
Town Board, Planning Board and Zoning Board of Appeals**

PUBLIC HEARING

For consideration of the application by Leonard C. Wessell, Jr. for a Special Exception to Designated Land Uses for an amendment to current Exceptional Use Permit for property located at 151 & 154 Crane Street

August 22, 2016

6:30 PM

The Public Hearing began at 6:30 p.m. at the Charlton Town Hall, and was called to order by Supervisor Grattidge, who stated that this is a Public Hearing scheduled pursuant to Article VII section 3.A of the Charlton Zoning Ordinance.

The Town Supervisor stated he notified the Town Counsel, Planning Board, ZBA, and Environmental Conservation Committee of the matters to be considered, including a copy of the application.

The Supervisor introduced the Town Board members present: Councilman Gay, Councilman Grasso, Councilman Heritage, Councilman Hodgkins, as well as Town Clerk Brenda Mills and Attorney Van Vranken.

Jay Wilkinson, Chairman of the Planning Board introduced the Board's members that were present: John Kadlecek, Bruce Gardner, Marilyn Phillips, Connie Wood, Dawn Szurek and Secretary Susan York.

Al Smith, Chairman of the ZBA introduced the ZBA members in attendance: Joe Marchesiello and Mark Chotkowski.

Town Clerk Mills read the following Legal Notice and confirmed that it was published in the official newspaper, The Daily Gazette on Wednesday, August 10, 2016:

**TOWN OF CHARLTON
TOWN BOARD**

LEGAL NOTICE

PLEASE TAKE NOTICE, that the Town Board, together with the presence of the Town Planning Board and Town Zoning Board of Appeals of the Town of Charlton, Saratoga County, New York, will meet to conduct a public hearing at the Charlton Town Hall, 758 Charlton Road in said Town of Charlton, County of Saratoga, New York on the **22nd day of August, 2016 at 6:30 p.m.** for the purpose of hearing all persons regarding the following matter:

The Town Board will be considering the application of Leonard C. Wessell, Jr. based on Article VII of the Town of Charlton Zoning Ordinance entitled **Special Exception To Designated Land Uses** for an amendment to a current **Exceptional Use Permit** for property located at 154

Crane Street and now to include 151 Crane Street, Town of Charlton, Saratoga County, New York.

The Town Board will be the board of primary jurisdiction with respect to the exceptional use permit application, while the Town Planning Board and Town Zoning Board of Appeals will provide advisory opinions to the Town Board with respect to each board's separate evaluations and consideration of the Wessell application. Such Planning and Zoning Board recommendations will be submitted to the Town Board regarding this matter.

Dated: August 8, 2016
Charlton, New York

Alan Grattidge, Supervisor
Town of Charlton Town Board

Supervisor Grattidge said that part of the Public Hearing process is to mail notification cards to neighboring properties within 1500' of the site. The Town Clerk confirmed that 48 cards were submitted and mailed on Wednesday August 17th at 3:40 p.m. at the Burnt Hills Post Office.

The Town Clerk confirmed that she has not received any other correspondence or documentation in the Clerk's office since the filing of the original application.

Supervisor Grattidge said that he received the following letter by e-mail today, from Planning Board Chairman Jay Wilkinson:

August 22, 2016

To: Alan Grattidge, Supervisor and Town Board Members

Subject: Special Exception to Designated Land Use for an amendment to a current Exceptional Use Permit for property located at 154 Crane Street and to include 151 Crane Street in the Town of Charlton.

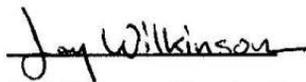
Dear Supervisor Grattidge and Town Board Members:

As required by the Zoning Ordinance, Article VII, Section 4. A, the Planning Board is required to provide an advisory opinion on the above application prior to a public hearing. The information that has been provided to the Planning Board is insufficient and too preliminary for the Planning Board to perform a comprehensive review as required by the Ordinance, Appendix B-5, and comment on prior to the public hearing.

After the Public Hearing the Planning Board is willing and available to perform a site plan review if requested to by the Town Board. This would require the applicant to provide additional information as detailed in Appendix B-5 and meet with the Planning Board. Our next meeting is September 19th.

The Planning Board looks forward to providing comments on the site plan for this application to insure the Health, Safety and Welfare for the residents of the Town.

Respectfully Submitted,



Jay Wilkinson, Planning Board Chairman

Supervisor Grattidge confirmed that the Town Board has received the following documents from the applicant: Site plan, Exceptional Use Permit Application, aerial map showing the proximity to the neighboring properties, a narrative, and Appendix B – Short Environmental Assessment Form.

Duane Rabideau from Van Guilder Land Surveyor, LLC, and representative for Leonard Wessell, Jr. gave the following presentation:

Mr. Wessell is the owner of Charlton Oil which does business on the southwest corner of Crane Street, and the owner of 151 and 154 Crane Street. Mr. Wessell acquired 154 Crane St. in 1999 and 151 Crane Street was acquired in March 2015. The last authorized usage permit was March 6, 1985.

The request is coming before the Town Board to amend the Exceptional Use Permit to be able to maintain compliance of the property.

The existing condition of parcel #1 has a shop, a parking area where trucks are now parked up against Charlton Road and there is an entrance from Crane Street. There is crushed stone parking on the south side of the building used to park a couple of trucks currently. There is a building/shop used for truck maintenance and for storing 3 fuel oil trucks.

The existing condition of parcel #2 is a single family residential lot in which the house is collapsing. The plan is to remove the house. The shed on the property will remain for storage. A condition of the application is to merge parcel 1 & 2 to make it a joint parcel with site area of 1.27 acres. It will be under the 2 acre existing zoning requirement, but it definitely makes it larger than the existing conditions. An area variance will be needed.

There are setback issues, there should be a 60 foot setback, but currently there is 24.5 feet. There is an issue of setback in the rear of the building as well.

They are proposing to improve the site to address concerns and issues that have been brought up. They plan to reconfigure the parking lot where tractor trailer trucks are parked and move employee parking. This would prevent the need for tractor trailers to back out on Crane Street. With this proposal all trucks will back in, and trucks will be facing out. Also there is a fuel tank for fueling trucks, and currently one truck can be fueled at a time, so trucks have to wait on Crane Street. With the new proposal, it will allow trucks to pull into the lot and not wait on Crane Street.

With trucks backing into the parking area, they will then be able to pull out and make a left hand turn to get onto Charlton Road. Currently they can only turn right on Crane Street when they pull out. They are proposing that trucks be able to turn right or left out of the parking lot, and this will result in less trucks on Town roads and more on County roads. The site will be better organized because the trucks will be backing in and be located in one spot, so there will be less visual impairment, and better site improvement.

Another improvement that they are doing on both parcels is on-sight drainage issues. Lot 1 is lower than Charlton Road, so the lot gets a lot of runoff from Charlton Road and both lots are fairly wet. To address that they are proposing a system with 4 catch basins that will go into a retention area.

The current site statistics are that there are 4 fuel oil trucks which each hold 2,800 gallons of fuel oil on site. There are also 4 tractor trailers for hauling aggregates. The issue of tankers on site fueling smaller trucks has been eliminated because now the trucks go to the Port of Albany to fuel up. The working hours of operation are 7 am to 7pm.

Mr. Rabideau concluded by saying that this is an opportunity to improve the site and well as address the issues and concerns. It is also an opportunity for the Town to maintain compliance.

Supervisor Grattidge opened the floor for the public to approach the microphone and ask their questions.

PUBLIC COMMENT

Bill Heilman, 857 Charlton Road made the following comments: His property neighbors the lots on Crane Street. He has spoken with Mr. Wessell about the hours of operation. This morning there was a truck at 6:15 am. Tractor trailers come in late, mechanics work late at night, sometimes 11:30 or midnight. He hears trucks on weekends and he feels it is a lack of privacy. He also said he feels a lack of privacy in the winter because the truck lights infringe on his privacy. There are no barriers to block his line of sight. He has brought concerns to Len in the past and he has been very understanding and good about addressing issues. He is concerned with the amount of fuel at the site. He asked if the retention pond will be lined. He is concerned with washing trucks on the weekend, this makes it a maintenance shop, not a parking lot. He knows that there were water issues on the property previously and is worried that oils and fuel will leach into the water table. Does not know if it will reach the Alplaus or not or affect surrounding well water. Who would take care of that if it occurred? He is concerned with his assessment and his property value. If he wanted to subdivide his property and build a smaller house with frontage on Crane Street, that won't happen now. He said in the winter there is diesel fuel smell while the trucks run for up to a half hour to warm up. He said trucks are only supposed to turn right from the parking lot, but he has seen them turn left and they are crumbling the road and just missing the ditch and road signs. He said it is dangerous pulling off of Crane Street onto Charlton Road because of the dip in the road. There is currently a motor home with a blue tarp on if parked there. When does it stop? He has not seen a place for the dumpster on the plans. He said the business is not Monday through Friday from 7am to 7pm. It is 24/7.

Edwin Winslow, Jr., 863 Charlton Road – he said he has lived in his home off and on since 1949. He had numerous problems when the body shop was there. Len has been terrific about addressing any issues that he has had. He does not have any problem with water from the site. He does not have a problem with what Len is doing there, maybe because trees block the sight and noise.

Steve Slattery, 146 Crane Street - he moved to his home 13 years ago. He assumed the business was Monday through Friday, but since the trucking business started it has highly impacted his family. It is not run 7am to 7pm. On August 8, a truck came at 3:23am and woke his entire family. He has had to move his daughter's bedroom because of noise and lights. He said generally the trucks start at about 5:30am to 6:30 am. They get lights in their windows while the trucks are sitting idling. He is worried about his water becoming contaminated. He said that the corner is a problem, and feels turning on Charlton Road is dangerous.

T. Dan Dixon, 1313 Division Street – asked how this business relates to the current zoning of Residential/Agricultural. He is concerned with noise and home values. He is against anything that would lead to further expansion. He is okay with the fuel oil business being there, but not the trucking business. He asked if there was a bathroom on the property.

Suzanne Voigt, 122 Dawson Road – she gets her oil from Charlton Oil and loves the oil business, but the business has changed and she finds going on Crane Street scary. She has horses and feels that it is difficult to pull around tractor trailers while pulling animal trailers. For agricultural reasons, this is a problem.

Christy Nixon, 1313 Division Street – she is opposed to granting the exception. She likes the beauty and agriculture of Charlton, but this use is commercial or industrial and does not fit. She did not move to Charlton for that, and she feels that granting the exception would set a precedent.

Gayle Smialek, 102 Dawson Road - she agrees with the issues raised by others and the danger of pulling onto Charlton Road. It was never her dream to have tractor trailers in Charlton. She is terribly opposed.

Bob Smialek, 102 Dawson Road – he asked where trucks are pulling in from, either Crane Street or Charlton Road. He did not move here to see commercialization south of Charlton Road. He understands the concerns of the neighbors and noise issues, and agrees with Bill Heilman's comments.

Bill Heilman – he said that the road shoulders have been compromised by the weight of the heavy trucks. He can see truck lines on the shoulder on Crane Street.

T. Dan Dixon – are the improvements to improve the site or to please the neighbors? Mr. Rabideau responded by saying they are trying to improve the sites and get the trucks off of Crane Street.

Jim Sevinsky, Charlton Road – he asked about the site itself. Is there anything in the proposal or any talks about monitoring of the existing conditions or potential environmental changes?

QUESTIONS FROM PLANNING BOARD

Connie Wood asked if there were any State permits used now to operate? Duane Rabideau said that he meets DEC requirements. They are very strict and have done site inspections and found him in compliance. Mrs. Wood asked if onsite inspections were done regularly. Mr. Wessell said that the DEC has been there, but there is no regular schedule of visits.

John Kadlecsek said in reference to the retention/detention pond, he feels that a Storm Water Management Plan must be done.

Dawn Szurek asked about the history of the use of the property. Supervisor Grattidge said that his understanding is that the original building was built to store a milk delivery truck. According to the Town's files, it was converted to an autobody shop in the 60's and that is when the first Exceptional Use Permit was issued. That had its share of controversies back in the 60's. In the 80's it then was amended to become an ornamental welding shop. Charlton Oil later bought it and ran it under that existing permit. She asked if there were any type of catch basin for fuel spillage. Mr. Rabideau said not currently. The retention pond was designed to handle the storm water issues but would be a benefit in case of a major concern. The merging of the 2 lots gives opportunities to address and improve issues raised by neighbors. She asked Mr. Rabideau if in his opinion, in the area of screening, if it would address issues from neighbors with the pointing of truck lights. He said that screening is proposed for onsite. (inaudible).

Jay Wilkinson asked Supervisor Grattidge to confirm that at this point the Planning Board has not been charged with doing a site plan review. The Supervisor confirmed that they have not, but the Town Board has asked them for a referral letter and that could be part of their referral.

QUESTIONS FROM ZBA

Mark Chotkowski asked if the DEC will mark out wetlands. Mr. Rabideau said that the DEC will not, because there are no wetlands on the property. Mark said he does not see the dimension or width of the driveway on the on the plan, and he sees crushed stone all the way to the road. He asked if trucks are pulling straight out onto Crane Street, and Mr. Rabideau confirmed that the plan is to have the trucks pull straight out. The parking lot is not finished yet and won't be until the application is approved. Mark said he estimates the driveway to be 75 feet wide, and Mr. Rabideau confirmed it is.

QUESTIONS FROM THE ECC

Marv Schorr, Chairman asked what amount of fuel and oil will be stored on the premises. The trucks hold 2,800 gallons of heating oil and there will be a fuel storage tank with a concrete containment surround that holds 1,000 gallons. Mr. Schorr asked if there was a Fuel Prevention Plan in place. Mr. Rabideau said that the concrete container around the tank is the plan, there is not a written document. Supervisor Grattidge said that a written plan is not required unless there are over a thousand gallons. Mr. Schorr asked if the water used to wash the trucks will go anywhere special. Mr. Rabideau said it would go down the drain and eventually into the retention plan.

QUESTIONS & COMMENTS FROM THE TOWN BOARD

Councilman Grasso confirmed with Mr. Rabideau that there are 4 fuel trucks and 4 aggregate hauling trucks, and employee vehicles on site. Councilman Grasso asked about the hours and days of operation. Mr. Rabideau said that this needs to be addressed. Mr. Rabideau confirmed that there is a bathroom on

site with a holding system that is pumped regularly, no septic system. Mr. Rabideau confirmed that the fuel trucks go to the Port of Albany to fuel up, it is not done on site. Councilman Grasso asked if the repair work that is done on site is only to the trucks stored on site and is it done inside or outside. Mr. Rabideau said that the work is done inside and outside. Councilman Grasso asked if there was any of storage of trucks in the building. Mr. Rabideau said that currently 3 smaller oil trucks are stored inside.

Councilman Gay said that he thinks that the maps and drawings that the Boards and Mr. Rabideau have are mostly of existing conditions. As this moves forward, there will probably be a need for more drawings and details and explanations. At this point it is difficult to do anything other than get information out on the floor so that all of the Boards can analyze this and give their conclusion. He personally feels that Charlton Oil has been an asset to the Town. The Board will try to come up with a solution that works for everybody.

Councilman Hodgkins said that he looked at the mock up of the screening, and it looks like a pretty tight site. He said snow removal will need to be addressed because he is not sure where it is going to go. He asked if that the tractor trailers always come back empty because he is not sure that the road could handle the weight of a loaded truck. Mr. Rabideau confirmed the hauling trucks come back empty. Councilman Hodgkins said that he lives on Charlton Road and feels that the sight distance is not good coming out of Crane or Division Street so he feels that this is not good for safety.

ADDITIONAL COMMENTS FROM THE FLOOR

Teddi Smith, Cornelia Avenue – said that it seems that the company started with a Special Use Permit for a specific use. When a business changes, can they still be under the same permit? Supervisor Grattidge said that from when the last permit was issued, the condition has changed from what was originally done. Whether it should have been addressed when Mr. Wessell originally bought the building, that probably would have been a question that a former Supervisor or Board should have discussed. This is why when the Board started seeing further activity and started getting some feedback on it, we had to approach Mr. Wessell and say that we have to review the situation. It took a while to gather all of the history. It certainly has an existing exception permit, but we are trying to see where it is in reality to what is out there now. Mrs. Smith said that she thought that the Zoning Ordinance was put in place to protect everyone. How does this protect people?

Supervisor Grattidge said that the Board appreciates everybody coming out to express their opinions, thoughts and facts. This will be a long process to work through this project.

RESOLUTION #132 MOTION TO ADJOURN PUBLIC HEARING

Motion by Councilman Gay
Seconded by Councilman Hodgkins

Roll Call: Councilman Gay: Aye, Councilman Grasso: Aye, Councilman Heritage: Aye, Councilman Hodgkins: Aye, Supervisor Grattidge: Aye. **CARRIED.**

The Public Hearing was adjourned at 7:59 p.m.

Respectfully submitted,

Brenda Mills
Town Clerk