

**Town of Charlton
Planning Board Minutes
and Public Hearing Minutes
758 Charlton Road
Charlton, New York 12019**

Minutes of the Planning Board Meeting – February 21, 2022

Chairman Jay Wilkinson called the meeting to order at 7:16 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, Jonathan Riedinger, Dawn Szurek, Bill Keniry, Esq., Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Planning Board Secretary. Connie Wood joined the meeting at 7:35 p.m.

AGENDA MEETING

Mr. Wilkinson stated that the board is waiting for a quorum. Mr. Wilkinson stated that Connie Wood was on her way.

Minutes

Mr. Wilkinson stated that the draft of the January 17, 2022 meeting minutes needed to be approved. Mrs. York has previously provided comments. Wilkinson stated that there are not enough Board members present from that meeting. Mr. Wilkinson stated that the vote would be tabled until the next meeting.

Public Hearings

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Mr. Wilkinson stated that this Public Hearing has been on continuation since February of 2021. Mr. Wilkinson stated that new maps have been provided. Mr. Wilkinson stated that the applicant's representative will review the changes to the drawings. Mr. Wilkinson stated that he will open the floor to anyone wishing to speak.

Bagdan and Van Guilder (224.-1-42.1)

Mr. Wilkinson stated that the property is located at 17 Consaul Road and consists of 108.23 acres located on the south side of Route 67. Mr. Wilkinson stated that the applicant's intent is to convey the land to his son, Kevin. Mr. Wilkinson stated that the property is on both sides of the road. Mr. Wilkinson stated that at the last meeting the application was referred to the town engineer and the County Planning Board and comments have been received and

can be reviewed during the business meeting. Mr. Wilkinson stated that at the last meeting the board took lead agency and completed the short EAF form.

Subdivision Applications

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Addressed above.

Bagdan and Van Guilder (224.-1-42.1)

Addressed above.

Davidson (246.-3-61.111)

Mr. Wilkinson stated that this is a proposal for a subdivision of property owned by Nicholas Davidson. Mr. Wilkinson stated that the property consists of 66± acres on the west side of Crane Street. Mr. Wilkinson stated that the proposal is to create one new building lot. Mr. Wilkinson stated that Lot 1 will consist of 2.01 acres with 225 feet of frontage for a single-family residence and Lot 2 will be the remaining acres of 64± acres with 175 feet of frontage and will encompass the existing farmhouse and improvements. Mr. Wilkinson stated that the ZBA granted a frontage variance to allow for the applicant to proceed with the subdivision. Mr. Wilkinson stated that at the January meeting the board requested a mitigation plan for the wetlands impact since there will be no 100-foot buffer to the wetlands as required by the Planning Board. Mr. Wilkinson stated that new plans have been received that the board can review with the applicant during the business meeting.

Zoning Report

Mr. Wilkinson stated that the Board has received the report for review.

Correspondence

None.

Town Board Liaison

Mr. St. John was present and provided a report.

Mr. St. John stated that he was not at the February 14, 2022 Town Board meeting but has updates from the January 24, 2022 meeting. Mr. St. John stated that the water testing has had passing results and the town is back on a three-year plan for lead and copper testing. Mr. St. John stated that the funds the town has received from the Federal Government has several restrictions on the usage of those funds. Mr. St. John stated that those restrictions have been lifted. Mr. St. John stated that the board will be looking at funding projects that

were put on hold during the pandemic. Mr. St. John stated that the Town of Ballston has completed their environmental impact statement and it is available on their website. Mr. St. John stated that the police department is getting a new police vehicle that will also serve as the animal control vehicle.

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

BUSINESS MEETING

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

Minutes

Mr. Wilkinson stated that the board could vote on the minutes at the next meeting when there are enough members that were present for that meeting to vote.

PUBLIC HEARING (7:30 P.M.)

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Mr. Wilkinson stated that the legal notice for the project was originally published in the Daily Gazette on February 8, 2021. Mr. Wilkinson stated that notices to adjoining land owners of the subdivision were mailed on February 1, 2021.

Mr. Wilkinson reviewed the public hearing process.

Drew Schaufert, Santos Associates: If you looked at the map on the website or the one we submitted you will know that this is a much different plan than was submitted before. Mr. Heflin is withdrawing his application for the major subdivision and what he proposes to do now is take the existing 4 lots that he owns, which are in the other version I have here highlighted in orange, one here, here, two small building lots here that were approved by the town planning board in 1998, and he wants to redraw those lines to make them more buildable. In particular, for some reason the line between the large lots is only 6 feet from the side of Mr. Heflin's house. So, he can't sell either of those lots in that situation. So, he is asking to redraw that line 60 feet south of the house and then the town requirements for a barn, he has to shift over and be 100 feet south of the barn. Then the two smaller lots, as it turns out after we had all of the wetlands delineated, one of those lots is not buildable because of the wetland and the 100 foot setback. Mr. Heflin has been paying taxes on those lots for 24 years and he would like to be able to redraw the lines so that he could put those two lots on the market. He is taking the existing 4 lots, making some minor lot line revisions, and wants to redraw them this way that is shown on the version that is on the website and put them on the market that way. I believe under the town's definition this is now a minor subdivision, before it was classified as a major. That's it in a nutshell.

Karen Staulters, 2140 Cook Road: We are adjacent to the property in question. I have a question, are you Mr. Santos?

Drew Schauffert: No.

Karen Staulters: My question is this, are you aware that in this lot over hear which is adjacent to my moms, there is a wetland right here that feeds the pond on our property.

Drew Schauffert: Yes, the stream comes right down.

Karen Staulters: Right. Exactly, it feeds our pond. Are you aware that the pond (inaudible) and the leach field comes close to the stream?

Mr. Schauffert and Ms. Staulters had a disagreement on the location of the stream that was not captured by the recording.

Karen Staulters: I made a map of the pond and it is located here and the leach field is a concern.

Jay Wilkinson: Anyone else? This is the opportunity to speak. This is a significantly different plan from what we had, an 8 lot subdivision down to 4 which is only 3 new lots. As you can see, everything to the north of Mr. Heflin's current home has been taken off the table and you can see significant wetlands that we weren't aware of before.

Sue York: It is not even three new.

Jay Wilkinson: Right. There will be three new houses on existing lots, we are just moving some lines around. So instead of 7 new houses we are only going to have 3 new houses.

Drew Schauffert: Three eventually.

Jay Wilkinson: Over time.

Josie Jackson, 2173 Cook Road: Can we go over to look at the map?

Jay Wilkinson: Sure you are welcome to.

Karen Staulters: Is this lot now 200 feet of road frontage?

Drew Schauffert: Yes.

Josie Jackson: Can I have a copy of the map?

Drew Schauffert: It is on the town website.

John Karm, 2126 Cook Road, approached the map.

Jim Sevinsky, 838 Charlton Road: Just a quick question for you guys. I am seeing this for the first time so I didn't see the DEC findings. It does look like you were surprised with how many wetlands are on the property and streams that go through. In a recent meeting I heard some controversy with another completely different project over whether there was a 100 foot setback that the planning board uses from development on a wetland or whether a state 50 foot regulation might be in effect. I don't know how that fits in for what you are doing.

Drew Schauffert: The state has a 100 foot setback as well.

Jim Sevinsky: Do you have a larger setback or is it the same as the state?

Jay Wilkinson: No we always say 100 feet.

Jim Sevinsky: The other thing is this, with all of these wetlands it looks like to get to the property you are going to be crossing streams and wetlands and different things. Is that consideration of how that occurs in your purview at this point?

Jay Wilkinson: We have to go through this in more deal with Santos Associates but on Lot 1, it doesn't appear to me that you are crossing any wetlands.

Drew Schauffert: All we need is a permit for Lots 1 and 3. This has already been submitted to DEC and we have verbal assurance that they are not going to have any problem.

Jay Wilkinson: A driveway hasn't been a problem in the past.

Drew Schauffert: It's only going to be on Lots 1 and 3, Lot 4 already has a house and Lot 2 has tons of land.

Jim Sevinsky: I have nothing else except a comment you made once before that we ought to look at the comprehensive plan and the zoning together. 1792 when you were incorporated there has been open space and farmland for how many years within the comprehensive plan and then the zoning says do the maximum you can so just a consideration for the board. Thanks.

Jay Wilkinson: If no one has anything else. This is your last chance to speak at the public hearing for the Heflin subdivision on Cook Road. It is a minor subdivision now as we can all see from the plan. It has significantly changed from what we started with 1 year ago. If no one has anything else, I am going to close the public hearing.

Robin Sevinsky, 838 Charlton Road: I would be nice to have another month, I mean nobody really got a chance to see that. We didn't know it was posted. So we are coming here blind and it would have been nice to have one more month or something to be able to look at that map. (Inaudible) I know this has been going on for a year but this is brand new.

Jay Wilkinson: We have had it open for a year. I can show you the list of comments.

Robin Sevinsky: (Inaudible)

Jay Wilkinson: The land hasn't changed, that's still the same land. It is still the same property. The comments that went with the property that have been going on for the last year are still comments we are going to consider when we make our final deliberation, but here are all the comments we have gotten.

Robin Sevinsky: (inaudible)

Jay Wilkinson: The comments that everybody made in my thinking, all these comments apply and they apply to that whole 76± acres that Mr. Heflin owns. People were worried about wells, streams, where the wetlands are, how close the houses are going to be, that's not going to change. All I am going to do is, we are going to try to move the process along. We have 62 days after I close the public hearing to decide what we are going to do. We have to vote in 62 days. If we don't vote it gets approved by default. We are not going to let that happen but we have all of this information. Unless someone can explain to me, maybe our counsel can help us out here, the comments go with the land. The land hasn't changed. Yes the lines have changed and the houses are staggered as we asked for. I will defer to our counsel.

Bill Keniry: I don't know that I have anything else to add. The board has a right to close the public hearing or adjourn to a specific date and time.

Jay Wilkinson: I am going to poll the board.

Connie Wood: Well I can be swayed either direction. I will listen to the others.

Dawn Szurek: I think that we can move forward because this new plan has addressed several of the requests that the public brought forward. There was concern about the wells, the staggering of the houses. There are fewer houses so there are many of the public's requests that have now appeared. I think we could close the hearing unless someone adamantly objects that is already here. That would be the only thing but I don't know why they would adamantly object at this point.

Jonathan Riedinger: After a year, this is so substantially improved from what we originally saw I am very comfortable with closing the hearing.

Connie Wood: I heard their comments. The one thing I am so impressed with is the fact that we have not created a lot on Route 67, so close to 67 with the traffic problem. That to me is huge, in addition to the other improvements. I would go along with closing it.

Mr. Wilkinson made a motion to close the public hearing. Mr. Riedinger seconded the motion. All were in favor.

Bagdan and Van Guilder (224.-1-42.1)

Duane Rabideau: I am here tonight representing Robert and Florence Bagdan for a proposed two lot subdivision located at 17 Consaul Road. The proposal is to subdivide the 109 acres of the farm which is south of Route 67. This is the piece we are subdividing out here. This is the overall farm. Route 67 is here. So we are subdividing this piece out from the northern 109 acres of the farm on the north side of 67. This proposed subdivision is only for estate planning. It is being sold to the son. We have reviewed EDP's comment letter and the County Planning comments that were given to us. We did from the last meeting add the requested information to the subdivision map. There were a few items, I believe we got them all. That is our proposal before the board tonight.

Jay Wilkinson: Is anyone here for the public hearing for the Bagdan subdivision on Consaul Road and Route 67? Now is your chance to come and speak and if you have information that you want to share with us about the property that we may not know of, please speak from the podium.

Mrs. Wood made the motion to close the public hearing. Ms. Szurek seconded the motion. All were in favor.

SUBDIVISION APPLICATIONS

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Mr. Wilkinson asked if the wetlands had been verified by DEC.

Mr. Schauffert stated that they are still in the process.

Mr. Wilkinson stated that the Board has requested a hydrology study and a traffic study back in March of 2021. Mr. Wilkinson asked where those studies stood. Mr. Wilkinson stated that the traffic study was requested when the plan called for 7 new homes on Cook Road. Mr. Wilkinson stated that the new plans call for three new homes on lots that were already approved building lots in 1998. Mr. Wilkinson stated that he does not feel that a traffic study is pertinent now.

Mr. Riedinger agreed.

Ms. Szurek also agreed.

Mrs. Wood stated that the traffic study was requested because of the dangerous intersection. Mrs. Wood stated that the plan has two already approved lots and are now only adding one lot. Mrs. Wood stated that she agrees that there is no longer a need for the traffic study.

Mr. Wilkinson stated that is a good point that the plan is only technically adding one new lot since the other lots were approved back in 1998. Mr. Wilkinson stated that the board will take the traffic study request off the table. Mr. Wilkinson stated that the board still wants to see the hydrology study.

Mr. Schaufert asked if with the new plan there was still concern about the well water.

Mr. Wilkinson stated that there have been significant comments from the public pertaining to their wells and the lack of water on Cook Road. Mr. Wilkinson stated based on public comments, the board still wants to see the hydrology study. Mr. Wilkinson stated that the board would like to see the DEC stamp on the wetland's delineation and the hydrology study to move forward.

Mr. Schaufert stated that they will do their best to have that information next month.

Mr. Wilkinson stated that the board will forward the new plan to the Saratoga County Planning Board and the town engineer for review and comment.

Bagdan and Van Guilder (224.-1-42.1)

Mr. Rabideau appeared before the Board.

Mr. Wilkinson stated that town engineer comments have been addressed with the exception of the non-conforming pre-existing condition of the .8-acre parcel that Paul Bagdan owns.

The board agreed that this is a pre-existing non-conforming condition and agreed to leave it alone and move on.

Mr. Wilkinson stated that the other issue is that this subdivision creates a land locked parcel (224.-1-40) which is already owned by Kevin Bagdan. Mr. Wilkinson stated that the board wants to see that parcel merged with the newly subdivided parcel to create one lot and avoid creating a land locked parcel.

Mr. Rabideau stated that the applicants do not want to incur the costs of having a survey done. Mr. Rabideau showed on the drawing where there is access along a farm road to the parcel. Mr. Rabideau stated that they could put easement language in the deed that gives access to the other parcel.

The Board raised concerns with the future owners of the land and that an easement is not what the Board would like to see.

Mr. Keniry stated that the board is concerned for future owners. Mr. Keniry stated that down the road this property could be sold to an unwitting buyer that does not realize that there is no road access to a public road for this parcel. Mr. Keniry stated that it is the

board's job to look out for the current and future owners of the land. Mr. Keniry stated that the most cost effective way to resolve this issue is to merge the title of the two parcels so that they become 1.

Mr. Rabideau asked if upon the conveyance of the newly created lot, in the deed as parcel 2 convey from Kevin to Kevin to the new parcel so they are merged into one deed.

Mr. Keniry stated that is what the board is requesting. Mr. Keniry stated that the deed should clearly depict that the two parcels are being merged together.

Mr. Rabideau asked if that could be shown on the map without a new survey.

The Board agreed that a new survey was not required to merge the parcels.

Mr. Wilkinson stated that the application was referred to the County Planning Board and their comments were no significant impact.

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

Mr. Wilkinson made the motion to approve the Bagan subdivision located on both sides of Route 67 as Tax ID number 244.-1-42.1 contingent upon the parcel being merged with Tax ID number 224.-1-40 and authorize the chairman to sign the mylar as Resolution 2022-02. Mrs. Wood seconded the motion. All were in favor.

Resolution 2022-02 was made.

Mr. Wilkinson stated that the park fee of \$1,200.00 was now due.

Davidson (246.-3-61.111)

George Davidson appeared on behalf of Nick Davidson. Mr. Davidson stated that the new plan submitted is more restrictive and maximizes the setback. Mr. Davidson stated that he wants it to be known that his daughter has spent over \$6,000.00 on this subdivision process. Mr. Davidson stated that he hopes the new plan addressed the board's concerns.

Mr. Wilkinson stated that the board has requested that the tax id numbers of the neighboring parcels be added to the drawing and that has been done. Mr. Wilkinson stated that the site location map and the north arrow have also been added to the drawings. Mr. Wilkinson stated that the board requested a mitigation plan for the wetlands disturbance which the new plan shows.

Mr. Rabideau stated that they were very limited in their space. Mr. Rabideau stated that they have put the 100-foot adjacent area on the drawing and have put the septic system at the farthest point away from the wetlands in the front and in the back as far as they can get. Mr. Rabideau stated that they have shrunk the building envelope to the back of the power lines

to leave room for the house. Mr. Rabideau stated that they were very limited in what they could do and the new drawings define what is there and what they could do with it.

Mr. Wilkinson asked if there were any other ways to mitigate the wetlands disturbance other than moving things on the drawing.

Mr. Rabideau stated not really. Mr. Rabideau stated that what is before the board is the best they could do.

Ms. Szurek inquired if the land was fairly flat.

Mr. Rabideau stated correct.

Ms. Szurek stated that it appears the downward grade from the septic system to the well is 0 feet one way and 100 feet the other way.

Mr. Rabideau stated that the USDS topo lines do not represent the contours that are actually there, it is flat.

The Board completed the short EAF form with a notation about the wetlands issue on the back of the form.

Mr. Wilkinson asked Mr. Keniry for some input in completing Part III of the EAF.

Mr. Keniry stated that the purpose is to allow the board to explain from what the board has heard the intent of the applicant is to incorporate the restrictions and have moved the leach field to an area most favorable as it relates to the wetlands is their current suggestions to mitigate the wetlands impact. Mr. Keniry stated that the applicant recognizes that the area is really tight and it would be fair of the board to lock down the building envelope area.

Mrs. Wood stated that she is concerned for future owners and their possible desire to increase the house size and the septic size because the possible effect on increased effluent.

Ms. Szurek asked where the note would go so that 50 years down the road the new owners know that they can't increase the house size or the septic size.

Mr. Keniry stated that the board's only ability is to place notice on the map. Mr. Keniry stated that the information will also be in the town file and in the minutes.

Mr. Rabideau stated that the deed will reference the filed map also.

Mr. Wilkinson made the motion that the board take lead agency and that the action be classified as an unlisted action with a negative declaration relative to SEQRA. Mrs. Wood seconded the motion. All were in favor.

Mr. Wilkinson made a motion to schedule the Public Hearing for March 21, 2022 at 7:30 p.m. Mrs. Wood seconded the motion. All were in favor.

Mrs. York will forward the application to the town engineer and the County Planning Board for review and comment.

Kore Development and ABD Engineers (256.-1-69)

No one was present for the applicant.

Mr. Wilkinson stated that there is an issue with the map that was presented with the subdivision application. Mr. Wilkinson stated that the property is located at 720 Swaggertown Road on the east side and consists of $9.2 \pm$ acres. Mr. Wilkinson stated that the applicant is proposing a two-lot subdivision. Mr. Wilkinson stated that there was a lack of frontage for a two-lot subdivision so the applicant went before the ZBA and was granted a frontage area variance. Mr. Wilkinson stated that the ZBA resolution of August 10, 2021 shows Lot 1 was granted a 25-foot frontage variance to be approximately 175 feet and Lot 2 would have the required 200 feet of frontage. Mr. Wilkinson stated that the maps provided have Lot 1 being $7.18 \pm$ acres with 157.25 feet of frontage and Lot being $2.07 \pm$ acres with 200 feet of frontage. Mr. Wilkinson stated that the frontage for Lot 1 was not what the ZBA approved.

Mr. Wilkinson stated that he wrote to ABD Engineering regarding the discrepancy and they said that at the time, they based the frontage of the lots on the tax maps.

Mr. Wilkinson stated that he believes that the applicant has to go back to the ZBA for the additional frontage variance. Mr. Wilkinson stated that he would reach out to ABD Engineering and the ZBA chairman and inform them that the Planning Board cannot act until the frontage discrepancy is addressed by the ZBA.

ZONING REPORT

The Board reviewed the report.

CORRESPONDENCE

None.

TOWN BOARD LIAISON

Mr. St. John gave his report during the agenda meeting.

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

The meeting was adjourned at 9:07 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary