

**RESOLUTION OF THE
TOWN OF CHARLTON
PLANNING BOARD**

WHEREAS, Elaine Nigriny of Charlton, New York (the “Applicant”) filed an application for a minor subdivision of certain real property located at 138 Jenkins Road, Town of Charlton, New York having tax identification number 247.00-1-50.12; and

WHEREAS, a public hearing on this application was scheduled and held by the Planning Board on May 21, 2007, at the Town Hall on Charlton Road, Charlton, New York, after due notice by publication; and

WHEREAS, said public hearing was held open until June 18, 2007 so that proof in support and in opposition of the application could be received; and

WHEREAS, the Planning Board reviewed the SEQRA environmental assessment form submitted by the Applicant, and determined that the proposed minor subdivision did not have the potential to result in significant adverse environmental impact and thereby issued a negative declaration; and

WHEREAS, upon discussion and review of the proposed subdivision, the requirements of the subdivision regulations of the Town of Charlton have been determined not to have been met for the following reasons:

1. Failure to comply with Section X(F)(1) of Town Subdivision regulations in that the proposed subdivision creates significant foreseeable difficulties due to reasons of topographical and other natural conditions. The record reflects significant concerns raised at the public hearing, and by members of the Planning Board, and by the Town Engineer that the topography of the proposed subdivision does indeed create foreseeable difficulties for the siting of improvements (house, septic and well). The lot, while meeting minimum area requirements, contains a variety of natural resources, including a stream and a pond. The variability of the water course has not been accurately located and mapped. The stream lies in a shallow basin which is subject to frequent flooding due to heavy rains and seasonal snow melt. The proposed subdivision map indicates a high water line adjacent to the pond, which when extrapolated to the stream corridor, significantly expands the streams location. This deviation from the depiction of the stream on the plat will cause the septic system to be noncompliant with the minimum distance requirements required by Town Zoning Ordinances.
2. The concerns by the Town Engineer “as to the suitability of the well and septic layout for this project” have not been satisfactorily addressed and resolved by the applicant.
3. Failure to comply with Section I of Town Subdivision regulations in that the proposed subdivision does not represent safe, orderly and efficient use of land and/or development

of the Town, protect the natural resources of the Town, or preserve the rural character of the Town. The existing lot proposed for subdivision is naturally divided by a stream and pond into approximately 1/3 and 2/3 the total acreage. The smaller of the areas is of insufficient acreage to meet minimum area requirements. In order to meet minimum area requirements, the proposed subdivision includes the pond (with required setbacks) and stream corridor on the new lot. The Planning Board convened a special meeting on-site on June 26, 2007 in order to assess the proposed subdivision. The pond is located within 100 feet to the side and in front of the existing home with the edge of the pond lying directly between the home and the street. The existing home's front and side yard slope to the pond's edge with improvements associated with the pond (power, light, gazebo, small boat). In order to meet setback requirements to the pond, a portion of the existing front and side yard is proposed to be allocated to the new lot. This creates significant negative impact on the existing home; eliminating one half of the front and side yards and placing neighboring property in close proximity to and directly in front of the house.

4. The applicant was unwilling to address the Planning Board's concerns as to the encroachment and negative impact to an existing developed home site.

NOW, THEREFORE, BE IT RESOLVED by the duly convened Planning Board of the Town of Charlton that the minor subdivision application of the Applicant be and the same is hereby denied and disapproved.

By motion to deny the subdivision made by Raymond Black and seconded by Constance Wood, the foregoing resolution was adopted by a majority of the members of the Planning Board of the Town of Charlton on the 16th day of July, 2007 as follows:

Yes <u> X </u>	No _____	Mark Hodgkins
Yes <u> X </u>	No _____	Raymond Black
Yes <u> X </u>	No _____	Michael Armer
Yes <u> X </u>	No _____	Constance Wood
Yes <u> X </u>	No _____	Dawn Szurek
Yes <u> X </u>	No _____	Jay Wilkinson
Yes <u> X </u>	No _____	John Kadlecek

CERTIFICATION

The undersigned, Clerk of the Planning Board of the Town of Charlton, hereby certifies that the foregoing is a true and accurate copy of a resolution duly adopted by the Planning Board at a meeting thereof duly held on the 16th day of July, 2007 and is in full force and effect.

WITNESS my hand and seal of said Planning Board this 17th day of July, 2007.

 Susan York
 Clerk