

**Town of Charlton
Saratoga County**

**PUBLIC HEARING
Regarding Exceptional Use Application from Conrad Bernard/Route 67 Cafe**

April 25, 2022

The Public Hearing began at 7:09 p.m. at the Charlton Town Hall.

Present: Supervisor Grasso, Councilman Glavin, Councilman Robbins, Councilman St. John, Councilman Tasse, Town Clerk Mills.

Attorney James Craig joined the Hearing at 7:25 p.m.

Not present: applicant Conrad Bernard or representation

The Town Clerk read the following Legal Notice and confirmed that it was published in the official newspaper, The Daily Gazette on April 14, 2022:

NOTICE OF PUBLIC HEARING

**TOWN BOARD
TOWN OF CHARLTON**

PLEASE TAKE NOTICE that the Town Board of the Town of Charlton will hold a Public Hearing on April 25, 2022, at 7:00 p.m., at the Charlton Town Hall, 758 Charlton Road, Town of Charlton, County of Saratoga, State of New York, regarding property located at 1958 Amsterdam Road, in the Town of Charlton, for the purpose of hearing all persons regarding the approval, modification or disapproval of a certain exceptional use application of Conrad Bernard for the renovation, construction, and operation of the old Route 67 Café, located at 1958 Amsterdam Road. Said hearing may be adjourned from time to time as necessary.

The application for this special exception permit is open to inspection and review at the Town of Charlton, Town Hall, 758 Charlton Road, during regular business hours. All persons wishing to appear at said hearing and be heard may do so in person or by other representation. Persons with disabilities who require assistance in attending said Public Hearing, or in furnishing comments or suggestions, should contact the undersigned to request such assistance.

Communications in writing in relation thereto may be filed with the Board prior to, or at such hearing.

DATED: April 11, 2022
Brenda Mills
Town Clerk

Supervisor Grasso said that the Town Board has the option to retain jurisdiction on Exceptional Use Permit applications or refer them to the Zoning Board of Appeals. The Board decided to retain primary jurisdiction of this application. Supervisor Grasso stated that the applicant originally filed the Exceptional Use Permit application in June of 2021 and the application went dormant because the applicant did not provide the requested copies at that time or correspond with the Town. The applicant resubmitted the application on February 22, 2022.

After the Board acknowledged receipt of the application at the February 28th meeting, opinion letters were requested and received from:

ECC April 7, 2022

ZBA March 8, 2022

Zoning Officer March 13, 2022 and April 21, 2022

Saratoga County Planning Board March 17, 2022

Charlton Planning Board April 23, 2022

EDP (Town Engineer) March 25, 2022

EDP also included copies of letters that were submitted to the Town regarding the subject property on July 12, 2012 and also September 24, 2012.

Supervisor Grasso asked that all of the letters be included in the official public record for the application.

Supervisor Grasso said that even though the applicant is not present, the Town Board will continue with the Public Hearing. The Board is not planning to take any action on the application tonight. He explained the 62 day window of time if the Board closes the Public Hearing. Once closed, a decision is needed by the Board within 62 days or the application is automatically approved. Prior to any approval, the SEQR needs to be completed.

PRIVILEGE OF THE FLOOR

Jay Wilkinson, resident and Planning Board Chairman asked what the owner is going to do to get this property in compliance prior to getting approval for this application. Mr. Wilkinson said that there are junk and unregistered vehicles on the property, skid steer, landscaping trailer, construction debris, a big pile of broken concrete and piles of wood that looks like it was from inside the building. Why is the applicant allowed to keep the property like this for over a year? How is he going to get in compliance and what is he planning to do with this? He said that the information that the Planning Board got from the limited application was sketchy at best and there was no site plan. The property is on the same lot as the house on Peaceable Street and they share well and septic. He thought at after one year of not being in use, you have to start from scratch again. He is concerned where we are headed. He does not feel that the property shows Charlton's best light and what our Town is about. He is pleased with how the Planning Board, ZBA and Town Board were able to work together on getting the new Stewarts Shop in Charlton. Stewarts is a nice looking property. They put up a nice fence to shield neighbors, they plant nice flowers and he feels it is an asset to Charlton. His question is where are we going with this new application? He wishes that the applicant were here to answer questions.

Mark Chotkowski, resident, said that he previously served on the ZBA when the previous owner came to the ZBA with questions about reopening the store. Mr. Chotkowski asked why there would be a Public Hearing on a new application when they are not meeting our zoning requirements to begin with? The applicant has been doing constant work on the property for the past couple of years, and he does not understand why the Town has not made them put silt fence up. They have dug dirt and put another driveway cut on Peaceable Street. Does the building need ADA for handicap accessibility? His friends have driven by and asked if the Town has a junk yard. He does not understand why the Town has not shut the guy down and told him that he needs to fix this first. He said that the previous owner wanted to expand the business, but backed out because the ZBA was going to hold them to the full process. There is a common septic and well and they were supposed to go to the Health Department for certification of the well, but they did not. The septic does not have proper grease traps. There were so many areas lacking and not meeting zoning.

Attorney Craig joined the Hearing at 7:25 p.m.

Mr. Wilkinson, Mr. Chotkowski and Councilman Robbins discussed their recollection of the history of the previous owner.

Mark Chotkowski said as a Town resident, he does not understand how the Town can let him continue having open dirt and machines there without silt fence. It is a DEC issue and run-off issue. There is a creek close by and wetlands close by. That is the first thing that should be addressed and they should be shut down until they are DEC compliant for digging dirt.

No one else from the public chose to speak.

Supervisor Grasso recommended that the Board keep the Public Hearing open, so that the applicant can review some of the feedback and maybe attend a hearing to provide more insight. There could be more public comment when we get more information from the applicant.

MOTION #96

Adjournment of public portion of hearing

Motion by Councilman St. John

Seconded by Councilman Tasse

Vote: All Ayes, No Nays. **CARRIED**

BOARD DELIBERATIONS

Supervisor Grasso said that there have been numerous comments made about the zoning compliance, and he shares those same concerns. The Supervisor read the comments from the Zoning Administrator which stated it is the Zoning Administrator's opinion stating that the above stated property is in compliance with the zoning for the area. This was a pre-existing use and no major deviation from the previous use is proposed.

Supervisor Grasso shared his thoughts on the property. He feels that the property is a disaster. The Hat Trick trailer seems to be a display of a commercial use that he does not think is allowed in our zoning. There is a lot of construction debris strewn throughout the property, dumpsters, asphalt piles, lumber piles, and unregistered motor vehicles in the front yard. He does not think that it is in a condition that looks like they are trying to demonstrate compliance with our land use regulations. He is not sure that it is a prerequisite that this application not have any zoning issues prior to this application moving forward. Obviously if this application moves forward, it would be incumbent on our Zoning Officer to make sure that any of these issues that we think are non-compliance issues are addressed prior to getting any kind of approval to operate as a commercial use. Supervisor Grasso said to him it demonstrates a lack or disregard for property upkeep and trying to reflect what we want in Charlton, such as a nice, clean property. We don't have zoning that easily allows commercial uses, so if we allow businesses, we want them to be good neighbors and provide a positive reflection in the community. He does not feel that this property is doing that.

As a re-opening of a café or restaurant, there are fundamental things that the Town would want to see to make sure that it can accommodate the expected use. Such as proper water supply, which would be adequate for the house and the business. We would want separate systems. We would want to make sure that there is adequately sized septic for the wastewater stream from the restaurant and adequate grease separation. We would want separate systems for the house and business. Supervisor Grasso said that back when these questions were raised in 2012, he does not feel that they have ever been adequately answered. Now that the business has been closed, we have an opportunity to get these things addressed. There are environmental constraints that would need to be addressed. There are parking questions that we would want to understand. How many cars can they fit and how many they expect based on the seating capacity of the restaurant? There are things right now on the property that we don't feel properly fit with the context of a café, we would want them to be screened or removed. He would like to see these things all reflected on a site plan so that there is some teeth to our approval and if we run into any problems down the road, we have a plan to refer back to say that this is what you were approved for and you are clearly in compliance or not in compliance.

There are a lot of concerns regarding the lack of detail in the application. It would be incumbent on the Board to see a site plan, a narrative and an item-by-item response to all of the questions raised going back to 2012. He noted that the homeowner may not be as familiar with the process or have the same resources as a business the size of Stewarts, but he feels that it is incumbent on the Town to handle this application as we would any other business in Town.

Councilman Robbins said that the lack of documents, lack of representation and lack of their presence does not give him a lot of confidence.

Councilman Tasse said that he agrees with the concerns raised tonight. There are serious concerns with the water and septic. If the Board does move forward with the application, he feels that the Board needs to be very clear with what exactly is being approved, because so far it looks like you give an inch and they could take a mile.

Councilman Glavin asked if the Town has any concerns from an environmental protection standpoint, whether it be silt runoff or possible leaking non-operable vehicles. Supervisor Grasso said that many Boards have to make a decision when they feel that there are noncompliance issues already with a property, if they should even entertain the application until those issues are addressed or continue to move forward. This was a good forum to get the issues on the table, but understand that if the application is going to go forward, there is an expectation that things need to get addressed from a cleanup standpoint immediately and not wait for years to go by.

Councilman St. John said that he is a proponent for the Cafe and he enjoyed having the café in Charlton when it was run by the previous owner. It would be much better it is was run by a responsible owner. He sees potential for a café or business use reopened. He is very disappointed that the applicant is not here this evening and he does not feel that the Board can do anything without having conversations with the applicant. We don't have a site plan or narrative or conversations with the applicant. We also need to be partnered with a good neighbor and he is concerned whether or not the applicant is a good neighbor, considering the state of the property as it stands right now. We are going to have to take some action on the property as it stands right now.

Attorney Craig said that if the Board feels that there are existing violations, we should have Terry Anthony go out and then let the Board know what is a violation and what is not. As we work with this applicant, we can let him know what the priorities are for him to address. Attorney Craig said that he drives by there and he believes that there are definitely violations, but the only way to know exactly what the violations are is to have Terry Anthony go out to the property. He agrees with the Supervisor that we can work with the applicant to get them taken care of as part of this process because the only other alternative is to give them violations and that may just make them go away.

Supervisor Grasso said that application was tabled for a future meeting.

The Public Hearing for the Exceptional Use Permit application adjourned at 7:46 p.m., and the Board continued with the Regular Town Board meeting.

Respectfully submitted,

Brenda Mills
Town Clerk

Town Clerk

From: Marv Schorr <mschorr1@nycap.rr.com> - ECC
Sent: Thursday, April 07, 2022 6:52 AM
To: Town Clerk
Subject: Exceptional Use Permit Application from Conrad Bernard for Reopening the Route 67 Café

Charlton Town Board

758 Charlton Road

Charlton, NY 12019

The Charlton Environmental Conservation Commission (ECC) has reviewed the subject application as requested by the Charlton Town Board and has the following comments:

Reopening the Route 67 Café will probably be popular with some residents, as suggested by members of the ECC who live near the site of the Café. It will be convenient for area residents to get coffee and something to eat locally instead of having to drive 5 miles west to Stewarts, or 5 miles east to Ballston Spa. Clearly, there is visual benefit for having the building occupied instead of empty and decaying over time. There should be little if any new environmental impacts since the Café existed at the same Route 67 site for many years. However, in the ECC review some questions arose due to the paucity of the information provided. The ECC suggests that the following questions should be answered by the applicant:

1. The hours when the Café will be open for business are not given except to say that it will be open for "coffee, breakfast and lunch". Route 67 is a busy east/west, 55 mph commercial traffic road. The number of cafe patron's cars will likely not be enough to have a big impact on existing traffic patterns during the morning commute and the Café will not be open during the evening commute period when there is also more commercial traffic. The safety questions related to slow traffic going in and out of the parking lot from/to the 55 mph road should be what determines if a traffic study should be performed.

2. The information in the short Environmental Assessment Form attached to the application needs to be expanded in two main areas. Question 10 of the EAF addresses the question of water supply. It asks, "Will the proposed action connect to an existing public/private water supply?" and if the answer is "NO" the method for providing potable water should be described. The applicant answered "NO" but provides no information as to where potable water will come from.

Question 11 similarly asks "Will the proposed action connect to existing wastewater utilities?" and if "NO" the applicant should describe the method for providing wastewater treatment. The applicant again answers "NO" but provides no information about wastewater treatment. Note that there never was a lavatory/bathroom attached to the Café, but there will be wastewater from the Cafes operation.

3. In earlier days at the Café, gasoline was sold from conventional gas pumps located outside in the parking lot. The pumps and storage tanks were removed years ago.

However, to avoid being "blindsided" by a dormant issue, the NYS DEC should be consulted to determine if there are any incident reports regarding spills, or leaking tanks, or leaking fuel delivery trucks, or similar events that are still open issues. Regulations and public perception of such events have changed over the years.

If we can be of any further help please do not hesitate to call us.

Marvin Schorr, Chairman

March 8, 2021

To: Town of Charlton Town Board

From: Town of Charlton Zoning Board of Appeals

Re: Conrad P. Bernard Application for Special Exception Use Permit

The Zoning Board of Appeals has received your request for comments regarding the above referenced application. The ZBA reviewed the documents provided by the Town Board at the March 8, 2022 meeting. At this time, the ZBA does not have enough information from the limited documents provided, to make any recommendations on the project or other comments until it is determined if variances will be required once a formal survey and site plan application have been submitted. The ZBA does note and would suggest that you review the applicant's responses to the Short Environmental Assessment Form, particularly questions number 10 and 11.

Very truly yours,

Jim Leupold, Zoning Board of Appeals Chairman

Town Clerk

From: Zoning
Sent: Thursday, March 03, 2022 10:13 AM
To: Town Clerk
Subject: RE: Advisory opinion requested for EUP app from Conrad Bernard/Route 67 Cafe

Town Board:

A Permit would be needed for the Café Space and what ever they are completing prior to opening up as a Café. The permit would then involve an inspection of work, Fire Safety and any reconfiguration space, bathroom facilities for occupancy etc. This can be done after approval but before CO would be issued for this commercial endeavor.

Terry Anthony

From: Town Clerk <townclerk@townofcharlton.org>
Sent: Tuesday, March 01, 2022 11:17 AM
To: Assessor <Assessors@townofcharlton.org>; 'Susan York (YorkMM474@aol.com)' <YorkMM474@aol.com>; 'Marvin Schorr (mschorr1@nycap.rr.com)' <mschorr1@nycap.rr.com>; Charlie Baker <cbaker@edpllp.com>; Zoning <Zoning@townofcharlton.org>
Subject: Advisory opinion requested for EUP app from Conrad Bernard/Route 67 Cafe

Hi All,
The Town Board has accepted jurisdiction of the Exceptional Use Permit application from Conrad Bernard/Route 67 Café, and has asked for Advisory opinions from your Boards/Committees by April 8, 2022.

I have attached a copy of the application and the resolution that accepted the application and made referrals on 2/28. I have also attached a page from the 6/14/21 Town Board meeting minutes when Mr. Conrad originally applied and came before the Board with his intentions for the business.

Please let me know how many paper copies of the application that you need and I will get them to you.

Thanks,

Brenda L. Mills
Town Clerk

Town of Charlton
758 Charlton Road
Charlton, NY 12019
(518) 384-0152 x 201

Town Clerk

From: Zoning
Sent: Thursday, April 21, 2022 10:22 AM
To: Town Clerk
Subject: RE: Advisory opinion requested for EUP app from Conrad Bernard/Route 67 Cafe

Re: Zoning for Route 67 Café

It is the opinion of the Zoning Administrator that the proposed use for the above stated property is in compliance with the zoning for the area. This was a pre-existing use and no major deviation from the previous use is proposed.

Respectfully,
Terrence Anthony
Charlton Zoning

From: Town Clerk <townclerk@townofcharlton.org>
Sent: Tuesday, March 01, 2022 11:17 AM
To: Assessor <Assessors@townofcharlton.org>; 'Susan York (YorkMM474@aol.com)' <YorkMM474@aol.com>; 'Marvin Schorr (mschorr1@nycap.rr.com)' <mschorr1@nycap.rr.com>; Charlie Baker <cbaker@edpllp.com>; Zoning <Zoning@townofcharlton.org>
Subject: Advisory opinion requested for EUP app from Conrad Bernard/Route 67 Cafe

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Thanks,

Brenda L. Mills
Town Clerk
Town of Charlton
758 Charlton Road
Charlton, NY 12019
(518) 384-0152 x 201



SARATOGA COUNTY PLANNING DEPARTMENT

JASON KEMPER
DIRECTOR

TOM L. LEWIS
COUNTY PLANNING BOARD
CHAIRMAN

March 17, 2022

Joseph Grasso, Supervisor
Town of Charlton
758 Charlton Road
Charlton, NY 12019

RE: SCPB Referral Review #22-27- Exceptional Use (Special Use Permit)- Route 67 Café

A proposal to re-open the existing café located on a 2.11-acre parcel in the Town's Agriculture zone. The proposed café will operate by utilizing the two existing curb cuts onto NYS Rt 67.

Location: NYS Rt 67 and Peaceable Street (Ag. Dist. #2)

Received from the Town of Charlton Planning Board on March 03, 2022.

Reviewed by staff of the Saratoga County Planning Board on March 17, 2022.

Decision: No Significant County-wide or Intercommunity Impact

Please contact this department with any questions you may have regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Williams".

Jeff Williams, Planner
Authorized Agent for Saratoga County

DISCLAIMER: Recommendations made by the Saratoga County Planning Board on referrals and subdivisions are based upon the receipt and review of a "full statement of such proposed action" provided directly to SCPB by the municipal referring agency as stated under General Municipal Law section 239. A determination of action is rendered by the SCPB based upon the completeness and accuracy of information presented by its staff. The SCPB cannot be accountable for a decision rendered through incomplete or inaccurate information received as part of the complete statement.

April 23, 2022

To: Town of Charlton Town Board

From: Town of Charlton Planning Board

Subject: Exceptional Use Permit Application from Conrad Bernard III for Reopening the Route 67 Cafe'.

Since the Planning Board did not receive a site map in the information provided for an advisory opinion for the Town Board our review will be based on the site plan map of the previous Cafe' owner. In 2012 the previous owner of the property applied for an Exception to Permitted Uses Application to expand the Café. In February 2013 the applicant withdrew the application. The Planning Board believes the site and buildings on the property have not changed since that time.

The Planning Board performed its review in accordance with Section 4, paragraph B, of Article VII of the Zoning Ordinance for the Town of Charlton, adopted September 14, 2015, "The Planning Board shall review the site plan information submitted and render to the Board holding the public hearing its findings as to the adequacy of the site plan for the intended use along with any comments the Planning Board has on the site plan information".

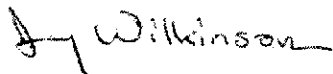
Listed below are the Planning Board's findings from its previous Site Plan review as to the adequacy of the Site Plan for the intended and are germane to site.

1. The existing septic system was of questionable status and not capable of supporting all of the uses intended for the site;
2. Parking and vehicular traffic planning and safety are needed.
3. The likely intended use is most aptly described as a café, however, the applicant should address the site constraints to make the site plan compatible with a use of such nature and in combination with the other uses; e.g. single family home also on the property.
4. The water supply was of questionable status and potentially incapable of supporting all of the uses intended for the site;
5. Signage and lighting should be addressed. Will the current outdoor signage continue in use and how will it be illuminated.

The Planning Board suggests a site plan be developed by the applicant for the proposed action using the checklist in the Town's zoning ordinance, Local Law #1 of Year 1979 Site Plan Review.

The Planning Board is pleased at the opportunity to participate in the process, to comment and assist in the consideration of this application. It is anticipated that in the event of a favorable decision on this application, the matter will return to the Planning Board for a formal site plan review. Alternatively, in the event of an unfavorable decision the Planning Board will be informed.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jay Wilkinson". The signature is written in a cursive, flowing style.

Jay Wilkinson



**ENVIRONMENTAL DESIGN
PARTNERSHIP, LLP.**

Shaping the physical environment

900 Route 146 Clifton Park, NY 12065
(P) 518.371.7621 (F) 518.371.9540 edpllp.com

March 25, 2022

Mr. Joseph Grasso, Town Supervisor
Town of Charlton Town Hall
758 Charlton Road
Charlton, N.Y. 12019

Re: Advisory Opinion
Exceptional Use Permit
Conrad Bernard/Route 67 Cafe

Supervisor Grasso and Town Board Members:

We have received a request for an advisory opinion for the Conrad/Bernard/Route 67 Café. The information provided for review included a Zoning Board of Appeals Application and Appeal (Special Use/Variance), Short Environmental Assessment Form, and a copy of Town of Charlton County of Saratoga State of New York, Resolution No. 73 dated February 28, 2022.

This property was previously reviewed by our office (Mike McNamara) in 2012. We found two review letters (copies attached) that identified a number of issues related to the café expansion.

Based on our review of the 2012 letters, and the limited information provided for advisory opinion, we find it difficult to comment on the project. The last review letter dated September 24, 2012, indicates there were a number of unanswered issues related to the septic system, public water supply, parking and zoning issues. I am not sure if the 2012 café expansion plan was ultimately approved, or if the applicant did not pursue the project approvals beyond September 2012.

Regardless of the status of the 2012 café expansion plan, for us to provide an advisory opinion we would need to see updated plans for the project. The plans should include any architectural modifications proposed (increase in occupancy), verification of the number of seats, verification of kitchen equipment, verification of the size of the existing septic system components and an updated engineer's report that discusses the condition and capacities of both the septic system and water supply. The report should address issues that were previously identified in 2012.

Please do not hesitate to contact me should you wish to discuss.

Sincerely,

Charles D. Baker, P.E.
cbaker@edpllp.com

July 12, 2012

Mr. Jay Wilkinson
Planning Board Chairman
Town of Charlton Town Hall
758 Charlton Road
Charlton, N.Y. 12019

Re: Route 67 Café Expansion
Tax Map Parcel No. 226.00-1-9

Dear Chairman Wilkinson:

We have received plans dated July 6, 2012 as prepared by Charette Associates Architects, P.C. for a proposed expansion of the Route 67 Café at the corner of N.Y.S. Route 67 and Peaceable Street. The plan set includes a floor plan (sheet A101) as well as a site survey, site plan and detail sheets (sheets C101-C103). In addition to these drawings, we have also reviewed the project application, short environmental assessment form, a July 1, 2012 "Addendum #1" prepared by Harold Berger, P.E., the June 21, 2012 decision of the Saratoga County Planning Board and various other miscellaneous items included with the application. A field observation of the property and interview with the applicant was conducted on June 29, 2012.

The existing use of the property includes a residential home fronting on Peaceable Street and a gas station/convenience store commercial business with light food service fronting on Route 67. The applicant's immediate plans are to construct a 40'x50' concrete patio attached to the commercial business with outdoor picnic table seating for 48 diners. The applicant has stated that he will self-impose the occupancy limit of the building at the existing level of 50 persons. Although this will maintain the permitted use of the facility, the practical use of the business is almost certain to increase.

Other than periodic special events that the owner has sponsored, it is not realistic to expect a crowd of 50 visitors with the building's current configuration. However, upon completion of the proposed patio, occupancy by 50 guests could occur regularly. The presence of roughly a dozen picnic tables in the lawn area behind the building could increase this loading even more. Presumably, the back yard seating would not violate the occupancy limit of the building, but it will certainly impact parking, sanitary and water facilities. The Board should carefully consider these potential circumstances in its review of the site plan. We offer the following additional comments.

1. The application notes the need to obtain an area variance for encroachment on the front setback from Route 67. The setback shown along Peaceable Street is only 40 feet from

the right of way. Unless there has been a determination by either the Zoning Administrative Officer or the Zoning Board of Appeals, it would seem that this setback should also be 60 feet. If so, an area variance for the house would also be necessary as part of these proceedings.

2. The most recent plans indicate a 7-line septic system for the house and a 2-line sanitary field for the commercial building. Each system also has a 1,000 gallon septic tank. Reportedly, these systems were partially unearthed and survey located so that an accurate accounting of the facilities could be made. The June 1, 2012 addendum by Harold Berger, P.E. claims that each system was "... *found to be in proper working order.*"

A more thorough analysis of the septic system must be performed. Commercial septic systems with daily flows exceeding 1,000 gallons require a permit from the New York State Department of Environmental Conservation (DEC). DEC is also responsible for plan approval of these systems. Restaurants have an expected hydraulic loading of 35 gallons per day per seat or 1,750 gallons for the proposed Route 67 Café use. There were no soils or percolation tests submitted with the application but the size of the septic field for the restaurant building seems significantly inadequate. Likewise the septic tank appears to be too small for the proposed use. Restaurants also require split plumbing systems for kitchen waste leading to a grease trap to prevent clogging of the tile field. There does not appear to be a grease trap included as part of the commercial system. It would appear that construction of a new septic system is a likely possibility.

3. The septic fields for the home and the commercial building are nearly on top of one another. This further reduces the effectiveness of the septic system and is not compliant with the requirement that absorption trenches be spaced 6 feet on center.
4. NYS DEC separation distances between a public well and septic systems are double that for a private well. The utilization of the well located off the northwest corner of the house for the restaurant is questionable. A determination from either the NYS Department of Health or the DEC as to the well's acceptability should be obtained by the applicant and submitted to the Town.
5. A more thorough analysis of the existing well must also be performed. This will likely involve a 72-hour pump test but the applicant should contact the Health Department to ascertain the specific requirements. Addendum #1 includes only a rough estimate that the well has a capacity of 350 gallons per day. The house would be expected to use well over half of this capacity on its own. Cooking, cleaning and restroom facilities for 50 restaurant customers will require far greater than the well's full stated capacity.
6. Wells used for public consumption must be chlorinated and tested regularly. The applicant should submit any Health Department permits or paperwork that is available to the Town to confirm compliance.

7. The site plan indicates 22 spaces within the current asphalt parking lot. It is unclear if the plan involves a resurfacing of the asphalt, a full depth reconstruction or no improvements whatsoever. The asphalt detail on sheet C103 shows full depth dimensions which implies a total reconstruction. Depending on the work proposed, it may be necessary to add proposed elevations to the parking lot to ensure that existing drainage patterns are maintained. The plans should clarify the extent of the work proposed for the parking lot.
8. To obtain the 22 spaces indicated within the existing paved area, striping will be necessary and should be specified.
9. The required number of parking spaces for Special Exception facilities is specified in Article VII of Charlton's Zoning Ordinance. Since the proposed facility could be simultaneously categorized as a gasoline filling station, a restaurant and a retail store, there is some ambiguity as to how many spaces are necessary. At a minimum, it would seem reasonable to satisfy the requirement for the restaurant use which is the most onerous of the three. Charlton's ordinance for restaurants calls for a parking area to floor space ratio of three to one. The proposed size of the concrete patio equates to 33 parking spaces; a figure which seems reasonable for the number of customers and employees for the multi-use facility. The applicant proposes to satisfy parking requirements by providing 16 overflow parking spaces in the lawn area east of the parking lot. It is not clear if unpaved spaces could be considered to meet the Charlton Zoning Ordinance. The Zoning Board of Appeals should determine both the required number of parking spaces and whether the grass overflow area can count toward that total.
10. The traffic circulation in the grass overflow parking area is poor. The drive lane between the opposing spaces is a rather narrow 19 feet. Existing trees and poles further reduce the effective use of the grass area. The achievement of 16 extra parking spaces in the area shown is quite optimistic. It should be noted that additional area toward the rear of the site is available. Depending on whether a new septic system is necessary and where it may be located, there is a potential for obtaining whatever number of parking spaces is decided necessary by the ZBA.
11. Two ADA compliant parking spaces are required when total parking is between 25 and 50 spaces. Only 1 accessible space is indicated on the plan.
12. In the Town's ordinance for Special Exceptions, parking lots for restaurants require screening either by fence or landscaping. The Board should determine how best to apply this requirement to an existing parking lot that will see increased use. Screening of the west edge of the lot from the homes on Peaceable Street would seem to be both worthwhile and of minimal burden. The proposed board fence could simply be extended along the west edge of the pavement. Any fence or landscaping should be setback from the pavement enough to allow for snow removal. The state right of way line should also



be considered as it connects between Route 67 and Peaceable Street. New improvements should not be proposed within either highway right of way.

13. The project architect should confirm to the Board that the patio seating and access to the service windows are compliant with ADA accessibility requirements. The architect should also address the issue of why the handicap accessible restroom is not included as part of the applicant's Phase I plans.

If you have any questions concerning this project, please feel free to call.

Very truly yours,

Michael McNamara, P.E.
The Environmental Design Partnership

C:\MY DOCUMENTS\WINWORD\charlton\SUBDIVISIONREVIEWS\route67Cafe_siteplanreview.doc

Cc: Mr. Eran Wasserman
Bob VanVranken
Bill Keniry

September 24, 2012

Mr. Jay Wilkinson
Planning Board Chairman
Town of Charlton Town Hall
758 Charlton Road
Charlton, N.Y. 12019

Re: Route 67 Café Expansion
Tax Map Parcel No. 226.00-1-9

Dear Chairman Wilkinson:

We have received an Engineer's Report dated September 2012 prepared by Harold Berger, P.E. for the Route 67 Café expansion. In addition to this report, a revised set of plans and a July 16, 2012 response letter to our initial comments was distributed by the applicant at the July Planning Board meeting. This project is somewhat unusual in that its review has been made greatly subject to the interpretation of the proposed use and, consequently, which set of design standards are to apply. We have reviewed the additional materials provided and offer the following for your consideration.

1. In the "Usage" paragraph of the report, the combined capacity of the two tile fields is reported as 1,060 gallons based on an 8-10 minute percolation rate. This number is in error as the square footage of the field must be reduced by a factor of 0.9 for an 8-10 minute perc. The error is presumably a simple typo as the reported balance capacity available of 624 gallons after accounting for the residence is correct despite the error in total capacity. The paragraph further states that the existing septic fields, if connected together, could support 36 persons for the café at a loading rate of 20 gallons per day per person. Again there seems to be a math error as the 624 gallon reserve would only provide for 31 café occupants at the 20 gpd loading rate. It is notable that this figure is still well below the 50 occupant, self-imposed restriction that the applicant has previously proposed. It is not clear if the Engineer's Report is intended to amend the application.

The NYS DEC publication "Design Standards for Wastewater Treatment Works" quotes a hydraulic loading figure of 35 gallons per day per seat for an "ordinary restaurant." As mentioned, the Engineer's Report utilizes a loading rate of 20 gallons per day per person under the designation of a "catering or banquet facility." This distinction is significant as it has the impact of determining whether the permitted café occupancy would be 17 or 31 persons respectively.

The applicant's persistent argument presented both orally at the July Planning Board meeting and in written form in the July 16, 2012 response letter by project Architect Les Ackerman, is that the facility should not be regarded as a restaurant. The applicant states that kitchen equipment is limited to "... *a residential range, a microwave, a Panini maker, an espresso/coffee maker and a sink.*" The applicant also insisted during the meeting that food is served on disposable plates and there will not be commercial-scale dishwashing at the site.

The perpetuation of these conditions after expansion of the café is promised by the applicant but can be difficult to enforce, especially if the business is sold to a new owner in the future. A menu change to include grease producing items and/or the addition of cooking equipment and a commercial dishwasher are not decisions that the owner will likely make while contemplating their impact on the sanitary facilities. These types of improvements are also not normally subject to an additional permitting process. If the Town is inclined to accept the applicant's designation of the facility and its corresponding lesser design standards; we would suggest that specific limitations be noted in the certificate of occupancy prohibiting expansion of the cooking or cleaning facilities without additional review and approval. The Board should consult with its legal counsel and Zoning Officer to determine the feasibility of issuing a conditioned certificate of occupancy.

2. The calculation of sanitary capacity did not address the ineffectiveness of a portion of the two-lateral system that currently serves the café. Since the spacing between the two-line and eight-line fields does not meet the separation requirements of successive laterals, the non-compliant portion of the two-line field should be ignored. This reduces the overall length of laterals by approximately 15 feet. This reduction would be offset by the proposed extension of each of the two laterals by 10 feet as recommended by Mr. Berger. All of the recommendations proposed in the Engineer's Report should be depicted or noted on the proposed plan. The plan will require the stamp and seal of a Professional Engineer as it involves modifications to the septic system.
3. The Engineer's Report did not address the need for the applicant to obtain approval from NYS DEC for the sanitary facilities. Discharges of greater than 1,000 gallons per day fall under DEC jurisdiction. The DEC may also comment on the interpretation of the facility use and, consequently, the necessary design parameters of the septic system.
4. The Engineer's Report did not address the need for a grease trap or to increase the size of the septic tank(s). The omission of the grease trap has previously been justified by the project Architect on the basis that there is only limited food preparation and dishwashing and thus little or no grease in the effluent. This argument would be more appropriately made by the Professional Engineer as the septic design is within Mr. Berger's purview. The size of the septic tanks is a function of flow and appears to require upgrading regardless of whether grease traps are to be installed.

5. The Engineer's Report did not address the increased separation distances required between the well and the septic field as outlined in Table 2 of the NYS DEC "Design Standards for Wastewater Treatment Works." DEC's jurisdiction per comment #3 above and a determination of whether the well would be considered "private" or "public" are critical in whether the well must be 100 feet or 200 feet from the septic field.
6. The Engineer's Report did not address the need for a future expansion of the field due to system failure. This line of questioning came up during the July Planning Board meeting. The field may not be extended toward the stream as it is already at its minimum separation. Any expansion would need to go toward the area to the east. NYS DEC requires that an area equal to the required tile field size must be available for expansion or replacement. Satisfaction of this requirement will be difficult given the limited space available. The reserve area should be depicted on the plan.

The applicant's responses to the comments in our July 12, 2012 letter have come from many different sources and at various times. For your convenience, I have provided a summary of the current status of our comments below.

Item #1: Applicant's response in 7/16/12 Charette Associates letter agrees that the setback from Peaceable Street is 60 feet. Sheet C102 of the plans now shows both a 40 foot and 60 foot front setback. The 40 foot setback should be erased. It is also important that any prior application to the Zoning Board of Appeals be amended as necessary to include the additional variance requested.

Items 2,3,4: These comments have been restated in the first six paragraphs of this letter.

Item #5: The applicant submitted a July 5, 2012 email from Maria O'Connell of the State Health Department. Ms. O'Connell only confirmed the well quality at their inspection in November 2010 and that the water samples submitted since that time are satisfactory. This statement does not address our comment and could not have been intended to do so as it predates our letter by a week. Even without restaurant type food preparation and cleaning, the water usage is certain to increase. Mr. Berger's recent Engineering Report suggests that water usage will be approximately 1,000 gallons per day even if the café occupancy is reduced to 31 people. This is three times the estimated capacity of the well according to the current record. We continue to believe that a pump test should be performed to adequately determine capacity.

Item #6: Ms. O'Connell's email does indicate that monthly chlorine reports are being performed and that they are satisfactory. This comment is resolved.

Item #7: The distribution of parking spaces has been revised. There are now five fewer permanent spaces proposed and three additional overflow spaces. The plans are still unclear as to whether the parking lot is to be resurfaced, rebuilt to full depth or simply



striped. The intent for construction of the overflow parking spaces is also unclear. The response letter indicates that the overflow parking will remain lawn. The plans should also clarify that no new construction is proposed. The pavement detail suggests that at least some parking areas are to be completely rebuilt including new subbase material.

Item #8: This comment is resolved.

Item #9: This comment has not been addressed. A determination must be made as to whether overflow parking spaces can be applied toward the parking requirements. The number of spaces required must also be determined by the ZBA.

Item #10: The overflow spaces have been redistributed in a single line along the east property line. The ability to park 19 vehicles on the lawn in this fashion is feasible.

Item #11: This comment is resolved.

Item #12: The plans now show 14 additional white cedar trees along the edge of the parking lot. It is the Planning Board's decision as to whether this proposal is adequate.

Item #13: This comment is resolved as the response letter from the Architect has confirmed compliance with ADA requirements.

If you have any questions concerning this project, please feel free to call.

Very truly yours,

Michael McNamara, P.E.
The Environmental Design Partnership

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Cc: Mr. Eran Wasserman
Bob VanVranken
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