

**Town of Charlton
Zoning Board of Appeals
Business Meeting Minutes
and Public Hearing Minutes**

May 11, 2021

Minutes of the Zoning Board of Appeals meeting held on May 11, 2021.

Chairman Jim Leupold called the meeting to order at 7:00 p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Roll Call attendance was taken.

Present: Jim Leupold, Chairman, Rick Potts, Nate Keenan, Chip Ellms, Jim Craig, Esq., Town Attorney and Kim Caron, Recording Secretary.

Chairman Leupold led the Pledge of Allegiance.

Business Meeting

Minutes

Chairman Leupold stated that the meeting minutes from the April 13, 2021 meeting need to be approved. Chairman Leupold stated that due to a lack of quorum, the vote on the minutes would have to be tabled until the next meeting.

PUBLIC HEARING (7:30 p.m.)

Davidson Application

Mrs. Caron read the public hearing notice that was published in the Daily Gazette on April 29, 2021.

Board Attorney Craig stated that this application was referred by the planning board. Board Attorney Craig stated that this application has not been before the planning board but was referred for variance approval before the applicant is able to proceed with a subdivision.

Chairman Leupold opened the public hearing.

Chairman Leupold stated that this application was submitted by Carrie Ann Davidson for an area variance on land belonging to her brother Nick Davidson. Chairman Leupold stated that the applicant is requesting an area variance for lot frontage to allow for a two lot subdivision of property located at 123 Crane Street. Chairman Leupold stated that the

survey provided shows 401 feet of frontage and the filed tax roll maps shows the frontage as 395.45 feet. Chairman Leupold stated that this application was referred by the planning board.

Jay Wilkinson, Planning Board Chairman stated that he prepared a timeline for the Board of previous applications for subdivision of this parcel of land. Mr. Wilkinson provided a timeline document for the Board. Mr. Wilkinson showed the board the map submitted with an application to the planning board is November of 2009. Mr. Wilkinson read the timeline he prepared:

Grabo / Davidson Subdivision

November 2009 subdivision application submitted. Show map submitted of proposed subdivision.

January 2010 till July 2010 the planning board worked with the applicants (Davidson's) to resolve issues with the application and property. See time line clerk put together and letter sent to the applicant requesting additional information.

Property issue – Letter from town engineer, letter from concerned residents and pictures of property conditions as seen during site visit on November 13, 2010. September 7, 2010 letter from building administrator and building inspector sighting code violations with the property

Inform the ZBA of all the work that has been done to correct code violations and show picture of so called abandoned house.

September 2010 - Planning Board requests the applicant perform a Phase 1 Environmental assessment of the property to determine if chemicals or petroleum products were present in the soil based on the storage of old oil tank, junk cars and pesticides used in conjunction with the orchard on the property.

January 17, 2011 – Board denies the subdivision application based on the fact that the applicant did not provide the requested environmental study requested. The applicant provided a Transaction Screen Environmental Site Assessment instead of a Phase 1 Environmental Site Assessment as directed by the Planning Board and applicable standards. The Transaction Screen Environmental Site Assessment performed identified multiple significant adverse environmental conditions on the property which was subject of the application. The findings are violation of the Town Zoning and other laws, rules and regulations.

Mr. Wilkinson stated that pictures and letters from the various boards that reviewed the application in 2009 were emailed to the board.

Mr. Wilkinson stated that the planning board ultimately denied the application. Mr. Wilkinson stated that a copy of the Resolution was also provided by email.

Mr. Wilkinson stated that the planning board is concerned about this proposal. Mr. Wilkinson stated that the board does not like to see a house behind a house. Mr. Wilkinson stated that the board is concerned for setting a precedent. Mr. Wilkinson stated that the subdivision regulations clearly state that a house behind a house is not allowed. Mr. Wilkinson stated that the planning board would like some conditions of approval if the ZBA is inclined to approve the variance. Mr. Wilkinson showed an alternate house location preserving the farm road and eliminating the house behind a house scenario. Mr. Wilkinson stated that the board is concerned for the future residents. Mr. Wilkinson stated that it is good planning to preserve the farm road and not block off that access. Mr. Wilkinson stated that the planning board works very hard not to have a house behind a house situation.

Carrie Ann Davidson stated that she understands the board's concerns however the property is owned by her brother and he has no issue with the house behind a house issue. Ms. Davidson stated that her family owns the land there and they do not plan to subdivide further or sell off any of it. Ms. Davidson stated that she would be sharing a driveway with her brother.

Mr. Davidson stated that they have done a lot of work to the property over the years to get it where it is today. Mr. Davidson stated that he also understands the concerns. Mr. Davidson stated that his son wants the pond on his property and the only way to do that was to split it the way they are proposing. Mr. Davidson stated that he was given direction and has proceeded with what was asked and now he is hearing different. Mr. Davidson offered to let the board to walk the property. Mr. Davidson stated that access will not be an issue.

Chairman Leupold stated that there is no concern now since it is owned by family but the concern is for down the road when the family no longer is around. Chairman Leupold stated that the board has to think about the future owners of the property.

Mr. Davidson stated that they could prepare an easement that would run with the land.

Connie Wood, Planning Board member, stated that she remembers this proposal as there is a very long history with this property. Mrs. Wood stated that she is also very concerned with putting a house behind a house. Mrs. Wood stated that she is not in favor of keeping families apart but the boards have to look down the road to the future owners when the families are gone. Mrs. Wood stated that things change and people pass away and the concern is what happens then. Mrs. Wood stated that she is also concerned about the vast wetlands on the property. Mrs. Wood stated that the applicants have done a great job cleaning up the property.

Dawn Szurek, Planning Board member, stated that the shared driveway access and the access to the farm land and the back land are a concern for her. Ms. Szurek stated that shared driveways can cause issues with fire departments. Ms. Szurek stated that the Boards have to look at the property not the people. Ms. Szurek stated that the Board has to consider the functionality well beyond our generation. Ms. Szurek stated that there are options to move the house to eliminate the house behind a house issue.

Mrs. Wood stated that she has been told that shared driveways are no longer allowed. Mrs. Wood stated that there were two major losses for the town in the 1970's when shared driveways were allowed. Mrs. Wood stated that there was an issue with shared driveways on Sweetman Road between 3 houses and there was a big fight and the town was sued. Mrs. Wood stated that the driveways could be paired as they go to the main road.

Mr. Wilkinson stated that there was also an issue on Charlton Road with a shared driveway that was on property owned by brothers. Mr. Wilkinson stated that when one brother decided to sell the driveways had to be separated.

Chairman Leupold asked if there were any more comments from the public.

Board member Potts made a motion to close the public hearing. Board member Ellms seconded the motion. All were in favor.

Public Hearing closed at 7:50 p.m.

Davidson Deliberations

Mrs. Caron read the letter from the Planning Board.

Mr. Davidson stated that he can put another driveway in to eliminate the shared driveway issue. Mr. Davidson stated that they intend to angle the house so that the existing house is not looking directly at the new house. Mr. Davidson stated that it is problematic to put the new house on the left side. Mr. Davidson stated that he is disappointed that they have done everything that the town has asked for and they still can't proceed with their proposal. Mr. Davidson stated that he does not want to waste his time. Mr. Davidson asked the board to be frank in what they want because he does not want to get the variance approval to be denied for the subdivision by the planning board.

Board member Potts asked if Mr. Davidson's son currently lived in the farmhouse.

Mr. Davidson stated that his son lives at 131 Crane Street which is up the street from the farmhouse.

Board member Potts asked what the purpose of the farmhouse was.

Mr. Davidson stated that they plan to rent it out once it is finished. Mr. Davidson stated that it will be a 2 unit house.

Board member Potts asked if the shared driveway with the new house would be with the farmhouse.

Mr. Davidson stated yes.

Board member Potts asked if there was any major obstacle to moving the proposed subdivision to the left.

Mr. Davidson stated that it would be more expensive but it could be done.

Board member Potts stated that according to the 5 criteria that the board has to consider, based on the information submitted, he does not believe that 3 of the criteria are met. Board member Potts stated that there is language in the zoning ordinance that prohibits this proposal. Board member Potts stated that the planning board has suggested moving the proposal to the left.

Mr. Davidson stated that he could try to adjust the plan.

Mr. Davidson and the members of the planning board discussed the proposal in the back of the room.

Board Attorney Craig stated that a variance will still be required for the frontage. Board Attorney Craig stated that the applicant can withdraw the application or tell the board to proceed with the vote on what is before them. Board Attorney Craig stated that the applicant can also request more time from the board to submit a revised plan.

Mr. Davidson stated that he will contact his surveyor and come back with a revised plan.

Board attorney Craig stated that the 62 day clock that the Board has to act within has begun.

Chairman Leupold stated that the next board meeting would be June 8, 2021.

Fogg Application

Chairman Leupold stated that this is an application for a 4.8 foot height variance for a farm building.

Mr. Fogg appeared before the board. Mr. Fogg stated that they are trying to grow their farming operation and they do not have enough storage for the larger farming equipment. Mr. Fogg stated that the equipment needs covered storage. Mr. Fogg stated that he is trying to match the architecture of the 1800's farmhouse so that the pitches match. Mr. Fogg stated that he can build more buildings but he does not have enough footprint. Mr. Fogg stated that he only has 6 usable acres as the rest are all wetlands.

Chairman Leupold asked if it was a designated wetland.

Mr. Fogg stated that he has both DEC and ACOE. Mr. Fogg provided the board with an aerial photo of the property.

Board member Potts made the motion to schedule the public hearing for the Fogg application on June 8, 2021 at 7:30 p.m. Board member Ellms seconded the motion. All were in favor.

New Business

Mrs. Caron provided a Memorandum of Understanding with the Saratoga County Planning Board for future applications where it is necessary.

Board member Keenan made a motion to authorize the chairman to sign the MOU. Board member Potts seconded the motion. All were in favor.

Board member Ellms made the motion to close the meeting. Board member Keenan seconded the motion. All were in favor.

Meeting adjourned at 8:45 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary