

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

October 13, 2020

Minutes of the Zoning Board of Appeals meeting held on October 13, 2020.

Chairman Chip Ellms 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: Chip Ellms, Chairman, Jim Leupold, Rick Potts, Jim Glavin, Dave Taplin, Jim Craig, Esq., Town Attorney and Kim Caron, Recording Secretary.

Chairman Ellms led the Pledge of Allegiance.

PUBLIC HEARING (7:00 p.m.)

Jessica Debach Application

Chairman Ellms called the Public Hearing to order.

Chairman Ellms reviewed the Public Hearing process.

Mrs. Caron read the Legal Notice into the record. The legal notice was published in the Daily Gazette on October 2, 2020 and the notices were mailed to adjoining neighbors on October 3, 2020.

Jessica Debach: Most of you know me. So that is really it. We have a little woodshed that we were making into a store with home goods and antiques. We are open a few days a week. There is not much traffic. We came to the town to get the application to officially open.

Paul Gillespie, 147 Crane Street: I have no opposition to it. I do like the fact that we have people interested in doing some kind of small business. That's part of our growth in this country.

Sandra Vendetti, 4017 Jockey Street: I have visited Jess's shop many times. Lots of cute stuff in there plus the things that remind me of my grandmother growing up and it's just something very positive that I think is really important right now.

Suanne Voigt, 122 Dawson Road: We are neighbors. Hasn't been a problem. We enjoy them.

Bob Smialek, 102 Dawson Road: As you know the zoning in that area is residential agricultural, not a business. Back in 1980, early 80's, my wife and I wanted to do the same thing basically that they are doing and we got turned down because it's a residential agricultural area. So I am against a commercial business.

Chairman Chip Ellms read the letter from the Planning Board into the record.

Suzanne Voigt: Hopefully it will be a great success. The only thing is I am a little concerned how people turn around and go back and forth on the street. It is partially impacted by the two farm stands going on right there. They are family farm stands. There are a lot of cars and that is a tricky little corner. My only concern is the safety of the people getting in and out of the driveway onto Crane.

Chip Ellms: That did come up for discussion and the applicant said they can pull into the driveway, pull ahead and turn around in the driveway and come back out facing traffic.

Jessica Debach: There is a section that you can turn around in. I don't back out of the driveway.

Suzanne Voigt: Any signage to encourage that?

Jessica Debach: Oh yes. I can do that. For anyone that has ever come there, I don't think there has ever been more than 2 people's cars there at one time. I am there onsite. It's not like they are coming into a shop and ring a bell because no one knows you are there. It's a very small business.

Chip Ellms: As long as you are aware that is a concern.

Jessica Debach: Yes.

Bob Smialek: They got a huge barn. I have seen it and I have seen stuff in the barn. She is talking about selling out of a back porch they have a humongous barn that could lead to a very commercial operation. We are still dead against this because it is RES/RA. That is not commercial. That's what happened to us so we diverted to something else. As much as we are well known for our flowers for 30 years. So I don't know what this lady over here is talking about cause there are stands on both sides of the road.

Jessica Debach: If you come over I can talk to you about it as it is my barn. It is not our intent to use the barn for sales. It's just a barn.

Bob Smialek: I know the house.

Jessica Debach: We do have parties in the barn. There is a drum set in there.

Bob Smialek: What about signs? Who handles that?

Jessica Debach: I have to change the sign, it is too large. It has to be 2 square feet. I have to make a new sign.

Bob Smialek: Are you going to have a sign on Crane Street?

Jessica Debach: Just outside the house.

Bob Smialek: Not one on Charlton Road?

Jessica Debach: No just outside the house.

Bob Smialek: Who votes?

Chip Ellms: The Board. I do want to address one point. What she is applying for is if you could not open a business without this special use permit commercial she is coming in for this commercial permit and that is what the board will vote on.

Bob Smialek: Commercial permit?

Chip Ellms: It is a special use permit that will allow a commercial operation.

Bob Smialek: In a residential agricultural zone?

Rick Potts: The permit is specific to the operation for retail sales in the attached shed. We are not allowing the barn for a showroom. The approval will be specific.

Bob Smialek: I know how that goes. I have been around a long time. The Town Board doesn't vote? Who are these people? I know the assessor but who are all these people here?

Chip Ellms: This is the Zoning Board of Appeals. So if something is outside the regulations for ag/residential or size of the lot, something that doesn't conform, then a person has the right to come in and apply for a variance and that's why we are the ZBA. She is appealing to us to get this permit.

Bob Smialek: So it doesn't go to town board is what you are saying.

Dave Taplin: We also have this letter here. I am Dave Taplin sir I didn't get your name. Would you mind giving your name?

Bob Smialek: I didn't say it. Bob Smialek.

Dave Taplin: Nice to meet you. So in addition to us and

Bob Smialek: So what I'm saying is that you are setting a precedent here. I have seen it before. You set precedence by letting this lady sell something other than agricultural. You are setting a precedent because it's RA. All that area is RA.

Chip Ellms: The Board has done this before. It is not really a first time ever.

Bob Smialek: Where are there other businesses in RA?

Kim Caron: Gadsden & Culpepper on Charlton Road. They sell t-shirts, hats, etc. and they are located across from the LaRue Farm.

Chip Ellms: Stewarts.

Bob Smialek: You are opening up a can of worms.

Sandra Vendetti and Bob Smialek began a conversation that was not picked up by the recorder.

Paul Gillespie: Does the Board have the option to review if there are complaints or to be sure they are compliant?

Chip Ellms: If there are complaints the ZBA or the Zoning Administrator can impose fines if the applicant is non-compliant.

Paul Gillespie: I understand Bob's points. I have seen it in the past where people come in under one precedence and the next thing you know it has doubled in size. I just want to make sure that we meet everybody's needs here and the idea is we keep it small and we keep it town.

Chip Ellms: It can be done. We have the frame shop, the dentist, an oil company. There is a system in place and if someone abuses it there will be consequences.

Jim Leupold: There is also the shop across from the Tavern. That is a much larger scale shop then what the applicant is asking for.

Suzanne Voigt: That was grandfathered in.

Jim Leupold: The barn was discussed by the Board and was a concern regarding the additional space but the applicant assured us that the barn was not going to be used. This whole thing started from a complaint from someone who saw the sign out front.

Jessica Debach: Yes we received a letter that we had a zoning issue running a shop.

Board member Gavin made the motion to close the Public Hearing, seconded by Board member Taplin. Roll Call Vote was taken:

Dave Taplin – aye

Rick Potts – aye

Jim Glavin – aye

Jim Leupold – aye

Chip Ellms – aye

Public Hearing closed at 7:19 p.m.

Business Meeting

Minutes

Chairman Ellms stated that the meeting minutes from the September 15, 2020 meeting need to be approved. Board Member Jim Leupold made a motion to approve the meeting minutes dated September 15, 2020, seconded by Board Member Jim Glavin. All were in favor.

Roll Call Vote was taken:

Dave Taplin – aye

Rick Potts – aye

Jim Glavin – aye

Jim Leupold – aye

Chip Ellms – abstain

Motion carried.

September 15, 2020 Meeting Minutes approved.

Liuos Thinking, Inc.

Mrs. Caron advised that the application had been withdrawn.

Jessica Debach Application

Chairman Ellms stated that the Board received County Planning Board response of no significant impact to the community after their review of the application.

Board member Leupold inquired about the ADA requirements.

Attorney Jim Craig stated that the zoning administrator would enforce and ADA requirements.

Board member Potts made the motion to accept the SEQRA Resolution as written by Attorney Jim Craig and made a part hereof. Board member Crudele seconded the motion. All were in favor. Roll Call Vote was taken:

Dave Taplin – aye
Rick Potts – aye
Jim Glavin – aye
Jim Leupold – aye
Chip Ellms – abstain

Motion carried.

Attorney Jim Craig also prepared the Resolution for approval of the Debach Special Exception Use Permit. The Board reviewed the proposed resolution and listed conditions.

Mrs. Caron read the conditions of the proposed resolution.

The Board reviewed the 5 criteria for approval and agreed with all responses listed in the proposed resolution.

Board member Taplin made the motion to approve the Resolution as written and approve the application of Jessica Debach for s Special Exception Use permit to operate a small antique/home goods store utilizing an existing shed attached to the residence. Board member Potts seconded the motion. Roll Call Vote was taken:

Dave Taplin – aye
Rick Potts – aye
Jim Glavin – aye
Jim Leupold – aye
Chip Ellms – abstain

Motion carried.

Rossi Application

Mrs. Caron read the withdrawal letter from Mr. Rossi.

New Business

Chairman Ellms stated that no new applications have been submitted.

Board member Taplin made the motion to close the meeting. Board member Leupold seconded the motion. All were in favor.

Meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Kimberly A. Caron

Recording Secretary