

**Town of Charlton  
Zoning Board of Appeals  
Business Meeting Minutes**

**April 11, 2017**

Minutes of the Zoning Board of Appeals meeting held on April 11, 2017.

Chairman Albert Smith called the meeting to order at 7:30 p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Roll Call attendance was taken.

Present: Albert Smith, Chairman, Mark Chotkowski, Chip Ellms, Joseph Marchesiello, Robert Van Vranken, Town Attorney and Kimberly Caron, Recording Secretary.

Attorney Van Vranken advised that copies of the meeting agenda with attachments was available for anyone that was interested.

**Meeting**

**Michael B. Lawrence and Diane M. Lawrence Case No. 2017-02**

Attorney Van Vranken advised that this was an application for an area variance to construct a deck at the rear of the residence that does not meet the setback requirements.

Mrs. Caron read the public hearing notice that was published in the Daily Gazette on April 1, 2017. Mrs. Caron advised that notice of the hearing was also send to the adjoining property owners on April 1, 2017.

Mrs. Caron received a letter from John and Adela Faden in support on the Lawrence application. Mrs. Caron read the letter into the record.

Attorney Van Vranken reviewed the Agenda, item #5, "Summary of Issues" with the Board. A copy is annexed hereto.

Attorney Van Vranken reviewed the 5 criteria the Board must take into consideration before acting. Attorney Van Vranken read the proposed Motion and Resolution, a copy of which is annexed hereto. Attorney Van Vranken stated that the applicants are requesting an area variance for the rear setback requirement.

Mrs. Lawrence appeared before the Board. Mrs. Lawrence stated that they hired a contractor in April of 2016 to build them a deck. They spoke about the building permit and

the setbacks. The contractor said he would get the permit. The contractor said that he got the necessary approval for the techno posts and the next week he started the deck. A few months later, they received a letter from Bob Gizzi, Zoning Officer, that the deck was not in compliance with the towns zoning ordinance and that it had to be removed. Mrs. Lawrence stated that they tried to work to a solution that did not require them to take the deck down but Mr. Gizzi said it had to come down. It is now down and they would like to put it back up. It is for their personal enjoyment. The land in the back is undeveloped. They do not have any other place on the lot to put the deck. They are only 2 feet off the road.

Attorney Van Vranken asked for the neighboring properties to be identified. Mrs. Lawrence stated that John Faden is to the right and the Dougherty property is the farm behind the property.

Attorney Van Vranken inquired if the property was located in the Historic District. Dave Taplan, 492 Stage Road, stated that the sign is beyond their property. It is located on the east side of Stage Road. Mrs. Lawrence stated that she has a letter from the Historic District Chairman approving the project.

Attorney Van Vranken inquired about the daycare program at the Lawrence residence. Mrs. Lawrence stated that she is licensed by NYS as a family daycare. It was started 5 years ago and her daughter is her partner. They are approved to have 12 kids, they currently have 4 under 2 years old and 4 school age children before and after school. Attorney Van Vranken inquired about transportation. Mrs. Lawrence stated that the children arrive by car and some walk. Attorney Van Vranken advised that the program is exempt from town zoning. Attorney Van Vranken inquired if the children were allowed on the deck. Mrs. Lawrence stated that they would not be allowed on the deck. There would be a gate installed so that they cannot access the gate from the fenced in yard.

Mr. Lawrence left the meeting to find the letter from the Historical Society.

Mr. Chotkowski asked for the application to be corrected in terms of the zoning district. The application has residential instead of agricultural/residential. Mr. Chotkowski raised the issue of this property being a pre-existing non-conforming lot. The garage is only 20.3 feet off the property line. Attorney Van Vranken stated that since the garage pre-dates zoning, it is not an issue.

Mr. Chotkowski moved that the Zoning Board of Appeals grant the area variance request of 29.4 feet of relief from the rear yard setback requirement of 50 feet for the Lawrence application contingent upon the receipt of the letter from the Historic District Chairman. Chairman Smith seconded the motion.

Roll Call vote was taken:

Mr. Smith – yes

Mr. Chotkowski – yes

Mr. Marchesiello – yes

Mr. Ellms – yes  
The motion was therefore unanimously approved 4-0.

**Minutes**

Attorney Van Vranken stated that the meeting minutes regarding Stewart's Shops Inc. from February 14, 2017 need to be approved.

Chairman Smith made a motion to approve the meeting minutes regarding Stewart's Shops Inc. dated February 14, 2017, seconded by Mark Chotkowski. Roll call vote was taken:

Mr. Smith – yes  
Mr. Chotkowski – yes  
Mr. Marchesiello – yes  
Mr. Ellms – yes

February 14, 2017 Meeting Minutes approved.

Chairman Smith made the motion to close the meeting. Mark Chotkowski seconded the motion. All were in favor.

Meeting adjourned at 8:00 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary