

Resolution No. 2011-01

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

WHEREAS, George Davidson and Jane Davidson of Scotia, New York ("Applicants") filed an application for a major subdivision of certain real property located at 123 Crane Street, Town of Charlton, New York having tax identification number 246-3-61.111; and

WHEREAS, a public hearing on this application was scheduled and held by the Planning Board on August 16, 2010, at the Town Hall on Charlton Road, Charlton, New York, after due notice by publication; and

WHEREAS, said public hearing was held open until September 20, 2010 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 Applicants, and determined that the proposed major 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 XB.1. of Town Subdivision regulations in that the proposed subdivision does not have acceptable land character in that (1) the application seeks approval for the subdivision of an active junk yard; (2) the condition and character of the land is such that it cannot be used safely for building purposes in that the result of the subdivision is to divide the land so that the parcel remaining contains the substantial bulk if not all of the junk yard, debris and other conditions; (3) the real property is the subject of multiple Notices of Apparent Violation(s), duly noticed by the Zoning Administrator of the Town of Charlton which violations have not been remedied; (4) the result of the subdivision is to divide the parcel so that the parcel remaining will present a danger to health and peril from fire and other menace, among other things.
2. The concerns of the Planning Board concerning present future access to the parcel remaining have not been satisfactorily addressed and resolved by the applicants.
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 proposed to be irregularly divided by a proposed boundary line, which the applicants represented was determined for no reason other than personal desire. Upon inspection, it is determined that the irregular proposed configuration is made in order to “subdivide out/around” the bulk of the active junk yard; such that the applicants have unreasonably and improperly relied upon the configuration in arguing that because the junk is on the “other” resultant remaining parcel, the Planning Board therefore, is without power to consider the condition/character of the real property (the whole) which is the subject of the application. The applicants failed to consider and address the adverse circumstances, consequences and result of the subdivision of an existing junk yard. The result of the subdivision would be that the Town would be stuck with the junk yard problem; the subdivision aggravates rather than ameliorates the adversities associated with the junk yard condition.

4. The Planning Board convened a special meeting on-site on November 12, 2010, in order to assess the proposed subdivision. The applicants were unwilling to address the Planning Board’s concerns with respect to the conditions at the site by failing to cause the required Phase I study and report to be made and filed.
5. The applicants produced a letter to them, dated December 20, 2010, from C.T. Male Associates, P.C., which relates to a Transaction Screen Environmental Site Assessment. The letter describes findings of multiple significant adverse environmental conditions on the real property which is the subject of the application. The findings are violative of the Town Subdivision regulations, Zoning Ordinance and other laws, rules and regulations. The applicants have not satisfactorily addressed the known health, safety and hazardous conditions of the site.
6. The said Transaction Screen Environmental Site Assessment is both incomplete and contains very significant material qualifications. The Transaction Screen Environmental Site Assessment was not completed in accord with the Phase I environmental site assessment process required and directed by the Planning Board and applicable standards.
7. The applicants have offered no plan to address or mitigate any of the adverse environmental hazards and conditions identified. The applicants failed to provide a reasonable plan to address the apparent zoning and building code violations. The applicants refused to acknowledge and address the Notice of Apparent Violation(s). Applicants were repeatedly asked to address the site conditions, both orally and in writing, and they failed and refused to comply over time with these reasonable requests of the Planning Board.
8. The subject real property represents the less desirable and poorer land character real property and remaining balance of real property resultant after multiple prior subdivisions between and among these parties about and around the real property.

Sound planning and subdivision considerations such as consideration for future owner(s) of the parcels, together with a negative assessment of the land character of the parcel(s) resultant after this proposed subdivision mandate denial at this time. The proposed residual created lot would not be of a sufficient character such that it can be subdivided off and used safely for a future occupancy or a building.

9. The findings stated by the Transaction Screen Environmental Site Assessment establish that the real property cannot be safely used for residential and building purposes at this time.
10. The applicants failed to comply with reasonable requests of the Planning Board.
11. That the combination and totality of all adverse findings establish that the real property cannot be used safely for building and residential purposes at this time.

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

By motion to deny the subdivision made by Michael Armer, 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 17th day of January, 2011 as follows:

Yes <u> X </u>	No <u> </u>	Michael Armer
Yes <u> X </u>	No <u> </u>	Mark Hodgkins
Yes <u> X </u>	No <u> </u>	Dawn Szurek
Yes <u> X </u>	No <u> </u>	Constance Wood
Yes <u> X </u>	No <u> </u>	John Kadlecek
Yes <u> X </u>	No <u> </u>	Jay Wilkinson
Yes <u> </u>	No <u> X </u>	Christopher Mitchell

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 17th day of January, 2011 and is in full force and effect.

WITNESS my hand and seal of said Planning Board this 17th day of January, 2011.

Clerk