

**Town of Charlton
Planning Board Minutes
and Public Hearing Minutes
758 Charlton Road
Charlton, New York 12019**

Minutes of the Planning Board Meeting – January 17, 2022

Chairman Jay Wilkinson called the meeting to order at 7:05 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, Connie Wood, Dave Crudele, Dawn Szurek, Bill Keniry, Esq., Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Planning Board Secretary. Chris Mitchell joined the meeting at 7:10 p.m.

AGENDA MEETING

Mr. Wilkinson stated that there is a quorum.

Minutes

Mr. Wilkinson stated that the draft of the November 15, 2021 meeting minutes needed to be approved. Mrs. York has previously provided comments. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Mr. Wilkinson stated that this Public Hearing has been on continuation since February of 2021. Mr. Wilkinson stated that he will open the floor to anyone wishing to speak and the Public Hearing will remain open until the next meeting on February 21, 2022. Mr. Wilkinson stated that he has spoken to Drew Schaffert of Santos Associates on January 10, 2022 and was advised that they would not be coming because they do not have any new information to provide. Mr. Wilkinson stated that Mr. Schaffert did advise that all of the wetlands had been delineated and put on the drawing and sent off to DEC for approval. Mr. Wilkinson stated that Mr. Schaffert did not feel that there was any point in attending the meeting until he received the information back from DEC. Mr. Wilkinson stated that they are hopeful that they will receive the information back from DEC in time for the February meeting. Mr. Wilkinson stated that Mr. Schaffert did advise that there were significantly more wetlands than they originally thought and the subdivision plan will have to be revised accordingly.

Subdivision and Lot line Change Applications

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Addressed above.

DeSantis (255.-1-31.22 and 255.-1-51)

Mr. Wilkinson stated that this is an application for a lot line change. Mr. Wilkinson stated that this is a family property and the applicant is proposing a lot line change of the back land. Mr. Wilkinson stated that the applicant currently owns a $3.63\pm$ parcel and is proposing to increase the acreage to $6.21\pm$ after the lot line change. Mr. Wilkinson stated that the remaining acreage which is owned by the applicant and his sisters will be decreased to 5 acres. Mr. Wilkinson stated that at the November meeting, the application was forwarded to the County Planning Board for review and comments. Mr. Wilkinson stated that a reply has been received and the application can move forward. Mr. Wilkinson stated that there remain some open items on the drawings.

Caruso (255.-1-33)

Mr. Wilkinson stated that this is an application for property located at 723 Swaggertown Road. Mr. Wilkinson stated that the parcel is $36.5\pm$ acres on the west side of Swaggertown Road. Mr. Wilkinson stated that the applicant is proposing a three-lot subdivision to create two new building lots. Mr. Wilkinson stated that Lot 1 will be $2.4\pm$ acres with 200 feet of frontage and will contain the existing house and outbuildings, Lot 2 will be a $34.1\pm$ acre parcel with 200 feet of frontage and Lot 3 will be a $4.8\pm$ acre parcel with 247 feet of frontage. Mr. Wilkinson stated that Lots 2 and 3 will be for single family homes.

Davidson (246.-3-61.111)

Mr. Wilkinson stated that this is a proposal for a subdivision of property owned by Nicholas Davidson. Mr. Wilkinson stated that the property consists of $66\pm$ acres on the west side of Crane Street. Mr. Wilkinson stated that the proposal is to create one new building lot. Mr. Wilkinson stated that Lot 1 will consist of 2.01 acres with 225 feet of frontage for a single-family residence and Lot 2 will be the remaining acres of $64\pm$ acres with 175 feet of frontage and will encompass the existing farmhouse and improvements. Mr. Wilkinson stated that the ZBA granted a frontage variance to allow for the applicant to proceed with the subdivision.

Bagdan and Van Guilder (224.-1-42.1)

Mr. Wilkinson stated that the property is located at 17 Consaul Road and consists of 108.23 acres located on the south side of Route 67. Mr. Wilkinson stated that the applicant's intent is to convey the land to his son. Mr. Wilkinson stated that the property is on both sides of

the road. Mr. Wilkinson stated that this application is a little confusing and requires more information.

Zoning Report

Mr. Wilkinson stated that the Board has received the report for review.

Correspondence

Mrs. York provided the Oaths of Office for the Board members to sign.

Mr. Wilkinson stated that a letter of 6 months of inactivity was sent to Santos Associates regarding the Heflin application and the applicant's representative did respond that they are still working on the project and hope to be at the February meeting.

Town Board Liaison

Paul St. John is the new liaison to the Planning Board. Mr. St. John was present and will provide a report at the end of the business meeting.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mrs. Wood. All were in favor. Agenda meeting closed at 7:18 p.m.

BUSINESS MEETING

Opened at 7:30 p.m. with the Pledge of Allegiance.

Minutes

Mr. Wilkinson made a motion to approve the draft of the November 15, 2021 meeting minutes with changes incorporated. Mrs. Wood seconded the motion. All were in favor. Ms. Szurek abstained from the vote.

PUBLIC HEARING (7:30 P.M.)

Heflin and Santos Associates (225.-1-35, -36.1, -36.2, -36.3)

Jay Wilkinson: This Public Hearing remain open. We are still waiting for more information from Mr. Heflin and his consultants, Santos Associates. I did say for those who came in late, I will repeat myself, in the agenda meeting I noted that on December 10, 2021 I gave Santos Associates a call and talked to Drew, a principal there who always comes and represents Mr. Heflin. He said they would not be at tonight's meeting. They didn't have anything new to present. He did say that the wetlands have all been identified and delineated and put on a map and they are with the DEC right now. So he felt that there was no reason or he had nothing to report if he came to the meeting. He said until DEC approved the wetlands that

they have delineated the project is basically on hold because he said it's going to change, the project. Now what that means I don't know other than he said it's going to change because there was "significantly more wetlands than they originally thought". So he said the project will more than likely change but he said they won't know anything until DEC puts their stamp on it and says yes they agree with what has been delineated. That is what we asked for back I believe it was last September.

Chris Mitchell: They are taking applications but they are not doing any approvals at this time, DEC.

Jay Wilkinson: So the public hearing is still open so if anybody has anything they want to add that we haven't discussed in the past months, please feel free. The microphone is at the podium. You can bring it with you.

Karen Staulters, 2140 Cook Road (from the audience): I just have a question. My question is at one of the meetings not too long ago I think it was the November or October meeting, I asked a question about the long SEQRA form. Was that presented to them?

Jay Wilkinson: I will let our counsel answer that. We have talked about that just before the meeting. That is still up in the air but I will let Bill Keniry answer your question.

Bill Keniry: At this point in time the SEQRA remains open although we made the (inaudible) an initial determination was made so the project is classified as an unlisted action for the purposes of proceeding forward the board made a negative declaration regarding significance. (inaudible) The board has an open mind with respect to SEQRA.

Karen Staulters: There are so many wetlands on there that I believe that it needs to be the long form.

Bill Keniry: I heard the same information that you heard from the chairman in that the applicant is indicating that the map may need significant changes. The board will wait and see. In November the Board authorized the chairman to formally communicate with the applicant regarding the 6 month rule. (Inaudible)

Karen Staulters: (Inaudible) Is it time to cut off?

Bill Keniry: The board has to consider the circumstances. Historically it has been done on a case by case basis. The Board has had indication that significant activity has taken place in regards to the wetland mapping and now they are with DEC Region 5.

Karen Staulters: (Inaudible)

Bill Keniry: It is reasonable for the Board to accept the representations made by the applicant.

Jay Wilkinson: I sent a letter to Santos Associates on December 1, 2021 by email and then I sent them a hard copy in the mail. If anyone wants to see it, it is up here. The letter tells them that they were approaching the 6 month cycle and that we have a requirement that states that after 6 months of inactivity, it's at the board's discretion and would you please let us know your intentions and how you want to go forward. They did call and say that they definitely want to keep it open and at that point he told me that all of the wetlands have just been delineated. That was after the December 1, 2021 letter. Anyone who wants to see it is welcome to come up here and look at it. They are trying to move forward but he said because of a number of reasons, it was a wet year, COVID, crews were sick, he said he just had the perfect storm but he said everything was being put on the drawing and he said he hoped to have it up to DEC in the week or so and it sounds like he did complete that and now it's just a matter of making that happen. I think we said it last month; to just take everything and throw it away I don't think would be a wise thing at this point. I think it's just going to make everything more contentious with this project. Anyway, the letter is there if anyone wants to see it or wants a copy of it. We are trying to be fully transparent so that people can see it. He didn't respond back in writing he just responded back with a phone call.

Dawn Szurek: At one point we had asked them about a hydrology study. Have they ever brought that back up?

Jay Wilkinson: He hasn't. I asked him if he did any of that and he said Mr. Heflin wanted to see all of the wetlands and get that out of the way before he spent anymore money and that's how he left it. He didn't elaborate anymore than that. He said right now we are waiting and we are not going to do the traffic study or the hydrology study until we see the extent of the wetlands and he said Mr. Heflin will make a determination on the project at that time. He also has to look at the scope. He is looking for 7 new homes. It sounded like, what I was gathering from the conversation, am I still going to get 7 new homes. I don't want to put words in anybody's mouths. He just said they are reviewing it. We can only push so hard.

Josie Jackson came up and took a picture of the December 1, 2021 letter to Santos Associates.

Jay Wilkinson: Does anybody else have any questions about the Heflin project?

Bill Keniry: Please state the date and time that the hearing will be adjourned to.

Jay Wilkinson: We are not closing the public hearing. If no one else has anything else to say about the Heflin public hearing, what I'll do is it will remain open until our next meeting which will be February 21, 2022 at 7:30 p.m. and we will pick it up again there. I hope that we will have someone here to represent the project and talk us through where we are at and where we are headed.

SUBDIVISION AND LOT LINE CHANGE APPLICATIONS**DeSantis (255.-1-31 and 255.-1-51)**

The applicant was not present.

Mr. Wilkinson stated that there were missing items from the drawings including the zoning district, property owners labeled on the north side of the map and the contour lines added to the drawing. Mr. Wilkinson stated that the AG Data Statement was also incomplete.

Mr. Wilkinson stated that at the November meeting, the board waived engineering review, park and application fees and the Public Hearing. Mr. Wilkinson stated that the application was referred to the Saratoga County Planning Board and the response was received of no significant impact. Mr. Wilkinson stated that the action is a Type II action and exempt from SEQRA. Mr. Wilkinson stated that the board could issue a contingent approval.

Mr. Wilkinson made the motion to approve the lot line change between property located at 721 Swaggertown Road (255.-1-31.22) owned by Michael DeSantis and property located at 717 Swaggertown Road (255.-1-51) owned by Michael DeSantis, Colleen M. Conroy and Jeanine Ann Deyo, contingent upon the applicant adding the zoning district, the property owner to the north and contour lines at 10 foot intervals to the drawings and the completion of the AG Data Statement, and authorize the chairman to sign the mylars as Resolution 2022-01. Mr. Mitchell seconded the motion. All were in favor.

Resolution 2022-01 was made.

Caruso (255.-1-33)

The applicant was not present for the review of this application.

Mr. Wilkinson stated that there are missing items from the drawings. Mr. Wilkinson stated that he will contact the applicant and let them know what is missing from the drawings in order to move the application forward. Mr. Wilkinson stated that the drawings are missing the signature block, they are not signed or stamped by a licensed surveyor, the building envelopes are missing, there is no site map, there is no narrative of the applicant's intentions, the AG Data Statement and the EAF are incomplete and need to be signed and the list of neighboring properties is incomplete.

Davidson (246.-3-61.111)

Mr. Wilkinson stated that this is an application from Nick Davidson, owner of 123 Crane Street, which is a 66-acre parcel. Mr. Wilkinson stated that the proposal is for a two-lot subdivision to create one new building lot for a single-family home. Mr. Wilkinson stated that Lot 1 will be 2.01 acres and have 225 feet of frontage and Lot 2 will be 64 acres and have 175 feet of frontage and encompass the existing farm house and improvements. Mr.

Wilkinson stated that the ZBA granted a frontage variance to allow the applicant to move forward with the subdivision application.

George Davidson appeared on behalf of Nick Davidson. Mr. Davidson stated that his daughter will be the recipient of the newly created lot.

Mr. Wilkinson asked Mr. Davidson to put the map on the board and explain the proposal to the Board.

Mr. Davidson showed the locations of the existing features and explained the proposal for the two-lot subdivision. Mr. Davidson stated that he has been in contact with Real Property in Saratoga County and once the subdivision is approved, they will correct the frontage on their maps. Mr. Davidson stated that perk tests have been done and warrant a conventional system and the results are on the drawings. Mr. Davidson stated that it appears that the driveway may cross the wetlands and he will get a crossing permit if needed. Mr. Davidson stated that it is impossible to get the 100-foot buffer to the ACOE wetlands because the topography is so restrictive. Mr. Davidson stated that it is not a legal requirement to have a 100-foot buffer to ACOE wetlands. Mr. Davidson stated that they tried as best as they could to get the buffer but it is not feasible.

Ms. Szurek inquired why the septic system was not depicted on the drawings.

Mr. Davidson stated that they did not put it on there because they can't get the 100-foot buffer. Mr. Davidson stated that the septic will be located in the area where perk was done at a maximum distance to the wetland.

Ms. Szurek inquired if the septic would be closer than the 100-foot setback requirement.

Mr. Davidson stated yes, at a maximum distance. Mr. Davidson stated that the septic is engineered for a three-bedroom ranch style house. Mr. Davidson believes the setback will be 85 feet.

Mr. Wilkinson stated that there are some missing items on the drawing. Mr. Wilkinson stated that the tax id numbers for the neighboring parcels needs to be on the drawings. Mr. Wilkinson stated that the deed numbers are there but the board would like to see the tax id numbers of the other parcels and it would also be helpful to show the existing pond location on the 64-acre parcel. Mr. Wilkinson stated that the site location map is also missing from the drawings.

Ms. Szurek inquired about the driveways.

Mr. Davidson showed the existing and proposed driveways on the drawings.

Mr. Mitchell suggested a raised bed system for the septic system.

Ms. Szurek stated that she has concerns about the 100-foot buffer issue and the septic system location in relation to the proposed well. Ms. Szurek stated that the board always requests that the proposed locations be shown on the drawings as well as the distances.

Mr. Rabideau stated that he will add those items to the drawings.

The Board completed the Short EAF with a notation about the wetlands issue on the back of the form.

Mr. Wilkinson stated that the board is willing to work with the applicant on the wetlands buffer issue and would need to see a mitigation plan for the wetlands.

Mr. Davidson stated that they tried to maximize the setbacks and does not know what else they can do. Mr. Davidson stated that ACOE says that you can build right up to the edge and he is confused as to what wetlands impact there will be. Mr. Davidson stated that there will be a minor impact to the wetlands as they will be 80 feet away and he does not see a substantial impact.

Ms. Szurek stated that over time as the septic system ages, at some point it will need to be replaced. Ms. Szurek stated that the board needs to see that there is another place to put the system if that happens because it can't be placed in the same spot.

Mr. Davidson stated that is only if it fails.

Mr. Mitchell again suggested a raised bed system for the septic because it will be more efficient over time.

Mr. Wilkinson stated that the board is asking for what the applicant's plan is to mitigate the disturbance to the wetlands and how can that be achieved.

Mr. Davidson asked Mr. Rabideau if that was something he could do.

Mr. Rabideau stated that he understands what the board is asking for and will provide something for the board to review.

Mr. Wilkinson stated that the applicant should meet with Mr. Rabideau to see what the best way is to mitigate the disturbance to the wetlands and come back with a plan for the board to review. Mr. Wilkinson stated that once that is done, the application can be forwarded to the town engineer for comments and a Public Hearing can be scheduled.

Mr. Mitchell inquired if the wetlands were surface delineated.

Mr. Rabideau stated that they were delineated by vegetation and hydrology. Mr. Rabideau stated that most of the wetlands is a stream where it flows onto a plateau where it is seasonally wet.

Mr. Mitchell inquired how far down mottling was.

Mr. Rabideau stated that he does not know because he did not do the tests.

Mr. Mitchell stated that the septic shown is not usually what is shown when there are wetlands.

Mr. Rabideau stated that it is good soil.

Mrs. Wood stated that she would like to emphasize that when the ECC was active in review of these applications, they strongly supported a 100-foot buffer to all wetlands.

Mr. Davidson stated that he understands the board's position and he has explored alternatives. Mr. Davidson stated that he asked the question at the ZBA Public Hearing that if the proposed lot met all of the criteria would it be approved and a yes was given. Mr. Davidson stated that he understands the board's position but he just can't get the buffer in there.

Mr. Wilkinson stated that the board will not complete the SEQRA determination but leave open until more information is received.

Mr. Keniry stated that the board can anticipate that there will be a negative declaration but in order to complete the analysis, the applicant will need to provide sufficient information to allow the board to complete the application and supply information specific to a proposed mitigation plan as it relates to the applicant's project. Mr. Keniry stated that it is beneficial to tie down the locations and setbacks and the mitigation plan to make sure that the project works, then the board can complete the SEQRA review.

Mr. Rabideau stated that he understands what the board is looking for and can get the information completed for board review.

Mr. Davidson stated that if the septic system were to fail then he would just get an easement from his son to move to the other side of the driveway.

Mrs. Wood stated that the board thinks of the future and the concern with a 3-bedroom house is what will prevent an addition to that house and if there is an addition will the septic be adequate to handle it.

Mr. Davidson stated that would be for the zoning administrator to decide.

Mr. Wilkinson stated that the board will see the applicant next month. Mr. Wilkinson stated that the board is looking for the additions to the drawings, a mitigation plan and a septic location. Mr. Wilkinson stated that the information will need to be received by February 7, 2022 to be on the February agenda.

Bagdan and Van Guilder (224.-1-42.1)

Mr. Rabideau appeared before the Board.

Mr. Wilkinson stated that this is a proposal for property located at 17 Consaul Road. Mr. Wilkinson stated that the property consists of 108± acres on the south side of Route 67. Mr. Wilkinson stated that the proposal is to subdivide the property and convey it to their son. Mr. Rabideau stated that there are signed affidavits in the file allowing Mr. Rabideau to speak for the applicants.

Mr. Rabideau stated that the proposal is for a two-lot subdivision of property located at 17 Consaul Road. Mr. Rabideau stated that the applicants would like to subdivide the 109 acre farm on the south side of Route 67 into two lots. Mr. Rabideau stated that the farm house will be located on 101 acres on the north side of Route 67 and the 8 acres will be subdivided for the son. Mr. Rabideau showed the location of the son's house.

Mr. Wilkinson stated that the existing farm house and improvements are missing from the drawings as well as the tax id numbers of the neighboring parcels, the north arrow is not labeled and the site location map is missing.

Ms. Szurek stated that since these are her neighbors and she is very familiar with the property. She will participate in the discussions but recuse herself from the vote.

Ms. Szurek stated that one of the parcels owned by the Bagdans is landlocked. Ms. Szurek stated that now would be a good time to correct that.

Mr. Rabideau stated that the piece of property is already landlocked.

Ms. Szurek stated that it would be a good time to do a lot line change to correct that now.

Mr. Keniry stated that it would solve the problem so long as one of the conditions is the title to the large parcel be merged with the landlocked parcel.

Ms. Szurek questioned the proposed house location.

Mr. Rabideau stated that they are not building on the property. Mr. Rabideau stated that the building envelope is shown to meet the board requirements. Mr. Rabideau stated that there are no plans to build.

Ms. Szurek asked that the property on the other side be shown on the drawing.

Mr. Rabideau stated that he would add the names to the drawing of the other property owners.

Ms. Szurek stated that the existing pond is not shown on the drawing.

Mr. Rabideau stated that he will add the pond location.

Mrs. Wood inquired if they could merge Kevin Bagdan's property with the south side acreage.

Mr. Rabideau stated that he did not know but would ask the applicants.

Mrs. Wood stated that Dave Wood uses some of the Bagdan land.

Mr. Keniry stated that Mrs. Wood could participate but abstain from the vote, if she chose to.

The Board completed the EAF.

Mr. Wilkinson made the motion that the board take lead agency and that the action be classified as an unlisted action with a negative declaration relative to SEQRA. Mr. Mitchell seconded the motion. All were in favor. Ms. Szurek abstained from the vote.

Mr. Wilkinson made a motion to schedule the Public Hearing for February 21, 2022 at 7:45 p.m. Mr. Mitchell seconded the motion. All were in favor. Ms. Szurek abstained from the vote.

Mr. Wilkinson asked Mrs. York to forward the application to the county planning board and the town engineer for review.

ZONING REPORT

The Board reviewed the report.

CORRESPONDENCE

Addressed during the agenda meeting.

TOWN BOARD LIAISON

Mr. St. John stated that the town gave out 130 at home COVID test kits. Mr. St. John stated that once the town receives more, they will distribute those also. Mr. St. John stated that the evaluation of the community center revealed that there is asbestos, structural defects and mold. Mr. St. John stated that the town water was tested again for lead and has passed. Mr. St. John stated that the new chlorination system should be up and running by spring. Mr. St. John stated that the Elmer Smith nature trail has received funding. Mr. St. John stated that the state will not be funding the culvert replacement so the town has decided not to pursue that at this time. Mr. St. John stated that there have been some changes to the open meetings

law requiring draft minutes to be posted to the town website within two weeks of the meeting.

Mr. Wilkinson made a motion to adjourn the meeting. Mrs. Wood seconded the motion. All were in favor.

The meeting was adjourned at 9:00 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary