

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

Minutes of the Planning Board Meeting – October 19, 2020

Chairman Jay Wilkinson called the meeting to order at 7:10 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, Dawn Szurek, Bruce Gardner, Dave Crudele, Chris Mitchell, Jonathan Riedinger, Bill Keniry, Esq., Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Planning Board Secretary.

AGENDA MEETING

Mr. Wilkinson stated that there is a quorum.

Minutes

Mr. Wilkinson stated that the draft of the September 21, 2020 meeting minutes needed to be approved. Mrs. York has previously provided comments. No other comments were made. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

Aabo (247.-1-24.112)

Mr. Wilkinson stated that Jean Aabo is the owner of 510 Charlton Road which consists of 6.74 +/- acres. Mr. Wilkinson stated that the applicant is proposing to subdivide off a 2.78 +/- acre lot for a single family home for her son leaving 3.26 +/- acres that will encompass the existing home and outbuildings. Mr. Wilkinson stated that at the last meeting the Board took lead agency status and completed the EAF. Mr. Wilkinson stated that the application was forwarded to the town engineer and the County Planning Board for review and comments. Mr. Wilkinson stated that comments letters have been received from both.

Hvizdak (234.-1-3)

Mr. Wilkinson stated that this application was originally before the Board 15 months ago. Mr. Wilkinson stated that the applicant's Aunt and Uncle owns a 14.8 acre parcel on Waite Road and is proposing a three lot subdivision. Mr. Wilkinson stated that Lot 1 will consist of the existing house and improvements, Lot 2 will be a 5 ± parcel of vacant land that will be offered for sale and Lot 3 will be a 4.82 ± parcel of vacant land. Mr. Wilkinson stated

that at the last meeting the Board took lead agency status and completed the EAF. Mr. Wilkinson stated that the application was forwarded to the town engineer and the County Planning Board for review and comments. Mr. Wilkinson stated that comments letters have been received from both. Mr. Wilkinson stated that there is still concern with the perk test data. Mr. Wilkinson stated that the comments letter from Mr. McNamara also has comments that need to be addressed.

The Board reviewed the Zoning Ordinance relating to perk tests.

Subdivision Applications

Aabo (247.-1-24.112)

Addressed above.

Hvizdak (234.-1-3)

Addressed above.

Case (223.-1-2.12)

Mr. Wilkinson stated that Carl and Angela Case are the owners of 1085 West Line Road which is a $47 \frac{1}{2} \pm$ parcel that they are proposing to subdivide into 2 lots. Mr. Wilkinson stated that the new proposed lot will be a $2.01 \pm$ acre lot for a future home for Carl's brother and that the remaining $45.5 \pm$ acres will encompass the existing house and improvements.

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

Mr. Wilkinson stated that Garry Heflin owns 4 contiguous parcels of land on Cook Road that add up to $76.7 \pm$ acres. Mr. Wilkinson stated that there is 2475 feet of road frontage on the east side of Cook Road. Mr. Wilkinson stated that Mr. Heflin's residence is located at 2158 Cook Road and consists of $36 \pm$ acres. Mr. Wilkinson stated that the remaining acreage is open land and the applicant is proposing an 8 lot subdivision for future single family homes. Mr. Wilkinson stated that a virtual pre-application conference was held in May, 2020 where the Board looked at two different plans, a cluster plan and a conventional plan. Mr. Wilkinson stated that after receiving feedback from the Board, the applicant is proceeding with the conventional subdivision plan.

ZBA Referral

Debach Special Use Permit (246.-3-58.2)

Mr. Wilkinson stated that a letter was sent with the Board's comments. Mr. Wilkinson read the letter aloud.

Zoning Report

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

Correspondence

None.

Town Board Liaison

Mr. Grasso stated that the old firehouse on Charlton Road was under contract with an industrial storage facility for storage of tents and trailers and equipment used to set up base camps. Mr. Grasso stated that the prospective buyer met with the Town Board a few weeks ago and has since withdrawn his purchase offer and application. Mr. Grasso stated that there is a new prospective buyer that came before the Town Board last week. Mr. Grasso stated that the proposal is for an artisan and wood working facility. Mr. Grasso stated that there will be no employees, possible wood working classes. Mr. Grasso stated that the applicant is proposing minor cosmetic repairs to the building. The Board is expecting to receive an application for a SEP.

Mr. Grasso stated that there is still currently a vacancy on the Town Board.

Mr. Grasso stated that highway department is continuing efforts on storm clean up and will be holding a bulk pick up this coming week. Mr. Grasso stated that brush pick up will begin next week.

Mr. Grasso stated that the Town Board held a public hearing on the proposed budget. Mr. Grasso stated that the information is posted on the website and the Board will vote in November.

Mr. Grasso stated that the cell tower is up but not operational yet. Mr. Grasso stated that they are expecting it to be running by the end of the year.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Gardner. All were in favor. Agenda meeting closed at 7:33 p.m.

BUSINESS MEETING

Opened at 7:35 p.m. with the Pledge of Allegiance.

PUBLIC HEARING (7:35 P.M.)

Aabo (247.-1-24.112)

Torben Aabo appeared before the Board.

Mr. Wilkinson stated that a legal notice was published in the Daily Gazette on October 12, 2020 and notices were mailed to the adjoining neighbors on October 6, 2020.

Mr. Wilkinson reviewed the public hearing process. Mr. Wilkinson opened the public hearing.

Torben Aabo: We would like to divide 510 Charlton Road into two parcels. This new parcel will have road frontage on Shaddick Road and will have a house built for my son. Letters have been received from Mr. McNamara and the County Planning Board and they said ok. We have everything lined up for approval.

Jay Wilkinson: Can you show the boundaries.

Torben Aabo: This is the 2.78 acre parcel off of 510 Charlton Road that will front on Shaddick Road. It has 200 feet of road frontage. 510 Charlton will have 300 feet of frontage. I am happy to answer any questions.

Don Schultz, 1012 Shaddick Road: Is there an access road there?

Torben Aabo: It is 50 feet from the corner and 12 feet west of (inaudible). We are trying to save the trees.

Don Schultz: I have one concern, the well, will it affect anyone?

Mr. Aabo showed the well location for the proposed house and showed the existing well for 510 Charlton Road. The well is 400 feet deed.

Mr. Wilkinson made a motion to close the public hearing at 7:40 p.m. Mr. Crudele seconded the motion. All were in favor.

Minutes

Mr. Wilkinson made a motion to approve the draft of the September 19, 2020 meeting minutes with changes incorporated. Ms. Szurek seconded the motion. All were in favor. Mr. Mitchell abstained from the vote.

PUBLIC HEARING (7:45 P.M.)

Hvizdak (234.-1-3)

Todd Hvizdak appeared before the Board.

Mr. Wilkinson stated that a legal notice was published in the Daily Gazette on October 12, 2020 and notices were mailed to the adjoining neighbors on October 6, 2020.

Mr. Wilkinson reviewed the public hearing process. Mr. Wilkinson opened the public hearing.

Todd Hvizdak: I am Todd Hvizdak here representing James and Daphne Hvizdak. It is just under a 15 acre lot that we want to divide into 3 lots. The current home will be on a 5 acre lot, another 5 acre lot to build a home and a 5 acre vacant lot to keep in the family. I would like to build somewhere towards the front on the middle lot.

Susan Breault, 1015 West Line Road: How many lots are there going to be?

Todd Hvizdak: Three lots out of the 15 acres, 1 house already will be on 5 acres, and two new lots of about 5 acres. One lot we will do nothing on and the other will be a house built for me.

Susan Breault: Back when in question several years ago Judge Rodriguez issued an order because the property was a junkyard with trailers and vehicles. It was determined 5 years ago that the structures had to be torn down and the trailers removed and the small service building was to be demolished and the property returned to its natural habitat. That has not happened. I am concerned regarding the junk yard and the possible contamination there.

Jan Chrzanowski, 1013 West Line Road: Just a single home is going to be built?

Todd Hvizdak: Yes.

Laura Fowler, 1032 West Line Road: The house is going here? Why is there a proposed house for both new lots on the map?

Todd Hvizdak: Only one house. There are no plans for another house. The board asked for it on the drawing.

Susan Breault: Is it going to be AG or residential?

Todd Hvizdak: It will be residential. We will clear about an acre for the house and leave the rest.

Susan Breault: What is the continuous process for this?

Jay Wilkinson: After the Public Hearing the Board will deliberate. The town engineer has looked at the plan and has cited some of the same concerns as the Board. We will continue to discuss the application as a Board.

Susan Breault: Tonight?

Jay Wilkinson: Yes. It usually takes 2-3 month for approval. The public hearing was the next step. The Board will deliberate and decide where to go from here. We are going to review the comment letter from the town engineer that has numerous concerns.

Susan Breault: Thank you I appreciate the explanation.

Mr. Wilkinson made a motion to leave the public hearing open due to the number of open issues that need discussion and the engineering comments that need to be addressed. Mr. Crudele seconded the motion. All were in favor.

SUBDIVISION APPLICATIONS

Aabo (247.-1-24.112)

Mr. Wilkinson stated that the comment letter from Mike McNamara requested that the short SEQRA form be revised for errors.

Mr. Aabo made the correction and initialed the form.

Mr. Wilkinson stated that the letter also requested the addition of a culvert to the map.

Mr. Aabo stated that could be done.

Mr. Wilkinson stated that the Board took lead agency at the last meeting, the County reply was no significant impact and the applicant has made the changes requested by the town engineer. Mr. Wilkinson stated that the Board has a complete application.

Mr. Wilkinson made the motion to approve the Aabo subdivision tax id number 247.-1-24.112 located at 510 Charlton Road contingent upon the map being revised to show the culvert and revise the owners name to Jean as Resolution 2020-07 and authorize the chairman to sign the mylars. Mr. Riedinger seconded the motion.

Roll call vote was taken:

Mr. Crudele – aye

Mr. Riedinger – aye

Mr. Gardner – aye

Mr. Mitchell - aye

Ms. Szurek – aye

Mr. Wilkinson – aye

Motion carried.

Resolution 2020-07 was made.

Hvizdak (234.-1-3)

Mr. Wilkinson stated that he would like to review the comment letter from Mr. McNamara. Mr. Wilkinson stated that comments 1 and 3 are easy fixes. Mr. Wilkinson stated that comment 2 pertains to soil contamination from the various vehicles and trailers that were stored there over the years.

Mr. Hvizdak stated that the squatter was removed around 2 years ago and all of the vehicles have been removed. Mr. Hvizdak stated that there is currently a metal frame garage that stores a boat. Mr. Hvizdak stated that everything else has been removed.

Ms. Szurek inquired as to the location of the existing metal building.

Mr. Hvizdak showed the garage on the drawing.

Mr. Wilkinson stated that the Board would need to see and review the order signed by Judge Rodriguez.

Mr. Riedinger inquired when the order was executed.

Mrs. Fowler stated around 5 years ago.

Mr. Wilkinson continued with the comment letter from Mr. McNamara. Mr. Wilkinson stated that comments 4, 5 and 6 are also easy fixes. Mr. Wilkinson stated that comment 7 pertains to the percolation rates and does present an issue. Mr. Wilkinson stated that comment 8 pertains to the septic system slope and appears to be another issue. Mr. Wilkinson stated that comment 9 pertains to the addition of the septic note which is an easy fix.

Mr. Wilkinson stated that there are a number of marginal conditions that raise red flags with this application.

Ms. Szurek stated that since the existing garage was built too close to the property line, does that call for ZBA action or is it allowed as a pre-existing condition.

Mr. Wilkinson stated that he would have to defer to Mr. Keniry.

Mr. Keniry stated that the Board has received information in the Public Hearing context for the members to consider. Mr. Keniry stated that the Board will need to receive and review the official file and court action that was mentioned in the hearing. Mr. Keniry stated that only after reviewing the information can the Board make a determination. Mr. Keniry stated that the facts need to be determined before the Board can proceed.

Mr. Wilkinson recommended that the Board take no action at this time due to the identified concerns and the legal action that was brought forth in the hearing. Mr. Wilkinson stated that the Board will need to request the court file for review. Mr. Wilkinson stated that he would like the applicant to locate the two septic systems and have the percolation tests performed again and witnessed by the building inspector. Mr. Wilkinson referenced the Zoning Ordinance requirements for percolation tests.

Mr. Crudele agreed that more information is needed to proceed.

Mr. Riedinger also agreed.

Mr. Mitchell stated that the existing garage needs to be addressed and the court order and perk test.

Ms. Szurek stated that she was also in agreement.

Mr. Gardner stated that he was also in agreement.

Mr. Wilkinson stated that the Board will need to request the court file and the applicant needs to prove perk before the building inspector before moving the application forward.

Case (223.-1-2.12)

Larry Ruzycky appeared before the Board on behalf of the applicants.

Mr. Ruzycky stated that the proposal is for a two lot subdivision of the Case property located at 1085 West Line Road. Mr. Ruzycky stated that the new lot will be for a single family home and will have 250 feet of frontage. Mr. Ruzycky stated that the property used to be an old fallow deer farm.

Mr. Wilkinson stated that the property is in two names but there is only an affidavit from one owner.

Mr. Ruzycky stated that he would get the additional owner's affidavit.

Mr. Wilkinson stated that two drawings were provided with the application. Mr. Wilkinson stated that per the town's requirements, a cover sheet will also be required or the drawing has to be one page.

Mr. Ruzycky stated that he would use one map.

Mr. Wilkinson reviewed the requirements for the drawings. Mr. Wilkinson stated that the SEQRA form needs a revision.

Mr. Ruzycky made the change and initialed it.

Ms. Szurek stated that the AG Data Statement appears to be missing information and the application has the parcel in the residential district instead of the agricultural district.

The Board completed the EAF.

Mr. Wilkinson made the motion to declare the Planning Board as lead agency status for the purposes of SEQRA and that the action be classified as an unlisted action with a negative impact declaration relative to SEQRA. Mr. Crudele seconded the motion. All were in favor.

Mr. Wilkinson stated that new drawings would be required to move forward.

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

Andrew Schauffert appeared before the Board.

Mr. Schauffert stated that the subject property is located on Cook Road and contains 4 contiguous parcels consisting of 76.76 ± acres of land. Mr. Schauffert stated that all four parcels together have 2475 feet of frontage on Cook Road. Mr. Schauffert stated that Mr. Heflin lives at 2158 Cook Road. Mr. Schauffert stated that they would like to subdivide the 4 parcels into 8 lots, 7 new and one with the existing single family home and improvements. Mr. Schauffert showed the 7 proposed lots on the drawing.

Mr. Gardner inquired if the existing barn met the setback requirements because it was built very close to the existing property line.

Mr. Schauffert showed the existing buildings on the drawing.

Mr. Wilkinson stated that the barn needs to be 100 feet from the property line. Mr. Wilkinson stated that the line would have to be adjusted to meet the requirement.

Mr. Schauffert stated that he would discuss it with the applicant.

Mr. Wilkinson stated that relief to the requirement could also be sought by going before the ZBA.

Mr. Schauffert stated that it is just a storage building and the applicant may want to demolish it.

Mr. Wilkinson stated that the drawing is missing the information for Mr. Heflin's existing well and septic areas. Mr. Wilkinson stated that locations and dimensions are required, a site map locator, proposed houses, driveways, well and septic locations for the new homes and perk test data all need to be on the drawings.

Mr. Wilkinson stated that Mrs. Wood, who could not be present for the meeting, was concerned for the maintenance of the open space on the parcels as they exist now.

Mr. Schauffert stated that the new drawings show the wetlands.

The Board provided feedback on preserving the existing hay fields.

Mr. Schauffert stated that he could revise the drawings to include two large lots in the back to preserve the fields.

Mr. Wilkinson stated that new drawings would be required to move forward.

ZBA REFERRAL

Debach (246.-3-58.2)

Discussed in agenda meeting.

ZONING REPORT

The Board reviewed the report.

CORRESPONDENCE

None

TOWN BOARD LIAISON

Mr. Grasso gave his report at the agenda meeting.

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

The meeting was adjourned at 9:35 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary