

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

Minutes of the Planning Board Meeting – March 15, 2021

Chairman Jay Wilkinson called the meeting to order at 7:10 p.m. via Zoom meet.

Present: Jay Wilkinson, Chairman, Connie Wood, Dawn Szurek, Bruce Gardner, Jonathan Riedinger, Bill Keniry, Esq. Planning Board Attorney, Susan York, Planning Board Clerk, Joe Grasso, Town Supervisor, Jenna Smith, Town Board Liaison 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 February 15, 2021 meeting minutes needed to be approved. Mrs. York has previously provided comments. Mr. Wilkinson provided comments. No other comments were made. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

Womer and Carpenter Associates (223.-1-1)

Mr. Wilkinson stated that this is a proposal for a subdivision of lands located at 1094 Westline Road. Mr. Wilkinson stated that the parcel is 27± acres with 1580 feet of frontage on Rocky Ridge Road and 910 feet of frontage on Westline Road. Mr. Wilkinson stated that the applicant is proposing a three lot subdivision with one of the newly created lots going to the applicant's son and daughter-in-law. Mr. Wilkinson stated that the remaining homestead parcel will be 12± acres located in Charlton and 4 acres located in Montgomery County. Mr. Wilkinson stated that at the February meeting the Board took lead agency status. Mr. Wilkinson stated that the Board also completed the short form EAF. Mr. Wilkinson stated that the application has been forwarded to the County Planning Board and the town engineer for review. Mr. Wilkinson stated that comments have been received from Mr. McNamara. There has been no response from the County but the application is on their agenda for Thursday.

Heflin and Santos 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. Mr. Wilkinson stated that the Board has requested that the wetlands on the parcels be delineated. Mr. Wilkinson stated that there is information that is still needed. Mr. Wilkinson stated that Mr. McNamara reviewed the application and provided comments that were reviewed at the last meeting. Mr. Wilkinson stated that the Public Hearing last month had over 30 people in attendance and a number of people spoke. Mr. Wilkinson stated that the Board has left the Public Hearing open and encouraged people to send on comments and concerns for the Board to review. Mr. Wilkinson stated that he has 8 letters and emails that have been received and they will become part of the record during the business meeting.

Subdivision Applications and Lot Line Change ApplicationsWomer and Carpenter Associates (223.-1-1)

Addressed above.

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

Addressed above.

Lot Line Change ApplicationLandis/Wakulenko (237.-1-9 and 237.-1-7)

Mr. Wilkinson stated that this is a proposal for a lot line change between the Landis property located at 1136 Peaceable Street and the Wakulenko property located at 1174 Peaceable Street. Mr. Wilkinson stated that Mr. Landis has passed away but the applicants still want to proceed with the application. Mr. Wilkinson stated that the Landis' would be conveying back lands to the Wakulenko's. Mr. Wilkinson stated that after the lot line change is complete the Landis property will decrease to $85 \pm$ with the existing house and improvements and the Wakulenko property will increase to $27.7 \pm$ with existing house and improvements. Mr. Wilkinson stated that the Board waived all fees, engineering review and the Public Hearing. Mr. Wilkinson stated that the Board was waiting for County comments before proceeding. Mr. Wilkinson stated that comments have been received.

Ward/Gauthier and Northeast (225.-1-15.111 & -15.12)

Mr. Wilkinson stated that this is an application for a lot line change between the back lands of the Wards and lands of the Gauthier's. Mr. Wilkinson stated that the land is wetlands and not buildable. Mr. Wilkinson stated that Norman, Michael and Wayne Ward own 49 acres on the south side of Route 67. Mr. Wilkinson stated that the proposed lot line adjustment is with the adjoining lands of the Gauthier's to the north. Mr. Wilkinson stated that when the lot line adjustment is complete the Gauthier property will be increased to 6.5 ± acres and the Ward property will decrease to 46 ± acres.

Gavin/Van Guilder (237.-1-69 and -70.2)

Mr. Wilkinson stated that this is a 4 acre parcel located at 294 Sweetman Road. Mr. Wilkinson stated that the parcel has 514 feet of frontage on the west side of Sweetman Road. Mr. Wilkinson stated that the applicant is proposing a lot line change with the 3.92 acre parcel of land located behind the property. Mr. Wilkinson stated that there are two different tax id numbers. Mr. Wilkinson stated that the proposed lot line change will correct a landlocked parcel and then allow for a subdivision of the entire parcel into two conforming lots. Mr. Wilkinson stated that Lot A will consist of 5.64 ± acres and contain the existing house and outbuildings and Lot B will be a 3.28 ± acre parcel for a future home.

Davidson

Mr. Wilkinson stated that he received an application from Nicholas Davidson for his property on Crane Street. The subdivision maps from 11 years ago have 401 feet of frontage and the tax maps have the frontage at 395 feet. Mr. Wilkinson stated that he referred the application to the ZBA for a frontage variance.

Zoning Report

Mr. Wilkinson stated that the Board has not yet received the report for review.

Correspondence

None.

Town Board Liaison

Supervisor Grasso introduced Jenna Smith, new Town Board member, as the new liaison to the Planning Board.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Riedinger. All were in favor. Agenda meeting closed at 7:30 p.m.

BUSINESS MEETING

Mr. Wilkinson opened the meeting at 7:30 p.m.

Minutes

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

PUBLIC HEARING (7:30)

Womer and Carpenter Associates (223.-1-1)

Mr. Wilkinson stated that a legal notice was published in the Daily Gazette on March 8, 2021 and notices were mailed to the adjoining neighbors on March 2, 2021.

Mr. Wilkinson reviewed the public hearing process.

Mr. Wilkinson opened the public hearing.

Art Carpenter, applicant's representative: The Catherine Womer parcel is located on Westline Road, which includes property on Rocky Ridge Road. Its generally a fairly rectangular parcel about 12 acres west of Westline Road, 4 of those 12 acres are actually in Montgomery County. So 8 acres are in Charlton west of Westline and about 20 acres are on the east side of Westline road. The proposed subdivision would be three lots, the existing house west of Westline Road would be one lot, the proposed new building lot would be 4.5 acres on Westline Road and Rocky Ridge Road and there would be a vacant lot. It is a hay field east of Westline road. The proposed new building lot would have about 430 feet of frontage on Westline Road and 700 feet on Rocky Ridge Road. The parcel would meet all the zoning requirements. The driveway would be on Rocky Ridge Road close to Westline Road where there is an existing field entrance that is used for farming purposes. We intend to convert that into residential driveway. I think that's about all I need to say at this point.

Jay Wilkinson: This would be a good point where anyone from the public that has questions, now is the time. I will open this up for comment if anyone on the Zoom meeting would like to comment on the Womer proposed subdivision.

Dolores Montarello-Haberek, 4538 West Line Road: Did I miss something; is it 12 acres that's going to be subdivided?

Jay Wilkinson: The whole parcel is going to be subdivided.

Dolores Montarello-Haberek: Into three lots?

Jay Wilkinson: Right. The only lots that are being subdivided would be on Rocky Ridge Road and Westline Road to the east.

Dolores Montarello-Haberek: Correct. I understand.

Jay Wilkinson: So that's two lots about 19 acres.

Dolores Montarello-Haberek: I thought you had said three subdivisions.

Jay Wilkinson: It's a three lot subdivision because you count the original parcel where Catherine Womer lives, the new one that will be for her son and daughter-in-law at the corner of Rocky Ridge Road and Westline Road and what she owns on the corner of Westline and Rocky Ridge was approximately $19 \pm$ acres there she is cutting that in half so that will be another lot that she could sell in the future. So it's one, two and then the mother parcel is three.

Dolores Montarello-Haberek: She lives across the road from that parcel correct?

Jay Wilkinson: Yes. So there will be two new ones on the other side.

Dolores Montarello-Haberek: So what is that 8 acres a piece?

Jay Wilkinson: Correct 8.8.

Dolores Montarello-Haberek: And one 5. So what are they going to do with the other one, just sell it afterwards if it's for her son? We live on Westline Road and I pass the parcel every day.

Jeremy Womer: Bob Ross will continue to farm the field.

Dolores Montarello-Haberek: Pardon me?

Jeremy Womer: The farmer that is currently farming the field is going to use that other half for a hay field still.

Dolores Montarello-Haberek: Until it's sold?

Jeremy Womer: It's not going to be sold; I am going to buy that at a future date.

Dolores Montarello-Haberek: You're her son?

Jeremy Womer: Yes.

Dolores Montarello-Haberek: Ok. I was just curious about it. 19 acres?

Jeremy Womer: The field is 12 or 13 acres, we are getting 4.4 acres. There will be 8.7 acres left for a hay field.

Dolores Montarello-Haberek: Oh well I don't know that gentleman that was talking and introducing this, I just wondered about it. I didn't know how many acres, I didn't know anything about the acreage was I was just interested in finding out what was going to be done I figured it would be housing lots and I didn't know what type of housing lots they were going to be and I wanted to know about that.

Jay Wilkinson: Ok. Does that answer your question? Jeremy was right. I misspoke. Jeremy is stating it right. Its 9, 8.87 acres which will be the hay field and like he said the lot for his new proposed house is 4.4 acres. I misspoke.

Dolores Montarello-Haberek: So its 12 acres, his is 4 and Ross will have the other to use as his hay field.

Jay Wilkinson: Correct.

Dolores Montarello-Haberek: Ok. Alright. Thank you.

Jay Wilkinson: Does anyone else on the call like to comment or have questions about this subdivision? I am not seeing anyone trying to speak, Kim are you?

Kim Caron: No.

Jay Wilkinson: I don't want to cut anybody off. I think what we are going to do here is that I am going to leave this public hearing open. We have not heard back from the County Planning so we cannot move forward with it. I propose we leave the public hearing open until our next meeting in April 19th at 7:30 and then we will continue then and give others that maybe didn't get a chance to speak tonight or want to send something in on email they can do that. Is that acceptable Mr. Keniry?

Bill Keniry: Yes it is.

Jay Wilkinson: We don't need a vote on that correct?

Bill Keniry: No.

Jay Wilkinson: So we will leave the public hearing open and will move on to the public hearing for Heflin Subdivision on Cook Road. That was opened and is still open and we are taking comments.

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

Jay Wilkinson: What I would like to do first is acknowledge all of the letters first and who sent them and then we will let anyone from the public that wants to speak the opportunity to speak. If I misspeak on someone's name I apologize feel free to correct me. As our counsel mentioned before all of these letters, they were in the form of emails, everyone on the Board will get copies after tonight's meeting and they will also get to the applicant and the applicant's representative. Just to be clear we are going to keep the public hearing open another month, and then we will look at it again.

Jay Wilkinson: The first letter I got was received on February 27, 2021 and it came from Jean and John Kekes. They stated that they have lived at 2041 Cook Road for approximately 20 years and they have concerns about the planned subdivision of the Heflin property. Their two main concerns are threats to the adequacy of the water supply and the disturbance of land. The second letter I got was from Robert and Christine Delaney and was received on February 21, 2021. They live at 2177 Cook Road and again they are expressing their concerns about adequate water, wetlands on the property and that the subdivision doesn't fit the character of Cook Road. The third letter is from Barbara Nachbar and it was forwarded to us from her daughter Karen Staulters and she did speak at our public hearing and she sent a formal letter in wanting to make sure it got to the right people. She was concerned about it not being transcribed in the public hearing format. Barbara Nachbar lives at 2140 Cook Road. The next letter which is the fourth one came from Ann Varcasio. She lives at 846 Charlton Road and she has concerns about the habitat there and the wetlands and the adequacy of water there in the future. The fifth letter I received on March 12, 2021 and it was sent to Brenda Mills our Town Clerk and it was forwarded to the Planning Board Clerk and myself and others and it is from Elicia Spagnola and she lives at 2151 Cook Road and again expressing concerns about that subdivision. The sixth letter came from Alexander Smith and he lives at 2081 Cook Road. It is a very detailed letter of his concerns about the regulated wetlands there, proposed structures on those wetlands on Lots 6, 7 and 8, the adequacy of water on these additional new lots. Like I said it is a very detailed letter and even included some wetland maps and where to find things. I will get that out to everybody. The seventh letter we got was from Jim and Robin Sevinsky of 838 Charlton Road. I received that on March 12, 2021 again expressing the concerns of this subdivision, well water, wetlands and rural character. I will get it out to everybody. The last letter, the eighth letter I have here is from Josie Jackson of 2173 Cook Road again worried about wetlands, surface water, habitat, wetlands. She included some pictures taken of some of the wetland and ground water and again we appreciate the letters. It gives us more information and more for us to consider in our deliberations as we move forward. I guess with that said we will open up the public hearing for the Heflin Subdivision. Again everybody knows that it is on Cook Road, Town of Charlton. I went through this all last month. It was advertised, there was a legal notice published in the Daily Gazette on February 8, 2021 and cards notifying adjoining property owners were sent on February 1, 2021. So anyone wishing to speak please just state your name and address for the record and direct your questions and we will try to get them answered. I do not see Drew from Santos Associates on this zoom meeting. I guess I will open it up for anyone that has questions on the Heflin subdivision.

Sue York: Jay, there were additional letters that I have been sending out all afternoon as they came in.

Jay Wilkinson: Ok.

Sue York: Suzanne Voigt, Jeff Hannan, John Karm, Patrick McGrath and at 6:41 I saw one from Eileen Stone.

Jay Wilkinson: Ok. That gives us more information to look at. I'm sure you will get those out to everyone and we will get this all collected and between you and I can decide how we want to do that and get them to the applicant and the applicant's representative. We are going to leave this open another month because of all of this information that has come in and I haven't seen the ones that came in today. We had given a deadline of Sunday night. We will go from there. If anyone else has anything else they want to talk about or if there are more questions about that subdivision.

John Sanderson, 2063 Cook Road: We have watched that piece of property, which was wetlands, being filled and more fill coming in never knew what the intentions were but it was a wetland designated as a wetland. It should be restored by the Greenfield Clause, restored to where it was. He was warned not to fill that but he kept going on and doing it. He should be punished for that. And we are concerned about the water. He was breaking the law. He knew he was breaking the law. It should be returned to its original state. I'm done.

Jay Wilkinson: Thank you very much. That is information that I was not aware of so I appreciate that. Is there anyone else that would like to add something about the Heflin project?

John Karm, 2126 Cook Road: I have the same concerns as everybody else. This property is located uphill from us and there is runoff water coming down right on our property on the north side it goes right through the middle on the south side. So obviously we are concerned about the runoff. I think this would be 21% additional road for this part of the street and also route 67 and its only 12% road frontage. To me that looks like a disconnect, I mean, I am not really an expert with the code but it is a lot more homes than they have frontage for. The other thing I would like to mention, I believe there is a petition that was signed and the idea was to get it to the board by today and I'm pretty sure that has been done but I think it should be part of the minutes. That's all thank you.

Jay Wilkinson: Thank you. I wasn't aware there was a petition. Like I said we are going to keep the public hearing open so we will continue to look at the comments and collect information from the community. Thank you.

Connie Wood: I have seen that petition.

Jay Wilkinson: Ok.

Connie Wood: It was sent to me in an email.

Jay Wilkinson: Ok.

Dawn Szurek: It is on the Citizens of Charlton page I think I saw it as well.

Jay Wilkinson: Ok. Anyone else on the zoom meeting that would like to comment on the proposed Heflin subdivision?

Ed Snyder, 2165 Cook Road: Just to follow up on a couple items. As you are releasing these various documents to the Board will the previous letters that were submitted at the first hearing as well as any statements given be submitted to the board as well for their review?

Jay Wilkinson: Yes we are considering all of the information. I didn't read them. I have spent most of the day on the phone talking with people and looking at letters that have been coming in and I didn't realize that our clerk was getting some more as I didn't talk to her. I am trying to collect all of this and most of it came in my email which is fine and that's good but just making sure we get everything from everybody. It's been kind of a challenge today. Everything tends to happen either the day before or the day of the meeting but definitely all of that information will be weighed when we get into the deliberation phase which is going to be down the road. It definitely will not be anything decided tonight because, like I keep stating, we are going to keep the public hearing open. Just based on all the information that we are collecting tonight that I was not aware that our clerk had received three or four more letters and she was still getting them at 6:40 tonight. We will just go forward with all of this and see where it all leads us to in our deliberations.

Ed Snyder: I appreciate that. I can fully understand. As you alluded to it is definitely a hot topic around town. The petition, I have seen it as well. At last count it was up to about 162 signatures so it is gaining traction. It's continuing on but I think it was closed to submit in time for the meeting. Could you provide the email address that would be best for additional comments to be sent to?

Jay Wilkinson: I will let our clerk give the email address.

Sue York: It is yorkmm474@aol.com.

Ed Snyder: Perfect. Thank you. I appreciate that. Since the hearing is remaining open until what time will you continue to receive comments?

Jay Wilkinson: Until April 19, 2021 at 7:30 p.m. or shortly thereafter.

Ed Snyder: Ok. Thank you. You also alluded to some additional information has been provided that you were unaware of. Do you feel that, maybe you can't make this statement at this point; do you feel that you have been appropriately advised on some of the facts and findings from the citizens or do you feel that more information should be submitted?

Jay Wilkinson: We welcome more information, the more the better. I think it seems to be reading them through, the same concerns, but we have had some people provide some really good information with pictures and specific information on land requirements and where to find them on the NYS website. I don't want to discourage anybody from sending us information, the more the better. Some of the ones are saying the same thing over and over but I think that just reinforces how concerned people are about this and how important wetlands are, and water supply for future homes. We have to be thinking about our current residents and do the right thing by them and also for anyone who may buy a lot if in fact this ends up as a subdivision. Don't take that the wrong way, I am not for or against the project right now we are still in the collecting phase and we have quite a ways to go before I think we get to a decision point. There's more information that needs to be gathered. Yes I would encourage anybody to send information in.

Ed Snyder: Ok. Thank you. One last question, will Saratoga County Planning be involved in this decision making process or does it solely rest with the town?

Jay Wilkinson: No this is in AG District #2 so it will go to Saratoga County and they do a review of it. We did send it when we initially had the public hearing last month. We sent it to Saratoga County and to the town engineer for their comments but then after we got looking at it and the comments we received from the town engineer there was a number of issues that he brought up and concerns. We asked the county to table it and we would get back to them later because the project, it would appear that based on the wetlands and the questions that the town engineer raised, that things will more than likely change; could be where the houses are located, lot sizes, we don't know yet. The information gathering period continues and we will include Saratoga County and we will not make a decision and we can't make a decision legally until we hear from them.

Ed Snyder: Ok. Thank you. To follow up on that, the comments that the town engineer made are those available for public review?

Jay Wilkinson: I will let our counsel answer that.

Bill Keniry: Yes they are.

Ed Snyder: How would one obtain a copy of those?

Bill Keniry: You can access them at the town hall, whether or not they would require a FOIL request is up to the clerk's office. If they do please just know that it is state law, don't be offended and go ahead and fill out that required paperwork. I assume you will have it in short order. You shouldn't have any trouble with it at all.

Ed Snyder: Ok. Not a problem. I can complete that formal request if needed. Thank you very much for your time.

Jay Wilkinson: Anyone else that would like to comment.

Suzanne Carreker-Voigt: I have a procedural question. At this point the public comment period is remaining open and we've had quite a few citizens address deep concerns about water issues. How does that affect any decision you are allowed to make? Does that send it to some other agency or does the concerns about water portability as well as wetlands or does the board have the right to make a decision themselves?

Jay Wilkinson: The board is going to, after we close this public hearing, we will go into our deliberations on each subdivision we talk about. We've got some things that I am going to propose to the board and I think some board members had some ideas too. Some things that we want to do to move forward to ensure that there is water for the residents we have now or any future lots as the subdivision goes forward and it may or may not go forward and it's the form you see. It could be modified I don't know. I can't say, but based on the information we have, it may change. So we are going to ask for more information.

Suzanne Carreker-Voigt: Are you required to seek out professionals on the water situation? That's what I am trying to find out.

Jay Wilkinson: If you want to stay on until the next portion, yes you will hear that. I don't see the applicant's representative on here but I believe we can still go ahead and I will refer to our counsel for that and ask for some additional data. We will send applicant's representative and Mr. Helfin a letter stating that at this meeting we are seeking additional information from these various agencies and these are our concerns and how we want to address them moving forward. I know that doesn't answer your question directly but your answer will come after we close the public hearing. I don't want to state that now.

Suzanne Carreker-Voigt: Ok. I was just trying to find out how procedures work. Thank you.

Karen Staulters (daughter of Barbara Nachbar, 2140 Cook Road): I am talking on behalf of my mom. One thing that was brought up at the last public hearing was the possibility of a ground water test study and I am wondering if that is something that the town is considering. Especially being that my mom lives right next door to this, I think there is four lots next to her, 4 houses, that's definitely going to affect her water system. I really think that's a real key thing and she does too. I don't know if that is something that Heflin would have to pay for to have a ground water study and it's probably in that 6 or 7 page thing, that letter you might have received, the resources are of companies that do perform such a test. We just feel strongly that it's going to really affect the water system that is in a fragile state now. That and the extra impact on the traffic at the top at Route 67. I have witnessed two accidents there and both accidents the cars were, the impact was such that one car landed on top of the hill and the other one landed at the orchard. These are two separate accidents months apart. The impact there due to the speed goes real far and if there is a house put up near the top of that hill I would not want to live in that house. It's possible that an accident could be right on their front doorstep and that would be a very dangerous thing. In addition to the extra cars and the extra school buses that kind of thing that's going to be a concern too. I just

think it's a fatality waiting to happen because some of you that have lived in this area a long time like my mom, we have been here over 40 years, we are one of the original houses on this road, the corner between Cook Road and Jockey Street on Route 67 there has been several fatalities in that strip over the last 40 years. I am hoping that's not going to happen but with extra traffic it could. It's also about the wetlands. There is also some kind of structure behind the hay field in the woods. It doesn't show up on the map. I'm kind of wondering about that as well and what that is. You can see it from the road.

Jay Wilkinson: That's good information about the structure. At some point, when we have projects of this nature, the board will do a site visit and I think that is something that I will propose and will coordinate with the applicant. We have to have his permission to get onto his property to see it. I think that would be something that we could do. At our last meeting we asked that the wetlands be flagged and that would be something we could do, we could look for that structure too and get the information about what that is and why it is there.

Karen Staulters: Ok. That's good. Thank you.

Nancy Karm, 2126 Cook Road: I am new to all this but something came to my mind and I wanted to ask and I don't know if it's appropriate to answer it now but what are the key factors that the board considers regarding a subdivision and what is the process. And maybe this was answered in the last meeting, I don't know.

Jay Wilkinson: We have zoning requirements and we have subdivision regulation and design standards. The first thing you look at is, does the lot meet the bulk requirements. First of all is it 200 foot of frontage and 2 acres minimum. That would be the first thing and then we would look at does the land perc. Will it pass a perc test within the requirements of the ordinance which is 1 inch in 60 minutes. That's the two key things. Then you look at is there wetlands on the property. Can the house, well and septic be placed such that they are not in the wetlands and there is a 100 foot buffer between the house and any improvements and the wetlands. So we go through the criteria. Over the years of doing this I have developed a checklist of questions that we have asked and we will go through that. There are seven of us on the board and everyone seems to have developed a passion or "specialty" I call it, over the years we have people who are very astute about the wetlands and will bring up questions about that. Maybe their concern is about driveways and the setbacks. We try not to line up all the houses in a row so that is something that we have asked Mr. Heflin, as we go forward on this project, he shows them now kind of lined up, we don't want to see that so it looks like a development. If our attorney can add in anything, we have in the zoning, let me get to the right page. There is a whole list of things that we go through and look at. Off the top of my head, I gave you the three big hitters but there are a lot of other smaller things that we look at. We look at the side setbacks. Are they going to have enough on either side; you need 46 feet on one side minimum with the total being 100 feet, is there a barn on the property, is it 100 foot away from the barn and the well and all of that because some of the lots may have an existing barn or the people want to have horses on there so they show a barn. We look to see does everything meet those requirements. It's something that takes all of the board and our consultants, meaning the board attorney, the town engineer who

reviews it all and provides us back with information. I don't know if that answered your question or if Mr. Keniry can add something to that.

Nancy Karm: Yes, that helped. Thank you.

Jim Sevinsky, 838 Charlton Road: I came to the first meeting where I had just learned about the project and we submitted some comments and we have been listening to this. I think it is good that you guys are really taking a deep dive and looking into all the facts that have been brought to your attention. The one thing that I see as an exception, and I have now heard this from three different people, a couple that testified the first night, testified, it's not really testimony, sorry I am a recovering lawyer, but who made comments the first night and then one of the gentlemen that lives nearby that made comments tonight. So you have asked for the applicant to flag wetlands, and we are a public entity here and the zoning board and the town and we have got allegations from a few different people that wetlands have been filled in the past. So sure they are going to flag what isn't a wetland now but, what was a wetland? Was it a violation? I really would ask if you feel that's it the obligation of the zoning board to forward that information to the state department of Environmental Conservation, one of the entities with jurisdiction for any 12.4 acre wetland and related protected areas and the other is if it is an unrelated one that's moved out closer to the road or something it could be ACOE. So you've got public record comments, I have no personal knowledge of it whatsoever, but you've got this on the public record of people claiming to have seen wetlands filled without permission and I don't think you can just have them flagged to go ahead and review the project. I think you have to go to the applicable agencies, if the individuals who saw it were asked I suppose they would give honest answers to whoever investigated it from those agencies but what is your process? I'm glad you went to the county but what do you do with other agencies that have primary jurisdiction?

Jay Wilkinson: I think some of that is going to come out in the next portion of our meeting. What I want to do, I don't think this is the right forum, this is the public hearing and we are not doing any of the deliberations.

Jim Sevinsky: Ok.

Jay Wilkinson: We are going to ask for more information and it be verified by other agencies. That's the short answer. You just have to wait and see. Just because of what I have seen in the letters and what I'm going to propose to the board and then hopefully we can all talk about it and if we have consensus we will let the applicant know that to move forward this and this is going to have to be done. You bring up a point that only our attorney can answer for me about having people who have seen violations, how we handle that Mr. Keniry, as a board, how do we get this to the right agency, what we do.

Bill Keniry: I think your procedural point was quite correct in that in this instance certainly the board receives information such as that which Mr. Sevinsky has just related and information related by others and then typically, and at least as far as I understand, is that this board typically has taken a series of measured steps that, in terms of investigating the

facts, and certainly this board has made inquiries of other agencies as it relates to enforcement actions or other activities and so, at this point, I would suggest that the board continue to take the measured steps. Take the information, take it under advisement in the context of the public hearing and then this board will determine what the appropriate next steps are. With that being said, I think it is very apparent that this board is quite conscience of the coordinated jurisdictions of both the USACOE and also the NYS DEC as it relates to their prospective jurisdictional wetlands on this property.

Jim Sevinsky: Thanks Bill. I think it has to get to them one way or another. I respect whatever your process is but it's not just asking the applicant what he thinks about it at this point. I also just want to make a side comment. I'm glad you have wetlands experts on the board and I think, by the way, this is a planning board with a lot of people with a lot of expertise. I totally respect that but one of the guys I really respect who has a lot of expertise in this area is the chair of your environmental conservation commission. He hadn't seen this and usually he does on matters like this for you. That's Marv Schorr. I don't know if they can be helpful at this late date, sounds more like you have to follow up with certain agencies but just pointing that out. Thank you.

Jay Wilkinson: To answer the question of the previous person who asked if there is a process that we use for looking at every subdivision and I had to find it in the zoning and it is in our zoning ordinance. If you look at page 92 and 93 there is a list of things that we look at pertaining to the information that we receive from the applicant as far as the drawing and how it's formatted. Also too is how is storm water going to be handled; how are things going to be designed; is there adequacy for vehicle traffic; where the driveway is going to be located; loading, grading and storm water drainage, again how it relates to neighboring properties. So there is a whole process that we go through and it's hard to explain it in one or two sentences. Hopefully that helps answer the question of the previous person. There are rules that we go by that are in the zoning ordinance. Anyone else have anything to say about Heflin?

Ed Snyder: I thought I would follow up to the gentlemen speaking. Does the board not require a joint application permit review to ensure that the applicant for this subdivision can even obtain the wetland permit to construct these properties. I mean because there is no way based on the amount of wetlands and the proximities to the parcels that they are going to be able to not go through without a permit. And it's definitely going to be a joint application with ACOE and DEC, so does the board take that into account. I guess do they require the applicant to show proof that they can obtain a permit or is it going to be that the board decides yes, it can proceed, and then if a permit cannot be obtained, then what happens.

Jay Wilkinson: I'll try to answer this and if I'm going too far out of line, I will ask Mr. Keniry to jump in. It has been the policy of this board for probably close to 12-14 years, and we do refer things to Marv Schor just to digress a second to answer Mr. Sevinsky's question, we do forward our applications to the ECC. We haven't done that yet because we still have a lot of concerns with this property and we still don't know exactly where the houses are going to be and what we want to do is get the wetlands flagged. What we do is, Marv

schooled us and myself in particular many years ago, his line always was “a wetland is a wetland”. It doesn’t matter who owns it, ACOE or DEC. He always said that it needs a 100 foot buffer and this board has worked very diligently over the last 12-14 years just to make that happen. There has been a couple of cases where people have built in a wetland but they had gotten a permit, or it had been subdivided many years ago and they went and they owned the land or they bought it and it wasn’t a subdivision before us. Then they got a permit for the wetlands and then they went ahead to, I say, a permit to encroach on the wetlands, the minimum setbacks and then went and got a building permit. As this board has moved forward over this period I think I see a couple of surveyors that have worked in the town for a number of years on the call and they are representing other people coming up as we get out of the public hearing. We have always asked that we maintain the 100 foot buffer. That’s how we have operated and so the board is going to try very diligently to keep people out of the wetlands. I don’t know how strong I can be there but I will let Mr. Keniry add some words here that will give people on the call some sense of where the board has been going all these years in keeping houses, septic and wells and any building 100 feet from any wetland no matter who owns it.

Bill Keniry: I think that is entirely true. That has been my experience here. I will say this, recognizing that none of us can speak for DEC or ACOE of reason, we have seen some activity within the county where projects have moved forward and to some extent DEC has taken the position that they would like to see what the local jurisdiction does in the first instance. I don’t know that that procedural step is defined in terms of which entity goes first, if you will, on the other hand I think that certainly what I have seen here in Charlton has been highly attentive. I would just say that the expectation based on the board’s prior action with prior projects is that I would expect the board to be as careful in its measured steps moving forward with respect to the sensitivity of both jurisdictional wetlands.

Jay Wilkinson: Just to add in there that to give some credit to the surveyors that have been working in the town that are on the call tonight. The properties that we usually see in Charlton are a minimum of two acres but most of the time they are larger and we have stated our concerns with the representatives and they have had enough leeway with the properties, there is enough room, where they can move things around to keep out of the wetlands. It’s been give and take you know, we have asked for something and the applicants have been, in a lot of the cases that I have been involved in, asking why and we explain what and it usually has been well accepted and everybody has moved their project accordingly. We have been very lucky but who knows what the future would be. Hopefully that answers your question and we are going to continue to operate that way.

Nancy Karm: I appreciate all the time that the board is taking with all of this. I have a question and again its probably my naiveté, how do we, who determines what a wetland is and what criteria would it be. For instance, in our backyard I think part of it is wetland and it also varies with the season. If you look at the wetlands in August it’s going to be a lot different than the wetland in April. So how does one really know where that border line is to determine the 100 feet?

Jay Wilkinson: There are people that are trained to do that. I know from my own experience, I have wetlands on my property here on Peaceable Street and I knew it was wetland. I had contacted Region 5 and they actually sent someone here years ago and they came in and they did core samples. They did it with a hand shovel type of thing and they would take me around and say this is wetlands here and ok it stops here and they put flags and then they sent me a letter after that saying they were here on this date and they looked at the wetlands and that they were shown to the owner and flagged. So you would have to contact, I would suggest you contact DEC, I believe its Region 5, and I can't think of the man's name right now but if you email me then I could get it to you. My email address is jay.wilkin@hotmail.com and I will get back to you with who you contact in the DEC office. I believe our area falls within the Warrensburg office, at least it did a few years ago.

Nancy Karm: So is that what they will be doing with the project up the street to determine where the wetlands are, because it would be easier to know where they are first before they were trying to figure out where the houses were to go. I'm just wondering if that has been done.

Jay Wilkinson: That is what we asked last month of the applicant to go ahead and do a wetlands determination and we want to know that before we do anything else. You are exactly right we don't know where to put the houses. He is proposing things but we don't know if a house can be supported there based on the wetlands and the extent of them. The applicant is working off of a maps that are available online, they call them GIS maps. I know there is probably other people on here that are more familiar with them than I am but it shows the wetlands and its shows an aerial view so that is a good starting point but we need to know exactly where they are and we will go from there once we understand that. Right now we don't know where the wetlands exactly are.

Nancy Karm: Thank you very much, this is a challenge.

Jay Wilkinson: Ok.

Ed Snyder: So I guess the applicant has the opportunity to define the wetlands themselves as long as they are delineated by an environmental scientist, they do not have to go to the ACOE or DEC, if the applicant goes that route, is that acceptable?

Jay Wilkinson: We are going to talk about that in the next part of the meeting. It has been asked a number of times and I guess I may be talking out of turn here. I going to put it before the board that we require that the wetlands be, I don't care who delineates them, it could be a private entity, but it needs to be verified by the jurisdictional agency and whoever that is whether it be the ACOE or DEC. So we are going to ask that. We are not going to just take the applicant's consultants word and say that's where it is. We want it verified that this is where it is. Does anyone else have any questions?

Connie Wood: We have several people with their hands up. Eileen Stone, Josie Jackson.

Jay Wilkinson: If you can hear me whoever had their hand up.

John Sanderson: I just want to reiterate it's my understanding the northeast corner of Cook Road and Route 67 has once been designated as a wetland but he has been filling that in for several years, so would it still be a wetland or can they go back. I wouldn't build a house there, it has been filled with chunks of concrete and trash. I think it should go back and be restored to the way it was when it was a wetland.

Jay Wilkinson: I think that's an option that, as we move along, we will get the right agencies involved and they will have to make that determination. I know, again from my own experience, they did send me a letter telling me that if I do fill in a wetland, I would have to restore that. They made it clear that the wetland is there and if you do fill it in you are going to have to put it back to the way it was, at least from my own limited experience on my property when the gentlemen was here and did the delineation. I don't know. We will have to see as we move forward and how the agencies react to what is there.

John Sanderson: Thank you.

Eileen Stone, 724 Charlton Road: To follow up to Mr. Sanderson's point and I think the point that Mr. Snyder made, it seems, and I think the planning board will try, I hope, is that if wetlands have been filled in, I would believe we don't want to insensitive, in the town of Charlton, that people can expand their property that was once a wetland. That wouldn't be to the benefit of the town or the right incentive and I would hope that where in your investigation of these claims that people who live on the street have said that there has been a tremendous amount of filling in over time that that can be investigated and answered so that there is a point in time where you have a better sense of what the actual wetland delineation is versus going out today. If the wetlands were larger, then I hope the planning board is able to, and would think about, getting a point in time from the representative of where the wetlands were and, it's my understanding from aerial mapping and so forth, that data over time can be found. I hope the planning board would be interested to try to find that information out. Also just people's comments and concern about water adequacy is a very strong concern and I hope that the planning board would consider a study to give information back to people on the road as well as part of their deliberations to try to make a decision about what is the impact on the water resource. I also just like to point out again our wonderful comprehensive plan. I hope that provides guidance as well on your decision you make here as well and thank you again for all the care you are putting into this.

Jay Wilkinson: I see some other hands up. I see Jackson hand up.

Josie Jackson: Thank you very much. Did any of you at the planning board contact DEC?

Jay Wilkinson: No we have not yet. We are still in the investigation stage. A lot of this is new information about filling in wetlands and all of the concerns about the water. We are going to take some other actions you will see later on in the meeting. We are going to put

some actions out for deliberation and discussion of how we want to proceed and where we should go.

Josie Jackson: This proposed subdivision is right across from me and I have sent in pictures of how my front yard is now compared to last year. As you can, see and I don't know what happened suddenly, that I now have a nice pond going on in my front yard. I don't really know, well actually I took a picture of my front yard last year because I like the trees not knowing that now I am facing this pond going on down in front of my property. I am so glad that now I even took that picture last year. Now I sent that to you folks and secondly with concern of water that we are facing right now. Who do we go to should we run out of water if this is not taken care of. What do we do after. That's my biggest concern, do I go after the people that bought the land and secondly I am in communication with the DEC in an email as well as the ACOE inquiring whether or not there is a permit applied for by the owner of the proposed subdivision and both agencies came back to me and said no. Now that it's been established, I think we should bring in the ACOE as well as DEC to really look into this. I have seen what's gone on over the years on that property but for me I'm one of those people in the neighborhood where I will not complain and I mind my business. As you probably read my letter, I travel two hours to and from work to have the privilege to live in Charlton because I love this community and I moved here from Guilderland and now I am facing all these problems with ground water as well as surface water. I hope that the board is really looking into this and listening to the concerns of the people.

Jay Wilkinson: Thank you. We will be looking into things as we go forward.

Josie Jackson: Thank you.

Jay Wilkinson: Is there anyone else?

Jeff Hannan: Inaudible

Jay Wilkinson: I am not sure if we are having technical difficulties.

Ed Snyder: Jeff, your connection is poor. You are coming through very poorly.

Jay Wilkinson: I don't know if someone wants to restate that or get back on and try with a better connection. I guess I am not seeing anyone else. I am not trying to cut anybody off. We are going to keep the public hearing open and we will continue again next month. I am not seeing any other hands raised up. If you want to speak, weigh in now. Otherwise, we are going to move onto another agenda item. We will pick it up again next month, and in the meantime, we will look at all of the emails that have been sent in that I did not see prior to this meeting and get all of the information out to everybody. For the record the Heflin public hearing remains open again until April 19, 2021 at 7:30 p.m. we will take it up again then and continue on, and if anyone has any more comments or more information we will discuss it then. So with that said, we will move on in our agenda.

Public comment ended at 8:44 p.m.

SUBDIVISION APPLICATIONS

Womer and Carpenter Associates (223.-1-1)

Mr. Wilkinson stated that the Board would not be able to take any action on this application tonight because the Board has not received response from the County Planning Board. Mr. Wilkinson stated that their Board meets this Thursday and should have their comments to the Board by the May meeting.

Mr. Wilkinson stated that the town engineer response was that the scale was plotted wrong and needed correction.

Mr. Carpenter stated that has been corrected.

Mr. Wilkinson stated that the Board attorney also referred this application to the Town of Galway and Montgomery County Planning Board due to its location in both towns and counties. Mr. Wilkinson stated that no response has been received as of yet.

Mr. Wilkinson stated that since this subdivision is actually creating three lots, perc will have to be demonstrated on all of the lots. Mr. Wilkinson stated that Lot 3 would require a perc test to show that it could support a house and a well. Mr. Wilkinson stated that if the applicant were willing to remove the line so that her son would be purchasing the remaining lands it would become a two lot subdivision and then a perc test would not be required. Mr. Wilkinson stated that if the applicant wants three lots then perc will have to be proven on Lot 3.

Mr. Carpenter stated that he would convey that to the applicant.

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

Mr. Wilkinson stated that at the last meeting, the Board asked the applicant to have the wetlands delineated in order for the process to move forward. Mr. Wilkinson stated that the Board would like the wetlands to be verified by both DEC and ACOE. Mr. Wilkinson stated that the Board should also require that the applicant have a hydrology study of the parcels done at his cost. Mr. Wilkinson stated that he feels that it would be a good idea to give an indication of what is going on with the ground water there.

Mrs. Wood stated that a traffic study on the intersection of Route 67 and Cook Road should also be done. Mrs. Wood stated that it is a very dangerous intersection. Mrs. Wood stated that the Board has required this in the past.

Mr. Riedinger stated that was a good idea as it is a tricky intersection. Mr. Riedinger stated that he also feels that the hydrology study is an excellent idea.

Mrs. Wood agreed.

Mr. Wilkinson stated that the Board would request that the applicant have the wetlands delineated by both DEC and ACOE, and that a hydrology study and a traffic study be done to proceed with the application.

The entire Board was in agreement.

Ms. Szurek stated that when you add the density of the development, it is a sharp contrast to the rest of the road. Ms. Szurek stated that she is concerned for the existing wells and would ask the applicant to consider reducing the number of lots. Ms. Szurek stated that a lot of the concern could be eliminated with fewer lots.

Mr. Wilkinson stated that he will draft a letter to the applicant's representative and send to the Board for review.

LOT LINE ADJUSTMENT APPLICATION

Landis/Wakulenko (237.-1-9 and 237.-1-7)

Mr. Wilkinson stated that the Landis's own 110± acres on Peaceable Street and are proposing a lot line change with their neighbors the Wakulenko's who own 2.87± acres. Mr. Wilkinson stated that the Landis's are proposing to sell 25± acres of back land to the Wakulenko's. Mr. Wilkinson stated that after the lot line adjustment, the Landis property will be 85± acres and the Wakulenko's property will be 27.76± acres. Mr. Wilkinson stated that the Board completed the short form EAF last month and waived fees, engineering review and public hearing. Mr. Wilkinson stated that the County reply was no significant impact. Mr. Wilkinson stated that the Board has a complete application.

Mr. Wilkinson made a motion to approve the Landis/Wakulenko lot line adjustment contingent upon the revision to the title block of the drawing to include "Lands of Adam and Dina Wakulenko, the addition of the deed instrument number, and the tax map numbers and authorize the chairman to sign the mylars as Resolution 2021-02. Mrs. Wood seconded the motion. Roll Call vote was taken:

Mrs. Wood – aye

Mr. Gardner – aye

Mr. Riedinger – aye

Ms. Szurek – aye

Mr. Wilkinson – aye

Motion Carried.

Resolution 2021-02 was made.

Mr. Wilkinson reviewed the mylar requirements.

Ward/Gauthier (225.-1-15.111 & -15.12)

Dave Bogardus appeared before the Board on behalf of the applicant.

Mr. Bogardus stated that in 2017 the Wards came before the Board for a 3 lot subdivision. Mr. Bogardus stated that there was another initial proposed 4th lot but it was not buildable due to wetlands. Mr. Bogardus stated that the Gauthier's want the additional land for their kids. Mr. Bogardus stated that the land is not buildable and there is no driveway or construction proposed.

Ms Szurek inquired about the access road shown on the drawing.

Mr. Bogardus stated that was an existing farm road to reach the back of the farm. Mr. Bogardus stated that stays with the Ward farm.

Mr. Wilkinson made the motion to waive application and park fees, engineering review and the public hearing. Mr. Riedinger seconded the motion. All were in favor.

Mr. Wilkinson stated that since this was a Type II action in relation to SEQRA that the EAF form was not required.

Mr. Wilkinson asked Mrs. York to forward the application to the County Planning Board.

Gavin (237.-1-69 and -70.2)

Duane Rabideau appeared before the Board on behalf of the applicant.

Mr. Rabideau stated that their proposal is for a lot line change and a subdivision of the Gavin lands. Mr. Rabideau stated that they would like to move the property lines to make two lots, Lot A being 4.7 acres and encompassing the existing house and outbuildings and Lot B being 3.3 acres for a building lot for a single family home.

Mr. Wilkinson clarified that the applicant is requesting a lot line adjustment and a subdivision.

Mr. Rabideau stated that the lot line adjustment will make the lot zoning compliant.

Mr. Wilkinson inquired if the proposed Lot B would be offered for sale.

Mr. Rabideau stated that the applicant's intent is to sell the lot.

Mr. Wilkinson stated that the lot line adjustment and subdivision will correct a pre-existing non-conforming condition.

Mrs. Wood inquired if perc tests were done.

Mr. Rabideau stated that the tests were done a couple weeks ago.

Mr. Wilkinson stated that the adjoining property owner's names and tax id numbers need to be added to the drawings.

The Board completed the short form EAF.

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

Mr. Wilkinson asked that the title block be revised to include the subdivision.

Mr. Wilkinson asked Mrs. York to refer the application to the County Planning Board and the town engineer.

Mr. Wilkinson stated that the changes to the drawing could wait until comments have been received from Mr. McNamara.

Ms. Szurek inquired about the change in legal description once this is complete.

Mr. Keniry stated that real property will take care of that once it received the maps.

Mr. Wilkinson made the motion to schedule the Public Hearing for April 19, 2021 at 7:30 p.m. Mr. Gardner seconded the motion. All were in favor.

ZONING REPORT

The Board reviewed the report.

CORRESPONDENCE

None.

TOWN BOARD LIAISON

Ms. Smith gave a brief history about herself.

Ms. Smith stated that the Town Board has decided to cancel Party in the Park and Founders Day again this year with hopes that it will return next year.

Ms. Smith stated that the Town Board is also meeting on Zoom and that will continue for the next several meetings.

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

The meeting was adjourned at 9:45 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary