

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

Minutes of the Planning Board Meeting – July 19, 2021

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

Present: Jay Wilkinson, Chairman, Dawn Szurek, Connie Wood, Chris Mitchell, Bill Keniry, Esq., Planning Board Attorney, Susan York, Planning Board Clerk and Kim Caron, Planning Board Secretary. Jonathan Riedinger joined the meeting at 7:20 p.m.

AGENDA MEETING

Mr. Wilkinson stated that there is a quorum.

Minutes

Mr. Wilkinson stated that the draft of the June 21, 2021 meeting minutes needed to be approved. Mrs. York has previously provided comments. Mrs. Wood provided comments. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Mr. Wilkinson stated that Mrs. York has provided minutes from the site visit to the Ward property on July 5, 2021. Ms. Szurek provided comments. Mr. 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 no new information has been provided.

Ward (225.-1-15.1)

Mr. Wilkinson stated that there would be a public hearing on this application.

Finkle (236.-1-128)

Mr. Wilkinson stated that the property is located at 4136 Jockey Street. Mr. Wilkinson stated that this is an 18 ± acre parcel with 677 feet of frontage on the east side of Jockey Street. Mr. Wilkinson stated that the proposal is to subdivide the parcel into three lots to

create two new building lots. Mr. Wilkinson stated that Lots 1 and 2 will be 2 acre lots with 200 feet of frontage and one of the lots will be offered for sale and the other lot will be for Mr. Finkle to build a house for himself on. Mr. Wilkinson stated that Lot 3 will encompass the remaining 14 acres and contain the existing home and outbuildings. Mr. Wilkinson stated that the public hearing was at the May meeting and adjourned to this meeting. Mr. Wilkinson stated that at the June meeting the board sent the application to the Saratoga County Planning Board and the town engineer for review. Mr. Wilkinson stated that the engineering review came back with recommendation that the board take no action until the wetlands were verified and approved by DEC. Mr. Wilkinson stated that this has been done.

### Subdivision Applications

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

Mr. Wilkinson stated that he has spoken to Drew Schauffert of Santo Associates and they do not have any new information to provide to the board at this time. Mr. Wilkinson stated that the public hearing would remain open.

#### Finkle (236.-1-128)

Addressed above.

#### Ward (225.-1-15.1)

Mr. Wilkinson stated that this is property located at 2049 Route 67 owned by the Ward brothers. Mr. Wilkinson stated that the property is 45± acres located on the south side of Route 67 and the east side of Maple Avenue. Mr. Wilkinson stated that the applicants are proposing a two lot subdivision to create one new building lot. Mr. Wilkinson stated that the proposed Lot 1A-1 will be 31.8± acres with 607 feet of frontage on Route 67 and will contain the existing house and outbuildings. Mr. Wilkinson stated that the proposed Lot 1A-2 will be 13.47± acres with 417 feet of frontage on Maple Avenue. Mr. Wilkinson stated that if approved, the newly created Lot 1A-2 will be offered for sale for a new home. Mr. Wilkinson stated that the board conducted a site visit on July 5, 2021 and minutes were prepared by the clerk Sue York. Mr. Wilkinson stated that at the last meeting the Board took lead agency status, completed the EAF and scheduled the public hearing for tonight. Mr. Wilkinson stated that the application has been referred to the town engineer and the Saratoga County Planning Board and comments have been received.

#### ZBA request for opinion

Mr. Wilkinson stated that the board received a request from the ZBA for an opinion on an application they received for a frontage variance. Mr. Wilkinson stated that the property is located at 720 Swaggertown Road and it has 375 feet of frontage. Mr. Wilkinson stated that there was a home on the property that burnt down and the applicant would like to subdivide the lot into two lots for two proposed building lots. Mr. Wilkinson stated that the ZBA did

not like the applicant's first proposal because the location of the proposed houses would create a "house behind a house" situation. Mr. Wilkinson stated that new plans have been submitted.

#### Zoning Report

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

#### Correspondence

Mr. Wilkinson stated that there are some upcoming training opportunities.

#### Town Board Liaison

Ms. Smith will provide a report during the business meeting.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Mitchell. All were in favor. Agenda meeting closed at 7:25 p.m.

### **BUSINESS MEETING**

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

#### Minutes

Mrs. Wood made a motion to approve the draft of the June 21, 2021 meeting minutes with changes incorporated. Mr. Riedinger seconded the motion. All were in favor. Mr. Mitchell abstained from the vote.

Ms. Szurek provided comments to the site visit minutes of July 5, 2021. Ms. Szurek made the motion to approve the draft of the July 5, 2021 site visit minutes with changes incorporated. Mr. Mitchell seconded the motion. Mrs. Wood abstained from the vote.

### **PUBLIC HEARING (7:30 P.M.)**

#### **Ward (225.-1-15.1)**

Mr. Wilkinson stated that this is a proposal for a subdivision on Route 67, Town of Charlton, Saratoga County. Mr. Wilkinson stated that the legal notice was published in the Daily Gazette on July 12, 2021 and notices were sent to the adjoining property owners on July 7, 2021.

Mr. Wilkinson reviewed the public hearing process.

Mr. Wilkinson opened the public hearing.

Dave Bogardus, Northeast Land Survey and Land Development Consultants, PC: The Ward property is on Route 67 and Maple Avenue. They are dividing a 44 acre lot into two parcels. (Mr. Bogardus showed the boundaries on the drawing). They are proposing to cut out a 13 acre parcel. It is in the AG District. It has wetlands which are DEC. They have been delineated and mapped and approved. This project poses no impact on the wetlands whatsoever. There is an existing driveway there that was put in in 1985. Perc tests have been done and are on the drawing. The area of the house will be back in here, and this will be the driveway and this is the wetlands boundary. The soil is suitable for septic. The 13 acre lot will be for a proposed house and be offered for sale. The purchasers are here tonight. The Ward house will be put up for sale.

Jay Wilkinson: Thank you. At this time I open it up to the public. If there is anyone here from the public that would like to ask questions or speak about the proposed Ward subdivision on Maple Avenue.

Jill Flinton, 2290 Maple Avenue: I wanted to see the map. I have a question. The postcard notification said this was a minor subdivision. The last time there was a subdivision on the corner lot at the corner of Route 67 and Maple Avenue. There was another one on the other side. It is my understanding that 3 lots is a minor subdivision and anything subsequent is a major subdivision. So my question is, is this a major or a minor subdivision?

Jay Wilkinson: It is still a minor subdivision. We went back and looked at that and we did find that at the last month's meeting and I have all the dates. It has to be within 15 years and it doesn't fall into that because of the one lot that is east of his property closer to Peaceable Street, the first lot, I believe the name is Ivy that was done first. Then there were the other lots and they did a lot line change. Any more after this yes, it will be a major subdivision.

Jill Flinton: My understanding is that when the first time I was notified of a public hearing it was in 2017 and that was the proposal to cut three contiguous lots from my property line up to Route 67. They could not get that third lot because of wetlands so that became a two lot subdivision. Subsequent to that the other lot, the Ivy lot, became the third piece. Now we have another piece coming off. So is that the third piece coming off or is that over three pieces coming off there.

Jay Wilkinson: It has to be more than 4. So he is right at the threshold now. Anymore and he is going to be a major subdivision.

Jill Flinton: Inaudible. There are ongoing concerns for many years. I have no ill will. Wetlands are a concern. I heard there are no issues with the wetlands. It has been an ongoing issue. My lot was adjusted without my knowledge. I purchased my lot in 2006 at what I believed was 1.9 acres but the most recent tax roll has me at 1.71 acres. So I lost .2 acres. I don't know if that is because of the 60 foot clearance between my property and the Gauthier property. I haven't been able to go to the County. I am worried, am I going to lose more property? I just want quite non-partying neighbors. Those are my concerns.

Dave Bogardus: This is the last Ward subdivision.

Jay Wilkinson: I just looked in our regulations and if you look at it, it states greater than 4 single family homes. So this is the fourth one. He is done.

Mr. Wilkinson, Mrs. Flinton and Mr. Bogardus approached the drawings to discuss possible discrepancies with the markings.

Jay Wilkinson: Does anyone else have any questions on the Ward property public hearing?

John Karm, 2126 Cook Road: I can't hear. How many homes are being built now?

Jay Wilkinson: One single family home going on the 13 acres.

John Karm: That's for Cook Road?

Jay Wilkinson: No this is Maple Avenue.

Jay Wilkinson: Anyone else? Quick question for our counsel before I close the public hearing. We have a permit from DEC for the driveway. I am sure you have looked at the permit. It appears not to be signed. I don't know how we move forward with that. My concern is that if we close the public hearing I start the 62 day clock. I don't know if that document is valid and we move forward with it or do we have an issue with it and do we have to get more clarification why it's not signed. We don't have a filed copy. I would like to close the public hearing but I don't want to start a clock running that would cause a problem as we go forward.

Bill Keniry: First you are absolutely correct; it is an unsigned version of the permit. First instance it may be that the representative Dave Bogardus may be able to produce the signed copy. Second instance it could be resubmitted to DEC and ask for a signature. If you close the public hearing and then require the signed permit to be produced, it would have to be produced within the allotted time. If the intent is to go beyond the time frame or they can't satisfy the requirement, the board can agree with the applicant to stop the 62 day clock to afford the applicant the opportunity to get what the board is requiring. The board can also take action contingent upon getting the signed permit.

Dave Bogardus: I have never seen it. I was in the hospital. I believe it is a valid permit.

Bill Keniry: It is not effective without the signature.

Dave Bogardus: I don't think there is anything I can do.

Jay Wilkinson: Can we agree that if I will close the public hearing and we get close to the 62 days and we still cannot produce the permit that is signed or you can get it signed, we will just extend it? Can you speak on your applicant's behalf and we will push things out.

Dave Bogardus: I can have DEC look into their records.

Jay Wilkinson: So you can agree that we will extend it if we get to the 62 days and we don't have an answer from DEC or whatever may be the case. I'm sure you can resolve this.

Dave Bogardus: Ok.

Anne Cabral, prospective buyer of the new lot: I called DEC. That's where the documents you do have came from. I was told that their records have been purged due to their age and they do not have a signed permit in their records. I was told that they could print off the application they have on file and give it to the owner. I called Mr. Ward and he said he gave all of the documents he had. So between the owner and DEC that permit was what I could come up with.

Chris Mitchell: Somebody forgot to sign it.

Anne Cabal: The person I spoke to at DEC believes that it was signed.

Chris Mitchell: So the copy they gave is unsigned. It shouldn't be hard to get a signature from DEC if it's valid.

Mr. Wilkinson made a motion to close the public hearing. Mr. Mitchell seconded the motion. All were in favor.

Public Hearing closed at 8:00 p.m.

**Finkle (236.-1-128)**

Jay Wilkinson: This public hearing has been left open. This was for the Finkle property on the east side of Jockey Street, Town of Charlton, Saratoga County. We had a legal notice posted in the Gazette on June 14, 2021 and cards notifying adjoining property owners were mailed on May 27, 2021. We had people ask questions at last month's meeting. We left the public hearing open for the reason that Mr. Finkle needed to get the wetlands verified by DEC which he has done. We didn't want to start the clock on the 62 days. If anybody has any questions about the Finkle property, first we will ask Mr. Finkle to come up and give a short presentation and then you can ask questions, if there is anything else since we did leave it open and go from there.

Bob Finkle: This is a 3 lot subdivision to create two new lots from the 18 acre parcel that has been in my family for almost 40 years. The existing farmhouse to the north and two 2 acre lots to the south. The wetlands have been located and we had a determination done from DEC and there are some ACOE wetlands which the DEC checked. The lots are facing Jockey Street and sight distances have been done.

Jay Wilkinson: Thank you. Again this is the opportunity for the public if they have any questions about this proposed subdivision on Jockey Street. You can come up to the podium, state your name and address for the record and we will try to get your questions answered.

Mr. Wilkinson made a motion to close the public hearing. Mr. Riedinger seconded the motion. All were in favor.

Public Hearing closed at 8:03 p.m.

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

Jay Wilkinson: This public hearing has been left open for a number of months now. The original public hearing was in February. The public notice was originally posted in the Daily Gazette on February 8, 2021 and cards notifying adjoining property owners of the subdivision were mailed on February 1, 2021. We have had the public hearing open since February. We have been collecting information and we still are. We are a ways from making any kind of decision because we still need the applicant to supply us with some more information that we requested back in March in a letter to the applicant asking for more information regarding the wetlands, that they all be delineated and verified by DEC. We also asked for a hydrology study on the property because we heard from adjoining property owners about the problems with water and wells and potable water on the street. We also heard a lot of concerns about traffic and we did ask the applicant to perform a traffic study. I did hear from the applicant's representative today, Santo Associates, that they have no new information to provide to us tonight. Due to all of the rain we have had they can't get the wetland biologist in there. He has started and has done all the front of the property along Cook Road has been delineated. He needs to do the back of the property. He had nothing on the traffic study and he said for the hydrology study, they have contacted the engineer to do that but things are all backed up because of the weather. We will take any new information or if anyone has questions or want to add something new to the record. This is your opportunity and we would like to hear from you.

John Karm, 2126 Cook Road: Could you please explain how many homes were on the plan originally and how many homes are on the plan now.

Jay Wilkinson: It is still 7 and his existing home will make it 8. Seven new homes are being proposed starting at the corner of Route 67 and coming south on Cook Road. He hasn't eliminated anything. He did some preliminary work with the wetlands and the latest map that he showed last month was that he did move things around. Some houses that were in the front moved back and the one at the corner of Route 67 and Cook Road actually moved closer to Route 67 because the wetlands where he wanted to put the house were much more extensive than what they thought so he had to move it more toward Route 67. All of the houses that he is proposing meet our zoning criteria. Everything fits but we don't know how it's going to fit on these proposed lots. On the lots closest to the Nachbar residence down there, the first house was going to be in the front; after the wetland biologist was there it got moved to the back. It's going to be 600 feet back. It is a significant distance. The one that

was next to it, which is lot 2, was going to be in the back and is now up front. So the house locations are moving around. The applicants representative has gotten a wetlands biologist to look at it and now it has to be verified by DEC. That makes two problems, he hasn't had it verified yet and secondly he hasn't done all of the wetlands that we asked. We are in a holding pattern. Hopefully he can get the information for next month so we can continue to move on.

John Karm: On the north side, on the corner of Cook and Route 67, is an orchard there. Is there any special consideration for that?

Jay Wilkinson: There is nothing in our zoning that would prohibit that person from cutting those trees down if they choose to. We have asked him, and we talked about numerous times, you will see it in the record, about maintaining the rural character. I asked him and I wrote in an email to Santo Associates and I had also said it in one of the meetings that we wanted to move that house up at the corner of Route 67 and Cook Road as far south as it could be. I said you are moving it more to the north and we want to maintain the rural character along that corridor and if you look in our comprehensive plan that is what we are trying to do is maintain rural character and the scenic views that we have in the town. I said you are going to be able to see a house if you keep moving it to the north. He specifically asked where it is required and it is not that it is required it is just that this is something that you should try to do. That is what we are up against. It would be nice if the zoning had more "shalls" in it and less "shoulds" and have more "teeth" in it. For the people in the room, this would be a good time to go to the town board and say that you would like to see the zoning changed and these are the things we are interested in and we would like to preserve the rural character and we could do that with more setback from the road, wider lots, bigger lots, more road frontage.

Jay Wilkinson: We will adjourn to next month.

## **SUBDIVISION APPLICATIONS**

### **Ward (225.-1-15.1)**

Dave Bogardus appeared before the Board.

Mr. Wilkinson stated that the comment of "no significant impact" has been received from the Saratoga County Planning Board. Mr. Wilkinson stated that comments were also received from the town engineer. Mr. Wilkinson stated that comments one and two are ok. Mr. Wilkinson stated that comment three pertains to the DEC driveway permit.

Mr. Bogardus stated that the permit came from DEC and he believes that it is still valid.

Mr. Riedinger stated that he does not see why the DEC would have an issue with signing a copy of the permit.

Mr. Mitchell agreed.

Ms. Szurek stated that the town engineer has raised an issue with the driveway permit and she believes that has to be addressed to move forward. Ms. Szurek suggested getting a letter from the DEC.

Mr. Keniry stated that there is indication that the receipt date is 2003 and the application date is 2002. Mr. Keniry stated that the question becomes was the work done within the permitted period. Mr. Keniry stated that the focus should be on was the work performed in accordance with the permit. Mr. Keniry stated that driveways over 500 feet require specific requirements and engineering standards to be in compliance with supporting an emergency vehicle.

Ms. Flinton stated that there was no work on the driveway except for within the past 5 years.

Mr. Bogardus stated that the DEC inspects the work and then terminates the project.

Mr. Wilkinson stated that the DEC needs to sign off on the road and the wetlands so there should be some record of a signed permit to cross the wetlands.

Mr. Wilkinson stated that the board needs some kind of verification before moving forward. Mr. Wilkinson stated that the road verification can be done now. Mr. Wilkinson stated that the board will need the wetland crossing permit verified and the engineer to review the road to ensure that a 50,000 pound vehicle can be supported. Mr. Wilkinson stated that the septic also presents an issue. Mr. Wilkinson stated that the proposed house needs to be sited so that the septic can be designed to suit what they are proposing.

Mr. Bogardus stated that there is no septic there now and no discharge now.

Mr. Cabral, the person living in the trailer located on the property, stated that the waste is hauled away to Mechanicville to a waste water treatment plant.

Mr. Wilkinson made a motion for the board to enter into executive session, seconded by Mrs. Wood. All were in favor.

The board entered into Executive Session at 8:30 p.m.

Mrs. Wood made a motion for the board to come back from Executive Session, seconded by Mr. Mitchell. All were in favor.

The board returned from Executive Session at 8:45 p.m.

Mr. Wilkinson stated that the board needs some kind of verification before the application can move forward. Mr. Wilkinson stated that the wetlands permit needs to be verified and signed by the DEC and an engineer needs to look at the road to verify that a 50,000 pound emergency vehicle can be supported.

Mr. Bogardus asked if the engineer says something more is required to support the emergency vehicle, what are the options.

Mr. Wilkinson stated that the applicant will have to fix it.

Mr. Wilkinson stated that another issue that has been presented is that there is a violation on the property since there is a trailer with people living in it on the proposed new lot that has not yet received approval for subdivision. Mr. Wilkinson stated that the board cannot approve a subdivision with a violation on the property. Mr. Wilkinson stated that he received a letter from the zoning department about the violation.

Mr. Keniry read the correspondence between the zoning office and Mr. Wilkinson.

Mr. Wilkinson stated that in order to move forward the applicant needs to come up with a plan to get the lot in compliance with the zoning ordinance. Mr. Wilkinson stated that the septic system could be put in now so that it could be utilized and a well would need to be put in. Mr. Wilkinson stated that there also needs to be a plan to get in compliance with the DEC. Mr. Wilkinson stated that the board cannot approve a non-zoning compliant condition.

Mrs. Cabral asked if they could live in the trailer while they are building their house.

Mr. Wilkinson stated that a variance would be required from the ZBA for that.

Mr. Mitchell suggested vacating the property until the subdivision is approved.

Mr. Keniry stated that there are multiple issues with the property and you cannot have multiple residences on one parcel.

Mr. Mitchell stated that if they vacate that takes away the violation.

Mr. Wilkinson stated that the board needs the driveway verified, the signed permit from the DEC and a plan or vacation of the property.

**Finkle (236.-1-128)**

Mr. Finkle appeared before the Board.

Mr. Wilkinson stated that new maps have been received showing the sight distance from the proposed driveway and the DEC wetlands have been located and the buffer has been placed on the drawing.

Mr. Wilkinson stated that there is a slight issue with the wetlands buffer for the ACOE wetlands. Mr. Wilkinson stated that the board sees wetlands as wetlands regardless of who has jurisdiction of them. Mr. Wilkinson requested that the leach field for the septic system on the proposed Lot 2 be moved to the south to maintain the 100 foot wetland buffer.

Mr. Finkle stated that he would do that.

Ms. Szurek questioned the check zone areas marked on the drawings and whether they met the wetlands requirement.

Mr. Finkle stated that those were just a setting that could be placed on the drawings and that layer could be turned off to avoid confusion.

Mr. Wilkinson stated that would be fine to remove.

Mr. Wilkinson stated that the wetlands have been delineated and the houses will be staggered as the board requested. Mr. Wilkinson stated that the board has a complete application. Mr. Wilkinson requested that a note be placed on the drawing that the proposed houses for lots 1 and 2 have to be staggered a minimum of 50 feet distance.

Mr. Finkle stated that was fine.

Mr. Keniry suggested wording the note that the leach field on Lot 2 be rotated in a southerly direction so that it is no less than 100 feet from the ACOE wetlands.

Mr. Wilkinson made a motion to approve the Finkle subdivision located at 4136 Jockey Street, tax map number 236.-1-128, contingent upon a line be shown 100 linear feet from the most westerly boundary of the ACOE wetland area such that the leach field is moved in a general southerly direction and the two new houses have front setbacks that shall be staggered a minimum of 50 feet so that the houses do not line up and are at a same distance from the road, as Resolution 2021-08 and authorize the chairman to sign the mylars. Mr. Mitchell seconded the motion. Roll call vote was taken:

Mr. Mitchell – aye

Mr. Riedinger – aye

Mr. Wilkinson – aye

Ms. Szurek – aye

Mrs. Wood – aye

Motion carried.

**Resolution 2021-08 was made.**

Mrs. York stated that the park fee of \$1,200.00 each, or \$2,400.00 would need to be paid.

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

Mr. Wilkinson addressed this application during the public hearing.

**ZBA Request for opinion**

The Board reviewed the application. Mr. Wilkinson stated that he would draft a letter for the board to review.

**ZONING REPORT**

The Board reviewed the report.

**CORRESPONDENCE**

None.

**TOWN BOARD LIAISON**

Ms. Smith stated that there would be a concert in the park next to Town Hall next Tuesday from 7-9.

Ms. Smith stated that in June sales tax revenue was up 61% which is an increase of 27% for 2021.

Ms. Smith stated that the town board has appointed 5 new members to the broadband subcommittee.

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