

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

Minutes of the Planning Board Meeting – September 20, 2021

Chairman Jay Wilkinson called the meeting to order at 7:08 p.m. at the Charlton Town Hall.

Present: Jay Wilkinson, Chairman, Dawn Szurek, Connie Wood, Bruce Gardner, Chris Mitchell, Dave Crudele, 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 July 19, 2021 meeting minutes needed to be approved. Mrs. York has previously provided comments. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

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

Mr. Wilkinson stated that no new information has been provided.

Mr. Wilkinson stated that he has spoken to Drew Schaufert of Santo Associates and they do not have any new information to provide to the board at this time. Mr. Wilkinson stated that the wetlands delineation is done and he will be placing them on the map and sending them to DEC for review. Mr. Wilkinson stated that anyone that wants to speak is welcome to. Mr. Wilkinson stated that he believes that Karen Staulters, whose mother is a resident of Cook Road, will be providing the board with some information. Mr. Wilkinson stated that the public hearing would remain open.

Ward (225.-1-15.1)

Mr. Wilkinson stated that this Public Hearing was also left open due to issues discussed at the July meeting. Mr. Wilkinson stated that new maps have been provided. Mr. Wilkinson stated that we have received new information that Dave Bogardus has provided. Mr.

Wilkinson stated that the significant issues with this subdivision were zoning violations. Mr. Wilkinson stated that he has received a letter dated August 5, 2021 from the zoning department that the Ward property does not have any current violations and is followed up with an explanation of why he says there are no violations. Mr. Wilkinson stated that the previous email sent by the zoning office dated July 13, 2021 was recanted. Mr. Wilkinson read the July 13, 2021 email into the record. Mr. Wilkinson stated that this email was in response to an email sent after the site visit citing concerns of the board. Mr. Wilkinson stated that the August 5, 2021 email from the zoning office now says that there are no violations. Mr. Wilkinson stated that from the road, nothing has changed on that property. Mr. Wilkinson stated that the board can move forward with the application.

Mr. Wilkinson stated that he has provided everyone with copies of the information that Dave Bogardus provided from DEC regarding the permit issued. Mr. Wilkinson stated that the applicant has also supplied a certified document that the driveway will meet the 50,000 pound vehicle limit.

Mr. Wilkinson stated that more information has also been provided about the wetlands.

#### Subdivision Applications

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

Addressed above.

Ward (225.-1-15.1)

Addressed above.

#### ZBA request for opinion

Mr. Wilkinson stated that the Davidson application is back before the ZBA with some revisions. M. Wilkinson stated that the board could review the changes and provide a comment letter.

#### Zoning Report

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

#### Correspondence

None

#### Town Board Liaison

Ms. Smith was not present

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Mitchell. All were in favor. Agenda meeting closed at 7:16 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 July 19, 2021 meeting minutes with changes incorporated. Mr. Riedinger seconded the motion. All were in favor. Mr. Crudele abstained from the vote.

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

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

Jay Wilkinson: I did talk to the representative from Santos Associates, who represents Mr. Heflin. They won't be here tonight. He said he may come but probably wouldn't. They have no new information to submit right now. The only thing he could offer is that the wetlands have all been delineated now. It was finished last week he said. Now he has to get them on the maps and then after that it would go up to Region 5 of DEC for their concurrence. They would look it over and do they agree or not agree. He did say he plans to be at the October meeting and he would present new maps with the information with all the wetlands. This is all the wetlands on all the property for all 76 acres. He has given us the drawings that we had before with preliminary wetlands, but they were all along the road where the lots were going to be. We said no, we need to see it all and that has been done now. He didn't think he would have DEC approval in October. He said it was pretty doubtful of that concurrence of the wetlands or any feedback from them but that is where it stands. The public hearing is still open and I would like to hear from anybody that has anything that they would like to add for the record. We are having problems with the microphones and it makes it hard for our recording secretary to get everything so you can come down wherever you feel comfortable and speak into this microphone or closer. We want to make sure that we get all of your comments.

Karen Staulters, 2140 Cook Road: I'll talk real loud and even give you a copy.

Jay Wilkinson: That would be great.

Karen Staulters: This is my copy and I will be referring to some maps that I have.

Jay Wilkinson: Can you state your name for the record.

Karen Staulters: My name is Karen Staulters and I am here on behalf of my mother Barbara Nachbar, 2140 Cook Road.

Ms. Staulters read the attached letter and reviewed the attached maps in her presentation.

Alexander Smith, 2080 Cook Road: I wanted to first follow up on my comments that I provided in writing on March 12<sup>th</sup> and again on May 17<sup>th</sup>. The March comments that I provided address the presence of the regulated wetlands, the potential compromise to existing water supplies and the lack of adherence to the town's comprehensive plan for subdivision. My May comments identify inaccuracies and delinquencies in the landowner's subdivision application and the incomplete nature of the short environmental assessment form that was submitted. I also requested in those comments that the extent of the potential land being disturbed in the subdivision itself be listed as a Type I SEQRA action and not as a Type II and so I was curious if the town planning board had an idea of when a response to those comments would be addressed. Will they be addressed in written form or a little bit more organic than that?

Jay Wilkinson: We talked about the SEQRA before. I will let our counsel answer that. We said that we have an opportunity to go back and look at that at any time and change that. I think we are looking, the way the board feels, we don't have all the information from Mr. Heflin yet or his consultants. It looks like we may have that next month and at that point would be the time. I wasn't planning on responding in written form. We would answer it in the meeting on the record.

Bill Keniry: That is correct.

Jay Wilkinson: Feel free to bring it up at the next meeting again. This project is very large. It's got multiple facets to it and we are trying to get all through it and every month we are still trying to collect information to understand where we are going. It has been very slow coming. This month is one year ago when they first came in with their idea for this subdivision. We would like to have the information faster too so that we can move this along. We are just treading water.

Alexander Smith: I appreciate that. (Inaudible). On the matter of the filling of the wetlands and there was discussion about the illegal filling of the wetlands. I put in a foil request and received a copy of the letter from DEC to the landowner and followed up on the regulations that are stipulated in the environmental conservation law and nothing in that letter says anything about being sent the permits required to actually do the filling of the regulated wetlands. (Inaudible). So they have no record of findings. So what it does mean is that if the town approves a subdivision of that property it means that it is providing approval of a subdivision of illegally filled wetlands. In part we are not able to get a response from DEC. I spoke with an environmental attorney and he said the likely reason for not getting any response from DEC on this is because it is an ongoing investigation. My last comment, in review of the foil request that I asked from the town planning board, I did see some comments from the town engineer on the potential impact of the subdivision on ground

water recharge and, I want to say this with the utmost respect, I think that the comments that the town engineer has are a misrepresentation of how ground water flows and how recharge rates actually take place. There was a comment from the town engineer about usually a home only has a very small zone of influence over the groundwater recharge. I have a doctorate from Syracuse University in water resources, I am not trying to flout that, I am just trying to say that from my own experience working in the field for the last 20 years I know that is an inaccurate statement. You could think about ground water as a bath tub with it being filled with water and if you only have one drain it drains pretty slowly but if you have got a lot of drains it's going to drain a whole lot quicker and is going to take a lot more effort for that ground water to recharge. I have experienced that myself this year. It was a very wet year. We all experienced it. I had to drill a new well just last week. So now I am at 300 foot of depth and it yields less than 2 gallons a minute and just barely gets by and in total I will be \$20,000.00 in the hole to do that entire amount of work. The thing that I caution the planning board on is approval of these additional total of 8 lots. There is real concern in the community on Cook Road that the recharge of our ground water is going to be such that it won't just be me drilling a new well, and I drilled a well in a very wet year. So then it brings up the question of where we put our liability. Is it with us the homeowner is it with the town or is it the landowner of the subdivision. Those are my three comments. I appreciate the time.

Connie Wood: How do you measure how much water there is deep down. Are there maps of this? How do you get an idea of how much water is really down there?

Alexander Smith: So the US Geologic survey does ground water aquifer mapping. Towns all over the state contract with the US Geological Survey and do their own ground water aquifer mapping to understand exactly where the water is, how much water there is, how fast it recharges, and what the predictions are for the future. A lot of it is done by drilling test wells that are monitored for the amount of recharge and how quickly it comes back. Also water quality. But for the most part it tends to be the USGS.

Connie Wood: Do they have them for Charlton?

Alexander Smith: I would have to check.

Connie Wood: I know they have them for Rotterdam because years ago there was a lot of talk about water, they have a huge aquifer in Rotterdam, and when they put that mall up years ago that was a big concern.

Jay Wilkinson: The maps are available for Charlton. I have actually seen them and used them to drill to find water, I have 4 wells on my property. They are there and if you get the right person they are very helpful. Maybe you know people in the office but they were very helpful with me years ago in the 90's to find water. It does show you where the wells are and they tell you what they produce. They don't have everybody, I don't know why, the maps were older, probably from the 70's when I got them.

Connie Wood: I think that anytime you drill a well, whoever drills that well must report it to the state.

Alexander Smith: Yes, DEC keeps a record of all the wells that are drilled.

Jay Wilkinson: We have some of that information. In July, Dawn Szurek foiled the State and we put it into a table and I handed it out to everybody. That will be discussed as we go forward.

Chris Mitchell: There are ACOE aquifer maps at the County. I had a question, how deep was your well?

Alexander Smith: 300 feet.

Chris Mitchell: What was the strata? Was it limestone or was it shale?

Alexander Smith: Shale.

Chris Mitchell: Shale all the way?

Alexander Smith: Yes. Methane. I have now invested, in my basement, a good \$20,000 in treatment and in the well itself probably \$12,000.

Chris Mitchell: I know the other side of 67 is all limestone.

Alexander Smith: I never had a well water issue. In talking to the previous owner, they never had a well issue until the Schrader land started to have wells drilled across from me. I didn't speak up at that planning board meeting. I didn't even show up. I wasn't going to make that mistake again. So that is my concern. Even if it is a distance away, what happens to the homeowners across the street, their wells and then if they drill another well they get closer to me and then I just drilled another well, will I have to drill another one?

Connie Wood: Schrader's have only put in two houses on that property.

Alexander Smith: Within a few months I had a clay issue and methane.

Josie Jackson, 2173 Cook Road: With all the water issues on Cook Road, what is the possibility of us getting town water? (Inaudible) I now have chemistry in my basement with a retention tank and a two foot filter that I have to replace every three months. (Inaudible)

Jay Wilkinson: You would have to go and talk to the town board about that. You would have to go to one of the town board meetings. They meet on the second and fourth Mondays of the month. They do have privilege of the floor. You could ask them about the possibility of water. The planning board has nothing to do with water.

Josie Jackson: I just want to point out if someone applies to build a house and the regulations are met then our hands are tied. (Inaudible). Bottom line is that we have problems with water and is it going to be Mr. Heflin or the town but someone has to resolve this. We are taxpayers. Someone has to do something about the water. We need help with that.

Jay Wilkinson: Every one of the town board members are water commissioners of the water district. They are qualified to answer that and what the plan is as we build out the town. I don't know, I haven't heard anything, but that would be the people to ask.

Jay Wilkinson: Last call for the Heflin public hearing. These are the files that Dawn Szurek foiled. If you don't have a copy please take one. Mr. Smith you are welcome to a copy. So if no one has anything else on the Heflin public hearing I am going to adjourn the public hearing until the October 18, 2021 meeting. It will remain open and hopefully the applicant or the representative will be here next month and we can continue on with this discussion of gathering information. To be clear, the board is in no position to make any decisions at this time because we don't have information that we need to do that.

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

Jay Wilkinson: This is a public hearing that remains open because of the open issues that we had in July. We did get some answers in the meantime. Is anyone here to speak on the subdivision of the Ward property on Maple Avenue? This is a 12 acre parcel that Mr. Ward is cutting off from approximately 45 acres. His house fronts on Route 67. The proposal is to be for a single family home to go back on that property.

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

Public Hearing closed at 8:00 p.m.

#### **SUBDIVISION APPLICATIONS**

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

Dave Bogardus appeared before the Board. Mr. Bogardus posted the new drawing. Mr. Bogardus stated that they received a letter from DEC regarding the permit and there is a letter stating that the road is sufficient for a 50,000 pound vehicle. Mr. Bogardus reviewed the changes to the map.

Mr. Wilkinson stated that additional information has been supplied by the applicant concerning the issues with the driveway and the DEC permit. Mr. Wilkinson stated that the comments in the letter from the town engineer have been addressed. Mr. Wilkinson inquired if the campers were all removed.

Mr. Bogardus stated that he believes that the trailers are gone.

Mr. Wilkinson stated that the Board has a complete application. Mr. Wilkinson stated that the information requested has been submitted.

Mr. Wilkinson made the motion that the Planning Board conditionally approve the application in this unique case for subdivision approval by Norman Ward, dated 6/4/21 situated at 2049 Route 67 and Maple Avenue, Town of Charlton, Tax Map Number 225.-1-15 and as depicted on a map entitled Subdivision of Lot Number 1A of Norman Ward, et al, prepared by Northeast Land Survey and Land Development Consultants and dated July 14, 2021 be conditionally approved, on the following conditions:

1. Prior to issuance of a building permit, the applicant shall verify in writing to the satisfaction of the Code Enforcement Officer of the Town of Charlton, that the DEC permit referred to in the letter of the Town designated engineer dated July 12, 2021, has in all respects been complied with, in accord with the requirements of the Town designated engineer, stated in his letter dated July 12, 2021, concerning this application.
2. In accord with the letter of the Town designated engineer dated July 12, 2021, no building permit shall be issued until the Town designated engineer has first approved in writing the required statement from a professional engineer on behalf of the applicant, verifying that the crushed stone driveway can support the weight of a 50,000 – pound emergency vehicle.
3. In accord with the emails/letters from the Town Code Enforcement Officer, dated July 8, 2021 and August 5, 2021 and the letter of the Town designated engineer dated July 12, 2021, all unoccupied campers and travel trailers removed from the premises shall remain removed from the premises.
4. Strictly based on the statement of the Code Enforcement Officer, by letter dated August 5, 2021, no unconditional certificate of occupancy shall be granted, unless and until all campers/travel trailers have been removed from the premises within 30 days after the issuance of a certificate of occupancy.
5. The Chairman is authorized to sign the mylar as Resolution 2021-09, on the applicants satisfaction of the conditions that: any and all remaining submission requirements be complied with and completed, and payment of any sums due be made in full to the Town designated engineer escrow, and any and all fees due to the Town be paid in full.

Mr. Mitchell seconded the motion. Roll call vote was taken:

Dave Crudele – aye  
Jonathan Riedinger – aye  
Dawn Szurek – aye  
Chris Mitchell – aye  
Connie Wood – aye  
Bruce Gardner – aye  
Jay Wilkinson – aye

Motion carried.



**Resolution 2021-09 was made.**

Mr. Wilkinson stated that once all of the conditions have been complied with, Northeast can send a letter to the town engineer.

**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 was not present.

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

The meeting was adjourned at 8:32 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary