

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

Minutes of the Planning Board Meeting – May 21, 2018

Chairman Jay Wilkinson called the meeting to order at 7:25 p.m. at the Charlton Town Hall.

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

**AGENDA MEETING**

Mr. Wilkinson stated that there is a quorum.

Minutes

Mr. Wilkinson stated that the draft of the April 16, 2018 meeting minutes needed to be approved. Mrs. York has previously provided comments. Mrs. Szurek provided comments. No other comments were provided. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Mr. Wilkinson stated that the Board conducted a site visit to the Hodgkins parcel on April 12, 2018. Mr. Wilkinson stated that the Board forgot to approve those minutes last month. Mr. Wilkinson stated that the Board could vote on the minutes during the Business Meeting.

Public Hearings

Mr. Wilkinson stated that there were no Public Hearings.

Subdivision Application for a lot Line Change

Hodgkins and Van Guilder (246.-1-1.12 & 62.11)

Mr. Wilkinson stated that this is property owned by Bruce Hodgkins. Mr. Wilkinson stated that this is a 54 ± parcel of vacant land located on the north side of Charlton Road. Mr. Wilkinson stated that Bruce and Carolyn Hodgkins own the adjoining 3.72 acre parcel located at 910 Charlton Road. Mr. Wilkinson stated that the proposal is to increase the acreage of 910 Charlton Road to a 5.54 acre parcel decreasing the vacant land parcel to 52.2 acres. Mr. Wilkinson stated that the Board had a site visit last month and proposed changes

to the applicant. Mr. Wilkinson stated that at the April meeting the applicant changed the easement to run with 910 Charlton Road. Mr. Wilkinson stated that the drawing has been revised as of May 4, 2018 to what the Board requested.

#### Subdivision Applications

##### Smith and Smith (226.-1-72)

Mr. Wilkinson stated that this is a 30.69 acre parcel located on Peaceable Street. Mr. Wilkinson stated that the applicant is proposing to subdivide the parcel into two lots. Mr. Wilkinson stated that Lot 1 will be a 21.85 acre parcel and will contain the existing house and improvements and the newly created Lot 2 will be a 8.8 acre parcel for a new single family house for the applicant's son.

##### Gridley/Katz (236.-1-127)

Mr. Wilkinson stated that this is a 5.5 acre parcel located on Packer Road. Mr. Wilkinson stated that the applicant is proposing to subdivide the parcel into two lots. Mr. Wilkinson stated that the newly created Lot 1 will be a 2.3 acre parcel for a new single family house and Lot 2 will be a 3.2 acre parcel and will contain the existing house and improvements.

##### Rossdeutscher/James and Van Guilder (246.-3-108, 107)

Mr. Wilkinson stated that this is a proposal for a lot line change between the applicant's parcel located at 47 Vines Road and the James parcel located at 51 Vines Road. Mr. Wilkinson stated that 47 Vines Road will be reduced from 17.7 acres to 17 acres and 51 Vines Road will be increased from 11.8 acres to 12.5 acres. Mr. Wilkinson stated that the applicant's proposal also includes a three lot subdivision of the 47 Vines Road parcel. Mr. Wilkinson stated that the proposal creates two new lots. Mr. Wilkinson stated that Lot 1 will be a 9.8 acre parcel and contain the existing house and improvements. Mr. Wilkinson stated that the newly created Lot 3 will be a 2 acre parcel and the newly created Lot 4 will be a 5.1 acre parcel. Mr. Wilkinson stated that the ZBA granted an area variance for Lot 1 because it does not meet the requirement of 200 feet of frontage.

#### Zoning Report

Mr. Wilkinson stated that the Board has not received the report.

#### Correspondence

Mr. Wilkinson stated that the Board has received correspondence from the Unrein's including correspondence between Stewarts and themselves. Mr. Wilkinson stated that there are concerns about the plantings and screening of the property. Mr. Wilkinson stated that the Planning Board does not have to take any action. Mr. Wilkinson stated that the Town

Board is the lead agency and it will be worked out between them, Stewarts and the neighbors.

#### Town Board Liaison

Mr. Grasso was present.

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

### **BUSINESS MEETING**

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

Mr. Wilkinson stated that Board member Marilyn Phillips will not be able to attend meetings any longer and Bruce Gardner will be her replacement.

#### **Minutes**

Mr. Wilkinson made a motion to approve the draft of the April 12, 2018 site visit minutes. Mrs. Wood seconded the motion. All were in favor. Mr. Gardner abstained from the vote.

Mrs. Wood made a motion to approve the draft of the April 16, 2018 meeting minutes with changes incorporated. Mr. Kadlec seconded the motion. All were in favor. Mr. Gardner abstained from the vote.

### **PUBLIC HEARING**

None.

### **SUBDIVISION APPLICATION for a LOT LINE CHANGE**

#### **Hodgkins and Van Guilder (246.-1-1.12 & 62.11)**

Mr. Rabideau appeared before the Board.

Mr. Wilkinson stated that the Board requested some changes to the applicant's proposal after the April site visit. Mr. Wilkinson stated that those recommendations were accepted by the applicant and a new drawing has been provided that is acceptable to the Board.

Mr. Wilkinson stated that at the March meeting the Board took lead agency status and waived the public hearing, engineering review and fees. Mr. Wilkinson stated that the Board also listed the action as an unlisted action with a negative declaration relative to

SEQRA. Mr. Wilkinson stated that the application was referred to the County Planning Board and a response of no significant impact was received.

Mr. Rabideau reviewed the drawings and the changes to the drawings with the Board.

The Board completed Part II of the EAF.

Mr. Wilkinson stated that the approval of this application has to be contingent upon the applicant's attorney working with Bill Keniry to determine the proper language for the easement and the filing requirements. Mr. Wilkinson stated that he will not sign off on the mylars until Bill Keniry is satisfied with the documents.

Mr. Wilkinson made the motion to approve the Bruce Hodgkins (246.-1-1.12) and Bruce and Carolyn Hodgkins (246.-1-62.11) lot line change contingent upon the easement being filed containing language to be approved by Planning Board counsel in advance and filed contemporaneously with the revised tax map as Resolution 2018-02 and authorize the chairman to sign the mylars. Mr. Kadlecsek seconded the motion. All were in favor. Mrs. Wood recused herself from the vote.

**Resolution 2018-02 was made.**

**Smith and Smith (226.-1-72)**

Justin Smith appeared before the Board. Mr. Smith stated that his parents were the owners of the property. Mr. Smith stated that his proposal is to take about 200 feet from the rear end of the property for the length of the property going west about 1300 feet to create an 8.8 acre parcel. Mr. Smith stated that the front 4-5 acres of the property is a field and his plan is to put his house in the field. Mr. Smith stated that the house would sit 300 feet back and he has already perked the area and it perked very well. Mr. Smith stated that the well would be located in front of the field to the south corner near the rear. Mr. Smith stated that the septic would be located on the south end of the property behind the house. Mr. Smith stated that he would like to build a 2 story 2000 square foot house with its own driveway. Mr. Smith stated that he thinks his proposal meets all of the requirements.

Mr. Wilkinson stated that the Town of Charlton's standard notes are required to be listed on the drawing. Mr. Wilkinson stated that there are some of the notes on the drawing but the well and curb cut notes would need to be added. Mr. Wilkinson stated that the drawing shows a barn on the property.

Mr. Smith stated that is going to be a garage.

Mr. Wilkinson stated that the drawing says pole barn and there are specific requirements for setbacks. Mr. Wilkinson referred to the Zoning Ordinance Table 4-2. Mr. Wilkinson stated that the pole barn does not meet the setback requirements.

Mr. Smith stated that his intention is to build a garage and he will relabel it on the drawing.

Mr. Kadlecek inquired if the proposed well could be moved farther back.

Mr. Smith stated that he can move it farther back.

Mrs. Wood inquired as to the location of the stone walls.

Mr. Smith showed the locations of the stone walls on the drawings.

Mr. Wilkinson asked Mrs. York to refer the application to the Saratoga County Planning Board and the Town Engineer.

Mr. Wilkinson suggested waiting for the letter from the Town Engineer before making changes to the drawings so that all of the changes could be made at once to lessen costs.

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

Mr. Wilkinson made the motion to schedule the Public Hearing for June 18, 2018 at 7:30 p.m. Mr. Kadlecek seconded the motion. All were in favor.

Mr. Wilkinson explained the Public Hearing process.

Mrs. York provided the Public Hearing cards to be brought back to Town Hall to be mailed.

**Gridley/Katz 236.-1-127)**

Mr. Rabideau appeared before the Board.

Mr. Rabideau stated that the property is located on the south side of Packer Road. Mr. Rabideau stated that their proposal is to subdivide the 5.5 acre parcel into two lots, with Lot 1 being 2.33 acres for a new single family house with onsite well and septic and Lot 2 being a 3.22 acre parcel containing the existing house and improvements.

Mr. Katz stated that he is currently waiting for the Certificate of Occupancy for the existing residence that will be located on the newly created Lot 2.

Mr. Wilkinson inquired about the contour lines.

Mr. Rabideau stated that the parcel is flat.

Mr. Wilkinson asked that the tax id number of the parcel be placed on the drawing.

Mr. Wilkinson asked Mrs. York to refer the application to the Saratoga County Planning Board and the Town Engineer.

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

Mr. Wilkinson made the motion to schedule the Public Hearing for June 18, 2018 at 7:45 p.m. Mr. Riedinger seconded the motion. All were in favor.

Mr. Wilkinson explained the Public Hearing process.

Mrs. York provided the Public Hearing cards to be brought back to Town Hall to be mailed.

**Rossdeutscher/James and Van Guilder (246.-3-108, 107)**

Mr. Rabideau appeared before the Board.

Mr. Wilkinson stated that this is a proposal for a lot line change between 47 Vines Road and 51 Vines Road and a three lot subdivision. Mr. Wilkinson stated that two lots are being created for single family homes. Mr. Wilkinson stated that Lot 1 will be the existing house and improvements on a 9.87 acre lot, Lot 3 will be a 5.13 acre lot and Lot 4 will be a 2 acre lot. Mr. Wilkinson stated that the ZBA has granted an area variance for Lot 1 since it does not meet the 200 foot frontage requirement.

Mr. Rabideau stated that this is a proposal for a 3 lot subdivision and a lot line change with the neighbor. Mr. Rabideau stated that Lot 1, 47 Vines Road was created by a subdivision in 2011. Mr. Rabideau stated that Lot 1 is 47 Vines Road, Lot 2 is the lot owned by the James from the 2011 subdivision (51 Vines Road), Lot 3 will be a 2 acre lot and Lot 4 will be a 5.13 acre lot. Mr. Rabideau showed all of the lots on the drawing. Mr. Rabideau stated that the lots proposed will be tied into the public water system and will have onsite septic systems. Mr. Rabideau stated that the lot line adjustment is highlighted on the drawing in yellow. Mr. Rabideau stated that they are adding a 7 ½ foot strip to 51 Vines Road along the driveway that is the equivalent of .6 acres. Mr. Rabideau stated that there was an easement to get to the stream but with the lot line adjustment the James will own the land and the easement is extinguished. Mr. Rabideau stated that the newly created lots have their own access.

Ms. Szurek inquired if on Lot 3, in the spring there is ponding. Ms. Szurek stated that the drawing does not have lines showing the grading.

Mr. Rabideau stated that the ponding is due to the thaw and is gone within a day or two.

Ms. Szurek stated that there would be concern for the septic system since it is such a tight lot and there will be another driveway there.

Mr. Rabideau stated that there was no ponding there and showed the area that typically ponds on the drawing. Mr. Rabideau stated that the proposed house location is 6-7 feet higher.

Ms. Szurek inquired if the septic system failed if there would be adequate space to relocate it.

Mr. Rabideau stated that they have plenty of room to relocate if necessary and that the soil conditions are great on the parcel.

Ms. Szurek stated that there is still an issue with the ponding area.

Mr. Rabideau stated that if that area becomes an issue it can be graded but they just assume leave it alone.

Ms. Szurek stated that her concern is for the homeowner. Ms. Szurek stated that there is a lot of sump pumps and a high water table in the Charlton area.

Mr. Rabideau stated that the house is being put in the highest part of the lot. Mr. Rabideau stated that they have located it and staked it and where the drawing shows the house location is where the house will go.

Mrs. Wood inquired if the land was still in Saratoga County Agricultural District #2.

Mr. Rabideau stated that he believes it has been removed.

Mrs. Wood stated that you have to apply to be removed.

Mr. Rabideau stated that he will look into it.

Mr. Wilkinson stated that the subdivision regulations, page 27 F.2 states that all lines of lots shall be at right angles to straight street lines. Mr. Wilkinson stated that it goes on to say that, unless a variance from this rule will give a better street or lot plan and radial to curved street lines. Mr. Wilkinson inquired how the applicant was going to address that concern. Mr. Wilkinson stated that it also states on Page 35 that the subdivision is a division of any parcel of land into two or more lots, plots, sites, etc., the term subdivision shall include any alterations to lot lines. Mr. Wilkinson stated that the subdivision regulations pertain to this subdivision and that the line on Lot 1, on the road, that comes back at a 45 degree angle and narrows down from 188 feet to 30 feet would need a variance.

Mr. Rabideau stated that the regulations do say 90 degrees from a straight line but the intent of those regulations are for what you would consider a new subdivision.

Mr. Wilkinson stated that this is not a debate, it is the rule. Mr. Wilkinson stated that he is asking how it is going to be resolved. Mr. Wilkinson stated that it has been established that it states on page 35 of the subdivision regulations that this applies to any parcel of land being subdivided into two or more lots. Mr. Wilkinson stated that this proposal is for a subdivision into two or more lots and a variance is required from the Planning Board.

Mr. Rabideau stated that what they are trying to accomplish here is to hold as close to the comprehensive plan as they can. Mr. Rabideau stated that their reason for doing that is to force the house on the 5 acre lot as far to the right as possible and to regain as much AG lands as they possibly can. Mr. Rabideau stated that this line here looks just like this line here. Mr. Rabideau continued showing the matching lines on the drawing. Mr. Rabideau stated that the intent of that was to match the lines and protect the land. Mr. Rabideau stated if they lower the 5 acre parcel they are not following the comprehensive plan.

Ms. Szurek asked the applicant to address the house behind a house issue. Ms. Szurek stated that on Lot 2 when a house is built, if they are looking out their front they will see the back of a house.

Mr. Wilkinson stated that the subdivision regulations state that the Board should not do a subdivision that creates a situation with a house behind a house. Mr. Wilkinson stated that information was located on page 27.

Mr. Rabideau stated that the intent of that was not to have a house behind a house Mr. Rabideau stated that their intent is to create a subdivision where you have consistent lots. Mr. Rabideau stated that Lot 1 cannot be subdivided anymore. Mr. Rabideau stated that you can't put a house behind that house. Mr. Rabideau stated that is not talking about existing conditions, it is talking about future build.

Ms. Szurek stated that you are putting something in front of a house that already exists.

Mr. Rabideau stated correct.

Ms. Szurek stated that makes it a house behind a house.

Mr. Rabideau stated like every other house in the subdivision.

Ms. Szurek stated that usually they face each other.

Mr. Rabideau stated that you have all of this subdivision around here. Mr. Rabideau read from the subdivision regulations page 27. Mr. Rabideau stated that it pertains to later creation of. Mr. Rabideau stated that they cannot subdivide the land further.

Mr. Wilkinson stated that the lines have been manipulated so that nothing is straight and everything meanders around. Mr. Wilkinson stated that it is definitely a flag lot which has been layered. Mr. Rabideau stated that the plan has been manipulated any way it could be to



come up with three lots. Mr. Wilkinson stated that when the Board approved the 2011 subdivision, as established in the Board's comment letter to the ZBA, the Board listened to Ms. Rossdeutscher's hardship and why she wanted to have that house down behind the Miner's house, and the Board thought it was a good idea because it left it all AG field out in the front. Mr. Wilkinson stated that the Board was under the impression that the field would always be an AG field and left for AG uses. Mr. Wilkinson stated that Ms. Rossdeutscher stated that was her intent. Mr. Wilkinson stated that the Board had lengthy discussions and also had a site visit, walking the property. Mr. Wilkinson stated that the Board had asked that more property go to the James property, which is being done now, for their driveway to straighten out the end because trying to get a tractor with a piece of farm equipment was impossible due to its narrowness. Mr. Wilkinson stated that the Board had requested some feet be added to there and the applicant said no because she wanted to keep as much space as possible for future AG. Mr. Wilkinson stated that when you look at this development now, this is, in his opinion, pure manipulation.

Mr. Rabideau stated no, that it was good planning.

Mr. Wilkinson stated that he is not going to debate with Mr. Rabideau.

Mr. Rabideau stated that this was in staying with the comprehensive plan.

Mr. Wilkinson stated that the comprehensive plan is to maintain open space.

Mr. Rabideau stated that the applicant has the right to subdivide.

Mr. Wilkinson stated that yes, she does have the right to subdivide.

Mr. Rabideau asked how they go about following the comprehensive plan, what they are doing is that.

Mr. Wilkinson stated that the Board has another opinion.

Mr. Wilkinson stated that he would like to discuss the 2 acre lot. Mr. Wilkinson stated that it cannot be  $2 \pm$  it has to be 2+ acres.

Mr. Rabideau stated that was the survey standard.

Mr. Wilkinson stated that was not acceptable to the Board and it has to be changed. Mr. Wilkinson stated that he will not sign a mylar with that on it. Mr. Wilkinson stated that the standards say 2 acres plus.

Mr. Rabideau stated that the lot is 2 acres.

Mr. Wilkinson stated that he would like for Mr. Rabideau to show how that lot is 2 acres. Mr. Wilkinson stated that when you do the math and calculate it all out, it is very difficult to come up with a mean lot width of 200 feet and 2 acres.

Mr. Rabideau stated that they have far exceeded the 200 feet mean lot width.

Mr. Wilkinson asked for Mr. Rabideau to prove it.

Mr. Rabideau showed what he is using as the rear line of the parcel to calculate the mean lot width. Mr. Rabideau stated that the mean lot width is around 330 feet.

Mr. Wilkinson stated that he wants to see it on paper.

Mr. Rabideau stated that whether it looks like it or not, this is the rear line. Mr. Rabideau stated that the  $2 \pm$  is survey standard.

Mr. Wilkinson stated that the Board needs more information. Mr. Wilkinson stated that the Board will forward the application to the Town Engineer for review.

### **ZONING REPORT**

The Board did not receive a report because they are having technical difficulties.

### **CORRESPONDENCE**

Addressed in agenda meeting.

### **TOWN BOARD LIAISON**

Mr. Grasso was present.

Mr. Wilkinson stated that the subdivision regulations and design standards have not been revised since 1995 and he would like to begin the lengthy process of reviewing that and preparing concerns and corrections to review with the Board and then present them to the Town Board.

Mr. Grasso stated that was fine with him. Mr. Grasso also added that some things are better placed in the subdivision regulations than in the zoning regulations.

Mr. Grasso stated that the Board has been approached by a doctor that is interested in the old Stewarts location. Mr. Grasso stated that the practice is related to St. Mary's Healthcare of Amsterdam. Mr. Grasso stated that there would not be any urgent care or medical procedures occurring at the location. Mr. Grasso stated that they are not at the application stage yet.

Mr. Wilkinson stated that the Board received correspondence between Stewarts and the adjoining neighbor. Mr. Wilkinson stated that he will email the neighbors that the Board received the correspondence and has forwarded it to the Town Board for any further discussions.

Mr. Grasso stated that the Town Board will work with Stewarts and the neighbors on a resolution.

Mrs. Wood inquired who the new Town Board member was.

Mr. Grasso stated that Dave Robbins has been appointed to the Board.

Mark Chotkowski, ZBA member, asked if he could approach the Board. Mr. Chotkowski stated that he has some comments on the Rossdeutscher application. Mr. Chotkowski stated that he initially wanted the application to go before the Planning Board before the Zoning Board but that did not happen. Mr. Chotkowski stated that he has the same problem with Lot 3. Mr. Chotkowski stated that he did some quick math and he came up with an acre of land equals 43,560 square feet, two acres would be 87,120. Mr. Chotkowski stated that he perceives this line being 139 feet on one side, 200 foot of frontage and 396 feet here. Mr. Chotkowski stated that if you do the math for 2 acres with 200 mean lot width you would need to have 434 feet of depth as a rectangle. Mr. Chotkowski stated that they do not have this. Mr. Chotkowski stated that the definition of mean lot is a dimension taken off perpendicular from the side lot not the way the applicant was trying to do it. Mr. Chotkowski stated that the applicant mentioned Lot 2 being set up to have animals. Mr. Chotkowski stated that to have a barn he believes that the side lot setbacks are 100 foot on each side and they do not have that. Mr. Chotkowski stated that by his calculations, Lot 3 is 1.2 acres not  $2 \pm$  acres. Mr. Chotkowski stated that even if he is off by 20% and it come to 1.5 acres they are still .5 acres short of the 2 acre minimum.

Mrs. Wood gave a summary of the April planning conference that she attended.

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

The meeting was adjourned at 9:30 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary