

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

Minutes of the Planning Board Meeting – April 16, 2018

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

Present: Jay Wilkinson, Chairman, Jack Kadlecek, Connie Wood, Marilyn Phillips, Dawn Szurek, Chris Mitchell, Jonathan Riedinger, 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 March 19, 2018 meeting minutes needed to be approved. Mrs. York has previously provided comments. Ms. Phillips and Mrs. Wood provided comments. No other comments were provided. 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 conducted a site visit to the parcel on April 12, 2018. Mr. Wilkinson stated that the issue is that the owner does not want to put in another driveway to access the 52.2 acre parcel. Mr. Wilkinson stated that the Board does not feel

comfortable with the existing driveway location. Mr. Wilkinson stated that increasing the driveway may encroach on possible wetlands. Mr. Wilkinson stated that the board is not sure how to proceed. Mr. Wilkinson stated that there has been discussion that since the applicant owns both parcels that the lot line adjustment is not necessary to build what the applicant wants to build. Mr. Wilkinson stated that there has also been discussion about moving the line so that the house parcel includes the driveway. Mr. Wilkinson stated that an easement has been proposed and the proposed language was sent to Bill Keniry today. Mr. Wilkinson stated that he was not happy with the proposed language. Mr. Wilkinson stated that the applicant could build the building and take care of the situation when it goes up for sale.

Mr. Mitchell stated that there should either be a note in the deed or an easement negotiated. Mr. Mitchell stated that he is ok with easements. Mr. Mitchell stated that they do work in some situations.

Mr. Kadlec stated that the applicant realizes there is a problem and it should be solved now or do nothing.

Ms. Szurek stated that she would be ok with an easement document but it should be required prior to the signing of the mylars. Ms. Szurek stated that she understands why the applicant does not want to build another driveway but she is not comfortable with just a note on the drawing. Ms. Szurek stated that she would be fine with the easement as long as it was approved by Bill Keniry.

Mr. Wilkinson stated that he would like to see the problem solved now with something that will work for everyone. Mr. Wilkinson stated that it is a self-created problem to have a shared driveway.

Mr. Keniry stated that an easement controls ingress and egress and gives a certainty of maintenance. Mr. Keniry stated that title goes with the land and that easements are legally acceptable. Mr. Keniry stated that the justification as to why not a conveyance in fee pertained to the northerly boundary of the existing driveway. Mr. Keniry stated that he has not heard a reason why the line is not being moved to the north to include the existing driveway. Mr. Keniry stated that the intention is a means of access if the operator does not have to use the public way. Mr. Keniry stated that he did not feel that the Board received an answer to that. Mr. Keniry stated that the outcome of an easement will be that the property and the house own its own access in fee and control of the ingress/egress and utility rights. Mr. Keniry stated that easements are legal and acceptable. Mr. Keniry stated that he did receive a proposed metes and bounds description but did not have a chance to check it. Mr. Keniry stated that in brief review of the language it did not include the proper easement language the Board is looking for. Mr. Keniry stated that the Board is within its rights to address the issue now.

ZBA Request for an opinion

Snyder

Mr. Wilkinson stated that this is a request for an area variance for solar panels. Mr. Wilkinson stated that the Planning Board has been asked to provide an opinion to the ZBA.

Mr. Kadlecek stated that he has drafted some information for the Board to review.

Zoning Report

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

Correspondence

Mr. Wilkinson stated that the ZBA approved the Rossdeutscher area variance at their April 10, 2018 meeting.

Town Board Liaison

Mr. Grasso was present.

Mr. Wilkinson made a motion to close the Agenda meeting, seconded by Mr. Kadlecek. 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.

**Minutes**

Mrs. Wood made a motion to approve the draft of the March 19, 2018 meeting minutes with changes incorporated. Mr. Mitchell seconded the motion. All were in favor.

**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 Bruce and Carolyn Hodgkins own property located at 910 Charlton Road containing their house and outbuildings on 3.72 acres. Mr. Wilkinson stated that the proposal is for a lot line change to increase the parcel to 5.54 acres and decrease the adjoining vacant land parcel to 52.2 acres. Mr. Wilkinson stated that at the last meeting the Board took lead agency status and waived the public hearing, engineering review and fees. 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 their proposal. Mr. Rabideau stated that they could adjust the line so that the driveway is on the homestead parcel and an easement here (outlined in green on the drawing).

Mr. Wilkinson asked where the wetlands were located.

Mr. Rabideau pointed them out on the drawing. Mr. Rabideau showed the working field and open area on the parcel. Mr. Rabideau stated that they could not cross the wetlands. Mr. Rabideau confirmed that the wetlands are DEC wetlands.

Mr. Rabideau stated that, is it a question of an easement versus fee title and whether it is to the house or to the rear parcel. Mr. Rabideau stated that he sent proposed easement language to Mr. Keniry and Mr. Wilkinson.

Mr. Rabideau reviewed the proposed language for the easement. Mr. Rabideau also reviewed the proposal for a consolidation deed. Mr. Rabideau stated that with the consolidation deed it would not be a separate piece someone needs to look for. Mr. Rabideau stated that both parcels will be all on one deed and also refer to the approved filed subdivision map. Mr. Rabideau stated that it will be clear that an easement exists there.

Ms. Szurek asked for clarification of the easement language and what it grants to whom.

Mr. Rabideau stated that the driveway will be on the vacant land parcel conveying access to the homestead parcel.

The Board reviewed the proposed easement language again.

Mr. Wilkinson stated that the Planning Board is looking down the road when this property changes hands. Mr. Wilkinson stated that the applicant could do nothing, as he owns both parcels, build a building and come before the Board when it comes time to sell the property.

Mr. Rabideau stated that they cannot get a building permit because it does not meet the requirements. Mr. Rabideau stated that the applicant wants to put all of the buildings and improvements on the homestead parcel.

Mr. Wilkinson stated that this could be conceived as a subdivision rather than a lot line change.

Mr. Rabideau stated that they are not requesting anything other than to move a line.

Mr. Wilkinson read page 35 of the subdivision regulations.

Mr. Rabideau stated that has nothing to do with their request.

Mr. Keniry stated that he did receive a metes and bounds description emailed to him from Mr. Rabideau. Mr. Keniry stated that he has not checked the metes and bounds description and that it needs to be checked. Mr. Keniry stated that the applicant cannot move the line without approval making this in essence a subdivision, a division of lands by definition. Mr. Keniry stated that the easement language appears deficient and is not the proper language to grant ingress/egress or utility rights. Mr. Keniry stated that the language needs to signal to the reader a clear picture of what the rights are. Mr. Keniry stated that what has been presented does not do that.

Mr. Kadlecsek stated that he is comfortable with easements for access to fields or wood lots but not comfortable when it is to homes. Mr. Kadlecsek stated that it would be simple to create access to both parcels.

Mr. Wilkinson proposed moving the line to include the driveway with the homestead parcel.

Mr. Kadlecsek agreed. Mr. Kadlecsek stated that he is concerned with an easement to access one's home which is a quite different from an easement to get to a field.

Mrs. Wood asked to be recused.

Ms. Szurek stated that she is ok with an easement as long as it is fully developed to include clear language of the rights.

Mr. Keniry stated that it needs to have the nature of the rights conveyed by the easement and the description needs to match the map.

Mr. Mitchell stated that there has been trouble with easements in the past. Mr. Mitchell stated that there is plenty of space to put in a driveway. Mr. Mitchell suggested leaving it alone or drafting an acceptable easement so that all parties clearly know their responsibilities.

Ms. Phillips stated that the larger parcel is the parcel with the access problem. Ms. Phillips stated that it makes sense to include the driveway on the homestead parcel and grant an easement to the vacant land parcel.

Mr. Riedinger stated that he is not partial to easements but does not want to create an undue hardship to the homeowner. Mr. Riedinger stated that he would support an easement.

Mr. Wilkinson made a motion for the Board to enter into Executive Session seconded by Mr. Kadlecek. All were in favor.

The Board entered into Executive Session at 8:00 p.m.

Mr. Wilkinson made a motion to close the Executive Session at 8:15 p.m. Mr. Kadlecek seconded the motion. All were in favor.

Mr. Wilkinson stated that the Board would like to see the line moved to the north to include the driveway on the homestead parcel with an easement from the homestead parcel to the vacant land parcel. Mr. Wilkinson stated that if that is acceptable to the applicant then bring a new drawing to the next month's meeting and to show the new proposal in different colors. Mr. Wilkinson stated that the easement language will also need to be worked on with Mr. Keniry so that all parties agree.

Mr. Grasso inquired if the Board was ok with the vacant land parcel no longer having frontage.

The Board agreed that was acceptable because there is frontage on the other side of the parcel.

Mr. Wilkinson stated that the easement language needs to cover all natures of the easement.

Mr. Mitchell stated that it should also include a definition of activities.

### **ZONING REPORT**

The Board reviewed the report.

### **CORRESPONDENCE**

Addressed in agenda meeting.

### **TOWN BOARD LIAISON**

Mr. Grasso was present.

Mr. Grasso stated that there is no update from Verizon. Mr. Grasso stated that he and Mr. Grattidge met with their representative over a month ago but they have heard nothing since.

Mr. Grasso stated that Penny Heritage has been appointed to the Town Board. Mr. Grasso stated that Mrs. Heritage will have to run in the November election to fill the remainder of the term and will also run again next November for a new full 4 year term.

Mr. Grasso stated that Mark Hodgkins is resigning from the Town Board as of the end of April which will create another vacancy. Mr. Grasso stated that the Board has conducted some interviews but has not yet made a determination.

Mr. Grasso stated that the Public Hearing for Capital Care was on March 26, 2018. Mr. Grasso stated that one of the Board members requested more trees be added to the plan. Mr. Grasso stated that they added 13 trees. Mr. Grasso stated that at the hearing there was a resident that wanted additional screening on the Stage Road side of the property. Mr. Grasso stated that the applicant agreed to shift some of the new landscaping towards that way. Mr. Grasso stated that they will modify the plan and the Board did approve the EUP.

Mr. Wilkinson stated that the Board would like to discuss having a policy for easements. Mr. Wilkinson also stated that the subdivision regulations have not been updated since 1995, that they need updating, and he is willing to work with the others to do this.

### **ZBA REFERREAL**

#### **Snyder 2018-01**

Mr. Kadlecsek stated that he had prepared some thoughts for the Board to review and distributed copies of his list to Board members.

Mrs. Wood stated that the zoning district should be RA not A.

Mr. Wilkinson stated that the Board can communicate concerns via email. Mr. Wilkinson stated that he would draft a letter to the ZBA that the Board members can review via email before it is sent.

Mr. Grasso gave a brief background of the property.

Mr. Mitchell asked for the dimensions of the solar array.

Mr. Grasso stated that it was originally 16 x 40 but the applicant decided to decrease the size to 16 x 36.

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

The meeting was adjourned at 8:45 p.m.

Respectfully Submitted,

Kimberly A. Caron  
Recording Secretary