

**Town of Charlton
Saratoga County**

**PUBLIC HEARING
Regarding Exceptional Use Application from Stewart's Shops**

January 23, 2017

The Public Hearing began at 6:30 p.m. at the Charlton Town Hall, and was called to order by Supervisor Grattidge, who stated that this is a Public Hearing to hear an application from Stewart's Shops to build a new store at the corner of Routes 67 and 147.

Supervisor Grattidge introduced the Town Board members present: Councilman Gay, Councilman Grasso, Councilman Heritage, Councilman Hodgkins, as well as Town Clerk Brenda Mills and Town Attorney Van Vranken. The Supervisor noted that the Zoning Board of Appeals members were also present and part of the hearing.

The Supervisor said that Chuck Marshall representing Stewart's will do the presentation, and then the floor will be open for public comments. The Town Board will not be voting on the project this evening as there are other processes to go through before approving this application.

The Town Clerk read the following Legal Notice and confirmed that it was published in the official newspaper, The Daily Gazette on January 6, 2017:

**TOWN OF CHARLTON
TOWN BOARD**

LEGAL NOTICE

PLEASE TAKE NOTICE, that the Town Board of the Town of Charlton, Saratoga County, New York, will meet to conduct a public hearing at the Charlton Town Hall, 758 Charlton Road in said Town of Charlton, County of Saratoga, New York on the **23rd day of January, 2017 at 6:30 p.m.** for the purpose of hearing all persons regarding the following matter:

Exceptional Use Permit Application from Stewart's Shops Corp. for property located at 330 Sacandaga Road, Town of Charlton, New York, required as per Article VII of the Zoning Ordinance of the Town of Charlton, adopted Sept. 14, 2015.

The Town Board will be the board of primary jurisdiction with respect to the exceptional use permit application. The Town Board has requested that members of the Zoning Board of Appeals and the Planning Board be present at the public hearing. The Planning Board and Zoning Board of Appeals will provide advisory opinions to the Town Board whether such exceptional use permit shall be granted.

Dated: January 4, 2017
Brenda Mills
Town Clerk

The Town Clerk also noted for the record that she has an Affidavit of Mailing of Notice of Public Hearing in which notifications were sent to 18 neighboring properties on January 9, 2017.

Chuck Marshall, Real Estate Representative for Stewart's Shops showed a slide presentation. He stated that Stewarts seeks to relocate from the Northwest corner to the Southeast corner of Routes 67 and 147. The address will be 1334 Sacandaga Road. They are proposing total building square footage of 3,729 which includes a 54 square foot water treatment building, on a 3.18 acre parcel. There will be 4 multi-product dispensers, 8 sets of pumps, which will include gas, kerosene and diesel. It will be a hardy board building with a stone veneer and cupola and 35 square foot free standing building sign which is externally illuminated. The sign was going to be LED lighting, but the Planning Board informed them that LED lighting would not be appropriate for neighborhood. The Zoning Administrator, Bob Gizzi issued his interpretation of the application on December 1, 2016. His interpretation was that this is a retail store with gasoline filling as the exceptional use. He felt that the gasoline filling station would not serve as a stand-alone use and that the retail component is the larger use. One December 12th a presentation was done for the Town Board and on January 16th a presentation was done at the Planning Board meeting. They have also submitted an application to the NYS Department of Transportation for access configuration and highway work permit. Because the site will serve over 1 acre they need a State Pollution Discharge Emission System Permit. The State has required an archeological investigation and photographs of the adjoining properties to the south. There will be area variances required for the front, side and rear setback. They will need a variance because of the size of the store which exceeds the maximum square footage for a retail zone of 2,000 square feet. Area variances will be needed for the signage on Route 67, Route 147 and the free standing sign because they exceed the maximum allowed size. They are asking that the Town Board be the lead agency for the SEQR. Mr. Marshall said that they would like to have a joint workshop with the Planning Board, ZBA and Town Board to work on the variances.

Mr. Marshall said the reason for relocating the store is because it is a very busy Stewarts. The DOT study shows that over 2,000 cars a day pass by the store and much of the business comes from passersby. Trucks sometimes park on the road and this creates a dangerous situation. There are currently a total of 10 parking spots. The store has become functionally obsolescent. The store was built in 1995 and needs upgrades. The septic system needs to be replaced and they cannot come to terms with the adjoining property.

Mr. Marshall showed slides of tractor trailer trucks parked on Route 67, which he said happens a lot because the current lot cannot accommodate the trucks. This creates sight problems for cars exiting the lot.

Mr. Marshall showed slides of the proposed building. The picnic area has been relocated for the viewshed as requested by the Planning Board. The free standing sign will have metal framing and is 56 square feet. They understand that they are coming in to the Town of Charlton and there are certain things that the Town would like to see. They will try to accommodate as many things as are feasible. They amended the site plan after meeting with the Planning Board, and they created an illustration of the canopy position and building in relation to the church. On Friday they conducted a balloon test to show the visual simulation. They also developed the welcome to Charlton sign.

Slides were shown of the view related to the balloon test. The church which is on the Historic Register can start to be seen at about $\frac{3}{4}$ of a mile heading west. There is a partially obstructed view from the gas canopy. They are proposing planting evergreen trees along the property line to the south which should be at a good height in a year.

The floor was opened to questions and comments from the audience.

Tom Gregg, Pastor of the West Charlton Presbyterian Church, thanked the Board for holding the public hearing. He has been Pastor for 15 years and they have always had a good relationship with Stewarts. The Church held a congregational meeting on Sunday and the major concern is the scenic view of the church which is an historic landmark. Known as the Scotch Church, it is well known and is valued. They also have concern on how it may or may not affect water. There may be an impact depending on where trucks are parked and idling if there is noise that could drown out their church service. He would like to suggest that a simulation or mock-up be done to show the visual impact day and night and if the lights could have an impact or not.

George Weed from Ballston Spa said that he attends the church. He appreciates the plans that Stewarts has put together which are good for the community and Stewarts but he is not sure that it is good for the

Church. He said that the view of the church at night is very special. Passersby have sent letters commenting on how beautiful the church is. Stewarts is a good company, but enough is enough. Charlton is a special Town and he asks that they look elsewhere to build.

Eileen Stone, Charlton Road, said that she loves Stewarts as a company. She loves Charlton and has lived here 15 years. The Town website, in the first sentence says to explore the Town with its many magnificent views. The church is stunning. It is beautiful and the view will be affected. She agrees with the Pastor's recommendation to show the Town Board and the residents what the Stewarts will look like imposed on that view. She pointed out that the church is on the Federal Register. She would like to know if there is a wetlands issue there. There is a truck stop 7 or 8 miles down the road with a Mobil station. Are the trucks parked illegally at Stewarts? If they are breaking the law, enforce the law not build a bigger business. If this business is mostly from through traffic, how much is it going to benefit Charlton residents if they are going to have to give up this view?

Stewart Bull, Eastern Avenue asked what is going to happen to the old Stewarts location during and after construction. He is in favor of Stewarts expanding as long as there is not too many on both sides of the road.

Penny Heritage, Charlton Road said she is a member of the Church. She worked for Stewarts for many years and she wonders how many Stewart stores have room for tractor trailers to fit in their lots. She has concerns about the illumination especially at night time. It will have a big impact. She asked if the gas canopies could be moved eastward. She suggested that they look at the property near the current location that is for sale and could maybe be used to get tractor trailers off of the road.

Mark Chotkowski, ZBA member asked if the gas canopy could be moved to the east? Mr. Marshall said that they can move it some but not to the back of the building.

Mark Chotkowski said that the building is 175% bigger than our zoning allows. Stewarts is asking to deviate the back setback which is 11 feet, the front setback by 27 feet, the height and square footage for their operational use. If the canopies could be moved to the east, the building could be shifted forward enough to meet the back setback. It would then meet the front setback with the canopies moved to the east. The only variances that would be needed would be the square footage and the height and there would be no sight deviation from the Church. Mr. Chotkowski said that Stewarts is asking the Town to change their zoning. Mr. Marshall said that they are just asking for relief, not a change in zoning.

The Supervisor asked for clarification of the truck parking. Mr. Marshall showed the truck routing plan for gas delivery trucks and delivery trucks. Gas delivery trucks will enter from 147. He showed where intended truck parking would be in the southeast corner of the lot. Their goal is just to get them off the road. They plan to install mountable curbing on 147 to avoid trucks pulling into the southbound lane. Trucks heading west would enter from the Route 67 curb cut and pull along the outside of the lot and exit on 147.

He suggested that the Board look at the Stewarts at Route 29 & 147 to get an idea of what the night time LED lighting would look like.

Mr. Marshall said that the existing store will remain open until the day that the new store opens. At the December meeting he said that they would try to sell or lease the property to a noncompeting business for a period of two years and if it doesn't sell, they would tear it down.

He said that they are not expanding the current site because of a swale or something that would prevent the expansion. There is also a raised septic system that is about the same dimension as the other property.

Councilman Gay said that he feels that the Town Engineer Mike McNamara did a great job reviewing and commenting on the application.

Councilman Heritage said that if possible he would like to see the building and canopy pushed back on the lot to limit the affect of the view of the church.

Councilman Grasso said that he has heard from residents that they do not very often get the chance to hear the Town Board give commentary on site plans, so he read the following comments:

- I'd like to commend the Public, Planning Board and members of ZBA for delving into the review of the project, including some members witnessing the balloon test last Friday morning. I also appreciate the Planning Board giving us their advisory opinion on the EUP so quickly.
- I think this Stewart's EUP application is very important to the Town, seeing that we don't have that many stand-alone businesses in Charlton, and this is one of the more prominent ones.
- I think this is a very good application, and I'd rather see the Stewart's redevelop their site, even if it's on a corner, than other convenience retailers such as Cumberland Farms or Speedway. I believe Stewart's as a great locally based, community oriented business and I'm glad they would like to keep their business in Charlton.
- I also feel Stewart's provides a valuable service to our residents and people travelling through town.
- I've reviewed the advisory opinion of the Planning Board dated today, and think it provides valuable information for the Town Board's consideration. The letter indicates the need for additional information and I think this can be handled through the typical site plan process. Based on what's in the letter and the extensive information already provided by the applicant, I see no reason why the EUP application shouldn't be considered by the Town Board.
- I've reviewed the site plan and attended last week's balloon test. The canopy has the greatest potential for visual impact. I believe the proposed building architecture, colors and materials are very attractive and in keeping with the character of the Town. I heard a suggestion to move the canopy to the south side of the site and I think this is an option that needs to be reviewed by Stewart's.
- I think the proposed stone wall, Welcome to Charlton sign and incorporation of the Stewart's monument fueling sign is a very desirable feature of the site plan and will help the site serve as a gateway to people travelling through Charlton from the West and North.
- I think the disposition of the existing Stewart's site is important, as I would be concerned if the site was allowed to become an eyesore and left vacant for too long. I think the immediate removal of the signs, fueling canopy and tanks are appropriate, and suggest putting a time limit on the demolition of the store is appropriate.
- I believe the site's layout and access points are good, and believe we should get comments from NYSDOT on the entrance locations and turn movements. Restricting left turns out at the Route 67 entrance and forcing those vehicles to use the Route 147 entrance and the signal could improve safety.
- There are some changes I would like to see made the plan, including the following:
 - Adding some evergreen plantings along the residential property line to the south
 - Using a ground mounted sign with non-LED fuel pricing as was used in Malta
 - Keeping the site lighting limited and a warmer hue than used at the Round lake store
 - Minimizing any lighting behind the store towards the residential neighbor, maybe with the use of motion lights and timers.
 - Adding signage along Route 67 and 147 that parking is restricted along the shoulders of the highways to get trucks off the side of the road.
 - Maintaining the existing site throughout the search for a tenant or after the building is demolished.
 - A stipulation that the existing store shall be demolished if it has not been approved for an alternative use within 18 months of closing.

Councilman Grasso said that if there is going to be a joint workshop with the three Boards, he would like to see it scheduled in the near future.

Chuck Marshall said that after meeting with the Planning Board, the free standing light on the southern boundary has been eliminated and two other lights on the southeastern corner and the eastern expanses

were consolidated. The hours will be open 4:30 a.m. to 11 p.m. The new lot with two access points helps to get trucks off the road as they can drive around the lot. He said that some enforcement might help.

Thomas Gregg asked if additional written comments would be accepted. The Board said that written comments are welcome and they asked that they be submitted in the next few weeks.

Supervisor Grattidge said that the Board will not be taking any action tonight, and they will let the public know as they move forward.

RESOLUTION #54

Adjournment of meeting

Motion by Councilman Grasso

Seconded by Councilman Gay

Vote: All Ayes, No Nays. **CARRIED**

The Hearing adjourned at 7:30 p.m.

Respectfully submitted,

Brenda Mills
Town Clerk