

**Town of Charlton
Zoning Board of Appeals
Business Meeting Minutes**

January 24, 2012

Minutes of the Zoning Board of Appeals – January 24, 2012

Chairman Don Schermerhorn called the meeting to order at 7:08p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Present: Don Schermerhorn, Chairman, Mark Chotkowski, Ed Malis, Kurt Vanderhorst, Chip Ellms, Bob Van Vranken, Town Attorney and Kim Caron, Recording Secretary.

Business Meeting

Mr. Schermerhorn asked everyone to stand for the Pledge of Allegiance.

Roll call attendance was taken.

Mr. Schermerhorn stated that the August 16, 2011 minutes needed to be approved. Mr. Schermerhorn inquired if there were any comments from the Board. Mr. Chotkowski provided a comment. There were no additional comments.

Mr. Malis made the motion to approve the August 16, 2011 meeting minutes with changes incorporated. Mr. Chotkowski seconded the motion. All were in favor. Mr. Ellms and Mr. Vanderhorst abstained.

SITE PLAN REVIEW

Pickett (236.-1-28)

Mr. Schermerhorn read contents of the Pickett file into the record. Mr. Schermerhorn stated that the file contains:

- 1/24/12 letter from Zoning Inspector Bob Gizzi to ZBA;
- 1/24/12 security and lighting plan from Tom Peterson;
- 1/22/12 letter from Planning Board to ZBA;
- 1/11/12 letter from Mike McNamara to Planning Board;
- 1/16/12 site plan map (revision date 1/16/12);
- 12/29/11 letter from County Planning Board to Planning Board;
- 7/11/11 Resolution 110 from the Town Board referring this application to the ZBA;
- 1/2/12 ECC letter to the ZBA (letter read aloud);

- 12/19/11 letter from Van Guilder & Associates to the Planning Board containing the site plan dated 12/7/11;
- 10/19/11 letter from Van Guilder & Associates to the Planning Board;
- 12/5/11 letter from Bill Keniry to Bob Van Vranken containing the information submitted to the Planning Board;
- 11/14/11 receipt for subdivision fees paid; and
- 11/1/11 site plan with two color aerial photographs and a County Wetlands Map.

Mr. Schermerhorn stated that he asked the Zoning Inspector to attend the meeting and give a brief report.

Mr. Gizzi provided the Board with a letter dated 1/24/12 together with a copy of an excerpt from the 2010 Building Code of New York State.

Mr. Gizzi stated that he had been consulted on the storage building and the conversion of the existing storage building into a gun shop. Mr. Gizzi stated that he spent over an hour at the site inspecting the building. Mr. Gizzi stated that the letter he provided gives a brief summary of what he discussed with the applicant.

Mr. Gizzi stated that structurally the building is sound. Mr. Gizzi stated that there will be a review of a set of plans that will be submitted to his office as building inspector. Mr. Gizzi stated that those plans will be stamped by an engineer or an architect. Mr. Gizzi stated that there will be a commercial check for energy audit. Mr. Gizzi stated that there shouldn't be any issues there. Mr. Gizzi stated that there will be no windows in the building and it will be completely closed in. Mr. Gizzi stated that the building is going to be completely rewired. Mr. Gizzi stated that the security system was discussed and he just received copy of the applicants' submittal. Mr. Gizzi stated that the proposal looks clear to him. Mr. Gizzi stated that in regards to the bathroom, he has submitted with his summary a copy of the building code section 2902.4.1 citing the exception that a bathroom could be supplied in another building as long as the building is less than 500 feet away. Mr. Gizzi stated that he did not discuss this with Mr. Pickett, but he could use his home facilities for the public or an employee if he ever has one. Mr. Gizzi stated that in reference to the handicapped parking he has received a letter from Mr. McNamara that he has covered that issue as well as lighting. Mr. Gizzi stated that as a building inspector, he does not see why that building couldn't be converted for commercial use.

Mr. Chotkowski inquired if the architectural or engineers report would contain a certification on the trusses for snow load.

Mr. Gizzi responded that there should be. Mr. Gizzi stated that if it is not in the report he receives he will contact the engineer or architect and ask that it be put on the report.

Mr. Chotkowski stated that in reading the code, the exception goes on to say the bathroom is to be located either a floor above or below, not in a separate building.

Mr. Gizzi stated that in another part of the code it does state that if you supply a bathroom and it can be in a neighboring building.

Mr. Chotkowski stated that he only saw that reference when pertaining to a church facility. Mr. Chotkowski read the code provided aloud. Mr. Chotkowski stated that the code provided does not show that a bathroom could be in another building for a retail store.

Mr. Gizzi stated that he will do another review and will provide the information to the Board members to fill in the blanks

Mr. Gizzi stated that restaurants provide bathroom facilities but if you go into retail stores like a print shop or book shop, they do not provide bathrooms.

Mr. Chotkowski read from the zoning ordinance, section 9, provisions for sanitary facilities.

Mr. Gizzi stated that there is room in the building to put a bathroom facility if the applicant is willing.

Mr. Van Vranken stated that section 9 of the zoning ordinance refers to New York Standards for waste treatment for institutional and commercial facilities. Mr. Van Vranken inquired if that was a separate document and if so what does that say about this issue.

Mr. Gizzi stated that he would have to review that. Mr. Gizzi believes it would come out of 75a of the Sanitary Code. Mr. Gizzi stated that he would look that up and get back to the board.

Mr. Peterson stated that local zoning code cannot impose conditions on buildings that a (inaudible).

Mr. Van Vranken stated that what the Board is raising is a question of interpreting the document that Mr. Gizzi has provided and it doesn't specifically say that 500 feet constitutes the opportunity to go to a separate building. Mr. Van Vranken stated that the Board is not aware what the other code says about this particular issue.

Mr. Peterson stated that he was only referring to the Town of Charlton's zoning ordinance. Inaudible.

Mr. Van Vranken stated that if this Board should determine that it is in the best interest of the residents to make sure that this building has some kind of sanitary facility it has the right to do so.

The Board further discussed the relevance of the building code provided by Mr. Gizzi.

Mr. Schermerhorn stated that the Board needs clarification of the code and its exceptions and Mr. Gizzi has stated that he will provide the information.

Mr. Chotkowski confirmed with Mr. Gizzi that an engineer is going to inspect the building and provide a list of requirements to bring the building to code including outside lighting, emergency outside lighting, fire alarm systems and trusses.

Mr. Schermerhorn stated that the applicant has to submit plans to Mr. Gizzi for review and approval of a building permit.

Mr. Gizzi stated that the only difference is that the applicant is actually renovating an existing building. Mr. Gizzi stated that the building does not meet the energy code. Mr. Gizzi stated that structurally, that would have to be reviewed by the engineer. Mr. Gizzi stated that when the engineer submits the final drawings for construction then that would be part of his rendering or he would submit a letter with that stating that the existing building meets all of the requirements including the trusses.

Mr. Schermerhorn read the lighting and security plan provided by the applicant into the record.

Mr. Peterson stated that there were not any requirements associated with the application with ATF. Mr. Peterson stated that there was concern pertaining to the sonic alarm triggering false alarms. Mr. Peterson stated that they have changed the proposal to include infrared beams instead that can be located above the floor so that it cannot be triggered by rodents.

Mr. Chotkowski inquired as to the kind of generator the proposal included.

Mr. Pickett stated that it was electric, manually plugged in.

Mr. Peterson stated that it would be a 30 KW generator.

Mr. Chotkowski inquired what would happen if the applicant was at his camp in Galway and there was a power outage.

Mr. Pickett stated that there would be a battery backup system.

Mr. Chotkowski stated that there would be no lights.

Mr. Pickett stated right.

Mr. Peterson stated that they would get more information on the system. Mr. Peterson stated that the applicant's summer home is only 5 miles away.

Mr. Schermerhorn inquired how Mr. Pickett would be notified if the alarm was triggered and he was not home.

Mr. Pickett stated that he would be contacted by his cell phone. Mr. Pickett stated that the monitors at the camp will also show what's going on.

Mr. Schermerhorn inquired as to the time frame between the alarm being triggered, and if there was no response by Mr. Pickett, and notification to the Sheriff's office.

Mr. Pickett stated that the system would call him and the Sherriff at the same time.

Mr. Chotkowski inquired if the system was Verizon or cable.

Mr. Pickett stated that it was a Time Warner cable system.

Mr. Chotkowski stated that if the power goes out then the cable goes out and cannot call out.

Mr. Pickett stated that there would be a battery backup.

Mr. Peterson inquired if there was a system that would work if the power was out.

Mr. Chotkowski stated that a hardwire system would like Verizon.

Mr. Pickett stated that he would obtain more information.

Mr. Chotkowski stated that if the power were out then the monitors at the camp would not work either. Mr. Chotkowski suggested using a hardwire system.

Mr. Van Vranken inquired if the ATF application has any requirements for a security system.

Mr. Peterson stated that he has left messages for the ATF agent but have not discussed that issue yet. Mr. Peterson stated that their application was complete but they withdrew due to time constraints. Mr. Peterson stated that he does not believe that there will be any requirements.

Mr. Schermerhorn thanked the Planning Board for their letter of 1/22/12.

Mr. Schermerhorn stated that comment #1 pertained to the lighting and an acceptable plan has been received this evening.

Mr. Schermerhorn stated that comment #2 pertained to the use of a generator. Mr. Schermerhorn stated that the Board has requested additional information be provided. Mr. Schermerhorn stated that the Board has suggested an automatic generator due to the concern of both Boards for security.

Mr. Schermerhorn stated that comment #3 pertained to the engineer/architect inspection of existing building. Mr. Schermerhorn stated that Mr. Gizzi has inspected the building and there will be engineer/architect inspection to determine the requirements to bring the building up to code.

Mr. Malis inquired why the new building was not going to be the gun shop.

Mr. Peterson stated that the new building was inadequate in size.

Mr. Schermerhorn inquired as to the size of the new building.

Mr. Pickett stated 32 x 28.

Mr. Schermerhorn stated that there are concerns on both Boards as to the condition of the existing building and its ability to meet the State codes.

Mr. Wilkinson stated that the Planning Board suggested making the new building the gun shop due to the concern for the condition of the existing building.

Mr. Pickett stated that he had originally asked for the new building but was told that he had to put it on the orchard side. Mr. Pickett stated that he has been building that orchard for the past 10 years and does not want to put the building there.

Mr. Wilkinson provided suggestions for a new location for the proposed new building and using the new building as the gun shop. Mr. Wilkinson stated that DEC has not imposed restrictions within the zone of occupancy.

The Board and the applicant reviewed the drawings.

Mr. Pickett stated that the building would have to be at least 50 x 32.

Mr. Rabideau stated that there would be very little amendment to the drawing and they would not have to go back to the DEC.

Mr. Pickett stated that it is more attractive plan to him.

Mr. Peterson stated that in that location it would be hidden from the road and they have already provided pictures from that angle.

Mr. Van Vranken confirmed the wooden building would be removed.

Mr. Schermerhorn stated that the parking would have to be reconfigured.

Mr. Wilkinson inquired if the applicant had considered not putting up a sign.

Mr. Pickett stated that he has considered that. Mr. Pickett stated that he would like to see a Hummingbird Hill Farm sign.

Mr. Peterson stated that he would like a list of conditions to that they can gather the information, make changes and come back before the Board for a resolution.

Mr. Van Vranken stated that the Board has done several special exception permits in the past and that is how they are done.

Mr. Schermerhorn stated that the Planning Board's comment #3 is now moot since there will be a new building. Mr. Schermerhorn stated that the next Planning Board meeting is on February 20th and the next ZBA meeting will be March 13th. Mr. Schermerhorn stated that the Board has requested a new building, approximately 40 x 50 in size and there will be an automatic generator for security purposes.

Mr. Van Vranken stated that he will draft a permit for the Board to review. Mr. Van Vranken stated that the bathroom facilities are still an open issue. Mr. Van Vranken stated that he will get the amendments ready for the Planning Board so that they may achieve formal site plan review approval on the 20th. Mr. Van Vranken stated that the ZBA would need to meet in February to nail down the items.

Mr. Schermerhorn stated that he is having trouble getting a quorum for a February meeting but will continue to work on it.

Mr. Wilkinson stated that was acceptable to him. Mr. Wilkinson stated that the big issue is the bathrooms. Mr. Wilkinson stated that the lighting issue to the south and parking would need to be resolved. Mr. Wilkinson stated that the more information provided the closer to a complete application the Planning Board will be.

Mr. Schermerhorn inquired if the Board was in agreement to change the applicant's proposal to swap out the wooden barn with the new building approximately 40 x 50 in size which will be the proposed gun shop. Mr. Schermerhorn polled the Board:

Mr. Chotkowski – yes

Mr. Ellms – yes

Mr. Schermerhorn – yes

Mr. Malis – yes

Mr. Vanderhorst – yes

Mr. Peterson stated that they would be using the same type of lighting plan.

Mr. Van Vranken called attention to page 66 of the Zoning Ordinance relative to parking. Mr. Van Vranken stated that not all of the requirements are applicable to this application.

Mr. Pickett stated that there are currently cherry trees that will be a screening to the building. Mr. Pickett stated that he would plant more if the Board wants him to.

The Board and the applicant discuss the farm sign. The Board and the applicant agreed that the sign would only advertise the farm and be no bigger than 3 x 5 in size.

Mr. Van Vranken confirmed that the applicant would be installing an automatic generator.

Mr. Van Vranken confirmed the hours of operation would be daily 9-5 with appointments.

Mr. Peterson stated that they do not want the hours of operation a requirement.

The Board was in agreement not to set the hours of operation as a requirement.

Mr. Schermerhorn stated that the Board would like a list of the number of guns, kinds of guns, ammunition, etc. that would be onsite.

Mr. Vanderhorst inquired if the long gun racks would be locked.

Mr. Pickett stated no they would be behind the counter.

Mr. Vanderhorst stated that there are wire systems that will lock the guns.

Mr. Peterson stated that they do not want that as a requirement that the long guns be locked up.

Mr. Schermerhorn re-read the applicant's narrative. Mr. Schermerhorn asked for clarification of the number of permanent employees and future plans for employees. Mr. Schermerhorn stated that the Board would like the applicant to address the "what ifs". Mr. Schermerhorn stated that the Board would also like clarification of the estimated number of guns on site.

Mr. Peterson stated that he will complete a write up of the applicant's vision of the shop.

Mr. Chotkowski confirmed that there will be no rifle range or discharge of any firearms indoor or outdoor in connection with this shop.

Mr. Peterson and Mr. Pickett agreed.

Mr. Schermerhorn made the motion to authorize Mr. Van Vranken to draft a resolution from the meeting this evening based on all comments and to provide a draft for review. Mr. Vanderhorst seconded the motion. All were in favor.

Mr. Chotkowski made a motion to close the meeting seconded by Mr. Malis. All were in favor.

Meeting was adjourned at 9:50 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary