

**Town of Charlton
Zoning Board of Appeals
Business Meeting Minutes
and Public Hearing Minutes**

July 16, 2013

Minutes of the Zoning Board of Appeals – July 16, 2013

Chairman Don Schermerhorn called the meeting to order at 7:00 p.m. at the Charlton Town Hall, 758 Charlton Road, Charlton, New York 12019.

Present: Don Schermerhorn, Chairman, Ed Malis, Mark Chotkowski, Al Smith, 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.

PUBLIC HEARING

Smith 2013-04

Mr. Schermerhorn read the contents of the file into the record:

- 6/26 letter from Dave Bogardus;
- owners Affidavit;
- application dated 6/25/13 for property located at 1289 and 1299 Peaceable Street which is located in the AG District;
- list of adjacent land owners;
- tax map;
- letter from Environmental Design Partnership dated 5/1/13;
- legal notice filed July 5, 2013 together with Affidavit of insertion; (legal notice read aloud)
- letter from the Saratoga County Planning Board dated 5/17/13;
- completed EAF;
- completed AG Data Statement.

Mr. Schermerhorn opened the Public Hearing.

Mr. Schermerhorn asked if there was anyone present from the public for the hearing.

There was no one, besides the applicant, present for the hearing.

Mr. Schermerhorn made the motion to close the Public Hearing seconded by Mr. Smith. All were in favor.

Public Hearing closed at 7:06 p.m.

Business

Mr. Schermerhorn stated that the draft of the May 22, 2013 minutes needed to be approved. Mr. Schermerhorn inquired if there were any comments from the Board. Mr. Schermerhorn had two comments. There were no other comments.

Mr. Schermerhorn made the motion to approve the draft of the May 22, 2013 meeting minutes. Mr. Smith seconded the motion. All were in favor.

Smith Discussions

Mr. Bogardus appeared before the Board.

Mr. DiDonna appeared before the Board. Mr. DiDonna gave a brief history of the parcel including the 100+ year old barn on the parcel as well as the original farmhouse that has been torn down.

Mr. Bogardus stated that this is a subdivision of a 24 acre parcel to create one new building lot of 21 acres and a lot line adjustment of 1289 Peaceable Street property, Lot 3 on the map, to increase its size to 1.6 acres. Mr. Bogardus stated that the perk tests have been done and witnessed by Mr. Gizzi. Mr. Bogardus stated that the driveway sight distances meet the standards. Mr. Bogardus stated that the existing code violations should be grandfathered in since they predate the zoning. Mr. Bogardus stated that their proposal does not exacerbate the existing conditions. Mr. Bogardus stated that the Planning Board has cited frontage deficiencies, side yard setback deficiency and the area of the parcel is substandard. Mr. Bogardus stated that the barn is 198 feet from the road. Mr. Bogardus stated that these are all pre-existing conditions and should be grandfathered in the variances they are requesting. Mr. Bogardus stated that they need the variances to move forward with the subdivision and lot line change before the Planning Board. Mr. Bogardus stated that the applicant would like to list the property for sale. Mr. Bogardus stated that they are not changing the character of the area since the deficiencies exist today.

Mr. Schermerhorn asked where the pre-subdivision property line was located.

Mr. Bogardus showed the location of the drawing.

Mr. Schermerhorn stated that one of the Planning Board's concerns was the setback on the north side of the house and the wood deck.

Mr. Bogardus stated that the requirement is 40 feet and they only have 35.7 feet.

Mr. Schermerhorn inquired, on Lot 1, the distance between the well and septic area.

Mr. Bogardus stated approximately 97 feet.

Mr. Chotkowski inquired when the last time the barn was used for AG purposes.

Mr. Bogardus stated that he did not know.

Mr. DiDonna stated that a tractor is housed there.

Mr. Chotkowski inquired if the barn was used for storage.

Mr. DiDonna stated yes.

Mr. Schermerhorn called attention to page 33 of the Zoning Ordinance section 5B.1. Mr. Schermerhorn read the section aloud.

Mr. Van Vranken stated that this is a condition where we are looking for variances on the current zoning. Mr. Van Vranken stated that there are multiple variances needed for this project. Mr. Van Vranken stated that the applicant is asking for variances based on facts.

Mr. Schermerhorn inquired if the applicant would consider restricting Lot 2 to be non-divisible in the future.

Mr. DiDonna stated that he does not think that would be an issue.

Mr. Chotkowski stated that Lot 1 meets the requirements except the side lot setback which requires a variance to allow. Mr. Chotkowski stated that for Lot 2, we do not know when the barn was last used for AG purposes. Mr. Chotkowski stated that if the barn is an AG use building, the ordinance says the setback is 100 feet off the side lot, which it does not meet. Mr. Chotkowski stated that if the barn is used for storage, then it meets the requirements for a storage building. Mr. Chotkowski stated that, in order to increase the frontage for Lot 3, Lot 2 could be reduced to 200 feet and the additional footage could be added to Lot 3 making it closer to the requirement. Mr. Chotkowski stated that the barn should be declared as storage and no AG use in the future. Mr. Chotkowski stated that Lot 3 could be expanded on the south side to get the side lot setback closer to the requirement without detriment to Lot 2.

The Board discussed clarifying the barn use.

Mr. Van Vranken called attention to page 16a of the Zoning Ordinance.

Mr. Van Vranken stated that if the Board approves the applicant's requests, it has to be the variances as shown on the subdivision survey presented that are granted.

The Board further discussed the restriction of livestock in the barn.

Mr. Malis stated that the inadequate front yard setback for Lot 1 is pre-existing as well as the inadequate side yard setback for Lot 1. Mr. Malis stated that the inadequate front yard setback on Lot 2 is very close to the requirement. Mr. Malis stated that the side yard south setback deficiency on Lot 2 is also pre-existing. Mr. Malis stated that the inadequate lot area for Lot 3 is being improved by making the lot bigger. Mr. Malis stated that the south side yard setback on Lot 3 is also pre-existing. Mr. Malis stated that in total, he does not see a problem in granting the applicant's request.

Mr. Schermerhorn stated that he agrees that most of the deficiencies are pre-existing.

Mr. Chotkowski stated that the issue of livestock has to be addressed.

Mr. Malis stated that the applicant is not looking for a use variance.

Mr. Malis made the motion to approve the variances as requested by the applicant and supported by the documentation presented and shown on the subdivision and lot line amendment drawings presented dated 3/15/13, revised 4/19/13, and revised 5/15/13. Mr. Schermerhorn seconded the motion.

Mr. Schermerhorn asked for discussion.

Roll Call vote was taken:

Mr. Chotkowski – no

Mr. Smith – yes

Mr. Schermerhorn – yes

Mr. Malis – yes

Motion approved. Area Variances granted as requested.

Mr. Schermerhorn stated that written notice of the Boards determinations will be available within the next 7 days.

Mr. Smith made the motion to adjourn the meeting seconded by Mr. Chotkowski. All were in favor.

Meeting adjourned at 7:55 p.m.

Respectfully Submitted,

Kimberly A. Caron
Recording Secretary