

# Town of New Scotland Planning Board Minutes

**July 5, 2016**

Charles Voss, *Chairman*

*Planning Board Members:*

Jo Ann Davies, Thomas Hart, Dan Leinung

Justin Perry (Alternate)

Lori Saba, *Planning Board Secretary*, Jeremy Cramer, *Building Inspector*,

Jeffrey Baker, *Planning Board Attorney*, Dave Hansen, *Town Engineer (Stantec Engineering)*

**PLEASE NOTE:** All developers, consultants and members of the public wishing to address the Board during the meeting must sign in on the "Sign In Sheet" located on the back table.

**7:00 pm:**

**Public Hearings:**

1) **Site Plan Application # 111:** Application submitted by Charles Shufelt for a site plan review to allow for a 60' x 60' accessory structure to be used as a Public Garage. The proposed site is owned by the applicant, is located in the RA zoning district at 173 North Road, and is identified as New Scotland Tax Parcel # 105.-3-6.10. This application is a for a permitted use as granted by the Town of New Scotland's Zoning Board of Appeals and is made pursuant to Article V, Section 190-52 of the Zoning Law for the Town Of New Scotland.

Mr. Baker wanted to clarify what he said at a previous meeting. A year ago, Mr. Cramer noted that he was in violation without the necessary approvals. He did not qualify for a non-conforming use. Mr. Shufelt appealed that decision about whether he was a non-conforming use and simultaneously applied for a use variance. After a variety of hearings and back and forth with the ZBA, the ZBA ruled that he is not a non-conforming use, so they upheld Mr. Cramer's determination. He was operating in violation and at the same meeting granted a use variance subject to a variety of conditions. At that point while Mr. Shufelt's appeal was pending he was able to operate as a matter of law, because that stayed the enforcement and that is why he operated all until that period. From the time when the appeal was denied, even though the use variance was in place Mr. Shufelt had no legal right to operate under the Towns law, and when he was applying for the Planning Board for the site plan approval and you are still reviewing that he is in a sense in a legal limbo right now. While he does not technically have the permits to operate Mr. Cramer, as the building inspector, with the authority to enforce the zoning code has discretion as to when he will enforce the zoning code. Mr. Cramer has determined that as long as Mr. Shufelt is abiding by the conditions that were set forth in the ZBA use variance; it didn't serve any purpose to shut him down while he was continuing to go through this process. There was some confusion with the PB and the public had as to how he was continuing to operate without the necessary approvals. With you taking public comment to night is any further changes to the site plan you may want those will get written into conditions. The ZBA will finalize the use variance and then it will be all done.

Mr. Voss moved to open the public hearing.

Mr. Baumgartner, 167 North Rd., Clarksville, would not like a stockade fence, would like to look at other options for the fencing choices along his property line. Also, questioned Mr. Shufelt's ability to keep operating as a repair shop when he does not have a valid NYS Automotive License.

Mr. Voss moved to close the public hearing and Mr. Perry seconded the motion; all in favor; motion so carried.

Mr. Voss moved to approve site plan application #111 with the following conditions:

- Vehicles will stay within the building;
- Fencing down both sides of the property line, one neighbor would like a four-foot shadow box fence. The east side will be a six-foot shadow box fencing along the property line, unless Mr. Baumgartner would like something less, needs to notify Mr. Cramer within a week of this meeting if the fence needs to be different than what the Board requested. The fencing will start at the 40-foot front setback;
- Signage at the front of the property with hours of operation and no deliveries after operating hours;
- Recommendation to the ZBA: look at the hours of operation; M-F 8:00 to 5:00, Saturday 8:00 – 1:00, Sunday is closed.

Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 5-0-0

**2) Special Use Permit Application # 568:** Application Submitted by Tim Albright for Indian Ladder Farms to request a special use permit to allow for a mobile concession trailer to be set on site as a snack bar. The parcel is located within the RF district on Thatcher park Road, contains 10 +/- acres, and is identified as New Scotland tax parcel # 71.-1-38. This application is a Special Use of Article II, Section 190-11(D) (13) of the Town of New Scotland Zoning Law.

Mr. Voss opened up the meeting to the public.

Mr. Dearstyne, Clipp Road, please review section 190-11-d13.

Mr. Baker, they are proceeding under that, it's a restaurant and tavern.

Mr. Steve Boice, lives across the street from the proposed ILF concession stand proposal, has concerns with parking, would like signage stating no parking on the road.

Ms. Mary Boice, lives across the street, would like some rules written down and restrictions about what they will be cooking or doing on the site. Speed limit is 55 mph in that area does not seem like a safe area.

Mr. Tom McCann, Unionville Rd., concerned with food trucks not being restaurants or taverns.

Mr. John Tracey, 354 Beaver Dam Rd., there is a lot of traffic on that road, concerned with traffic.

Mr. Voss moved to closed the public hearing, and Mr. Leinung seconded the motion; all in favor; motion so carried.

Mr. Voss moved to approve special use permit application #568 with the following conditions:

- Post hazard warning signs along the back edge of the site every 50-foot; include the barrier as described to be a rope or fence along that same area.
- Trailer be located towards the eastern most edge of the parking area;
- Parking area to be improved with gravel to create a smooth area;
- Hours of operation Wednesday – Sunday 9:00 a.m. – 5:00 p.m.; seasonal use May 1<sup>st</sup> thru November 15<sup>th</sup>;
- The trailer, displayed tables, trash, and signs should be removed off site each day.
- Picnic tables will remain on site;
- Recommended generator - Honda inverted generator EB2000i or smaller equivalent with a maximum rating of 59 dpa;
- Two small sandwich signs that will be taken down each day at closing, and the one sign is off set to the entry to the south about 800 feet;
- Do not allow parking on Route 157; large cones on the side of the road to prevent parking;
- No alcohol sold;
- A 6x10 concession trailer and a farm stand display tent 12x12;
- No amplified music coming off of the property.

Mr. Perry seconded the motion; all in favor; motion so carried.

Vote: 5-0-0

**Old Business: Discussion items:**

**1) Special Use Permit Application # 580:** Application submitted by Laura Ten Eyck on behalf of Indian Ladder Farm and is requesting a special use permit to allow the farm to be utilized as an outdoor banquet facility for gatherings and special events throughout the year. The proposed site is located in the RA zoning district at 342 Altamont Road, and is identified as New Scotland tax parcels id #71.-2-20.11 and 71.-2-20.12. . This application is for a permitted use as per Article II, Section 190-12 (D) (17) of the Town of New Scotland’s Zoning Law.

Mr. Voss moved to set a public hearing for this application on August 2, 2016 and Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 5-0-0

**2) Special Use Permit #583:** Application submitted by Ron Kay requesting approval to allow for a mixed use development to be constructed on a parcel. The applicant would like to incorporate retail sales and residential apartments. The proposed site is located within the Commercial district on Maple Rd. (Route 85A) and is identified as New Scotland tax parcel # 73.-4-17.1 This application is for a permitted use and a special use as per Article II, Section 190-17 (D)(12) & (E)(3) of the town of New Scotland Zoning Law.

The Board reviewed with the applicant his preliminary plans for the property.

**New Business:**

**1) Special Use Permit Application # 584:** Application submitted by Jane Twomey of Wren & Rail LLC for a Special Use Permit to allow for the housing and operation of a mobile “food coach” on a site owned by Mr. Guyette. Article II, Section 190-12(D)(17) requires that a Special Use Permit be obtained to allow for “Restaurants and taverns”. Mr. Guyette’s site is located within the Residential Agricultural Zoning District on New Scotland South Road and is identified as tax parcel # 84.-1-44.11.

Board requested that the applicant provide the following information at the August 2, 2016 meeting:

- Detailed formal site plan and specific location of the food trailer;
- Detailed narrative explaining the business, hours of operation, number of employees, etc.
- Signage
- A copy of the lease and the leased area;
- Septic location;
- Driveway details - parking spots identified handicapped spaces shown.

**Discussion items:**

1) **Minutes** for June 7, 2016, Mr. Voss moved to approve with corrections and Ms. Davies seconded the motion; all in favor; motion so carried. Mr. Perry abstained from the vote.

Vote: 4-0-1

2) **Minor Subdivisions** for the month of June 2016

- Two lot minor subdivision by the border of 600 Altamont Road a two and half acre piece split in half.
- CWA Landholdings by Flat Rock and Delaware the house that was on that parcel was separated off on a one acre lot. The owner is now building his own house in the back.
- Lands of Wood is over on New Salem South Road where the Wood farm they are breaking off an acre of land and selling it for a one lot subdivision.

Mr. Cramer explained that he sent to the Board members a version of the draft mixed use commercial zoning district to take a look at. Mr. LaGrange would like to have the Planning Board and the Zoning Board appoint two members from each Board to a review committee. Mr. Voss asked members to e-mail him if they would like to be on this committee.

Anything else that may come before the board -Open Discussion (2-minute limit per person)

- Ms. Elliott addressed the Board regarding her application. She will be coming back to the Board, but at this time she is addressing trespassing concerns on her property.

**Adjournment:** At 10:30 p.m. Ms. Davies moved to adjourn and Mr. Perry seconded the motion; all in favor; motion so carried.

**Respectfully submitted,**

Lori Saba