

**Minutes
Town of New Scotland
Zoning Board of Appeals
Notice of Meeting
January 26, 2016
7:00 PM**

Zoning Board Members:

Robert Johnson, *Chairman*,
Steve Crookes, Lance Moore, Heather Dolin, Edie Abrams
Lori Saba, Planning Board Secretary, Jeff Baker, Building Inspector
Jeffrey Baker, Zoning Board Attorney, Dave Hansen, Town Engineer (Stantec
Engineering)

Public Hearing:

1. **Continuation: Variance request # 509:** Application submitted by Nixon Peabody on behalf of Cellco Partnership d/b/a Verizon Wireless to request an area variance to allow for the construction of a 124 foot communications monopole. The facilities requested include up to 12 antennas at 116 feet. Current zoning law allows for a commercial tower to be 45 feet. This is a request is for 79 feet of relief. The proposed site is owned by Robert and Andy Appleby, is located in the RH Zone at 20 Stovepipe Road, is identified as tax parcel #105.-2-16.1. This request is for a variance to Article III, Section 190-29 (B)(2) of the Town of New Scotland Zoning Law.

2. **Continuation: Variance request # 510:** Application submitted by Nixon Peabody on behalf of Cellco Partnership d/b/a Verizon Wireless for a use variance to allow for a the construction of a 124 foot communications monopole and related facilities. The facilities requested include up to 12 antennas at 116 feet, a backup generator, and other related items on an equipment platform. The proposed site is owned by Robert and Andy Appleby, is located in the RH Zone at 20 Stovepipe Road, is identified as tax parcel #105.-2-16.1. This request is for a variance to Article II, Section 190-15 of the Town of New Scotland Zoning Law.

Mr. Lusk had nothing to add. Mentioned that the Planning Board issued a negative declaration at the last Planning Board meeting.

Mr. Johnson opened up the meeting to the public. No public comments. Mr. Johnson closed the public hearing.

Mr. Johnson read Conclusion of law:

Based upon the Findings of Fact, the Board renders the following Conclusions of Law:

- a. Verizon Wireless demonstrated that there is inadequate service in the Clarksville hamlet.
- b. Verizon Wireless established that this inadequate service will be met by the placement of the proposed monopine at property located at 20 Stove Pipe Road.
- c. Verizon Wireless demonstrated that other alternatives, including existing structures, a reduced height, and collocation are not feasible and that the proposed monopine is the least intrusive means of addressing the inadequate service.
- d. Based upon these Conclusions of Law, the Board finds that the legal requirements for Use and Area Variances for the proposed telecommunications facility have been met.

Mr. Johnson, based on these Conclusion of Law, the Board is about to find that the legal requirements for use and area variances for the proposed telecommunications facility have been met. These are conditions that we would require:

1. Verizon Wireless shall comply with all laws and regulations pertaining to the siting and operation of telecommunications facilities, including the Local Law.

2. This decision incorporates any conditions deemed appropriate by the Planning Board in its Special Use Permit pursuant to Local Law §§8(H),(M) & (Q) and 12(Y), including, but not limited to the monopine's final design, color and density of branches to ensure that monopine's visual impact is mitigated to the maximum extent possible.
3. Prior to the issuance of a building permit, Verizon Wireless shall submit the monopine's final plans and specifications for review and approval by the Town engineer.
4. Prior to the issuance of a building permit, Verizon Wireless shall provide necessary documentation for the Town engineer to confirm that the monopine will not impact adjacent structures or properties.
5. The back-up generator's testing shall be limited as stated in the application and shall use the maximum sound proof available.
6. Pursuant to Local Law §8(R), the facility shall maintain adequate driving surface and turning radius for the ingress and egress of emergency vehicles.
7. Pursuant to Local Law §8(S), Verizon Wireless shall adhere to storm water management and erosion prevention requirements and not cause drainage onto adjacent roadways and properties, and shall immediately address and correct any runoff onto adjacent properties or roadways.
8. Pursuant to Local Law §8(X), Verizon Wireless shall make space available to the placement of antennas by other carriers on standard industry terms at fair market value.
9. Any modification to the monopine, antennas, and related equipment shall require the submission of an application to amend.

Ms. Dolin moved to approve with the following conditions and Mr. Moore seconded the motion; all in favor; motion so carried.

3. **Continuation: Variance Application # 507:** Application submitted by Charles Shufelt requesting an appeal of determination given by the Building Inspector. The applicant would like the ZBA to determine if the use of the accessory structure for automobile repair is impermissible. The parcel is located in the RA Zoning District, at 173 North Road, and is identified as New Scotland Tax Parcel # 105.-3-6.10.

Mr. Jamison explained that his office submitted new material on Monday (1/25) and then more material was sent over on Tuesday (1/26). He also brought along a summation of all the material that has been submitted for both applications. This is the entirety of the submissions.

Mr. Johnson explained that they have been given adequate time to submit everything, but you need to understand that we need a reasonable amount of time for us and the public to review the new submission.

Mr. Johnson opened up the meeting to the public.

Mr. Herzog spoke in regards to variance application #508: As it's common to mention one's longevity in a small town, I'll say I've lived here over 75 years, and paid property taxes and voted for over 54 years. I'd like to speak on behalf of my friend Chuck Shufelt.

There's been a disturbing social trend for many years, wherein being offended is very fashionable. Environmentally conscious folks may love electric vehicles, but are offended by power lines, power plants, wind farms, and even solar farms. People who are offended by big trucks seem only too happy to have their consumer goods and heating fuel delivered, driveways paved, trash and yard waste picked up, etc. etc. all made possible by trucks. Someone's got to keep these vehicles running efficiently, and it's always more comfortable doing business with someone we know, rather than the faceless entity of a large shop located miles away.

Sadly, these days a handful of offended people can stop a project dead in its tracks even though popular opinion and public need favor that project. Heck, I'm offended by offended people – doubly so when they're capable of wielding such power.

Most every politician these days will stress the need for more commercial business. The problem is that the preferred businesses they have in mind are like those found in Disney's Magic Kingdom: nice clean, proper ones like Bakeries, restaurants, upscale clothing shops, and the like. You get the idea. Forget about manufacturing, waste recycling (even though we all produce waste), automotive repair shops, or anything else that involves blue collar employment. One local leader was even quoted as suggesting the best way to improve the tax base is to build more homes to provide more children so the schools can operate at full capacity. Brilliant!

In contrast to this thinking is the Industrial Development Authority concept, which provides financial incentives to locate a business in the authority's territory. I was once offered a deal by the Albany IDA to relocate our business from Rensselaer. We had political connections with Albany at the time, and they were willing to share some taxpayer money with us. The deal didn't seem right, and we turned it down, but maybe if Chuck threatens to move, some IDA could step in to save him. Just a thought.

We all know about the "buy local movement", in my opinion a very narrow concept. Ideally, we shop locally and buy locally made products. Trouble is, people go to the farmers market in a foreign car, bring the stuff home and eat it on plates made in China, that they got from Walmart. I have an example of a reusable shopping bag that says "Find Local, Buy Local". It's made in China. One can only conclude the concept really means yes to Local Food, no to Local manufacture, and no to Chuck's truck repair as well.

Finally, we have the legal issues. Most legislators are, or have access to, lawyers, so they delight in conjuring up complex laws that other lawyers can interpret several different ways. In Chuck's case, there's enough fine print to derail any business at his location, or any other location in New Scotland for that matter.

So, it now becomes a matter of discretion on the part of the board to accept or reject his application. I'll compare this philosophy with that which Sheriff Apple recently commented on regarding the behavior of a few overly zealous young deputies writing tickets for very minor vehicle infractions. He urged them to use discretion. Like the deputies, this board has the power to use discretion.

It is my sincere hope that you use the power to support Mr. Shufelt. You're dealing with a man's ability to make a decent living performing a needed service. You are also allowing an old building to be put to the use it was originally intended for, and supporting a small, local business, owned by a local resident who wants stay in the town he grew up in.

I'd also like to speak on behalf of my employer, Mark Stanton, of Stanton Farms (the dairy farm)

Chuck has done some work for Mark, when the farm's mechanic couldn't handle the workload due to the volume of repairs at harvest time. Last summer Chuck worked overnight to get a truck back on the road so that the harvest could continue. Another example of local business working together. Stanton Farms supports granting Chuck the variance.

Mr. Johnson closed the public hearing for Variance #507.

Ms. Abrams, when the building was originally built, it is such a large garage, what was the garages anticipated to be used for?

Mr. Baker, it was used by Domermuth to service their own equipment. It was not an automobile repair garage; it has never been a commercial auto or truck repair garage. It was an oil services business. The previous use of Domermuth had been abandoned for more than a year and you cannot change from one non-conforming use to another non-conforming use.

Mr. Jamison, it was built as a permitted use, but then it changed in the '80s.

Mr. Johnson we will keep this matter open, but the public hearing is closed.

4. **Continuation: Use Variance Application # 508:** submitted by Charles Shufelt for a use variance to allow for the operation of a public garage in an existing accessory structure. The building is located in the RA district at 173 North Rd. and is identified as tax parcel # 105.-3-6.10. The former use of tenancy space was a storage and repair shop for Kleen Resources, an environmental petroleum equipment and repair company. This request is for a variance to Article II, Section 190-12 of the Town of New Scotland Zoning Law.

Mr. Johnson opened up to the public hearing.

Mr. Jamison submitted new financial documents for their review.

No more public comments. Mr. Johnson kept the public hearing open.

We are going to have a continuation of both variance application #507 and #508 until our next meeting February 23, 2016.

Regular Meeting: Discussion/Action minutes of December 15, 2015: Mr. Moore moved to approve the December 15, 2015 minutes with corrections. Ms. Abrams seconded the motion; all in favor; motion so carried.

Discussion/Action minutes of January 12, 2016: Ms. Abrams moved to approve the January 12, 2016 minutes with corrections. Mr. Moore seconded the motion; all in favor; motion so carried.

Discussion/Action regular meeting dates 2016

Mr. Johnson moved to appoint Mr. Moore as Deputy Chairman in his absence, all in favor; motion so carried.

Motion to adjourn: Mr. Moore moved to adjourn and Ms. Abrams seconded the motion; all in favor; motion so carried.

THE NEXT SCHEDULED MEETING February 23, 2016

Respectfully submitted,

Lori Saba