

Town of New Scotland Planning Board

Minutes

April 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 p.m. Public Hearings:

1) Special Use Permit Application # 577: Application submitted by Bill Lawyer of Spaulding Realty Co. for a Special Use Permit to allow for a single family dwelling. The building was originally a modular single family dwelling and had been converted to office space. This request is to allow for the conversion back to residential. The property is located within the Commercial District at 3752 New Scotland Rd and is identified as New Scotland tax parcel # 93.-2-50. This application is a special use of Article II, Section 190-17 of the town zoning Law.

Mr. Voss moved to open the meeting to the public. No public comments. 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 special use permit application #577 as submitted; Mr. Perry seconded the motion; all in favor; motion so carried.

Vote: 4-0

New Business:

1) Referral: Variance Application # 511: Application Submitted by Todd Jackson requesting relief from Article II, Section 190-13 (B) and Article XIII, section 190-99 of the Town of New Scotland’s Zoning Law to allow for an accessory structure to be constructed within the front setback on a parcel. The parcel is located within the “MDR” district at 532 Font Grove Road. The parcel is owned by Todd Jackson, is identified as New Scotland Tax parcel id # 73.-1-23. The “MDR” district has a front setback of 40 feet. This request is for 25 feet of relief to allow for structure to be located 15 feet from the property line. Accessory structures require a 10 foot setback from the dwelling. The applicant is seeking 3 feet of relief to construct the garage within 7 feet from the house.

Mr. Voss moved to send a positive response to the ZBA and Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 4-0

2) Special Use Permit Application #579: application submitted by Rich Kelly to be allowed to construct a new pond approximately 1,500sqft in size. The pond would be constructed on a parcel owned by Sara Brenner and Greg DiRienzo, which consists of 5.2 acres, is situated within the RA

District at 149 Orchard Hill Rd, and is identified as New Scotland tax parcel # 95.-1-9.1. This application is a Special Use of Article II, Section 190-12 of the Town of New Scotland Zoning Law.

Mr. Voss moved to schedule this application for a public hearing for the May 3, 2016 Planning Board meeting. Mr. Perry seconded the motion; all in favor; motion so carried.

Vote: 4-0

3) Special Use Permit Application #578: Application submitted by NY Capital District Renaissance Festival LLC. To request a Special Use Permit to allow them to hold an event on two parcels owned by Peter Ten Eyck. The parcels are situated within the RA district at 400 Altamont Road, contain 300 +/- acres are identified as New Scotland tax parcels # 71.-2-20.11 and 71.-2-20.12. This application is a Special Use of the Public Assemblage Local Law of the Town of New Scotland.

Mr. Voss moved to schedule this application for a public hearing for the May 3, 2016 Planning Board meeting. Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 4-0

4) Site Plan Application #110: Application submitted by P.J. Hognestad for modification and update of the prior site plan approval to address the expansion of allowed uses for the parcel in areas of the site that were not previously approved. The site contains approximately 20.3 acres, and is located within the Industrial Zone. The property is located at 198 New Scotland South Road and is identified as New Scotland tax parcel id # 84.-1-44.14. This application is made pursuant to Article V, Section 190-52 of the Zoning Law for the Town Of New Scotland.

Mr. Cramer explained that the Town had a meeting with Mr. Hognestad after a violation notice, that was issued to the site for the expansion of the use of the land not previously approved and the amount of fill that was being brought in without any approvals. We had an agreed upon order of consent to address the expansion area and the violation. The applicant has been in contact with multiple engineers trying to find somebody that could put one together for him in a timely manner and would be able to put a SWPPP together for him for the site. We have met with the applicant and DEC at the site to address any issues that may have been there. The only issues that DEC had was with the storm water management or the lack there of. There is a proposal and based on the DEC to put in some earth berms to protect the pond and the stream that feeds into Five Rivers. To avoid any storm water that could potentially take any sediment and be included into the stream. We received the site plans, not so long ago, and it is basically a draft for the Board to review and make suggestions. Any conditions by the Board will have to be included into this and after an approval he would have to have a storm water management permit through DEC to rectify anything. They have site plan approval for trucking terminal; site plan approval to sell mulch, top soil, stone, fire wood. We granted site plan approval #106 at the end of 2014 for the steel shop that is located on the new plan that is still under construction. He has not received a certificate of occupancy.

Mr. Baker explained the notice of violation that was issued by Mr. Cramer, Mr. Hognestad entered into the order on consent in lieu of having to go to court. Basically it just recognizes that he wasn't in compliance with the previous approvals and he was noticed of the violation. There is a \$5,000 penalty that was assessed but we are suspending the entire amount provided he goes through this process. He has already taken action to be in compliance.

Ms. Davies had several questions and concerns:

- The area where there are cement dividers showing the different mulches, is you're your property or Guyette's property.
 - Mostly on my property. Those are my products that I am selling. Mr. Guyette is working with Mr. Cramer to break the barns off. The intention is for me to buy the barns and that property.
- In terms of the long term you would own the entire parcel on the one side of the road?
 - Correct.
- We talked about and you agreed to park all of your trucks and car carriers to be parked in an area where they would not be seen from the road. They would be parked behind the berms. I don't see the berms there yet.
 - We had a berm, but then I had a meeting last August with Mr. LaGrange, Mr. Voss and a few other people and I was instructed to remove the berm, because it was compost and it was in front of the lines and it couldn't be in front of the power lines it had to be behind the power lines.
- Do you have a long term plan?
 - Yes, I do. In speaking with Mr. Cramer the best long term plan we could come up with was to line metal buildings along the power lines, the front setback of the industrial land, which would act as a buffer for everything behind it. All the trucks would be either inside of them or behind them. All the mulch operation would be behind them. You wouldn't see anything other than really nice looking buildings. DEC recommended earth berms and then vegetate them that would put me in compliance with them. I would need a SWPPP indicating that. If you approve this I will need to get a SWPPP indicating that this is done and the water is managed. We had silt fences in place before hand and she said that was fine, but she really wanted to see berms.
- I would like to see that long range plan in writing, so that we have something to be working with.
- Please do an overlay of the site plan, just in general terms, how you want to build out the back end of that parcel? We would also like your hours of operation stated on the site plan.
- In addition, I would like to see a written plan what you are anticipating to do over the next 5 to 10 years.

- A concern I have is the dumping of fire wood along the road side when there has been an agreement that there would not be any material dumped on Route 308. You have a compost pile, which is right next to a pond, which is not supposed to be.
 - We were just going off when it was a farm they put manure on the fields, it ran somewhere, we thought it was fine. In the letter of consent it says it has to be 100-feet away from water ways. We are working to do that. In that meeting again, in August, I was told that I could put the fire wood and all the display items up next to Route 308.
- I came up with a list of 15 or 16 items that I feel aren't happening the way they should be and I had provided that list to Mr. Cramer. I wanted to know not only where your long term plan is taking you, but I would also want to be very specific on the site plan as to where those compost area can be, where the wood can be stored or displayed, signage, what can or cannot be sold on the property. Anything and everything that relates to what you are doing here. I have a lot of concerns about this. It is aesthetically unpleasing; I think it is an eye sore as you pass it.
 - To address your concerns I would really hope you remember what it looked like three years ago when I bought it. We made leaps and bounds.

Mr. Perry and Mr. Hart had concerns about the access road to the stream area. Mr. Hognestad explained that the Onesquathaw Fire Department would like to have access to the pond.

Mr. Voss decided there would be no decision on this application tonight due to all the information they are looking for from the applicant. The following are requests from the Board to the applicant:

- The Board would like a letter from the Onesquathaw Fire Department stating that they would like to have access to that pond area.
- The Board also requested a 10 to 15 year plan for this property. List your hours of operation on the plan.
- For the next meeting indicate on the site plan where you want your display area, indicate where the culvert is on the northwest side of the property.
- Show where the bins will be and what will be going into those bins.
- Ponds need to be shown on the site plan.
- Mr. Hart would like to see the SWPPP to address some of the issues in terms of how the site is organized, what percent of site is open or bare at any particular time. Also, the SWPPP can look at how the stream goes through that roadway that is there on the northeast side of the property.
- Mr. Cramer will submit this application to Albany County.

5) **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 read the conditions.

Mr. Shufelt asked that instead of the stockade fence on the one side of the property they would put a rail fence on that side. The neighbors are friendly and would like a gate put in at the back of the property.

Mr. Voss asked that he provide a letter from the neighbors stating the type of fence they would like.

Mr. Hart, what would work here, is there a place for discharge? This does not require a storm water permit. In terms of design of this we can put in a pad, what can we put here to contain oil, hydraulic fuel, antifreeze, is there a technical solution that we can recommend at this point that is not going to result in contamination of the soils on the back side of the property.

Mr. Dempf, we need to look at what are the practices of this business itself.

The Board asked the applicant to provide the following information on the site plan for the next meeting:

- A contaminate spill and storm water management plan.
- Show a back side swale to the pad.
- How do you handle any of the run off from any vehicles that are back there?
- Also, see what is happening inside the building
 - Where are you storing fuels?
 - Showing us where the water lines are, showing the sewer lines, showing the layout of the bathroom, indicating the handicapped accessibility, the five foot turn around area.

Mr. Voss moved to schedule this application for a public hearing for the May 3, 2016 Planning Board meeting. Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 4-0

6) 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. Peter Ten Eyck, representing ILF, explained that they have small weddings and special events (50 to 75 people) at various times on the farm from May to August. We usually have one wedding a day on the weekends. We have an 11:00 p.m. closing time for the weddings. While going over with Mr. Cramer requirements they will need to run the brewery that is being established on the farm they were told by Mr. Cramer that they will need a permit for the banquet events that are being held on the farm.

Mr. Voss our concerns is the sound emanating from the site after the 6:00 o'clock closing time. We would like to have more information on that. We would like to have a sound study done on the site. We need to quantify the impact of that.

Mr. Voss moved to schedule this application for a public hearing for the May 3, 2016 Planning Board meeting. Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 4-0

7) Special Use Permit Application # 581: Application submitted by Jeremy Cramer for a Special Use Permit to allow for a parcel owned by him to be used for "Agricultural uses, less than 5 acres". The parcel is located within the RH district at 293 New Salem South Road, contains 3/10th of an acre, and is identified as New Scotland tax parcel 82.-4-17. This application is a Special Use of Article II, Section 190-15 (D)(14) of the Town of New Scotland Zoning Law.

Mr. Cramer would like to have six chickens, no roosters, free range on the weekends; submitted design of coup to the Board. Feed will be contained in metal containers. The buy products will be disposed of properly.

Mr. Voss moved to schedule a public hearing for May 3, 2016 and Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 4-0

8) Site plan Application # 112: Application submitted by Town of New Scotland for a site plan to review the new site of the Hilton Barn. The site is owned by the applicant, is located within the Commercial district on Hilton Road alongside the Albany County Rail Trail, and is identified as New Scotland Tax I.D. # 73.-4-11.2. This application is made pursuant to Article V, Section 190-52 of the Town of New Scotland's Zoning law.

Mr. Voss recused himself from this application.

Ms. Davies explained to the public that this site plan application #112 is not the full site plan this is just for the foundation work that is needed for the barn. If approved tonight the foundation work would be completed next week, which will be a savings to the Town. At a later date they will be back with a full site plan review for the Planning Board.

Mr. Congowski, representing Town of New Scotland, as you know the Town took over the project to save this old barn, which was moved last week. Our main purpose is to get the foundation plans approved. The setbacks are correct we are 43-feet from the property line to the nearest corner and then additional 50-feet to the actual rail trail itself.

Mr. Hart, asked about the 8-inch above grade foundation extension enough in terms of splash back also, from ground to top of sill?

Mr. Congowski, yes, the combination of the type of stone that is on top of this drainage system should take care of the vast majority of splash. We will minimize this by doing this.

Mr. Hart, soils, what is the level of compaction on the site from site baring and for moving the building?

Mr. Congowski, we had test pits and they are quite competent that, they are finishing up their report, but there was bare minimum of 3,000 BSF for floating on the site, so that is plenty for what we need to design the footing to carry the building, so that's what we based it on.

Ms. Davies moved to waive the public hearing for application #112 and Mr. Leinung seconded the motion. Mr. Hart commented that this action is limited to the decision about the offsets from property lines, but is not with respect to parking or other things. This is just specifically related to the foundation. There will public hearings in the future for when they submit plans for improvements to the site. All in favor; motion so carried.

Vote: 4-0

Ms. Davies moved for a negative declaration under SEQRA, it is an unlisted action, uncoordinated review, again given that it is just for the relocation of a historic structure in to an area that's been evaluated. It is appropriate to give a negative declaration for application #112, Mr. Perry seconded the motion all in favor; motion so carried.

Vote: 4-0

Ms. Davies moved to approve site plan application #112 submitted by the Town of New Scotland to review the Hilton Barn location be approved as submitted. Mr. Hart seconded the motion; all in favor; motion so carried.

Vote 4-0

Old Business/Discussion items:

1) Minutes for March 5, 2016, Mr. Voss moved to approve the March 5, 2016 minutes and Mr. Perry seconded the motion; all in favor; motion so carried.

2) Minor Subdivisions for the month of March 2016: Minor subdivision review sheet has some changes:

- Town Board agreed to incorporate two notes that I had suggested to the minor subdivision review, this would take liability off of the town. Give more awareness to owners or people looking to purchase property by looking at the subdivision maps.

Stating that:

- On site water supply, as to flow and potability, is not guaranteed by the signing of this subdivision map. Any purchaser of a parcel of land shall be responsible for assuring adequate water supply and potability prior to construction.
- No municipal sewer exists at this location. No percolation tests holes have been performed on this site unless otherwise specified. Any purchaser of a parcel of land shall be responsible for assuring proper septic system design approvals prior to construction.
- Minor subdivisions:

- I have four that are open. Two that have been to Albany County Planning Board; two that are their way.
 - Pixie Restaurant in Feura Bush, we originally stamped the minor subdivision map approved January 15, 2016, they were not able to have a closing. There was an asbestos abatement that was done on the site before the closing could happen. It went beyond the 62 days of when I stamped it to when it has to be filed at Albany County. They came in and paid an application fee and we re-stamped it.
- 3) Dunston Brothers, annual Junk Yard License renewal. Mr. Voss moved to approve Junk Yard License and Ms. Davies seconded the motion; all in favor; motion so carried.

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

Ms. Elliott wanted to address the February minutes, which were approved. It is concerning my application. Dr. Torie asked about the sound study and Mr. Voss explained and I think we had some miscommunication on our sound study, but what I do want to state it says Mr. Voss explained to Dr. Torie that I was told to do a specific sound study and the study to be approved by our Town Engineer and I did my own sound study. I would like to address that, respectfully I didn't do my own sound study. You told me specifically not to and so I didn't do that. Also, I did speak with Dave Hansen (Stantec) on January 7th and had a discussion with him because I told him exactly what John Dismiss had said to me and how John was setting up the sound study. I don't want the Board to believe that I went off willy-nilly on my own and did a sound study. I talked that over with Mr. Hansen and he said that if he had any questions that he would e-mail me or get back to me. I thought what I was doing the first time what you had asked. Then I see that it is not exactly to the detail that you wanted or what Stantec wanted. The minutes make me look like an idiot. I don't think that was your intention. I just want you to know that I didn't go off on my own.

Michael and Kevin residence of Waldenmaier Road, still have concerns with what is going on in their neighborhood. We feel it is not a farm it is a construction site. We had been here before to address a lot of those concerns and there was the way it was explained some of the code is a grey area, so on May 6, 2014 there was a map put in place with a list of conditions A thru P that the neighbor agreed to along with the help of Mr. Cramer and Mr. Pine. They had 12 months to meet those conditions set under the special use at that time if those conditions had not been met they could re-apply for a six month extension. On November 19, 2015, 18 months later, I e-mailed Mr. LaGrange with my concerns saying that nothing has changed. I got a text message from Mr. LaGrange later that afternoon I will get back to you on Monday. I did not hear anything until March of 2016, so I called Mr. LaGrange again to say where we are kind of in hopes that they had not renewed their special use permit. During that phone call Mr. LaGrange walked into Mr. Pine's office and put me on speaker phone to notify me that the building permit had been issued four months earlier. I literally almost fell out of my seat when I heard this. Nothing on that parcel has changed. I did some more research into the code here and 190-49D says that they have to go in front of the Planning Board to get an extension of their special use permit. I went back and they have not done that. My one question is how are they getting a building

permit if they don't have a special use permit active anymore? My concerns they have brought in up to 100 dump trucks of non-septic fill, black top, concrete things like that. The elevation of their land has gone up significantly and all that run off comes on to my property. They had 10 to 12 loads of old concrete delivered approximately six weeks ago. It is an eye sore, huge noise issue they have multiple bull dozers, tractors, excavators, five or six abandoned cars. We are concerned with our land value. My whole question is how in the world a building permit could be issued when they didn't have a special use extension that I know of and they haven't met the conditions that were put in place for us to agree to. I'm a 100% on board that everybody has their own rights and should be able to build a house if they follow the rules. We don't see that any of these rules are being followed.

Mr. Cramer, to answer the question, the conditions of approval were met, both Jeff Pine and myself went out there at the same time and met with the applicant and as the conditions of approval were written the conditions were met. The Board said it had to be a brand new fence. The Board never said that all the animals should be contained away from the well. All the fowl were caged on all sides. The building permit was issued, the health department approval was granted for the house based on and the permit application was submitted before the year of the special use permit for the house had expired.

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

Respectfully submitted,

Lori Saba