# Town of New Scotland Planning Board

## Minutes

### August 2, 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) **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 III, representing ILF, updated the Board regarding the sound study.

   Mr. Dave Hansen, Stantec Engineering, comment that #6 is misworded. Strike the second sentence from this comment. They did make an accurate interpretation.

   - Conclusions and recommendations:
     - Gathering are not permitted between the hours of 11:00 p.m. and 8:00 a.m. the following day;
     - During the use of farm the loudspeaker shall be pointed away from the south and east direction.
     - Operate loudspeakers about 8 dB lower than the typical 94 dBA at 1.5 feet after 10 p.m. (e.g. at 90 dBA at 1.5 feet).
     - Once the facility becomes operational, the sponsor agrees to conduct measurement within 6 months at 3 and 175 feet setbacks from loudspeaker (during an event that uses loudspeakers) and shows that the sound levels are less than or equal to 88 dBA at 3 feet and 52 dBA or less at a 175 feet setback. If the measurement exceed the 88 dBA and 52 dBA levels respectively, an action plan demonstrating how the Planning Board's objectives will be achieved shall accompany the measurement results.
     - The applicant agrees that they resolve any noise complaint received from the nearby receptors due to the use of pavilion and loudspeaker in a timely fashion.

   Mr. Hart feels that the analysis that has been done is fairly thorough considering the site and other mitigating factors on the site. I would hesitate to say that because we had another sound study done in one fashion that we should be consistent with that because we did not adopt that as of protocol for our decision process and there are other factors here, there is distance, there is confirmation that the ambient noise is consistent with

published standards for rural areas. A likelihood that ambient noise is going to be higher during the days and with the operation of the farm is going to be a very probable. The modeling is adequate in my mind. I have other concerns regarding sound that we really haven't touched on yet. We say we don't have sound generated after 11:00 does that really mean music ends at 11:00 and then traffic leaves after that. That's a larger impact than running sound during an event. We really haven't discussed that.

Ms. Davies, has there been any complaints with events and noise.

Mr. Cramer, no official complaints.

Mr. Voss opened up the meeting to the public.

Mr. Biscone, immediate neighbor, we are very friendly with the Ten Eyck's. There has been no complaints because there has only been a few weddings a year, and they are seasonal. I am strongly opposed to the weekly night time events in an RA district. Weekends are fine, not during the week day. Application is very confusing, the wedding noise is not a problem, but the live bands are an issue when I am sitting in my screened in patio. My biggest concern is traffic, the site distance looking back towards Altamont. You have a mound there, and people are going 55 miles per hour. Re-direct traffic to the other side of the farm, not traffic coming out on Route 158. Entrance and exits need to be looked at and get DOT involved. Weekend hours are fine, but during the week I have concerns with that. Have them build a facility for the week day events. Sewer and water issues need to be addressed.

Mr. Dean Fish, 140 Tygert Rd., we supportive of the farm. I have not observed any problems with noise. I am concerned with traffic. They are supposed to go 55 mph, however there are numerous kids who are going 100 mph; has concerns with security. We are generally in support of the farm.

Ms. Cindy Elliott, Feura Bush, in favor of this application, I agree with Mr. Hart on this, in terms of the sound study, we do need more data, but the fact of the matter is I don't think it will change on your ambient level. I would tend to believe that his analysis with Dominick and Dave is accurate enough, if in fact, you take into account as I had proposed the direction of the speakers which is something that John is concerned about, their location away from the main highway, whether they are going to be contained in the facility, in the barn, whether they will be out and that kind of thing. I am not opposed to this application.

Mr. Dominick Campana, the direction of the speaker is almost meaningless at that distance. The direction of the speakers are not an issue.

Ms. Kathy Biscone, immediate neighbor, the band is certainly much louder than a disc jockey.

Mr. Tom McCann, Unionville Rd., my agreement with the duration and the noise ending at 10:00 p.m., there is a noise ordinance for 11:00 p.m. The traffic is a real concern.

Mr. Chris Briddy, how about changing the speed limit of that road?

Mr. Peter Ten Eyck, III- response to comments, 100 years of business and no complaints. That's an impressive track record. History of the farm business has been a year round business. The history of the farm is an exclusively day time use, that is also not correct, the farm runs 24/7, we run farming operations on the farm at all hours on all days. The

business is not seasonal and is not exclusively to day time currently, so those are not correct statements. Something about lighting was mentioned. We were not asked to address lighting. A lighting study was not requested. The traffic that will be introduced at these weddings will be a small increase, not an increase in traffic. One hundred people as compared to 5,000 people on a Sunday. I will look into the idea of rerouting the traffic in the parking lot, I like that idea. We have no control over the traffic on Route 156. The issue about water and sewer has no barring once so ever. We will always have our events staffed with our employees. The noise study was done and it was done real well. It shows we are not going to have a sound problem. I see the concern with the week day events. We can work with that, and have weekend only events. There should be no concerns regarding 100 people attending a wedding compared to the farm equipment that is running all day and at night which creates quite a bit a noise. We have a real business already that makes a lot of noise. We have been doing these events for a while, we have been running a real world test, how many complaints, none. I am asking the Board to consider our family and our business history in the town.

Mr. Biscone: The operation of the farm and store, and the sprayer is within 500-feet of my property. The noise of the sprayer does not bother me at all. Loud music with different sounds and cars all leaving at once, is an issue. If there is an accident then I think some smart lawyer will get involved.

Mr. Pete Ten Eyck, II – I would like to apologize to Mr. and Ms. Biscone about not realizing they would have a problem with the wedding business. We have been doing this for years. My daughter got married there, we have people getting engaged at the farm and then they want to get married there. I should have been talking to the Biscone's about this. We are in the business of growing apples, which is getting smaller, we are just trying to keep in business and change things up a little bit. More than 2,000 people showed up for our 100 anniversary. We did not realize we were doing the weddings illegally, we are trying to correct this. We are going into the fall season with half of an apple crop, we are in the middle of a transition with my son and daughter taking over the business. We are trying to get this done so we can continue with our business.

Ms. Davies, had concerns with the original narrative, it mentioned the café which is connected to the farm. Mr. Ten Eyck said he would send in a revised narrative. Did we get a revised narrative?

Mr. Cramer, yes, you should have a revised narrative in your packet. To answer your questions about the café, the café has expanded from what little approvals that were granted previously it was by determination that the restaurant tavern use could cover the expansion that they were looking to do as far as the café inside which generally only is open until sometime after lunch. If they were looking to expand it now would be the time to do that during the use that is receiving or requesting approval for the banquet facility, which falls under the same use.

Ms. Davies, I do not have that revised narrative.

Mr. Cramer, I will get that for you. They were looking to receive a permit from the liquor authority to be able to sell the alcohol that they are producing in the café, which is an expansion. I know that they were talking about possibly including the café to serve dinners and could potentially open year round. The café will also hold banquet style special events which will take place in the café, in farm buildings, as the apple barn next to the retail market and outdoor locations, basically I believe what they are saying is that the café or the kitchen could be used to supply the food if they were to hold an event out in the barn for a wedding, if they chose to. Or they have an option to do catering. They are asking for an expansion to evening hours above just the breakfast and lunch menu currently.

Ms. Davies, and this is all part of this same application, that is a whole section that we haven't even discussed yet. Would it be possible to get a copy of that at some point?

The Board will not vote on this tonight. The Board asked the applicant to submit and review the following:

- We need an updated narrative, an updated site plan and then that will be submit to Albany County.
- No lighting plan, and we can articulate what the lighting should be by condition also, in other words he doesn't have to resubmit the new plan, keep as a no issue with the Board;
- Show on site plan the traffic pattern, a circulation plan for traffic on the property.
- Sound study is adequate and acceptable. Ms. Davies states that she still has concerns with the study, but is fine with how the study was conducted. Board has agreed to accept the results of the sound study;
- Performing bands or DJ's are not outside of the barn;
- 75 people in attendance at weddings. Need the narrative to be updated with the correct number, if you want to have more than 75 people.

Mr. Voss moved to keep the public hearing open; Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 5-0-0

**Old Business: Discussion items:**

1) **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.

Mr. Voss recommended that the applicant submit a formal application. Board is pleased with what was presented for preliminary review.

2) **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.

   Jane Twomey, would like to use local food in cooperation with local farms. Start with Monday – Friday, breakfast and lunch, eventually Saturday and Sunday too. Hours of operation 7:00 – 3:00 p.m. opened seasonal hours. Will not be operating after dark.

   Board has requested the following from the applicant:
   - Property lines defined on the site plan;
   - Access between the two properties, and egress and ingress for the patrons of the food truck; landscaping between the two properties. Draw bins in and then show the traffic pattern on the property.

   Mr. Cramer will send this application to Albany County for review.

   Mr. Voss moved to schedule a public hearing for September 6, 2016 and Mr. Hart seconded the motion; all in favor; motion so carried.

   Vote: 5-0-0

**New Business:**

1) **Withdrawn by Building Inspector: Special Use Permit Application #585:** application submitted by Lauren Bachner to request a special use permit to allow for boarding kennel. The kennel is to be located within the existing structures on a parcel currently owned by Carmen Fasulo, consisting of 7.4 acres, is situated within the RA District at 425 Unionville-Feura Bush Road, and is identified as New Scotland tax parcel # 95.-3-17. This application is a Special Use of Article II, Section 190-12(D)(12) of the Town of New Scotland Zoning Law.

**Discussion items:**

1) **Minutes** for July 5, 2016: Mr. Voss moved to approve the minutes with the following corrections and Mr. Perry seconded the motion; all in favor; motion so carried.
2) **Minor Subdivisions** for the month of July 2016;

   - Mr. and Mrs. Grosbeck - two lot subdivision for his daughter.

   - Mr. LaChapelle - for one lot subdivision on West Street.

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

**Adjournment:** At 10:00 p.m. Mr. Voss moved to adjourn and Ms. Davies seconded the motion; all in favor; motion so carried.