

Town of New Scotland Planning Board

Minutes

February 7, 2017

Charles Voss, *Chairman*

Planning Board Members:

Jo Ann Davies, Thomas Hart, Dan Leinung,
Lori Saba, *Planning Board Secretary*, Jeremy Cramer, *Building Inspector*,
Crystal Peck, *Planning Board Attorney*, Mark Dempf, *Town Engineer (Stantec Engineering)*

Full Board

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

7:00p.m.

Public Hearings

- 1) 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.

The Board reviewed Mr. Hognestad's revised plat. The Board was satisfied with the updates that he has made to the plat. SWPP will be completed in April, so applicant will come to the Board in May.

Mr. Hognestad explained the updates on the revised plat.

Mr. Voss: four things we need 1) finalize the site plan; 2) establish time lines; 3) ensure improvements are done in timely manner and 4) storm water concerns be addressed

Mr. Voss asked the Board for their comments:

Ms. Davies: the area for scrap metal, that area is specifically used by Guyette?

Mr. Hognestad: yes.

Ms. Davies: has the letter from the fire department been received? The 2.3 acres on the north side, parcel #1, what are your plans with that?

Mr. Hognestad: none at this time.

Ms. Davies: how are you going to display your wood for sale?

Mr. Hognestad: it will be in the same spot as it is now. We felt this is the best spot for the wood. Gary's red trailer will be moved from where it sits now.

Mr. Hart: wood will have a splitting area and a small display bin?

Mr. Hognestad: yes correct. There are two bins that are still on Gary's property. Gary will give me a letter stating that the two bins can be on his property.

Mr. Hart: I would like to see the two foot contour lines on the site plan. My point is that taking the current spot elevation, those are surveyed spot elevations, so that's actually helpful to see how it has changed from the two foot contours, and you do have enough variation through there, so the point was to be able to get visualize what water flow was through the site, which is now funneled between those two berms that are being located there. Is there ponding to hold water back in the wetland?

Mr. Hognestad: it's kind of ponding right now.

Mr. Hart: for the record that could be a culverted area where that can be opened up more, depending on what the requirements are with the SWPPP. SWPPP should address the vegetation in that area. On the map it should be noted as a temporary sales area. The storage buildings are not part of this application. You will come back for a sign permit.

Mr. Hognestad: there is a sign there now.

Mr. Voss: is there anyone living overnight on this property? There is to be no overnight living.

Mr. Voss opened up the meeting to the public:

Mr. Robert Stapf, Oak Court, Voorheesville, NY: I am familiar with this property. The highway access points--the highway department did some recommendations as to where the rails should be. The applicant shouldn't have to do again; it is in the files when the prior owner owned it.

Mr. Larry Navasky, Board member of Five Rivers, Delmar, NY: please take steps to protect the water stream that runs into Five Rivers. A letter has been submitted.

Judith Fritz, 26 Holmberg Drive, Delmar, NY: I'm curious about a business. Do we have one, what kind of business is this? The Port of Albany is neat and tidy and that is industrial.

Robert Stapf, Voorheesville, NY: the prior owner of this property worked very closely with Five Rivers, he granted them an easement over his property to Five Rivers.

Nancy Conway, 33 Spore Rd., Voorheesville, NY: is there a business plan to look at?

Sharon Boehlke, New Scotland So. Rd., Voorheesville, NY: I have concerns with traffic on my road. There are more than one vehicle that leaves every day and there is more than one employee. I am just reiterating what I have stated before for the Board to take into consideration the traffic on this road. I don't know how much more traffic this road can take.

Judith Fritz, Delmar, NY: care about traffic. There are huge carrier trucks coming out of that business and carriers going up Orchard and down Spore. They are very noisy.

Mr. Voss asked the applicant to address these issues.

Mr. Hognestad, explained that the Agway proposal is his neighbor not him. I have never said there is one truck. I have six carriers now and they leave the property once a day. The following people lease from me, Gary Guyette leases the southeast corner. He has

some scrap wood back there and a dumpster that has metal in them. I lease to a couple of tree services, keep the various chips on my site. I do have a site master plan.

Ms. Peck: has concerns with the bins that are on Mr. Guyette's property. I would like to get a letter from Mr. Guyette.

Mr. Hart: I just want to make sure you understand that we are asking you to commit to vegetation and controls between those berm areas. Is there drainage along the Mohawk easement, going in the northerly direction towards that pond? Is that ditched in that area?

Mr. Hognestad: yes there is a swale in there.

Mr. Hart: does that need any berming at all?

Mr. Cramer: that is one of the additions that we had put on to the west of the proposed building that we extended what his existing berm was up all the way past his mound. We included in that to protect anything from the production areas or his roadways coming to the west.

Mr. Hart: I will refer that to the SWPPP plan also. There was another reference from Mr. Stapf regarding the road management would be done.

Mr. Cramer: that was the prior applicant. Albany County took out some guard rails.

Mr. Voss: the Board would like to see this site organized, we want to see the site managed well, and we want to see the site looking decent. You are in an industrial site, so that goes without saying. I think you have made some good strides here.

Mr. Voss moved to keep the public hearing open until we get additional information. Mr. Hognestad's engineer can get the SWPPP done in April, so the applicant can be back in front of the PB in May for final review.

Vote: 4-0

- 2) **Special Use Permit Application # 574:** Application submitted by Cynthia Elliot on behalf of Triple S Farm. The applicant plans to re-create the tree farm formally known as Scotch Hill Acres and has requested a special use permit to allow the site and residential use pavilion on site, to be utilized as a banquet facility for event gatherings. The proposed site is owned by Cynthia Elliot, is located in the RA zoning district at 20 Brownrigg Road, and is identified as New Scotland tax parcel id # 107.-1-7.1. 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: No decision will be made tonight on this application, due to not getting the Albany County decision back.

Ms. Elliott brought the Board up to date regarding her application. This special use is a permitted use and I have added to the file the previous special uses that have been approved in the past seven years. I updated my narrative, which I have submitted to be entered into file. I have done an exit driveway. Mr. Guyer is here tonight and I have paid for my highway cut. I believe this is a type two action, it is existing. It is an event facility, I constructed initially for my daughter's wedding. I am not renting this to anyone else. This will run from mid-May to mid-October. I put a maximum number of 200 people for each

event. I will do one event a week which would be a Sunday to Saturday and only one time per weekend. We will have an offsite caterer. There will be additional landscaping and a gate at the driveway entrance installed. All activities will end by 11:00 p.m. The music would end by 10:45 p.m.

Ms. Davies: I have a question on traffic flow--as I come out of Brownrigg Road and I miss your driveway where can I turn around.

Ms. Elliott: There is a turnaround further up the road, it is a K turn.

Ms. Davies: additional conditions not included in your list of condition--No parking on Brownrigg Road and also no fireworks.

Ms. Elliott: Yes I agree no fireworks and there will be no parking on Brownrigg Road. Many local businesses were used for my daughter's wedding. I had 25 local businesses involved in my daughter's wedding. This application generates business for all these businesses.

Mr. Dempf: your traffic flow is opposite. Needs to show on site plan.

Ms. Elliott: I know, and I will put plantings out to show the traffic flow, and I can put a sign up if you like.

Mr. Voss: opened the meeting to the public.

Ms. Roz Robinson, Voorheesville: I will read a letter from Mr. Stanton, letter has been submitted to the Board.

Ms. Roz Robinson, Voorheesville: I agree with the Stanton letter. I attended her daughter's wedding and we had to leave early, we stopped at the end of her driveway and we listened for the band, it did not sound any louder than a radio. I am a huge proponent of landowner's rights, it needs to be stated again that this is a permitted use in a special use. It is not a variance, which I hear over and over. She does not need to be in front of the ZBA. This is permitted with conditions.

Mr. Dean Fish, Tygert Rd.: neighbor to Indian Ladder Farms. I have visited her home and the neighborhood. This is an economic stimulus to other small businesses. There should be equity in decisions. I think this should be approved.

Mr. Tom Full, Unionville-FB Road, Feura Bush: we watched the big box issues, isn't this the type of business you would want there, a small business. I am in favor of this proposal.

Ms. Tamera Wells, Brownrigg Rd., Feura Bush: I do not hear anything going on at that property. I am in favor of this proposal.

Mr. Tony Turi, Brownrigg Rd., Feura Bush: we are at the end of the road. We are in favor of this proposal.

Mr. John Dearstyne, Clipp Rd., Delmar: feels this is a very important application due to being the first application to define restaurant/tavern use in a residential area. Feels you should not stretch the definition to fit the applicant's application. Does not feel this use should be given in a residential area. He has concerns with the impact of this application as a whole on the Town of New Scotland as it sets precedent. There is no interpretation of the definition on file. Submitted his comments to the Board.

Mr. Jim Keegan, 137 Unionville-Feura Bush Rd., Feura Bush: neighbor within 1,000 feet of this property. I am a firm believer in the rights of the landowner to use their land in any

lawful way that is covered by town laws set forth by its citizens. I am also firmly of the opinion that if a proposal is not in the best interest of its citizens or not permitted by town law it should be denied by the town. I have been following this submission. It's my opinion after reading the town laws and attending town meetings and hearing from the applicant this application does not meet any of the uses provided in Article 2, Section 190-12, specifically under subsection D17, this is neither a restaurant nor a tavern and the definition plainly excludes this application from approval based on the regulations. It is my interpretation and my opinion based on how this is submitted this has to be denied.

Ms. Belinda Phillips, 167 Unionville-Feura Bush Rd., Feura Bush: I am four doors down from the property. The residents are very concerned about how this will affect them, a petition was distributed among the neighbors; petition was submitted to the Board. The major issues are the possibility of drunk drivers coming off of the property after a wedding; noise, more traffic, security of our homes. This will be a negative impact on our property values. This type of business does not fit into a residential neighborhood.

Mr. Tom McCann, 195 Unionville-Feura Bush Road, Feura Bush, neighbor to this applicant. I feel like this is already approved. I thought coming here tonight we would be talking about the sound study. The engineer should come up and discuss the sound study and how this will affect our neighborhood. Feels the sound study was not conducted properly under the guidelines of Stantec and that the applicant's engineer is not qualified. I feel the sound study is inaccurate, it does not ID the standards used. There are some ethical problems with this study. Questioned the participation in the sound study by the applicant, her family and the town building inspector. Showed pictures of parked cars along Ms. Elliott's driveway, and Coxsackie Transit was parked on Brownrigg Road.

Ms. Valerie Newell, 302 Unionville-Feura Bush Rd., Feura Bush: the petitions that were circulated was not given to me. We moved here because people were very nice, I'm not seeing that now. I was at the wedding and the transportation truck went down and waited to bring the families up for a procession, in a formal manner. We do park on roads in this town, so this little short bus is there for a little bit, it wasn't there long. Not sure what weddings you go to, but no one was drunk at this wedding. I don't see any big downside to this business.

Ms. Pat VanAlstyne, 191 Unionville-Feura Bush Rd., Feura Bush: I will submit a letter to the Board regarding my comments. I am not a public speaker.

Ms. Karen Moreau, I live in Feura Bush: this is an RA zone, not a residential zone. In an RA zone there are a number of uses including agriculture. Frankly on this parcel if Cindy wanted to run tractors well into the night and do all kinds of things of an agricultural nature on that property you would have a lot of the things that people are complaining about here tonight. You cannot control the traffic on 308. The use that she is proposing, in my opinion, maybe it doesn't fit nicely into some of the categories specified in our zoning law, but it is certainly is a use much less of an impact than a number of uses that can take place in that zone.

Ms. Rea McMillen, 9 Dale St., Voorheesville: We have parks that create a lot of racket, so we did a noise ordinance. We were advised by our attorney that it is very difficult to uphold in court a noise law. The way you correct that is you put time limits in your town.

Our town has passed a law where anyone can do whatever, but at 10:00 the State Police or Sheriff can come by and say you have to turn it off.

Mr. Ken Welch, 43 Brownrigg Rd., Feura Bush: The noise level around Brownrigg Road, I hear the trains more than I hear anything else. The donkeys you can hear, but as far as any other disturbing noise, nothing. It is a quiet road and it still is a quiet road.

Mr. Andrew Sigond, 225 Unionville-Feura Bush Road, Feura Bush: I am close to Cindy's property. I like her and her family. I take offense that we are being nasty, this has all been business. I like living in a rural area. This is the last thing I wanted to get involved in. I don't want to hear rap being played at 10:30 at night on a Friday night. You can clearly hear the music and the announcements. How are we going to make sure it is enforced to 15 events a year? I am concerned about water source.

Ms. Genevieve Trigg, attorney for C. Elliott, Whiteman, Osterman, and Hanna, addressed some of the concerns of the neighbors: I am here on behalf of Triple S Farms. Our office will be submitting a letter to the Board regarding what is allowable in this area. There is nothing in your codes that prohibits this application. The applicant has the right to improve her property, it is within her legal right to do this. The town engineer has approved the sound study, it includes satisfactory analysis. I would respectfully remind this Board that its determination should be objective and should really just look at those determination standards set forth under the code. Again, we will be submitting something in detail as to how the application specifically meets each one of those standards.

Mr. Charles Voss: I would ask that Mark be ready to explain the sound study analysis at our next meeting. Crystal could you review the determination status and the Albany County Department of Health standards for restaurant tavern use.

Mr. Robert Stapf, 5 Oak Court, Voorheesville: I helped write the master plan that is presently in use. The road system that is in this town are public roads, this Planning Board does not have any authority to make any changes to that. The standards that Ms. Elliott has been put forth to are far in excess to any other special use application in this town, including Indian Ladder. She has gone through all the requirements. Her original file was misplaced, and Mr. Cramer had to create a new file. I do not see any negative issues that Ms. Elliott wants to do.

Ms. Beth Stewart, Scotch Pine Dr., Voorheesville: I'd like to say I am in favor of Ms. Elliott's proposal. This is a small business that is good for the environment. How can we say no to this, this is not going to impact anything—sound, lighting?

Mr. John DeMis, engineer for C. Elliott: I did the sound study. The Town asked for a simple sound study, which I did, based on previous sound studies that I had done for DEC. In which case I measured the ambient sound level in the area using a meter at the proper scale even though it was refuted, but it was at the proper scale. I determined the ambient noise level to be around 45 decibels. I then did comparisons with the music at the pavilion to see if it had an impact at a point of 75 feet from the intersection of Feura Bush-Unionville Road and Brownrigg Road which would be an approximate distance that everyone would be off the street, so it wasn't impacted by the noise from the road. The sound was turned out in the pavilion at a 100 decibels, which I can guarantee you will take your ear drums right out. It could not be perceived on the sound meter at the same point.

I'm not saying you will not be able to hear the music or the person talking on the PA, I'm just saying it's not going to be above the existing ambient noise level. That was done in the winter time with no leaves.

Ms. Elliott: In January 2016 you stated I don't care it's a simple sound study. I did not analyze the study. John did the sound study and it is quite extensive. I did bring Jeremy Cramer on site, he is a code enforcement officer. I wanted him to witness it. I did nothing else with the sound study. The busing thing will not happen again. The determination for definition was made on September 1, 2015 by Jeff Baker and Jeremy Cramer.

Mr. Voss moved to keep the public hearing open, will have Stantec speak on the sound study at the next public meeting and Mr. Leinung seconded the motion; all in favor; motion so carried.

Vote: 4-0

New Business:

- 1) Referral: Area Variance # 515:** Application submitted by Thomas Rieth to request relief from the modified subdivision approval that states each dwelling shall be allowed to construct a deck attached to the rear of the dwelling within the designated area. The parcel is lies within the RSCH Zoning District, in Stone Creek Estates, at 7 Pebble Ct, and is identified as New Scotland Tax parcel # 84.-2-92. The applicant is requesting to allow for a wheelchair ramp attached to the existing deck to be constructed outside of the designated area on their parcel.

Mr. Voss moved to refer this application to the ZBA with a positive recommendation and Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 4-0

- 2) Discussion/Action Building Permit Renewal Request:** Request of Daniel Jasinski to allow for the Building Inspector to renew building permit # 07-2296 for a tenth time. The original permit, for an addition and attached garage at 622 Voorheesville-Altamont Rd., was written on October 22, 2007. This application was approved for renewal by the Building Inspector multiple times and by the Planning Board two times previous. The board allowed the Building Inspector to approve the renewal two more times at the last approval. The applicant is now back in front of the Planning Board for their third time. This application is made pursuant to Chapter 190, Section 190-82 (C)(1)(2) of the Zoning Law.

Mr. Voss moved to grant a permit renewal for two years to October 22, 2018; Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 4-0

- 3) Special Use Permit # 589:** Application submitted by James Olsen for a special use permit to allow for a lot line adjustment of two parcels owned by James & Robin Olsen to allow for one parcel to be used as a "Self-Storage Facility". The parcels are located within the COM Zoning District, at 1944 and 1942 New Scotland Road, and identified as New

Scotland tax parcels # 84.-2-18.11 and #84.-2-22. This application is a Special Use of Article II, Section 190-17 (E)(12) of the Town of New Scotland Zoning Law.

Mr. Voss asked the applicant to show the following on his site plan:

- Storm Water Management preliminary design
- Fencing
- Lighting
- Lot line adjustment
- Landscaping

Also, recommended to the applicant to expand his narrative.

- 4) **WITHDREW: Major Subdivision Sketch Plat Application # 588:** Application submitted by David Moreau for a 20+ lot residential subdivision containing 50 +/- acres. The proposed subdivision is located on Youmans Road, is identified as New Scotland tax parcel #72.-3-41.1& #72.-3-41.51, and is located within the COM zoning district. This application is made pursuant to Article III, Section 164-18 of the subdivision law.
- 5) **Modification of Subdivision Application # 355:** Modification request submitted by Mary Beth Slevin for Kensington Woods Subdivision, a 169 residential unit cluster subdivision submitted by Lansing Engineering on behalf of Garrison Projects, LLC that received a final approval on Dec 15, 2009. The site contains 187+/- acres of land and was originally comprised of 4 individual parcels which are identified by New Scotland Tax Id numbers 73.-1-9.11, 73.-1-9.12, 73.-1-9.2 and 73.-3-1.1. Approximately 100+/- acres lies on the west side of Hilton Road and the remainder is situated on the east side of Hilton Road. The request for modification is to allow 6 additional model home permits added to the 4 original model home permits per phase that were allowed in the subdivision approval. This application is submitted pursuant to Article III, Section 164-17 of the subdivision law and as referenced in Article III, Section 190-22 and Article VI of the zoning law.

Mr. Voss moved to schedule a special meeting to review any issues associated with the Kensington Woods subdivision. The meeting is scheduled for Thursday, February 23, 2017. Mr. Hart seconded the motion; all in favor; motion so carried.

Vote: 4-0

Discussion items:

- 1) **Minutes** for January 10, 2017; Ms. Davies moved to approve the January 10, 2017 minutes with corrections; Mr. Voss seconded the motion; Mr. Hart abstained; all in favor; motion so carried.

Vote: 3-1-0

- 2) **Minor Subdivisions** for the month of January 2017

None

Adjournment: At 11:50 p.m. Mr. Voss moved to adjourn and Ms. Davies seconded the motion; all in favor; motion so carried.

Vote: 4-0

Respectfully submitted,

Lori Saba

DRAFT