

Minutes
Town of New Scotland
Zoning Board of Appeals
Notice of Meeting
February 27, 2018
7:00 PM

Zoning Board Members:

Jeff Baker, *Chairman*,

Lance Moore, Steve Crookes, Edie Abrams, Michael Barton,

Lori Saba, Planning Board Secretary, Jeremy Cramer, Building Inspector
Crystal Peck, Zoning Board Attorney, Garrett Frueh, Town Engineer (Stantec Engineering)

Absent: Michael Barton

Public Hearings:

- 1) **Variance Application # 521:** Application submitted by Hudson Valley Italian Rest. Inc. requesting relief from Article II, Section 190-32 (B-2) of the Town of New Scotland Zoning law to allow for a detached sign for the new restaurant. The applicant is seeking 23 square feet of relief to allow the detached sign to be 48 square feet in area. This would be an increase of 4 square feet from the last variance approval which allowed 44 square feet and to be located in the original location. The proposed sign is located on a lot owned by Hudson Valley Italian Restaurant Inc., is located in the Commercial Hamlet District of Feura Bush at 1368 Indian Fields Road, and is identified as New Scotland tax parcel id # 107.2-2-54.

Ms. Elliott, representing the applicant explained to the committee why this sign needs to be increased in size, showed the Board the site plan and where the sign will be set, produced a letter from Matt (sign maker), also presented pictures of the site. The poles do not have to be considered the sign since it is part of the frame work that is holding the sign together. I am attempting to make the additional square feet even less. Presenting that to the Planning Board they gave me a positive unanimous recommendation to increase the sign by the four square feet. Any questions?

Ms. Abrams, even though the public hearing notice says that the sign is going to be located in the original location. It's not it's going to be six inches closer to the restaurant.

Ms. Elliott, correct, and if these are where the post are right now, to get on virgin ground we'd be there, make sense, not any closer to Route 32, but not drilling in the same holes where they are. We will still be at the same distance as we will be going to Route 32 we are just drilling new holes to place the structure. The set back from the street is the same. It will be closer to the building, because it is 8-foot not 7'6. You have already approved the location.

Ms. Abrams, oh, okay, that's why it's going to be closer.

Mr. Baker, I have your letter here from Matthew Signs, what is the difference in cost?

Ms. Elliott, I do not know.

Mr. Baker, the issue is a matter of convenience to cost, but we don't have anything on the cost. Do we have the design of the sign that we approved in the past variance in terms of what it looked like.

Ms. Peck, in the file that we have here it's got the post sign.

Mr. Baker, so then my main question then is on the post sign the overall height or the height to the bottom of the sign might be the better measurement, you are showing three feet here now.

Ms. Elliott, yes, correct.

Mr. Baker opened up the meeting to the public. No public comments.

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

Vote: 4-0

Ms. Peck, I would like to clarify one point, the question as to whether the framing is going to be calculated into the size of the sign. I did follow up with Mr. Cramer to see if there had actually been a determination on that and he has not made a determination as to whether framing would be calculated into the size of the sign. As of right now the way he views this it still needs a variance.

Mr. Baker, is the peak calculated in the square footage of the sign?

Ms. Peck, no, the peak is not.

Mr. Baker, so the 48 foot square area which is the sign variance is basically everything within the post?

Ms. Peck, yes, everything within the posts.

Mr. Baker we have one potential procedural problem, the referral to the County did not get there in time for their Planning Board meeting. It has not been 30 days since we sent it.

Ms. Peck, they changed the submission date for the Planning Board meeting, so now it's the first Monday of the month. It was sent, when it would typically be sent, which was the day after the planning board meeting thinking it would make it on the agenda and it did not make it on the agenda.

Mr. Baker, my suggestion, it's up to you; I am prepared to move forward with this decision which would be whatever conditional approval denial or whatever. We would make that decision conditioned upon no objection from Albany County. If Albany County presents an objection you'd have to come back.

Ms. Elliott, that would be fine, we do agree to that.

Mr. Baker, we will note in the record that the applicant has waived waiting for the Albany County Planning Board and recognizes that any decision we make tonight will be conditioned on a favorable recommendation or no recommendation from the Albany County Planning Board should the County Planning Board recommend against approval or recommend a condition related to the approval then we will put this back on the agenda and it will not be approved until we deal with the County's objection.

Ms. Abrams, had a question for the applicant, referring to the letter, so right now what is approved is 4 foot by 7 foot?

Ms. Elliott, no, 4x7 foot is 28 square feet, we are approved for 44 square feet, the distance between the existing poles is 7'6 and we had always said we would put a sign above like it is shown in black, but we would be 7'b by whatever squished down to come up with the 44 square feet. We are asking for 48 square feet, which is the 4x8 and 2x8.

Ms. Abrams, I would like to know how much this sign would increase in cost. I tell you why, we are supposed to give variances on the least amount of stuff. We have already given a variance, right, okay, if the increase in cost is really a lot of money then I really would be sympathetic to that and take that into consideration. If the increase in cost is not

going to be that much amount of money I think our obligation to the town is to give least variance possible.

Ms. Elliott, understood, however the 44-square foot was a different sign, because it was a digital message board, which gave us different numbers. We went back to the Planning Board and then we had a sign law that took that sign basically away, but in order to be able to do the pre-cut because it is a different sign now that puts us into the 4x8 and since the 8-foot is going closer to the building, I realize it is slightly bigger, but it is a standard size. That's why there is a difference in the dimensions. It's a different sign.

Mr. Baker, I agree with Ms. Abrams, we've spent a lot of time on the sign review before. Especially on something like this, that has been somewhat controversial, you have spent a lot of time in here, I expect an applicant to come in knowing what they want with a demonstrative proof of what they are going to have and not do a slip shot job. You say you have technical difficulties on doing the approved sign to do 4x8. You made it clear at the last meeting we wanted a demonstration or proof of evidence of what the hardship is as a reason to warrant to reopen it. You provided us with a letter, which I find terribly unpersuasive. Especially because it's primary cost factor seems to have been changing the ballasts for the lighting on the inside that you are not going to be doing anyway, so now we are simply talking about the difficulties of the cost, the extra cost difference, on cutting a sign. I can't imagine it is terribly huge. I would have expected you know some dollars and cents proof of what the hardship is. I agree with Ms. Abrams, we already gave a pretty considerable variance over the area that is allowed. Four square feet more is not tremendously different, but incrementally it keeps increasing. It keeps changing the size of what is happening and we have other signs that we have to deal with and I think there is a lot of concern in the town. We have to follow the intention of the Zoning Code to try and keep signs down.

Mr. Moore, I have just one comment, the sheets come 4x8, the material cost is not reduced. The waste is upon him. I don't see that as a mitigating factor. We have been more than generous. I agree with Ms. Abrams.

Ms. Abrams, this is my feeling, the size of the sign is not going to change that much if we grant a variance, but we are obligated to grant the least variance. If Ms. Elliott's client doesn't mind coming here again I would like to know what the substantial cost would be.

Mr. Baker, here is my point, I have trouble with the difference in cost between the two signs qualifies substantial. I can't imagine it being huge, so I think we are in agreement with this.

Mr. Baker made a motion to deny this variance on the finding that the previous variance we found met the criteria in the code for an area variance, we noted that it was substantial variance that we were giving but on the balance of interest we felt it was worth doing. The request to amend that variance to give an additional four square feet of area, well in of itself is not terrible significant increase it is an increase. It is counter to our mandate to have the minimum variance required that is necessary to meet the applicants need. There has been no demonstration by the applicant of a substantial hardship and financial cost for constructing the sign as originally approved. On that basis I would move to deny the variance.

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

Vote: 4-0

New Business:

Variance Application # 522: Application submitted by Ray Signs to request relief from Article II, Section 190-32 (B-1) of the Town of New Scotland Zoning law to allow for two attached signs for a new commercial use on an existing commercial building. The applicant is seeking 10.05 square feet of relief to allow the two attached signs to total 60.05 feet in area. The proposed signs are located on a lot owned by Chris and Melanie Frueh, leased to Xylem Dewatering Solutions, is located in the Commercial Hamlet District of Feura Bush at 1373 Indian Fields Road, and is identified as New Scotland tax parcel id # 107.2-2-61.

Applicant did not attend the meeting.

Mr. Baker we will not schedule this for a public hearing. The applicant needs to say their total signage for the property, attached signs, detached signs. If they say they are not going to do the detached sign and just want to have the attached sign we can consider it that way, but we will not consider or entertain a later application for the monument sign. I will not allow them to divide up their approvals like this, or if they did they will be denied when they come in.

Mr. Pine, I will contact them.

- 1) Mr. Petraceni, Clarksville, would like to talk to the Board regarding a wind turbine, similar to the one that is on Clarksville South Road now. The application is not complete. This one would be much further off the road and it will be up above our house approximately 600+ feet, which would make it about 1300 feet from the road. We have gotten approved by NYSERDA for a grant to do this. The turbine is a 10kw turbine. NYSERDA recommended that turbine is because it is a newly designed turbine and rather than increasing wind speed it increases the resistance in the motor so rather than spinning faster it spins a constant speed and there is the amount of resistance in the motor so even at low wind speeds it turns, but it doesn't over speed at height wind conditions. Presented a picture to the Board.

Mr. Pine, we are looking at this as a residential accessory structure, maximum height is 35-feet. He is proposing 100-feet.

The Board would like to see the following for the next meeting:

- The application
- The specs and drawings
- Noise levels from the property line
- Distance from other dwellings
- Any environmental concerns.

Once all the information comes into Mr. Pine will send the application to Albany County for their review. Applicant will attend the March 27, 2018 meeting for Board's review of full application.

Regular Meeting:

Discussion/Action minutes of January 23, 2018. Mr. Moore moved to approve the January 23, 2018 minutes with corrections and Ms. Abrams seconded the motion; all in favor; motion so carried.

Motion to adjourn: At 8:21 p.m. Mr. Moore moved to adjourn and Mr. Crookes seconded the motion; all in favor; motion so carried.

THE NEXT TENTATIVELY SCHEDULED MEETING March 27, 2018

Respectfully submitted,

Lori Saba