

## Town of New Scotland Planning Board

### Minutes

January 3, 2019

Charles Voss, Chairman

#### Planning Board Members:

Thomas Hart, Amy Schallop, Peter Richards, Christine Galvin, Robert Davies (Alt.)

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

**Board Updates: Major Subdivision Sketch Plat Application #638:** Application submitted by Prime Companies for a 22 lot residential subdivision containing 87.5 +/- acres. The proposed subdivision is located on Krumkill Road, identified as New Scotland tax parcel #63.-4-9.2, and is located within the MDR zoning district. This application is made pursuant to Article III, Section 164-18 of the subdivision law.

James Easton, JL Development LLC, presented to the Board his sketch plat application #638. Since we met back in November obviously you looked at the original conventional/cluster plan basically under your Comprehensive Plan you really said go back to the drawing board let's see what you can really do about this project. Ms. Stolzenburg work together and came up with different ideas. Her comment letter is based on this revised plan, but we did work together. I looked at how many potential lots that would conform to the current town code in a sense of how many building lots you can get on this parcel of ground, so we can get approximately 25 lots. The cul de sac is designed to town code. What I'm proposing I don't think I am 100% by any means, I expect comments from Ms. Stolzenburg further on and from the Board to make this project even better. We will get our water from Bethlehem and we will have a community septic system. The sewage pump station building that basically goes to Schoolhouse Road, that is about 2000 feet away from our project site and that's where I'd have to take my sewer to get it over there. I would also need to install 2000 feet of water line to get it to that location. The Town of Guilderland also said that our distant water meter pit between the Town of Bethlehem and Guilderland would be relocated over to this parcel and then put a new meter pit, which \$100,000 to begin with by there. There is also DEC wetlands in here which makes it almost impossible to cost this area and get to that point. It is very limited on the potential that we see us going on there, I can certainly talk to the applicant, it would be cost prohibited for us to go through that. My client has no wishes once so ever to go through that with the Town of Guilderland so that is where currently are. We will provide a long EAF.

Mr. Voss: Thank you; it is a substantial change from the original.

Ms. Stolzenburg: What I tried to do was really just a lot of it is to point out areas where in the course of the review you guys should be asking questions and confirming things. One of the things is, and I don't know, I am only going by what is written in the zoning about what is a Class I, II, III development. I

wasn't really sure how it was determined that it was a Class II development versus to something else. I don't have an objection to it I just wanted to have everybody agree that it is a Class II. You assumed it was but that hasn't been discussed, so I recommend that the Board talks about how that is defined and what that is, because that determines the number of lots that can be created. Also, I would assume the applicant when we get to a more detail application then the calculations would be shown to show the total number of acres, the total number of acres in the slope, in the wetlands so then again we can confirm and see where those 25 lots came from. I like to see and make sure that you have all that information so that you are comfortable with how that number came about.

Ms. Galvin: I don't know, I'm looking at 190-13 MDR minimum density residential and then it just lists class II, as Mr. Easton says 30,000 minimum lot area, 30,000 sq. feet which I'm assuming you just chose, that was the size that you chose for the new plan.

Mr. Cramer: That is based on the scope of the project having municipal water.

Mr. Hart: Public water and onsite septic defines the size for that class.

Ms. Galvin: Class II notes say on lot water and sewage disposal that tell me.

Mr. Cramer: It means public water and onsite septic system. A class I would be public water and public sewer and class III would be private well and private septic per each lot. Nothing in the MDR zone addresses community septic.

Ms. Galvin: I'm trying to understand what is the question then about this being a class II?

Mr. Cramer: What he did in the conventional design put a map together based on the MDR zone with public water and private septic and showed the lots that could fit on the parcel. When you get into a cluster or conservation subdivision it says in the zoning regulations that the zoning in a sense goes out the window as far as setbacks, lot sizes, per each house and that is something the Planning Board would be the determination on.

Mr. Frueh: I think Ms. Stolzenburg just wanted to make sure you guys were making sure that public water was part of the Class II application.

Ms. Stolzenburg: Absolutely, because the whole design is dependent on the starting with the number of lots that this parcel is eligible for, so I just wanted to make sure I brought that up, because that hasn't been discussed yet. That drives a lot of the design, so if there is not municipal water then it's a different class.

Ms. Galvin: This entire plan is basically contingent upon getting municipal water from the Town of Bethlehem?

Mr. Easton: That is correct yes.

Mr. Hart: Where is the nearest Bethlehem water on this?

Mr. Cramer: If you look at, let me see, it just doesn't, you have the church who has put in request for public water and then you have probably about two properties from the church there is a spaghetti line that picks up the parcels on both sides of the Kelfland application that has a T shape parcel out at the road. Bethlehem has come into the town with spaghetti lines about 20 years ago as part of any water

district extension the spaghetti lines would have to be done away with and we'd have to put a master meter around the Town border, or municipal border.

Mr. Easton: Probably the nearest fire hydrant which we would tie into which is along Krumkill Road is approximately 1200 linear feet from the existing entrance way to go into this site. We have already surveyed that. We know what is currently out there. It is certainly an offsite expense to bring the water 1200-feet to our project site and then feed this residence, but that has always been our goal and intention to provide public water. From a sales point of view the client wants to provide public water.

Mr. Hart: I've said this to all applicants who have come in here that the Town is under no obligation to make that request from the Town of Bethlehem. As long as you know that as you are going into this.

Mr. Easton: Yes.

Mr. Cramer: The lot area, the setbacks, and those sorts of things that determines, you could allow for 10-feet of property per house all around the house itself, if that's what the Board chose to do.

Mr. Hart: The process for that, I actually sent some guidance on that several weeks ago, and Ms. Stolzenburg is correct. We need to know what the as of right development is, which is total area of the parcel minus those things that aren't developable that defines how many units is entitled on this land under Class II zoning then you can reposition the houses as you see fit. To fit the landscape you have what I would call cluster design here yet, not quite a conservation design, but that's all in the guidance I had sent out. You can basically change the size of the lots to effectively cluster in a number of houses and set aside open space as a result.

Ms. Galvin: Did you do that type of calculation?

Mr. Easton: I guess I will say that the calculation in the Zoning Code for the way I read was you need to have 30,000 square feet of useable property, which is minus wetlands, minus steep slopes and you need to have a minimum of 130-foot frontage for those lots. There is not an overall calculation that you have, I'm just going to make up we have 10-acres of property, minus out two acres of wetlands, two acres of steep slope you are left with X amount of area, you take that X amount of area and divide it by 30,000 square foot lots to give you your density. That's in some other communities that calculation is required that calculation is not here in the Town that I'm aware of, so the plan that I showed, shows 30,000 square foot lots with 30,000 square foot useable, even though some of the lots are 60,000 square feet or whatever it does show that each lot has 30,000 square feet of useable. What does that mean? There is nothing wrong to achieve that 30,000 square feet you need to sometimes eliminate wetlands and move them to a different location. There is nothing wrong with doing that. The same thing with steep slopes, now there is nothing in the code that says you can't break out those steep slopes. We are following the conventional you know practice you don't want do that, comprehensive plan doesn't want to do that, I understand that, so that's how you obtain your base density number is that you blitz everything in the world and you should show a bunch of stuff in there that supports the code which is correct, but that's why you have a new Comprehensive Plan where you are trying to follow the clustering and comprehensive design is that you reduced down these impacts to critical environmental things that the town deems important.

Ms. Stolzenburg: Let me just add though that I didn't quite get what you were saying, I mean the density is set, if it is a Class II at 30,000 square feet per lot but there is a part that deducts wetlands and

steep slopes in storm water areas to give you the buildable area of the lot and then you're 30,000 square feet is taken from that buildable area. I assume that's what you did and that's why I was asking to see that so everyone knows how you came up with the 25.

Mr. Easton: Yes and that's what is shown on our second sheet. It is achievable on this site.

Ms. Stolzenburg: I think there is as you go through it and look at where the lots are situated and where the potential building envelopes are shown there might be some, I made some suggestions where there still could be some options to move things around. To remind the Board that in a clustered subdivision that once you have the based number of lots that you can create, the lots can be smaller, and especially with the community septic system where you are not as tied into having individual septic systems on each lot so there may be some other design elements that could be introduced if that's the desire of the Board and applicant. I have a couple of comments about that, just food for thought, a couple questions really for Ms. Peck some of the lots extend over the line into Guilderland and I don't know what that means in terms of a review process. I think that needs to be discussed. It would be cleaner if it didn't, I would think, but that's part of the process. I just wanted to bring it up to the Board that there are some lots that do extend over the line.

Ms. Peck: We will have to take a look at that too, because obviously we don't have jurisdiction to grant any approvals on Guilderland property.

Mr. Easton: It's a total to three lots (12, 13 and 14); you know we can look at that.

Ms. Peck: We will take a look at that.

Mr. Easton: I just kind of extended the lines going back you know I am fine with whatever you go with it.

Ms. Stolzenburg: A lot of these comments are to bring it to the forefront for discussion and the Board can work them out. Talking about the ownership of part of the parcel shown where the steep slopes are, I think you had it labeled open space, so the ownership of that needs to be discussed. Whether it's going to be an individual which is attached to one of the lots, whether it's a separate lot, there's lots of different ways of doing that. That needs to be worked out and identified. You know a few of the things you mentioned about the grading along the road I assumed was for site distances. You know that would be more of an engineering thing and I recommended that the highway superintendent look that over and make sure all of the road standards and that's the part that with a clustered subdivision I assume that this would be a road that would be requested to be taken over by the Town.

Mr. Easton: Yes.

Ms. Stolzenburg: So would have to be built to Town specs, my recommendation if there is any way in a cluster subdivision to alter those standards for a low volume residential road to have the bulb of the cul de sac and the pavement width as narrow as we can get, because that's what goes along with rural character and also is less expensive to build. I don't know whether that is possible, but that's generally my recommendation to try and get those down to not so that they are not overbuilt.

Mr. Cramer: The radius is specified, the Town Highway Law.

Ms. Stolzenburg: I was wondering if in a cluster subdivision whether there is any room to alter those. I don't know.

Mr. Cramer: I would have to discuss it and see if a variance would be needed for dimension of cul de sac specs. This design is straight out of the green road design local law that the town came up with previous to the LeVie Farm subdivision, which allows for the swales along the roadway to be incorporated in the storm water design and green infrastructure practice.

Ms. Stolzenburg: That's fine, I'm not saying it's wrong, I'm just saying that as a rule in rural subdivision we like to have the roads so they are not too wide of a pavement.

Ms. Galvin: You had recommended that all existing trees remain and it should be shown, existing trees and vegetation should be shown.

Ms. Stolzenburg: That's really the first plan it was easier to see on the first, where you had a line showing existing trees, there is other vegetation up in the other part of the site. I just recommend that the existing trees be shown for all areas and that you try and maximize the maintenance as much of those trees as you can.

Mr. Easton: The trees are shown on the plan.

Ms. Stolzenburg: The last set from comment 19, A thru J, are actual carry overs from the memo I wrote in October and those really show up more for the SEQRA form and for your analysis from an environmental impact perspective just to kind of alert the Board as to what the other natural resources on the site are that you should pay attention to as this moves forward.

Ms. Galvin: With respect to the open space what the ownership would be?

Mr. Easton: It could certain be an HOA, that is one option, and by doing an HOA here maybe some of these lots appear three, four, and five we cut that space off and make those lots smaller. That becomes part of the HOA. Or I could combine the open space and the lot 23 or 24 deed restricts that whole space and the same concept you can use up here. We can use either one of the concepts or I have a small retention basin here that the town takes over and then this whole big area becomes the town's property. All three are viable options. It's really whatever direction you want to go in. I would be more than willing to do.

Mr. Voss: It seems in the past some of the larger subdivisions we've taken over some of the facilities obviously, but for the most part, I think and I can't speak for Ken directly, it's been the policy to not want to take on additional facilities.

Mr. Cramer: We do for storm water, because we are ultimately responsible for it. Now whether it's maintained by the HOA or the highway department would be a different story.

Mr. Easton: Whichever way you would want to go we are amendable to any of those options.

Ms. Stolzenburg: One of the things I didn't say was that given the where it is at and the presentation that Mr. Easton made I strongly recommend going with the cluster design instead of the conventional design. I know it has some other steps that go along with it, but I think it's far closer to what your comprehensive plan was looking for so that's certain is kind of where I was heading with my comments. Again, I don't know ultimately the size of each lot, but the clustering does give you the ability to move things around, make things you know some smaller, some larger, to optimize the design for that site. Keep that in mind as you go along with your review.

Mr. Easton: You need time to think about it and discuss it with Ms. Stolzenburg and then eventually come up with some thoughts and get it back to me. I didn't expect to be 100% but this is a lot better and I got a little bit more creative with the help of Ms. Stolzenburg, but I didn't expect to come in tonight and say this is 100% done. I did not expect that by any means, I expected some input and thoughts from you guys.

Ms. Galvin: It is a big improvement.

Mr. Easton: The applicants goal is generally for the lot size, you know something around 18 to 20,000 square feet roughly you know 100-foot at the setback line that way it allows flexibility on the house design.

Mr. Voss: You've followed our initial direction, you know obviously getting more creative kind of design with the land not you know making the development fit the existing conditions of the land itself versus the other way around. The conventional subdivision just didn't seem right. I think it is a great step forward. I think the general direction is very good. Some additional insight with Ms. Stolzenburg there is some room for improvement here and there. I would like the density question kind of just figured out specifically so we know we are dealing with 25 lots, 24 lots, 23 lots maximum. That would kind of help us shape the pieces a little bit better.

Ms. Galvin: You want to base all of the lots in the Town of New Scotland right, rather than going over the border into the Town of Bethlehem.

Mr. Voss: Yes that's good direction. It does keep it cleaner.

Ms. Peck: Mr. Cramer had a good suggestion too, if you are looking for additional property I supposed for those lots you could always do a subdivision in the Town of Guilderland and have two separate deeds not to be merged, so that way when you sell whatever lot it maybe you could include with that the separate deeded lot in Guilderland and keep it separate for tax purposes and municipal jurisdiction purposes.

Mr. Easton: Under the cluster plan I think that could be easily obtained.

Mr. Voss: Also, I appreciate, the fact that you put together the overall site master plan, if you will, filled out because when we get to the SEQR phase you know we are going to Ms. Stolzenburg to look at that from a holistic standpoint, if that other side were to ever build out. In particular it is the traffic impacts really on the New Scotland side. I think it is something you need to plan on.

Mr. Richards: I noticed I don't know if this is technically possible, if JL owns a lot on Legal Avenue in Guilderland, the triangle points out to it, could you get a pedestrian easement in this area, I know there is a property in between this, but when you talked about traffic, it triggered this. Just because pedestrians aren't going to want to go out Krumkill and around the sidewalk around the roundabout, it's just an idea.

Mr. Easton: The same owner owns that parcel of land, but because of the wetlands we had to actually go to this owner right here and try to get a utility and multiuse path through this area. The cost was astronomical it was very difficult to get a pedestrian access. I can explore that with the owner. I will get you an answer on that.

Mr. Frueh: Please just notify me when you want engineering to kind of kick in to review from planning to engineering.

Mr. Voss: I think we are getting close.

Ms. Peck: You can make the determination in February. We can review again and then you have 45 days to make a determination.

Mr. Voss: Thank you!

### **Public Hearings: 7:00 p.m.**

- 1) Special Use Permit Application #604:** Application submitted Rose & Robin Tell-Drake for a Special Use Permit to allow for a parcel owned by Dale Caron to be used for "Agricultural uses, less than 7 acres." The parcel is located within the RA district at 9 Game Farm Road, contains approximately 1.3 acres, and is identified as New Scotland tax parcel #95.3-61.10. This application is a Special Use of Article II, Section 190-15(D)(14) of the Town of New Scotland Zoning Law and Local law #2 of 2016, Section 3e(3).

Applicant notified the Board late that they were unable to attend the meeting tonight.

Mr. Voss opened up the meeting to the public and will keep the public hearing open and no decision will be made tonight.

An e-mail was submitted from Mr. O'Malley which was submitted into record.

Mr. Brady, Department of Health of Albany County, submitted a letter to the Board, which was submitted into record.

Albany County Planning Board comments modify local approval to include:

- Notification of the application to the Town of Bethlehem, including all required notices pursuant to GML §239-nn.
- Notification of the application to Five Rivers Environmental Center.

Mr. Cramer informed the Board that this has already been completed.

Mr. Voss: Because the applicant is not here we do not have any additional update or have the Board updated on. The Board received a sketch site plan from the applicant at our last meeting. Based on discussions we had with the applicant he agreed to move the animal pens with the newer piles essentially off to the north side of the site, northwest side, away from the well locations. Then there were some questions about some maintenance issues that we discussed with the applicant on keeping a certain area around the house well maintained. Mr. Cramer correct me if I'm wrong I know he had shown you the plans.

Mr. Cramer: Yes the site plan that was presented to the Board gave an area for the farm animals that was more than 100-feet from the wells. It also allowed for lawn area in the front yard of the house, 15-feet on both sides of the house and 30-feet behind the house. Obviously those lines can be changed to whatever the Board's preference is. In the back by the well they

had an area where they would like to not keep it groomed and let grow up for an area for a butterfly sanctuary or have an edible perennial garden area.

Mr. Voss: What we will do, because we don't have a formal plan yet from them, correct? I think this is something the Board may want to take a look at or put on the table, again just kind of initial ideas from the applicant that they are considering. I will open up the public hearing.

Mr. O'Malley, I sent the e-mail out earlier today, I have copies for you too, I am speaking for the neighborhood, I am the rookie of neighborhood, sixteen years living in the neighborhood. I have my neighbors over here who are proud neighbors and friendly neighbors and quite honestly we just have some concerns. We are not use to a setting like this, so if you could please provide feedback, we are all ears. The background of what is going on I think we know about it, since April goats appeared in our neighborhood. There is processes of course, you are supposed to get special permits and we are eight or nine months into it, three hearings showed up one time. We have been here all three hearings and once again I have to wait another month or two months or six months who knows how many months I have to wait here. So real quickly I have some slides. I look at the zoning laws that are established to protect the property values and welfare of the community. It seems reasonable to me. If you look at the, you know, is this really when they re-did the zoning laws in 2016 it went from 5 acres to 7 acres. Okay, they increased it two acres, okay I get it, must have been a reason why you would increase something two acres. This property is 1.2 acres, so I'm thinking here, it was five acres now it's seven acres, they increased it two acres for a reason and this thing is less than the total amount that they are going for. Am I correct with that?

Mr. Cramer: No, you would be incorrect. Seven acres would mean there is no review by the Planning Board whatsoever. Anything under that seven acres within that area that you talk about on the next page are areas added to the minimum that would require that no Planning Board approval whatsoever would be granted. Anything less than seven acres is allowed as long as small farming activity, personal, is a listed use in the special use, which it is in the RA district.

Mr. O'Malley: What was it prior? Was it five acres?

Mr. Cramer: To not have any review whatsoever?

Mr. O'Malley: Correct, so it was five acres and then in 2016 it went to seven acres.

Mr. Cramer: But that doesn't change that any parcel from a half acre to seven acres still goes through the same process.

Mr. O'Malley: I'm with you, but there had to be some reason why the Board increased it to two acres. I'm just wondering why in 2016 there was a law saying five acres and then in 2016 there is a law for seven acres, for some reason I don't know what it is there was a two acre.

Mr. Cramer: It had nothing to do with this.

Mr. Hart: It was just to extend the special use permit authority that we have so that we can look at parcels between five and seven acres. It has nothing to do with the threshold of concern.

Mr. O'Malley: Okay, so it has nothing to do with threshold, so I'm just a citizen sitting there wow for some reason something increased by two acres, I don't know what it was, but somehow it increased by two acres, so that was my thing. Then in that 2016 there is a line in there that says the Town Board further finds that the law is consistent with the Comprehensive Plan. I don't know what that means, okay, so keep reading, we preserve that the community character, I don't know what that means, will benefit the comfort, convenience, public health and general welfare of the citizens of the Town. That is a pretty big statement there. Preserve the community character and will benefit the comfort, convenience, public health. I know we got a ruling about wells and I have goats on my well, hey, that's a public health concern. My kids are drinking the water. Other neighbors are drinking the water we have three wells over there or close to it. Goats are running around or roaming around we don't know where they are and the general welfare of the town. I have a concern with that statement and the Town wrote it in there part of it, so I'm just concerned. So when I go to the next slide is what Mr. Cramer talked about the determination of the minimum acreage, so when you have seven acres, seven acres, I'm not talking about a special acre. Let me finish here, special acres they have it in there that similar to the conversation that I was just listening to that strange lakes, ponds, water bodies, private streets they all get considered into it, they are taken out when you consider seven acres. Also, if a resident is located on a parcel or lot one acre shall be excluded that residence. If you live there you need to have eight acres. Am I correct there? In order for me to qualify and I have a house there.

Mr. Cramer: No. In order for you to have farming operations on your property without a Planning Board approval you would have to have eight acres. That does not say that the farming activity cannot happen within an acre of the house.

Mr. O'Malley: Okay, so eight acres, so one acre, so my question here is if this lot is 1.3 acres what is it then?

Mr. Cramer: Well let me say that if this was eight acres he could have 100 goats right next door to you and this Board, and the Town Board and nobody else would have any say once so ever.

Mr. O'Malley: Well my question is this lot, this conversation, I'm not talking about seven acres, a special permit for something under seven acres, is this lot right now what is this considered. Is it considered 1.3 acres or is it considered .3 acres?

Mr. Cramer: It is considered a 1.3 acre parcel that has applied for a farming activity personal special use permit which is allowed in that zone.

Mr. O'Malley: Okay, so I look at this as .3 acres that is written right here and if the residence is located on one parcel, a lot one acre shall be excluded from a residential dwelling. Why is that different from a seven acre land to a 1.3 acre land? Actually I would think that would be the opposite. I would think that this line right there would protect a smaller acreage than a larger acreage.

Mr. Cramer: You are mistaken.

Mr. O'Malley: Okay, so I don't understand I must be mistaken with that. I would like it legally explained.

Ms. Peck: It is a 1.3 acre lot; the agricultural use that is proposed is permitted on a 1.3 acre lot, under a special use permit. It is not in violation of zoning provided they get the approval from the Planning Board.

Mr. O'Malley: Okay. Either way we are talking about a very small mat of land that even after seven acres they minus an acre out of it and I'm dealing with a very small amount of land, so that's just another thing. The next thing property values, obviously zoning and all this stuff is this increasing our property value, so once again part of zoning and the first one is to ensure the property value and the welfare is good for the neighborhood, so by allowing this special permit is this increasing our property value? Every one of my neighbors, over here, which will speak, we all knew what the zoning laws were when we bought the houses, we all knew it was seven acres.

Mr. Cramer: No, if you looked at the zoning law it would say that farming activity personal is allowed under seven acres, so it was allowed by zoning when you bought the house.

Mr. O'Malley: It was not allowed.

Mr. Cramer: It is by special use permit.

Ms. Peck: I understand what you are trying to say however it is technically this use is permitted under our zoning laws as a special use permit, in this district.

Mr. O'Malley: But when we all bought our houses?

Ms. Peck: That was the same. The Right to Farm Law you are referencing is completely separate from what the special use permit requirement for chickens and goats. That was in place at the time you purchased your house. Sixteen years ago that law was in place.

Mr. O'Malley: Okay, so you need a special permit.

Ms. Peck: Special use permit before the Planning Board.

Mr. O'Malley: You apply first, you need to go in from of the Board, you just don't go and put goats and chickens there without a permit.

Ms. Peck: You would need to go before the board to get your special use permit, yes.

Mr. O'Malley: So I'm just saying so when you move there, if I bought a house and I want to have goats and chickens in my house I would probably say oh, boy maybe I should move to some place with seven acres and I wouldn't have to get a permit, or maybe I'll just move there and bring goats and chickens in. I don't know, when we all moved there we knew what the laws were, we just didn't show up one day with goats and chickens, so either way. The next thing is unreasonable noise. I don't know what unreasonable noise are, I really don't, I been to a couple of meetings, you can't have roosters. You don't have roosters for what reason, is it because of the noise, I don't know. Is that pretty much it? If you don't mind, I just grab five days, eight months of what this is what our neighborhood is dealing with here. I wish I had roosters. To be honest with you. So if you don't mind I will play a little bit here. (Played a recording of the sounds in his backyard.) You hear this all day long.

Mr. Hart: We get the idea.

Mr. O'Malley: Yeah, but it's unbelievable. My dog is going crazy; it is constantly the dog is running 24/7. This is eight months long of this. Eight months, I don't know what more to do, so this is one day, it goes to 5 o'clock. I work and every day is this noise.

Mr. Hart: Please as I said we've reviewed this before the meeting, we don't need to review again as part of the public hearing.

Mr. O'Malley: Alright. That is one thing as far as a public nuisance, I don't know what grounds it is, but that is a public nuisance to me and the community. The next thing as far as the neighbors as where the goats are going to be it's affecting three neighbors. I think I showed it to you I have neighbors here that are affected by it constantly. Walking outside, barbecuing anything all day long you hear the goats going in there.

Ms. Galvin: Could you identify the neighbors that you are referring to.

Mr. O'Malley: The Hortons, which is Bethlehem, they couldn't be here tonight. When we talked to them they were shocked that they didn't know about it. The Mabeys are also neighbors, the Hardgraves and Belveses too. They will be speaking in a little bit. The welfare of the animals I don't know, you can see it they are all over the neighborhood, they are getting through the fences. They aren't just on my lawn; they are across to different neighbors.

Mr. Voss: Excuse me the pictures that you gave us of the goats are they on your property?

Mr. O'Malley: No they are on the Horton's lawn. The chickens are getting out the goats are getting out, I get it, you know, so you know what the welfare of the animals, I have a concern with the welfare of the animals. If you look at the overall property and the overall consistency of the property the last three years if you read up on goats as to why they make noise. You could dig into certain things. They are very territorial loving animals supposedly that need to be nurtured and are constant noise that goes on that I showed you videos that goes on all day long. I will go there tonight and you can hear them. The welfare of the community we talked about the water, the run off of the water. The rodents this attracts. The lime disease it's evident out there. Their kids have had lime disease it's because of certain things and certain activities. These things are not helping the community. It is not helping the neighborhood as far as decreasing lime disease. The next thing is basically I'm just curious what, how they address the whole process as far as did they go about when you asked for a special permit do you go to address the neighborhoods, most people address probably address the neighborhood saying you know what I want to have chickens and your neighbors support you and you get letters from your neighbors. This is non-existent these things just show up and eight months later they are still there, and we are still dealing with this stuff. Did they talk to the town officials? Did they approach you in April and say that I'm going to have goats and chickens? Did anybody approach you?

Mr. Cramer: We have been in contact with them for three years now. In order to apply for this special use permit we had to and challenged the applicant to show us his contract of ownership or to get the previous owners signature to allow for this special use application to appear in front of the Board.

Mr. O'Malley: Okay, how forthcoming was that?

Mr. Cramer: That was fine with their attorney once we got the information.

Mr. O'Malley: How many years did it take you?

Mr. Cramer: It took us about three months.

Ms. Peck: The public hearing process though we can go through some of the questions you have and to clarify some of the laws, but when it comes to the enforcement actions I'm going to ask that not be addressed, because that's not in the purview of the Planning Board and typically the public hearings would be more for you the public to issue your comments and for the board to figure out ways to address those comments or ask the applicant to address those comments. So the back and forth it's the board is here to hear your comments and if the board needs additional information it can certainly ask that from its representatives, but to get into some of the issue like the enforcement actions that are not the purview of the board or part of the application it's not helpful in making the process move along.

Mr. O'Malley: Okay, I'm just trying to see how forthcoming were they and how forthcoming during the process. My understanding it was not a very forthcoming thing, they didn't proactively ask for a permit. They didn't proactively provide the information.

Ms. Galvin: Excuse me, so just getting back to the subject of the public hearing to take the next for the, so what guides our decision on this application are certain standards. They are set forth in Section 190-43. There is a list of standards so we as a Planning Board would listen to the comment, your comments, everyone comments, and we review those comments and our own personal knowledge of the site and whatever we were provided and we look through those standards to see how we should go about making our decision. Basically what I'm hearing tonight there is a standard that says in subdivision 85 it says the proposed use design and layout will be of such location, size and character that it will be in harmony with the appropriate and/or development of the surrounding area. Many of these other standards will not apply to this application. Mostly of what you are talking about it probably that standard, I'm not sure if part of other standards might also apply, so that's what we have to use to make our decision, so that is what you need to address. You have already addressed it.

Mr. O'Malley: Okay very good. Without a doubt the harmony is not much harmony going on, so I'm just trying to say if I over addressed things, I apologize, we have been in the community many years and we love our neighbors. We love the community and it just doesn't seem right that someone can just walk in.

Ms. Galvin: The information you provided is very good.

Mr. Cramer: Does your opposite neighbor also have a sheep farm?

Mr. O'Malley: No.

Mr. Cramer: There is no sheep on the property to the right?

Mr. O'Malley: To the right, first of all it's over 15 acres, over 8 acres.

Mr. Cramer: But if it is in character or harmony of the neighborhood, if there is another farm two properties down on the other side of you, but you have an issue with a fraction of the amount of animals on the opposite side of you.

Mr. O'Malley: Have you heard all of this?

Mr. Hart: Let's move on.

Mr. Voss: We don't want to go back and forth with this. It's not uncommon that we have seen applicants come before us and they take it upon themselves to just go ahead and do things on their property and then they have to come to us to correct those things. They get caught; you know there were issues where they get caught. This applicant got caught having animals on the property without proper permits that's why they are in front of us today. As Ms. Peck said and other Board members have said there is going to be a whole set of criteria that we are going to have to take a look at. The use is an allowed use under the zoning laws. You can certainly argue about parcel size and this and that, but the way the code is written and how we are being advised certainly by our code enforcement officer and our attorney is that it is an allowed use. The special use gives this Board some additional criteria; some additional tools if you will to kind of further mitigate that potential use. We have pushed back on applicants in the past that have done things illegally on their properties and then come to us for forgiveness and we've said no that's not going to happen, because it's not consistent or it doesn't meet the criteria. That's really how we are going to proceed with this, so comments from direct neighbors are excellent because they are very helpful to give us perspective that we don't always have. We live around the corner but we don't have your perspective.

Mr. O'Malley: I thought between the fences within five feet I think there should be something.

Mr. Voss: Complicating this project is the fact that there are easements of three wells that are potentially affected by this project. We want to be very sensitive to that. Your comments have been very appreciative. Thank you!

Ms. Vellvus, I live at 20 Deer Meadow Lane, which is right off of Game Farm Road, and I have sheep on my 38 acres of land. In the summer time sheep are well cared for and they do make noise. I also have four horses that also make noise, but not constantly during the day. So I am sympathetic to farm and I think it would be great if we had some neighbors who would be willing to have animals and take good care of them. I do have concerns that I would like to express, the people who applied for this are renters. They are not the landowner. That is a concern of mine. I am concern because our well is within 100-feet of their property line on the south west side. I am concerned with the current noncompliance with the animals being there without a special use permit and just the attitude of how this is all coming down.

Mr. Voss: When you say attitude, attitude from the applicants?

Ms. Vellvus: From the renters who have just brought these animals and I don't know for a fact my guess is that maybe they thought the goats would eat the grass so they wouldn't have to use fossil fuels to mow the lawns, but there are other ways to accomplish that. I do worry if the animals are having everything they need they wouldn't be making that much noise constantly. The disregard for the boundaries of the land and that includes having not only having animals

but other discarded items, lawn furniture and other hammocks, and things that go beyond the boundaries of the backyard; junk thrown over the property line, just stuff that blows out of the yard. I am concerned about how the property in general is neglected with all kinds of stuff piled up, cars that sit unused. I guess you know I'm concerned about if this is approved, if their application is approved how then are we going is the compliance going to be enforced. I was at a meeting where they listed how many chickens that they wanted, how many goats that they wanted, they are having angora rabbits. How is that going to be managed? When maybe there are 25 goats and 50 chickens and there are a lot of rabbits in the neighborhood, so I mean a few more rabbits for the coyotes isn't going to worry me. Rabbits are quiet so I don't worry about that so much, but I am concerned for the welfare of the animals. How are we going to make sure that if there is a special use permit provided how do we manage that? Thank you!

Mr. Hart: I have one question for you for clarification, if you don't mind. You said that with respect to the well does your water come from one of the wells that is on the applicant's property?

Ms. Vellus: Our well is just over the property line on the south. We have deeded well on the Mabeys property, we have an easement. So all four wells are, I don't have any proof that they are on the same aquifer, our well is 80-feet deep.

Mr. Hart: They are in the line, that well is on Mabeys property, that's all I needed to know. Thank you for that clarification.

Ms. Hargrave, I live at 24 Game Farm Road and I've been there almost 18 years. When they moved in this family it went from being a fairly well cared piece of property to an absolute disaster almost immediately. They threw a couch out right next to the road and it sat there for six months until the Town finally threw it back onto their lawn. That is an example of what kind of mess this place is and if they are supposed to be responsible for goats, chickens and follow the letter of the law. I find that hard to believe. I think this man lives in a dream and he thinks he is going to make an English garden here, it is far from an English garden as you can possibly imagine and over Thanksgiving weekend, on the coldest day of the year, I believe, I had to call the police, because they knowingly have left their dog outside for three days. The police were there two different times during the day and at night. They were trying to figure out what was going on there and so they knew their dog was outside and it bark, bark, all weekend long until they came home. I think that says something about the care of their animals. They don't care. They don't understand how much care goes into goats, chickens and kindness. Kindness to their neighbors who take very good care of their properties and work hard and you know don't want a place to look like a bomb went off on it. They literally don't care about us. That's their choice but I think for the town to just not consider that these people are not responsible. They seem very irresponsible to me. I would say to consider that. We are all concerned. Their behavior is a little different.

Ms. Schallop: Are these goats often wondering off of their property?

Ms. Hargrave: I put them away once, because they just us the wires of a bed, I think they may still have that there. That's the gate and they are out in the road and I was able to in the summer get them back in. I think they are penned, I don't know where they are, because I'd

rather see them running around. I don't know what they do with them they just hear them, but it's you know it seems sad and pathetic. I just think he is a dreamer and I don't think he understands what he is doing at all. I don't think he is a farmer, I don't think he understands animal care.

Ms. Schallop: How about the chickens, what is going on with them?

Ms. Hargrave: The chickens I don't see them. He had up front for a while, I don't see them. I don't go down like on Ellen's property line there, I just walk on the road. Any other questions? I have a lot of opinions.

Ms. Peck: I have a question. You mentioned that the police were called because of animal care. Was it Town of Bethlehem or County Sheriff?

Ms. Hargrave: I called them. I don't know who, I mean I called the town police and then maybe they referred me, maybe it was the State Troopers. It is usually State Troopers that come to my house. The cars were black, so maybe Sheriff. I called 911 first.

Ms. Sharon Boehlke, I just want to remind the Board and I'm sure this is in the minutes from last month's meeting, when he was here he told the Board that he is from the hippie era and that's the way he was going to live, so I'm assuming that's in the minutes, because we were sitting right here and he said, maybe you could see by the looks of him that he was the hippie era. That's fine, I don't have anything against that, but when you are leaving your dog out for three straight days on the coldest days. What does that mean? I can tell you that there was a point that I had a conversation with him and their youngest child had Lyme disease and she was very sick the day that I saw them. The mother told me, but if you don't cut your lawns and you get ticks in it that's what's the neighbors is going to get as well for their dogs. They may be good pet owners, but ticks stay on one dog. I can only tell you that he was very verbal about he was from the hippie era and that's where he is going to stay. I think he mentioned also that he was going to let that one section of the grass grow 14 inches high.

Mr. Cramer: The area that was allocated as designated lawn area on the site plan would have to be kept under 10 inches at all times.

Ms. Boehlke: Yes, and he said he was going to go 14.

Mr. Voss: Anybody else would like to address the board? There should be ample opportunity we are going to keep the public hearing open. We will make sure that the applicant gets a copy of the comments that were made this evening. We will ask him to potentially address those comments when they come next time. The Board will have questions and there are certainly some concerns that the neighbors have raised that the Board may not have been completely aware of which are certainly beneficial to us and helpful in making a decision. Anybody on the Board have any additional comments or questions before we move on.

Ms. Snyder: Can I ask a question about the process, so say the applicant doesn't come to this February meeting. How long does will this be allowed to go on before there is some closure for these people here?

Mr. Voss: I think we are interested in moving quickly. We have given the applicant every benefit to show up, certainly this evening, they were claiming illness this evening that's why they are a no show. Under advice of counsel we will proceed as quickly as we can to close this out. We have a valid application in front of us. We are going through the process we've had the public hearing. As soon as we close the public hearing we are in the position to act on the application. Probably that same evening, typically that's how we do it.

Ms. Snyder: Because there is no enforcement actions as I understand it while this whole process goes on, so spring is not that far away and this is not resolved.

Mr. Hart: I'm wondering why we are leaving the public hearing open, because the applicant has the ability to respond to comments without a public hearing context being open.

Mr. Voss: We can close it if you want.

Ms. Schallop: We aren't going to vote until next month.

Ms. Galvin: We could close tonight and vote on this.

Ms. Peck: You could but...

Ms. Schallop: Well then there would be no opportunity for him to respond to these comments.

Mr. Voss: Well the reason I suggested keeping the public hearing open was you know Ms. Peck and I spoke earlier and there was kind of a legal not question but more of a precedent.

Ms. Peck: Typically I would not move forward on a public hearing if an applicant was not here, because of an emergency situation, which was part of the discussion Mr. Voss and I had. We were advised last minute that apparently there was an illness that affected the applicant and that was why he was not able to make it. Normally I would not recommend closing the public hearing in situation like that just because it affords the applicant an opportunity to speak, which he would have anyway, but it also allows the Board to seek additional comments from the public. I suppose you could always reopen the hearing if you wanted to, but typically what I would say is that if you have a situation like this, and this is up to the Board, because this is not an honor of legalese, I mean this is within the purview of the Board to make the decision. If you have a situation where it is an emergency typically you would extend the applicant the courtesy of keeping the public hearing open until they have the opportunity to attend the public hearing on their application. Again, that is completely within the discretion of the Board. The applicant knew of the meeting tonight, they are not here; the Board can technically vote close it and vote on the application tonight. You can handle it in whatever manner you wish and it will not be a violation.

Ms. Galvin: Technically there are two applicants, one may be sick, but there is another applicant on the application.

Ms. Peck: Yes there is, so again it's up to the Board on how you want to deal with it. That was the discussion Mr. Voss and I had.

Ms. Elliott, Brownrigg Rd., Feura Bush, not within 500-feet of this application. May I have a word please, but we had a similar insistent on Waldenmaier and I represented the neighbors

and that was part of the reason why it went from five acres to seven acres although it is an allowed right down to the smallest area, but it was to make it to be consistent with the Right to Farm Law. There was a consistency to bring it to seven acres. It is still an allowed use, however I think a judge, correct me if I'm wrong on this Ms. Peck, but would look at what a Board has historically done and we allowed and kept the public hearing open for the gentleman on Waldenmaier and he had a lot of difficulties with his farm operation. Sounding a lot like this one where there was tremendous snow, animals not being fed, etc. Ultimately what occurred was a sit down the applicant and the neighbor's representative to come up with an approximately 15 or more conditions that are written and we have minutes of those that are quite specific that he had to adhere to and do a complete site plan. I think that probably should be the way you should go; since that's historically what we've done and then if they don't come up to the party at the next month.

Mr. Voss: Essentially that's kind of where we were headed with the applicant they were developing a plan that we haven't quite seen yet. Probably another reason for giving someone the benefit of the doubt.

Ms. Peck: That application, I will be honest, was before my time so I'm not familiar with it. I don't know in what ways it is the same or different from what is currently in front of the Board.

Mr. Cramer: I can speak on that behalf that application was over five acres at the time. The application was for a special use permit to allow for a single family home in an industrial zone. The special use of the house was the trigger that allowed the Town to allow for some regulation and some oversight the farm operation on that parcel. The decision allowed to keep the animals away from the wells, to keep them penned, to keep roofs over the hen house. Now since then the application a permit was issued for the house, the permit for the house expired; there is no more regulation on that site. He is back to where he was. With no regulation once so ever.

Mr. Voss: I think your point was well taken Ms. Elliott. I think Ms. Peck raised a good point I think to be deliberative the Board is going to want the benefit maybe of the applicants responses to then be able to say can we apply the standards and the criteria to code for the special use permit. I think that needs to be kind of thought out a little bit more with this as well. I know there are certainly concerns and I think the knee jerk reaction is yes the neighbors are concerned understandably so. What can we do to help mitigate that? Given who the applicants are and the applicants do have certain rights as well. We have to balance all that and I think going through the process in a deliberate way is something I'm a little bit more comfortable with and keeping the public hearing open.

Mr. Hart: Either way my point is that the applicants rights would not altered in either direction with or without a hearing. For expedience sake because we wouldn't have to do any further action on this and we could move on.

Mr. Voss: We will keep the public hearing open. We will have the applicant address these concerns from the neighbor at the next meeting. Please send additional comments to Mr. Cramer.

#### **New Business:**

- 1) **Site Plan Application #103:** Application submitted by Phillips Lytle LLP for a site plan review to allow for approximately 275+/- access road for a proposed cell tower site in the Town of Guilderland. The site of the proposed access road is owned by JL Development LLC, contains approximately 28.6 acres, and is located within the MDR Zone. The property is located on Krumkill Road and is identified as New Scotland tax parcel i.d. # 63.-4-9.2. This application is made pursuant to Article V, Section 190-52 of the Zoning Law of the Town of New Scotland.

Applicant did not attend the meeting.

Mr. Voss recommended tabling this application for now, pending the applicant providing the Board the information that they need to review for this application. No action taken.

- 2) **Special Use Permit Application #606:** Application submitted by Kerri Corrigan requesting a special use permit to allow for a portion of a farm to be utilized as an outdoor banquet facility for gatherings and special events up to 12 times per year. The proposed site is owned by the Carl Touhey Estate, is located in the RA zoning district at 361 Onesquathaw Creek Road, and is identified as New Scotland tax parcels i.d.#119.-1-5.1 and #119.-1-5.3. 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.

Ms. Corrigan explained how she would like to purchase the entire site and live in the house that is on the property. I would like to have weddings and special events from May to October approximately 12 events per year and some additional events that Mr. Touhey would like to be held. Events would have a maximum of 200 people.

Mr. Voss explained to the applicant that they should see Mr. Cramer to get a formal application presented to the Board. In the past they have asked for a traffic analysis, noise analysis, and hours of operation, number of events per year, size of events, ADA and handicapped restrooms and parking to be shown on plan, include all natural resources on the property, basically present a business plan to the Board. He recommended to the applicant to look at the prior event approvals with their conditions and review these applications to help them present their application to the Board.

#### **Discussion Items:**

- 1) **Minutes** for November 13, 2018: Mr. Voss moved to approve the November 13, 2018 minutes and Ms. Galvin seconded the motion; all in favor; motion so carried.
- 2) **Minutes** for December 4, 2018: Mr. Voss moved to approve the December 4, 2018 minutes and Ms. Galvin seconded the motion; all in favor; motion so carried.
- 3) **Minor Subdivisions** for the month of December 2018
  - One was a merger and one was a split, I will send out an e-mail tomorrow.

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

Ms. Elliott: On Youmans Road on Milt Ortaz, special use to which he is not before you at this time. We are continuing, I would like to know what specifications for the road the Board is considering because I have a meeting with an engineer for him for him tomorrow. I also have a meeting with Paul Colarusso who owns Calarusso Quarry does a lot of big road building and possibly will be able to get the equipment that will do the density. I'm not sure that the engineer is feeling that is what it needs to do, but I'm trying to find out what specs we are considering. I realize that there would be five dwellings on this parcel and the road width is an issue and my client is willing to certainly do a K to T turn whatever the Town would like. Even though it is not Town maintained what he would feel comfortable with or what he would suggested. There has been fire department analysis and talking they seem to be happy and will do a letter for that, but I'm really trying to see what isn't the Board is looking for. The meeting is at 8:00 a.m. tomorrow.

**Adjournment:** At 9:22 p.m. Mr. Voss moved to adjourn and Ms. Galvin seconded the motion; all in favor; motion so carried.

Respectfully submitted,

Lori Saba