

TOWN OF NEW SCOTLAND PLANNING BOARD

AGENDA

JUNE 2, 2020

7:00 P.M.

Planning Board Members:

Charles Voss, *Chairman*

Daniel Byrnes, 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)*

Roll call: All Board members are present.

Public Hearings:

- 1) Continued: Site Plan Application #124:** Application submitted by Nicholis Costa for a site plan review to allow an existing structure to be renovated into a six unit residential apartment building. The parcel is owned by Danz Development LLC, contains approximately 8.9+/- acres, located within the HDE zoning district at 1903 New Scotland Road, and is identified as New Scotland Tax parcel #73.-4-13. This application is made pursuant to Article V, Section 190-52, subsection (A)(2)(h).

Mr. Danz, we submitted a new plan with the changes that you have requested. I will run through the concerns from last time. One of the items was a tree to the right of the driveway, we had pulled it out you wanted it back in, so what we decided on was put it back in but moving it back further. One of the other things requested instead of having the pine trees across the front in a uniform line if we would stagger with the other trees, which is just behind the street tress right there. We made that adjustment as well and we also moved one of the other trees back a little bit further. One of the other things was some landscaping around the dumpster I think we settled to putting in on one side of the dumpster because the other back of the dumpster was backed up to the trees. Nick had removed the easements and you should see those back in there as well. I think that was everything.

Ms. Galvin: I just wanted to point out the Mr. Danz and the Board that there is one thing that appears to have been overlooked and that is the landscape architects that part of the plan that included flowering trees. There is about four of them closer up towards the building and at the last meeting you summarized what we wanted in terms of landscaping and asked Mr. Danz to comply with the plan of the landscape architect and indicated that you, according to the

minutes, you noted about additional ornamental trees up along front two or three up there and per our landscape architect recommendations and they would be warranted. I think Mr. Danz has made all of the changes that Board has requested with the exception of that one. I don't see that one appearing on the newest plan.

Mr. Danz: With the amount of trees we had and rearranging what we had there that was going to acceptable as to what we were looking for.

Ms. Galvin: Actually, I did just read from the minutes Mr. Danz and clearly you were asked to comply with that part of the landscape architects plan that included the flowering trees. They appear on her plan as red circles up closer to the building. There are four different circles sort of staggered red circles there. We ask you to include those as well.

Mr. Voss: Is that an issue at all with just popping those in?

Mr. Danz: Will we have to do another meeting?

Mr. Voss: No we can include it in the conditions.

Ms. Galvin: You would comply with the landscape architect plan as pertains to the flowering trees in particular the red circles that I pointed out that are located on the plan indicating that the locations of those trees are closer to the building.

Mr. Voss: Yes, I think that's what we will do. So, Mr. Danz those four flowering trees we will make a condition of approval.

Mr. Danz: Yes.

Mr. Cramer: Albany County recommendation was to defer to local consideration.

Mr. Voss: This is a Type II action, as per SEQR correct?

Ms. Peck: Yes it is. I will go through the findings and conditions. The Planning Board makes the following findings:

1. The proposed action is a Type II action under the State Environmental Review Act under the State Environmental Quality Review Act and as such deemed by statute to not have a significant adverse impact on the environment.
2. The proposed project is for improvements and reuse of an existing building within the Town of New Scotland hamlet district and as such the design standards as set forth in 190-112J apply to the Planning Board preview of the project that of the section design standards that speak to the reuse of an existing building.

3. The applicant has adequately attempted to accommodate the design standards articulated in 190-112J which is the standard articulated in that section.
4. The applicant did not provide a landscape plan provide by a registered landscape architect as required by 190-112S2 the referral of the applicants landscape plan to a landscape architect satisfied the purpose of this section.
5. The proposed use of a multi-residential building is consistent with the Towns updated comprehensive plan.
6. The proposed location is a gateway to the Town and as such the character and aesthetics of the location is of particular importance to the Town.
7. Now therefore be it resolved by the Town of New Scotland Planning Board that upon considering and weighing the factors that was set forth in 190-52G of the Town of New Scotland Zoning Law the proposed site plan is hereby approved with the following conditions and modifications.

Mr. Voss moved to approve site plan application #124 with the following conditions:

1. Landscaping plan will include the four additional flowering trees identified on the Stantec Engineering landscape architect's plan and will otherwise conform to the site plan with revised date May 14, 2020. The plantings, as per the landscape plan, that have died should be replaced within 90 days. The applicant will provide a three year maintenance guarantee for any planted street trees.
2. Execution and recording of a two 20-foot wide easement in favor of the Town for multi-use pedestrian access along the road frontage of the parcel and the west boundary of the parcel as depicted on the May 14, 2020 site plan. Easements are subject to the approval of the Town Attorney and/or the Planning Board Attorney.
3. Updated site plan will be provided prior to issuance of permit.
4. Approval of all water and sewer connections by the Town of New Scotland Town Board, Town of Bethlehem for water, and any other agencies or municipalities including but not limited to NYS Department of Transportation required by law.
5. Payment of all outstanding escrow fees and sewer/water connection fees to be paid prior to issuance of a Building Permit.

Ms. Galvin seconded the motion; all in favor; motion so carried.

Ayes: Mr. Voss, Ms. Galvin, Ms. Schallop, Mr. Byrnes, Mr. Richards.

Nays:

Abstained:

Vote: 5-0

- 2) **Site Plan Application #125:** Application submitted by Barbara and Greg Austin for a site plan review to allow for a 10 KW Ground mounted solar PV system. The site contains approximately

8 acres, and is located within the RF Zoning district. The property is located at 1734 Indian Fields Road and is identified as New Scotland tax parcel i.d. #119.-2-1.20. This application is made pursuant to Local Law V of 2017, Section 2-6 B of the Town of New Scotland.

Mr. Voss: We have seen this one for a few meetings and the Board went through this thoroughly the last couple of meetings. There were no issues of concern. I will note that we did get a letter of support from one of the immediate neighbors who had no issues with the siting and location of it. It is well screened; it sits back into the field. It is a smaller system for a residential use only. The Board did not have any issues. We did get one public comment that came in after the 10 day period. That was from Mr. Dearstyne; his comment was essentially that we make sure to at least consider the glare issues, if there are any for a system like that. The Board has discussed glare off the panels and the representative who was installing them for the applicant said that the way the panels are constructed there really is no glare off of these new glass panels. The Board was prepared to vote at the last meeting, is there anything new that we need to consider tonight?

Mr. Scott Stevens, representing Mr. and Mrs. Austin, there is nothing new here, and I would like to reiterate what you just mentioned about the panels they are constructed these days to produce no glare.

Ms. Peck: This is a Type II action so again no further review is required under SEQR. The Board is good to go on a vote. One of the things I was going to propose as a condition and Mr. Cramer you can chime in on this if you think it is not necessary, but it is from an enforcement side of things, just to handle when a solar project needs to be decommissioned so what I had thought to propose was that the applicant would be providing an annual report on performance of the panels starting one year after the permit has been issued, because otherwise we won't know if any triggers for decommissioning is actually occurring.

Mr. Cramer: I'm open to that thought. Obviously if the system isn't working properly then decommissioning isn't a bad idea, or requiring decommissioning be a bad idea, where I find we might get into a pinch is if the lot goes up for sale. The power is not being used for six or eight months it goes beyond the 50% then we are requiring having it taken down because of the special case scenario. Otherwise I'm not opposed to if the system is working properly under normal conditions that, under normal conditions if it drops under 50% that we can ask for it to be decommissioned or ask for it to come back to the Planning Board first before decommissioning. Maybe there is an issue that the Planning Board is not aware of.

Ms. Peck: The way the Solar Law reads on this if the solar collector ceases to perform as originally intended for more than 12 months.

Mr. Cramer: I'm fine with that.

Albany County recommendation was to defer to local, so no further action is required on that front.

Mr. Voss made a motion to approve site plan application #125 as proposed.

Ms. Peck went through the findings and conditions:

1. The proposed action is a Type II action under the State Environmental Review Act under the State Environmental Quality Review Act and as such deemed by statute to not have a significant adverse impact on the environment.
2. The standard for small scale solar collector systems is outlined in Section 190-57-A Part 1 has been met.
3. The proposed project site is naturally screened so additional screening is not necessary.
4. All Special Use criteria set forth in Section 190-43 of the Town of New Scotland Zoning Law has been met with the conditions imposed to set forth below.

Now therefore it be resolved by the Planning Board by considering and weighing the factors set forth in section 190-43 of the Town of New Scotland Zoning Law the site plan is granted with the following conditions:

1. The applicant to provide an annual report on performance of the solar panels commencing one year from issuance of certificate of occupancy.
2. No additional external lighting on the site.
3. Any outstanding escrow fees required for the project will be paid to the Town prior to issuance of the building permit.

Ms. Galvin seconded the motion; all in favor; motion so carried.

Ayes: Mr. Voss, Ms. Galvin, Ms. Schallop, Mr. Byrnes, Mr. Richards

Nays:

Abstained:

Vote: 5-0

New Business:

- 1) Request for Modification of Special Use Permit Application #606 Approvals:** Application originally submitted and approved for Milt Orietas to allow a Special Use Permit to for the construction of a single family dwelling on a 3.01 acre parcel originally owned by Dave Moreau is requesting to extend the original special use approval that was granted June 5, 2019 to build a dwelling. The property is located within the Commercial District on Youmans Road as 5 Greylock Lane and is identified as New Scotland tax parcel #72.-3-41.52. This application is a special use of Article II, Section 190-17 of the town zoning law.

Mr. Cramer explained to the Board that this project was approved last year, about 13 months ago, to have the a dwelling special use is required for a single family dwelling to be installed on a parcel in the commercial zone. The applicant had originally sought and was granted an approval that required some up grading to the roadway. Originally it was the house to be constructed where the road splits by adding this fifth house to Greylock Lane, which is a private road, it triggered the NYS Fire Code to require fire apparatus code that was 20-feet wide. We had the fire chief make some suggestions for some added material to be put in the turnaround areas for the trucks and what not. Last month his approval would have expired, so he reached out to me and asked to be put on the agenda for an extension. After the last meeting he reached out to me to ask about the possibility of moving the location of the house. We told him it was a significant change. Any change to a special use permit requires a new special use permit and so the application and site plan has come in and has been presented to the Board.

Ms. Elliott, representing Mr. Orietas, when we had first looked at this the improvements to the road we thought about well maybe that would be a fine idea, however in talking to counsel I believe Mr. Orietas had discussed with Ms. Peck and other Board members, maybe even you Mr. Voss, 13 months ago or whatever as to if this house used its own driveway off Youmans and had nothing to do with Greylock then there would be no need for the improvements and it would stay the way it is. Given today's economic conditions I suggested to Mr. Orietas that we maybe only put it on an acre and a half and build up in the front. I did a new map to which if you could screen share and put that up, that shows the area of new proposed location in the front that would meet the setback requirements in the commercial zone for residential dwellings correct. In that area it would have its own driveway coming off Youmans and would not access Greylock Lane. They would have no real need to have the entire three acres and economically someone may choose to not even to want three acres, so I suggested to Mr. Orietas that he take that area, this is not particularly this Boards issue, it is a more Mr. Cramer issue for a lot line adjustment and add an acre and a half to Mr. Orietas back line. I would like to show the Board the whole thing rather just a part and so the dash lines that you see going up correct and those would be lot lines that would be removed after this modification was approved we would go back to Mr. Cramer. It would have to go to the 239 referral to Albany County, but we would do a lot line adjustment. Now there are a couple of issues that have been raised, on my particular map that you see I do not have the well that is shown, which is in the original dwelling location. There was a well drilled, that well has not come completely tested and I therefore have not located it. At the time that the well driller did it he actually wanted to drill in the front because he had analyzed the lots across the street and found that there was better water or a better indication that drilling up front might be better. He had drilled in the back. I can locate it, but the fact that is if we move to the front we would drilling a new well and the well that is not been tested would not be utilized, probably capped and done, so there is not going to be two wells, just one well on this parcel adjacent to wherever the house would constructed in the new proposed location. The original perk test has some material there but there is no leach field there yet. There is no septic system that would just be grass where you see the location a little to the north. It is only material there is no system there yet, as there is no dwelling there, so there are no leach lines in

that. What else? There is a deed restriction on this parcel from the original conveyer, which went from Mr. Moreau to Fisk Construction and back to Mr. Moreau and then to Mr. Orietas that states there will be no further subdivision, however the intent of that is no further subdivision for the purpose of an additional building lot and we would not be having an additional building lot. We just want to move the house site up to the front to avoid any more traffic on Greylock Lane. Mr. Moreau has indicated to me that if in fact a deed had to be constructed that stated that he would do so. We are not looking to do any additional lots we just wish to move the house site and then do a lot line adjustment. Do you have any questions?

Mr. Voss: I know it is a preliminary submission. Obviously we are going to have to get some more detail on your site plan. We would like to see the driveway cut. You will need to show the culvert up front there.

Ms. Galvin: I was just checking our Zoning Law that what is supposed to be on the site plan and I came up with a list: access drive, the building, layout, or the foot print as to where the dwelling is going to be located, the site contours, and I think the site contours are very important. When I was looking at this property there is a rather, I wouldn't say its steep, but there definitely a hill behind the area that is sort of pointed out as the single family dwelling. There is a hill that goes down immediately behind that location that goes down to a flatter area, which is alongside the stream. It is a very small area of land between Youmans Road and where this hill starts to decline and where this house is being proposed so I wasn't sure, I would like to see the contours on the plan and I wasn't sure where a septic field could be or a leach field could be safely placed. I did some research looking at our Comprehensive Plan update and the resources that are included in that update with respect to streams and the requirement for protection of those streams and in particular buffers along the streams. I don't know it seems the width of the buffer along the stream has to be determined depending upon certain criteria on the site, which I think we would have to get some guidance from Stantec. I think this is a pretty difficult piece of property to put a house and a leach field and a driveway, but again I can't really tell where all these things are actually supposed to be located on the plan. We don't have the contours so we need those. Our Zoning Law requires that the wells be shown on the plat and the plan, including the location of the well that would serve this new home. Also, that the affluent treatment system and documentation of preliminary approval by the Albany County Health Department should be shown on this plan. Again, according to our own Zoning Law and the location of wetlands should be on this plan and any topographic slopes in excess of 15% are supposed to be shown. We are supposed to have a copy of the deed and I realize in the past the Board may have had a copy of the deed, but I would like to see whatever deed contains this prohibition against further subdivision it is part of the application. I came up with those lists of things that I think need to be on this plan for us to have proper review of it.

Mr. Voss: I agree, thank you. Ms. Elliott if you could prepare an aerial image with your next submission with a more detailed site plan based on what Ms. Galvin was saying. That would be helpful.

Ms. Elliott: Yes, no problem. I would like to just do the acre and a half per se on a larger scale so that you can see with contours and proposed well and leach field locations. I will give you a rough outline of a dwelling. I will give you a better plan of what will make sense. There seems to be interest in an acre and a half not necessarily at three acres in terms of the economic uncertainty right now.

Ms. Galvin: On the short EAF number 14 you didn't check wetland on that, not sure why.

Ms. Elliott: Probably because it is not a DEC wetland rather it is Army Core. I will change that on #14.

Mr. Richards: I would like to see, if we get a plan back, what the disturbed areas for protecting this wetland and how it is going to be protected. Also, what the plans are for any impermeable runoff that is going to affect the wetland. It is not a flat piece of property. It is a big mound that drains down into the wetland. In order to build a house you are going to top off that mound and put a foundation in and you are going to disturb a lot of soil to do so. That wetland is going to be greatly affected.

Ms. Elliott: I will show the silt fence on the plan. I will do a more detailed map for the next meeting.

Ms. Schallop: We have gotten another letter from a neighbor opposing this. Neighbors are basically saying that they bought their properties relying on this plan that was presented that the house would go back sort of in line with the other houses. I do have concern about that and I certainly would like to hear what Ms. Peck has to say about how we may consider that in reviewing this application.

Mr. Voss: I would like to add on to what Ms. Schallop was saying we have received several emails and some letters from Mr. Cramer's office from several neighbors who have concerns and expressed concerns, obviously tonight not a public hearing, but we are going to make those part of the public record and we will provide them to the applicant as well so that they have them. They do raise some significant points I think if and when we get to the public hearing phase we will read them into record.

Ms. Galvin: There has to be a buffer along that stream, so can we ask that the site plan show what the proposed buffer would be along the stream.

Mr. Voss: The typical DEC buffer is 100 feet on both sides. The Army Core does not require a buffer. Ms. Elliott just add that to your list.

Ms. Elliott: I did. As the area shows now I did provide a 100-foot buffer from the stream from the boundary of the proposed location. That can be a restricted area of no construction. What

you are seeing I provided the 100 foot which is not required under the Army Core. I will label that on the plan.

Ms. Galvin: It would be helpful if you could supply us with a map showing the greater subdivision and how this fits in with the greater subdivision. How what you are proposing would be incorporated into Mr. Orietas lot it would be so much easier if we could see it in the context of the subdivision. I know there is one out there that Mr. Orietas has that might be able to be used.

Ms. Elliott: Yes, I will do that.

Mr. Cramer: I have a question looking at the general subdivision as a whole, would your applicant be open to moving his fee frontage for his parcel over to be in line with or adjacent to the southeast property line that runs from Youmans Road back, so that there was more area up front for the building area for a buffer.

Ms. Elliott: Of course, being a surveyor and doing a lot of land planning I probably suggested that and I will try to go back to that again, your point is well made. Mr. Orietas has an easement in that strip which is his ownership in fee although he doesn't utilize that for access there is an easement there correct and we're not really certain if we wanted to mess with that.

Mr. Voss: How wide is that easement?

Ms. Elliott: The strip right there is a 50-foot wide strip as required, 50-foot at 90 degrees required by the Town Code which is Mr. Orietas actual lot road frontage for his back seven acres. There is a simple Verizon easement and Niagara Mohawk easement Mr. Orietas had not really wished to give up that road frontage. If in fact you do, we must maintain 50-foot for Mr. Orietas back parcel. The only way to do that is to then take 50-feet off the other side where Greylock is, which is the reason I have not done that because ownership in fee requires 50-foot down at the frontage there on Youmans that particular is only 40-feet right there. It is owned in fee for 202-feet for lots C, that's it total frontage. I do understand your point, but it does take away Mr. Orietas frontage for his lot. I will go over the pluses and minuses with my client.

Mr. Voss: I don't think we are ready for our public hearing yet.

Ms. Peck: I will take another look at the deed restriction for the property. I will be going through some of the documents on this and from the last time it was submitted. There may be some additional information we need based on a review of those documents but I will have a better idea within the next week.

Mr. Voss: Thank you and if you could do your best to get that information pulled together for our next meeting we can move forward.

- 2) Special Use Permit Application #612:** Application submitted by Brian Petrocine to be allowed to construct a pond approximately 150'x250' feet in size. The pond would be constructed on a parcel owned by Michael and Dawn Quackenbush, consisting of approximately 89 acres, is situated within the RF District at 875 Clarksville South Road, and is identified as New Scotland tax parcel #117.-2-21. This application is a Special Use of Article II, Section 190-11 (D)(4) of the Town of New Scotland Zoning Law.

Mr. Voss made a motion to schedule a public hearing for July 7, 2020 and Mr. Richards seconded the motion.

Ayes: Mr. Voss, Ms. Galvin, Ms. Schallop, Mr. Byrnes, Mr. Richards

Nays:

Abstained:

Vote: 5-0

- 3) Site Plan Application #126:** Application submitted by Nicholas and Hillary Miller for a site plan review to allow for a 7.6 KW Ground mounted solar PV system. The site contains approximately 15 acres, and is located within the RA Zoning district. The property is located at 124 Clipp Road and is identified as New Scotland tax parcel i.d. #94.-1-47.20. This application is made pursuant to Local Law V of 2017, Section 2-6 B of the Town of New Scotland.

Mr. Voss moved to schedule a public hearing for July 7, 2020 and Ms. Galvin seconded the motion.

Ayes: Mr. Voss, Ms. Galvin, Ms. Schallop, Mr. Byrnes, Mr. Richards

Nays:

Abstained:

All in favor; motion so carried.

Vote: 5-0

Discussion Items:

- 1) Minutes for May 12, 2020:** Mr. Voss moved to approve the May 12, 2020 minutes and Ms. Galvin seconded the motion.

Ayes: Mr. Voss, Ms. Galvin, Ms. Schallop, Mr. Byrnes, Mr. Richards

Nays:

Abstained:

All in favor; motion so carried.

Vote: 5-0

2) Minor Subdivisions for the month of May 2020: None that have been completed.

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

Motion to Adjourn: At 8:39 p.m. Ms. Galvin made motion to adjourn; all in favor; motion so carried.

Respectfully submitted,

Lori Saba