

Town of New Scotland Planning Board

Minutes

October 4, 2016

Charles Voss, *Chairman*

Planning Board Members:

Jo Ann Davies, Thomas Hart, Dan Leinung, Crystal Peck

Justin Perry (Alternate)

Lori Saba, *Planning Board Secretary*, Jeremy Cramer, *Building Inspector*,

Jeffrey Baker, *Planning Board Attorney*, Dave Hansen, *Town Engineer (Stantec Engineering)*

Absent: Jo Ann Davies

PLEASE NOTE: All developers, consultants and members of the public wishing to address the Board during the meeting must sign in on the "Sign in Sheet" located on the back table.

7:00 pm: No Public Hearings:

Old Business:

- 1) Board Update: Special Use Permit #583:** Application submitted by Ron Kay requesting approval to allow for a mixed use development to be constructed on a parcel. The applicant would like to incorporate retail sales and residential apartments. The proposed site is located within the Commercial district on Maple Rd. (Route 85A) and is identified as New Scotland tax parcel # 73.-4-17.1 This application is for a permitted use and a special use as per Article II, Section 190-17 (D)(12) & (E)(3) of the town of New Scotland Zoning Law.

Mr. Palleschi reviewed his amended site plan with the Planning Board. Board was pleased that their suggestions were implemented into the updated site plan. Project is still at a preliminary stage.

New Business:

- 1) Special Use Permit Application # 587:** Application submitted by Kristen and Christopher Penno for a Special Use Permit to allow for a parcel owned by Patrick Shields to be used as an "Animal Clinic ". The parcel is situated within the RF district at 2292 Delaware Tpke, contains approx. 1 acre, and is identified as New Scotland tax parcel 105.-2-5. This application is a Special Use of Article II, Section 190-11 (D)(10) of the Town of New Scotland Zoning Law.

Mr. Voss asked the applicant to bring pictures of the property for the public hearing.

Mr. Voss moved to schedule a public hearing for November 1, 2016, Mr. Hart seconded the motion; all in favor; motion so carried.

Application is referred to Albany County for review.

- 2) **Postponed: Variance Application Referral # 514:** Application submitted by Hudson Valley Italian Rest. Inc. requesting relief from Article II, Section 190-32 (B-2)& (C-5) of the Town of New Scotland Zoning law to allow for a sign detached from the new restaurant to be constructed 12' feet inside the front setback for a sign to allow for it to be located 28 feet from the center line of the road where the original sign was located. The applicant is also seeking 39 square feet of relief to allow the detached sign to be 64 square feet in area. 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.
- 3) **Postponed: Special Use permit # 586:** Application submitted by Hudson Valley Italian Rest. Inc. for a Special Use Permit to allow for an internally illuminated sign detached from the new restaurant to be constructed. The parcel 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. This application is a Special Use of Article II, Section 190-32 (C)(7) of the Town of New Scotland Zoning Law.

Discussion items:

- 1) **Minutes** for September 6, 2016. Mr. Voss moved to approve the September 6, 2016 with recommended corrections and Mr. Leinung seconded the motion; Ms. Peck recused herself; all others in favor; motion so carried.

Vote: 4-1-0

- 2) **Discussion/Comment** Local law E: Shipping Containers: Will be discussed at the November meeting.
- 3) **Discussion/Comment** Local Law F: Hearing Notices:

Mr. Voss: We have discussed for a number of years of expanding the hearing notice distribution to be more than 500 feet. We can expand it on an as needed basis, or we can set a new footage amount. Other towns do put signs on the property notifying the public there is a Board action on this property. We have seen that in other communities. We have put the onus on the applicants to do that, with verification from Jeremy's office. That is helpful. I like the concept of expanding this. I think it's something we need.

Mr. Cramer: Yes, I am not opposed to it by any means. I did give all the Board members a copy of my comments to it, so you can get a feel for my opinion of how it should be. Mostly with notification going out, having the applicant notify somebody in my opinion is going to make twice as much work for me than just sending the notices out themselves. We send the notices from here. We have a program that generates the data that I will need to get the addresses of the neighbors. We send a letter to the owner of the property, not to tenants. If we had signs that's fine, either I do it, or the owner needs to do it. It's just procedural stuff. When you schedule a public meeting then that is when I send out the public hearing notices. We do put the public hearing notices on our website. Most applications go to Albany County Planning Board.

Mr. Hart: What I'm suggesting is just going with whatever the content of the RPS data set is. Send to owners and the physical property owner. If the owner is the same as the physical property then we are only sending it to the one, which is the majority of the case.

Mr. Cramer: The labels spit out owner address and tax i.d. number for each parcel. We don't know if those parcels are being rented or not. It just says single family house, owner, address, and tax i.d. number. I get vacant lands too, and they go out to the owners of the vacant lands. I go 500 feet all the way around the property with the application. A lot of times I go more than the 500-feet just to make sure I encompass everybody.

Mr. Hart: There are two separate address fields, billing address and then the parcel address?

Mr. Cramer: Yes, but I don't know if I can pull, I would have to look, I would have to ask, I've never done it that way.

Mr. Hart: I think that warrants more discussion you know the classic example is you have an elderly person where the children are the owners of the property in an estate situation and you want to send it to both. If it is impractical fine, I'm not suggesting door to door delivery I'm just suggesting whatever the database allows without making it burdensome for Jeremy.

Mr. Voss: Tom I agree with your point because you want to capture not only the person who owns that property but the person who is physically living in that property. They may be different.

Mr. Baker: You may get a situation of tenants in a retail space. Think of everyone in Stonewell.

Mr. Hart: Right.

Mr. Cramer: I would not have any information as to who rents each store front.

Mr. Perry: You have to recognize that there are multiple ways of notice, I mean that's the whole point of doing these notices, you can mail, and you may not get everybody. It's never going to happen, that's why you put signs up., notices on the website.

Mr. Cramer: Having the applicant send the certified mail notices doesn't mean that the person that is there is going to actually sign for it. How are you going to prove that they denied it or they just weren't there that day.

Mr. Perry: There isn't any indication here of the obligation in the Towns part to post on the website. There is nothing in the law regarding notice first to the public website either ours or I would assume ours would that be appropriate to include something on this section that stipulates that any of these public hearings will be also posted on the public websites?

Mr. Baker: I think that is a good idea.

Mr. Voss: Yes, I like that idea.

Mr. Baker: I would also suggest taking out the certified mail return receipt request. That is a burden that is an expense. It doesn't do anything. Especially if we are going to do it, just do an affidavit of mailing.

Mr. Hart: Postmark is just fine.

Mr. Cramer: Any of them that get returned to us we stick them right into the file, along with the list of people that we sent it to and proof that it went to the paper.

Ms. Peck: Probably on the enforcement side of it in the section speaking to non-compliance the law makes compliance discretionary for the Board. Where the Board may allow for an application to go forward or hearing to be rescheduled, but then at the next section K it says the applicant can go to the ZBA and request a waiver, so I would almost think that the section J should be taken out and if you don't want there to be grounds for denial at least require the hearing to be rescheduled and then if the applicant wants a waiver for some reason they can go to the ZBA.

Mr. Baker: I would agree with that except I would change K and take out appeals and just make it waivers by the respective Board. If it's in front of the Planning Board you can decide to waive it, if it is an unnecessary hardship. There is no reason to go through a process to the ZBA to get a waiver. That would be burdensome, but if we make it as a waiver. They can request a waiver.

Mr. Voss: The whole intent is to try to capture as many people as we can with these notifications. We are looking at it obviously from our perspective, but certainly Town Board when they are moving forward with this as well it will apply to them and to the ZBA. It is always helpful to have more folks understand and see what is happening. In concept I like the idea of prior notification.

Mr. Hart: So Jeremy you are saying you would rather send these than having it put on the applicant?

Mr. Cramer: Yes. I feel that by requiring the applicant to do it only means that during the day they are going to come in to see me to get the list that they are going to have to send out. Then they are going to send them out and they are going to get them back and they are going to be back in my office again and then I'm going to have to proof it to make sure that they actually went to the people like they were supposed to.

Mr. Hart: So the only time that J would then apply for non-compliance would be they did not provide the funds to make that happen, is that true?

Mr. Baker: Just take the sign down.

Mr. Hart: It says here that they would do the mailing.

Mr. Voss: I like Jeremy's approach to have us do it, we can control it and we have the resources. If the applicant is on the hook for the mailing costs and the signage that's fine.

Mr. Cramer: In a sense you are sending it twice as far as what has been done in the past, out to 1000 feet rather than the 500 feet. If the Town Board wanted to increase the cost of the applications for that. That's up to them. I have heard from a Town Board member who thought that in the hamlets 1000 feet might be a little much. That is entirely up to the Boards and the Town Board to make that decision.

Mr. Voss: They are looking for our advice. Based on past experiences I would think that we generate a lot of interest, let's put it that way, when projects come in. It is localized in a relatively small area of the town, but you know there is a lot of interest in that project. I would like to capture as many verses fewer if we can, with our notification.

Mr. Hart: Do we have the ability, as we do now, to have any sort flex on that?

Mr. Voss: I think we can increase it, but we wouldn't be able to decrease it. We have the ability to expand and go beyond.

Mr. Cramer: Which we have done a few times.

Mr. Baker: Just to be clear the way this thing works and I think this is the way I understand it is the expanded written notice for 500 to 1000 feet that's 10 days prior to the public hearing, but the sign goes up 20 days after filing of the application, so that will be earlier.

Mr. Cramer: My personal opinion is I would like to have the sign go up within 7 days after the public hearing is schedule, because we do get a lot of applications that are either falls short of a public hearing. Then have it taken down within X amount of days after the decision.

Mr. Baker: Yes, that is true, except it's a question of how much you want to get extra public involvement. If you have something like this one that came in way before a public hearing and the point of letting people know, especially for the bigger projects, so then they put the sign up. People know about it earlier.

Mr. Voss: I've seen this in other communities, once an application is deemed complete by whatever Board a sign is posted on the parcel until the action is complete.

Mr. Baker: Like Jeremy had proposed to have it stayed until at least until the public hearing is closed. I think that is fine.

Mr. Cramer: There is nothing saying that if it goes two or three meetings before the public hearing is open that the Board can't request that the signage go up early anyways. You are setting a minimum standard and the Planning Board on a case by case, like we have done in the past was increasing the area of notice.

Mr. Voss: I would like it to be almost automatic though, where as soon as X happens then signs go up. You don't even need to think about it.

Mr. Baker: That's why I kind of like the sign up as soon as the application, if the application dies before a public hearing they don't have the expensive of the mailing. If they pull it then they just pull the sign.

Mr. Perry: What is the sign?

Mr. Cramer: My understanding it would be similar to like an election sign size.

Mr. Perry: So it's more durable than a print out.

Mr. Baker: Yes, it's like something that you are tacking onto the building, like lawn sign.

Mr. Cramer: My original thought was that you know you obviously have something that would catch your eye that says this property has a project in front of the Town receiving approvals. Now whether we want to do a clear sleeve and have a paper in there that said all of it, which I don't necessarily recommend. I think it's just more or less to say check the website, contact the building department.

Mr. Voss: I gave Doug and Patty a couple of examples of what should be used. Town of Colonie uses 8 ½ x 11 almost like a cardboard stock bright florescent pink with heavy black lettering that says this property is submit to action by municipal board for further information see the planning department. Then then have an address for contact information. It catches people's attention.

Mr. Cramer: I haven't looked into the cost of the signs or figured out how many that we want to do yet.

Mr. Voss: City of Albany use to use a 4x8 piece of ply wood that they painted. They had to prop it up on their front lawn. We don't want to do that.

Mr. Cramer: Depending on what the cost is involved obviously we are going to need at least a half dozen of them easy if not you know getting at least 10 of them to start with in case I do have four or five things at each board. There are some months where we are so busy that we could have that. Depending on what the cost are involved into the signs I would dictate, I would think that I don't know if a \$100 is the correct deposit, but if we have \$15 signs then we are already spending \$75 to \$100 or more on an application we are then taking another \$100 that no matter what even after the decision that we put a voucher in and then at the next Town Board meeting they can sign off on it. Then you can get a check mailed to you, you know, I'm not saying that we have applications like the one in front of us with Ron Kay that it is not an issue, but if you have an application where you have a 4H group that wants to do chickens and now you are putting out \$250 to get an approval for six chickens on your property might be a little much.

Mr. Voss: We will make sure the Town Board is aware.

Mr. Hart: Back to whether or not the sign should be with the filing of an application, we get lots of applications that aren't close to being complete applications, so would we have a sign for the past couple of years on Youmans Road, for example.

Mr. Cramer: Right.

Mr. Hart: It's still a pending application.

Mr. Leinung: Or should it be more like when it's on the agenda, like not a public hearing.

Mr. Baker: That may provide a nice incentive for someone to pull their application or push someone along.

Mr. Hart: I'm looking at from the perspective of the public needing to know that something is pending. I think that is the purpose.

Mr. Cramer: Generally when we schedule a public hearing we are deeming that it is a complete application. You don't need the distraction of the public when you are grasping the concept of an application. You want to get to a complete application, you are comfortable with what they are proposing, and you put it out to the public you send it to Albany County and whoever else maybe so that you can gather more information so that you can make a correction decision on a property.

Mr. Voss: I think it should be for notification purposes, meaning when we schedule a public hearing. We don't send notices out unless we schedule a public hearing. We haven't done that at all, ever. That is the trigger.

Mr. Hart: I would go back a little further to when they submit a complete application, myself; we have waived public hearings in the past. Perhaps someone would want to have a voice on that.

Mr. Cramer: That's the other thing you may have a site plan for something that might not even have a public hearing, and if it is a one meeting and out, do you want it noticed ahead of time. It's at the Board's discretion so if it's really an application that you feel the public should be aware of and you want their comments you are going to require that public hearing.

Mr. Baker: Which raises a problem with the D on the sign that says within 20 days of filing the sign has to be up. Since the applications have to be in 14 days before your meeting.

Mr. Voss: I see your point it says within 20 days of filing the application.

Mr. Baker: If we are going to notification with a sign every application that is filed you know prior to the next Planning Board meeting you should have the sign up, because it could go through very quickly. It should be within five or 10 days. The point is to get notice to everybody.

Mr. Cramer: 20 days is after the meeting.

Mr. Baker: You are filing the application you should pay for the sign and put it up.

Mr. Cramer: In a sense you don't need the distraction of the public when you are grasping the concept of an application or when you are asking, you want to get to a complete application. You are comfortable with what they are proposing, you put it out to the public, and you send it to Albany County and whoever else may be so that you can gather more information so that you can make the correction decision on the property.

Ms. Abrams: Put the sign up immediately. I would like to see it in the description phase. I don't see a big deal about putting the sign there, it doesn't cost the town anything. Leave it there even if it's there for a year, what is the big deal, if it is under discussion. Then it is up to the public to go to the website to see if it is on the agenda.

Mr. Cramer: They can go to the website and sign up for notices of the public hearings or the agenda.

Ms. Abrams: They can if they want to but some people are very suspicious of giving any sort of government their e-mail address, it is amazing. People are just suspicious of government. It is something that is ongoing.

Mr. Boehlke: You are talking computers and there are some people my age who don't know anything about computers. Putting on it on the website doesn't help people.

Mr. Voss: That's where the signs would come in I think with this law a certain press release or something that would kind of educate the public that the town is doing this, so if you start to see these colored signs up this is what they are and this is what it means. That would be helpful.

Ms. Boehlke: Tell me how this would work with the Hognestad property? This has been ongoing.

Mr. Voss: Yes, those signs could be up potentially for years for certain projects, which is okay, I don't have a problem with that.

Ms. Elliott: I survey in 27 different towns and we do a variety of notifications, so I have a little bit of some tweaking on the proposed law where I have some difficulties. The 1000 feet is not a big deal. That is fine as long as you understand that if you are on tax map 73 let's say across the street from Douglas Lane, you have the potential for 1000 feet of perhaps getting to 60 to 70 neighbors, maybe a 100 with the new development. The postage on that if I wanted to just have a special use to have chickens, you know \$75 please come in we have a standard thing that we typically do, you are looking at almost \$600. Please consider that.

Mr. Hart: Our recommendation is standard postage at this point.

Ms. Elliott: Yes, and I have a problem with both standard postage and certified mailings. I do have a town that does the sign which is Claverack typically if you go into the building department you have the sign you pay the deposit it is your requirement to put the sign up. I'm seeing that the building department is a little overworked. It would be better I think rather than to put a deposit in for the certified mailings, which is now is regular mail, which is a good plan. Is that when I'm required to do involve Chatham, Kinderhook, Claverack is that I do all the surrounds with certified mailings, but it is not the buildings department prevue to do that. I have to show the tickets when I come in to the planning board and they check off the a joiners. If I don't have the tickets that have been certified mailings within 10 days I cannot proceed. Okay, so that is an issue. On part of it, it said that you would put up the sign on almost everything and that is perfectly fine, but it says on minor subdivision or major subdivisions. Your lot line adjustments and your minor subdivisions unless there are municipal services being required only go to the building department so I have a problem with that aspect of the law, because then it puts a sign out there to which you don't have the signature on that, Jeremy does. I think that part of the law should be reworked a little bit. I'm glad you took away the certified mailings.

Mr. Hart: We did not make a decision it goes back to the Town Board. We are discussing it tonight.

Ms. Abrams: The sign is going to be only for those properties that come before a Board? Can the sign be also be for something that just Jeremy takes care of?

Mr. Baker: There is no public comment or review on any of those activities that Jeremy does, so I certainly wouldn't recommend it. There is no public process involved.

Ms. Abrams: Because Cindy brought that issue up does any of the language need to be changed?

Mr. Baker: We would strike the language for minor subdivisions.

Mr. Cramer: We would say major subdivisions only.

Ms. Elliott: One last thing, what I typically have to do when I send out certified letters to which this would be now regular mailing which I think might be a good plan is that name, address, tax map number, closest intersection and a brief blurb as to what it is, because what you are going to find is the public typically does not know what is going on. I don't mean to be rude, but what's going to happen it is going to bog down the Board because

you will have gone a couple of times, you might be looking at something, now we send out because there is going to be a public hearing, and you get just this little blurb, and you are going to get all these questions that you all have already dealt with. What I do typically is I have a form that I then put because I'm doing them I put my e-mail and my phone number on them and then I get calls and so I can really weed out, but I'm just giving you things that might give you more information.

Mr. Voss: Typically that would be Jeremy's job to field the questions that come in. Anytime we work with the Town Board and try to craft a new law there are a lot of nuances that I think certainly we want to look at and be comfortable with. We may make changes six months or a year down the road, because something they didn't think of.

Mr. Perry: If you do create the sign and buy the sign and hold onto the sign a lot of this wouldn't necessarily be needed in the law? Or would you still want to write the specifications for the sign in the law so that people know.

Mr. Cramer: I think there needs to be specification as to where, but there also needs to be the ability for me to say that doesn't work we need to put it here. We aren't being specific in the law regarding the sign. I would probably find a few different things or designs and bring them to the Town Board and let them make the decision. They can let me make the decision, I don't care either way.

Mr. Voss: It seems like we are all in agreement with the notification law is good, in terms of its intent. How do we massage the actual language that is in the law, and we will leave that up to the attorneys to hash out. We have raised some good points. We tend to do more public notices.

Mr. Hart: Cindy brought up one point too that I thought reinforces my question about whether or not a standard 1000 feet does what we want to do in all cases. That just needs to be looked at a little bit more.

Mr. Baker: The waiver provision where the Board could do it could decide in those instances that 1000 feet in a hamlet for an area variance or something is unnecessary. You can put your sign up here, it's going to be more the ZBA than the PB, we are doing minor area variances and set back where we simply say we waive this just to your adjoining property owners, you don't have to send this out to a 1000-feet.

Mr. Hart: So that encompasses what Chuck said, which was we couldn't reduce it from 1000 feet. It's guidance for 1000 feet and it can go larger or smaller.

Mrs. Snyder: Thank you, this was very helpful.

Mr. Voss: The other two shipping containers and solar facilities I had a little help in pulling the solar codes base language together with Mr. Naughton, so I'm familiar with it. It is fairly expensive and I don't know if everyone has had a chance to really digest it. The cargo container one as well just came to light. I haven't had a chance to go through that. I would suggest is since they aren't as time priority as the notification law for the Town Board which are moving forward maybe you can look those two over and send me your comments. Jeremy please add those two laws to our November agenda just for discussion purposes.

- 4) **Discussion/Comment** Local Law G: Solar Facilities will be discussed at the November meeting.
- 5) **Minor Subdivisions** for the month of September 2016:
 - Creek Side subdivision met the conditions of the approval.
 - Land of Corcoran on Martin Road.

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

Ms. Abrams: The plans that we saw tonight for the proposed apartments/retail, does Jeremy have a copy of those renderings?

Mr. Cramer: Yes, I just got the copy tonight.

Ms. Abrams: The overall impression that I have is that this is architecture for a town that I think has a bigger population than our town. It is still not the kind of architecture that we would expect to see in the Town of New Scotland. If you take a look at Rhinebeck their commercial district is small houses that have been converted into businesses. Most of them have little gardens in front. There is a CVS that almost has like a park in front of it. When they have the second phase how big of a walk from the back property to the retail phase, could an elderly person who wants to rent an apartment. The parking lot can still be icy. Can that person walk there? How would this connect, because we are talking about a holistic plan for this area, how this will connect to the next property? Is that parking lot going to be like a roadway that will eventually become streets? I didn't get that part of it, but I'm sure when I see the plans I will have other questions.

Mr. Voss: Since this is the first one in and it's only on a tiny piece of that whole area it's hard to kind of shape these guys to make this first piece of the puzzle such that it's in the right position and the right location and the right look.

Adjournment: At 9:10 p.m. Mr. Voss moved to adjourn and Mr. Leinung seconded the motion; all in favor; motion so carried.

Respectfully submitted,

Lori Saba