

# Town of New Scotland Planning Board

## Minutes

**November 13, 2018**

Charles Voss, *Chairman*

*Planning Board Members:*

Thomas Hart, Amy Schallop, Peter Richards, Christine Galvin

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

Crystal Peck, *Planning Board Attorney*, Garrett Freuh,, *Town Engineer (Stantec Engineering)*

### **Public Hearings: 7 P.M.**

- 1) Special Use Permit Application #600:** application request submitted by Stephanie Magee Muha to be allowed to construct and operate a public boarding and riding stable. The application consists of a 70 x 136 building that includes 11 horse stalls and a 70 x 100 foot indoor riding arena which would allow limited training and lessons. This project recently received an area variance with conditions to allow for up to 15 horses. The parcel is owned by the applicant, consisting of 11.03 acres, is situated within the RA District at 82 Clipp Rd, and is identified as New Scotland tax parcel #94.-1-47.14 This application is a Special Use of Article II, Section 190-12 (D)(6) of the Town of New Scotland Zoning Law.

Mr. Voss invited Ms. Muha up and she explained that she submitted everything that the Board has asked for and it is in a packet that was distributed to each Board member. An updated site plan was submitted.

Mr. Cramer: We are all set with everything. We don't have anything new. We do have an e-mail from Mr. Dearstyne.

Mr. Freuh: The last comments we had six comments that their engineer addressed adequately. The first comment was about the northern long eared bat being in the vicinity of the project. They are applying the recommended procedures by DEC and the planning, the IPEC materials submitted state that there is no critical habitats within the vicinity of the project. As part of that the PB may wish to include those NYS voluntary measures as a condition of approval. The engineer also stated that the wetlands are in excess of 300-feet from the project site and any proposed disturbance is well outside of the 100-foot buffer. The applicant added finish floor elevations and proposed berm grading to show the intent of drainage off the site and the erosion sentiment controls put into practice are going to sustain or should sustain the storm water on the site. They extended silt fence out into the undisturbed areas to fully encapsulate the disturbed area.

Ms. Schallop: I read the SWPPP and there was various places where it talked about maintenance during construction without having to remove silt that may accumulate and various other measures that need to be taken care of during the course of the project and it wasn't entirely clear to me who is responsible for engaging in those maintenance procedures.

Mr. Cramer: The contractor who is performing the work would be responsible and it would be my job to inspect.

Mr. Hart: I just wanted to thank you for addressing the questions that I had raised with regards to the bats and updating the sentiment controls that were in place and the measures that you've done, I appreciate that.

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

Mr. Voss read into record Mr. Dearstyne's e-mail.

Mr. Voss moved to close the public hearing and Ms. Galvin seconded the motion; all in favor; motion so carried.

Vote: 5-0

Mr. Voss invited Ms. Muha back up to the Board. The Board appreciates all that she submitted and all of our questions have been answered. We think you've given us certainly everything that this Board has asked for and also you complied with everything with the Zoning Board had asked for with the condition of their approval and one of those key things was Storm Water Management Plan. When you start dealing with open site and pastures and things like that sensitive geological areas where your property is it is important to have all those answers to all those questions. It protects you down the road. I don't see any additional issues or items that we have to ask of you at this point.

Albany County had asked for a ag data statement, which we received and had it advised for the equine fire emergency plan which we had also received. The County is satisfied. After the approval we will work on the building permit application and we will do the NOI for the storm water, so we can get that place..

Ms. Peck: The Zoning Board issued a negative declaration, this was an unlisted action. Zoning Board took lead agency on it and they issued a negative declaration after going through the criteria. SEQR is completed.

Mr. Voss moved to reaffirm that the Zoning Board of Appeals issued a negative declaration for SEQR on this and that is inclusive of all the additional information that we received, Ms. Galvin seconded the motion; all in favor; motion so carried.

Vote: 5-0

Mr. Voss moved to approve special use permit application #600 with the following conditions:

- No horse shows, no weddings, parties or events on the property.
- Suggestion of voluntary measure of forest management; tree management per DEC guidance. Leave uncut all known and documented risk trees any trees that are within 150-foot radius of the documented summer occurrence

uncut cold snag trees. It is in the response from Stantec's tree management guidance per bat habitat protection.

- Manure management is secondary containment of manure with a roof covering and then off site commercial disposal.
- The fence is as submitted to the Board; as per site plan.
- No parking on Clipp Road of any vehicles.
- Paddock management strategy where you can rotate the paddocks.

Ms. Peck: Because we are talking about an agricultural project here and the SWPPP that is required post construction practices are actually, her project is exempt from post construction practices, that's because of Ag and Markets Law and it is an agricultural application.

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

Vote: 5-0

- 2) **Special Use Permit Application # 601:** Application submitted by U.S. Solar to allow for a 1.875-megawatt Ground mounted large scale solar system. The total acreage of the site will contain approximately 18.5 acres between the two lots, and is located within the R2 Zone. The site is owned by Donald Baker and Martha Oden, to be leased to U.S. Solar Corp, located at 331 New Scotland South Road, and is identified as New Scotland tax parcel id #84.-1-40.11 and 84.-1-38. This application is made pursuant to Large Scale Solar listed as a Special Use in the R2 Zoning District as per Local Law V of 2017 and Article V, Section 57A of the Town Of New Scotland Code.

Mr. Voss asked Jane to give an update. We are excited to be back to start up the conversation again we had a very productive couple of weeks since the last time I was here. We mostly looked up the conversation regarding landscape buffering and what we wanted to do about the plants, the maintenance plans. You guys came back with several questions that I feel we have answered over the course of the past couple of weeks. We have been working with Ms. Stolzenburg, who has been fantastic. She has been very helpful, so whatever you feel comfortable with doing we can review the updated site plan; discuss the updates to it, the added buffering, the trees, the seedlings, the maintenance. I know Mr. Slingerland has some thoughts on the site plan as well and then just answer questions. We are very excited with what we came up with, it's a good compromise between both sides and I think it will look great.

Mr. Romeo: Just a couple of things to add since the last meeting and you guys would not have seen this until you arrived this evening we also completed a full long form EAF that you should have in front of you for the project site. What we did we included the full 58-acre parcel that includes both, all the lands from Mr. Baker and Mr. Oden including the area that is being leased by US Solar in this. On the site plan specifically, we have all of the vegetation, we have widened the area of the buffer, and tried to mimic more of a natural landscape look. We have also added

numerous columns to make it very clear the areas that are being seeded and a maintenance plan that will go in place with that. One area that I would like to note we did not move the trees too close to the road way for fear of site distance repercussions for maintenance vehicles. That was something that I brought up, I didn't want to bring those trees too close. I know that it could look nicer to have them closer to the road, but I'm concerned if we moved them too close beyond that 50-foot front yard setback from the other roadway. Any questions?

Mr. Hart: And your principal reason for that again, is not wanting to get into a setback zone or?

Mr. Romeo: Site distance for the maintenance vehicles and just around the turn, it is a soft curve, but coming out maintenance vehicles especially the trucks that will be servicing this, if we plant trees too close to that curve it will impact and impede their site distance.

Mr. Voss: Dispersing the trees adding more of a mix of deciduous trees and carnivorous trees really the intent is to try to soften the look and screen it. Make it a more natural look than anything else. This has certainly come a long way. I just want to introduce Ms. Nan Stolzenburg, she is our new town planner. Her role is to assist the Board with an application like this and certainly other applications as we move forward. You have worked well with us in the last couple of months.

Ms. Nan Stolzenburg: My role was limited really to look at the screening, I didn't look at any other aspects of the project, so I was just limited to the landscaping part of it. On building on with what Jane said the goal was to try to move the screening so that it was more screening quicker so we didn't have many years before it was an effective screen, so to work towards that as was mentioned there was significantly more trees. There are a different variety of trees that were in here. We fine-tuned the list of species to be more native species that would be appropriate for to reproduce more of the hedge row look that is already there along the sides of the parcel. Some of the other important things that we did is that there is a nice cluster of vegetation directly across from the house that I felt was really important to leave because it already effectively screened from that location, so we made sure that the site plan includes that cluster. It is labeled as existing vegetation to remain. There's other vegetation along the road that I guess that's remaining a question that's within the setback and it's already growing there now and I think that's a question for the Board to continue to talk to the applicant about what's going to happen with that. My recommendation is to leave as much that's there now as you can rather than scrapping that all off, but that cluster across from the house I felt was really important to keep there because it already got mature vegetation in it, so we added trees, we added larger trees than typically you see three or four foot high trees included in the landscaping plan for screening and the evergreen trees were up to more of them and planting seven foot trees which are certainly going to do a better job of screening sooner. Some of the other things, there were some site plan cleaning up that we did to make sure that everything that was on the site plan was labeled. There were some lines that really didn't need to be on there because they weren't really relevant any more. We added the 25-foot setback from the center line

of the road which was what Mr. Cramer indicated would be the right of way distance, so we definitely want to keep those screening out of the right of way distance. I certainly get the concern about the setback. I admit that I am still a little bit concerned that it's still too far back because there is very little topography there. The closer we can get it to the road the better it will be to more effectively screen, so you know the Board before I was on board had wanted the more natural kind of curving look some of them are going to be further back, but we put in on the site plan in between that kind of serpentine shape is going to be native grasses and wild flowers that over time will be higher and flowering and so that will fill in, in between the higher trees in the back. We added in details on maintenance on how we are going to keep it and make sure that those grow, the trees are replaced over time if they die or the grass and the wild flowers are maintained so that they stay that way. I guess the questions still to explore would be, I have a couple of minor things on the site plan, like just cleaning up the symbols for the plants because some of the symbols are the same, you can't tell one from the other, so just a little clean up there. Maybe to explore again that the setback from the trees at least from the farthest ones that are back, we had asked, when I first came on board, I had asked for a rendering so that people could see it, not just from a site plan perspective, but what it might look like from the road and they did submit some examples. I have not had a chance to look at them, because they just came in today. I appreciate that and that's great I do want to point out though that the pictures show a site that has topography in it that either was natural topography or a berm, so I'm not sure that is a totally equitable look of those examples, so that is something the Board should continue to explore I think as we go forward. I think that's kind of a summary of the changes, there is a, I don't know if you have in the packet included the maintenance information and other information and what I wanted was to have as much on the site plan itself so that Mr. Cramer and others who have to go out and inspect it will not have to look through 50 million different papers. We can have as much information on the site plan as possible to know what is expected. That's a quick summary of where we are at.

Mr. Voss: Thank you Ms. Stolzenburg, much appreciated, it's nice to have another set of eyes taking a look at this. What is interesting to note is technically this is probably the first, well we had another one for a solar facility out on Route 32, but that was years ago and it was never built, so this is our first commercial solar field under the new code, so the Board really took their time to take a look at this and understand it and apply the code. I think it is important for the public to know that when the solar site was laid out for solar it was originally two parcels and we had to merge those parcels and combine them to make it obviously fit on one but there was also something strange out there one of the biggest hurdles for sites like this is an issue of prime farm land or prime ag land, our current solar code doesn't allow facilities to be constructed on those type of soils or parcels from those soils necessarily. Good to have an interpretation from the ZBA as to what a site meant and what a parcel meant in terms of its soil conditions, so we had that done quite a while ago, so when we see the current configuration of this project it really incorporates all those elements of the solar code. It has extensive setback requirements, not only from adjacent parcel lines, but also from residential properties, which is an adherent part of the code. One of the things you will hear us

obviously discuss this evening and we probably will not finalize it this evening, is the extensive landscaping screening requirements that is now required under the code, so we really are kind of step methodically through the Solar Code to make sure that this project certainly fits for this site but also meets the intent of the code. The applicant have certainly worked very diligently with us and very patiently certainly and its great to have another set of eyes like Nan's to help us.

Mr. Hart: We also did an analysis of soils and water retention and water depth relative to agriculture potential on this. Along with a history of what the DEC calls for ag on site, which is low quality.

Ms. Peck: The only thing I think should be mentioned is that because we had an updated site plan and an updated long form EAF it has to go back to Albany County. I feel there is a high probability that Albany County is going to say it doesn't need to actually go on their agenda because they have seen this project a couple of times already, but we have to fulfil the requirements under GML 239M so we will need to send that over. That means while the Board can hear the public comments tonight and discuss what is before it, but there can't be a vote tonight. You will have to wait until the December meeting and if Albany County wants this on their agenda there actual meeting in December is December 20<sup>th</sup>, so they may have to wait until January for an actual vote.

Mr. Voss moved to keep the public hearing open to our December meeting.

Mr. Hart: How much of this land has actually going to be full disturbed?

Mr. Romeo: Just under a half acre.

Mr. Hart: But in terms of the area where the landscaping is going that's to be mowed or is that?

Mr. Romeo: The area where the landscaping is going we would absolutely want to minimize impacts to the whole area, the only real disturbance area is going to be within the fence limits to install the fence. Then actually to plant the trees we aren't going to be scraping the ground or do any leveling of the ground.

Mr. Hart: I just wanted to make that clear, because there was mention about scraping and then reseeding and I don't think that is the case. Several months ago we talked about how mowing would be done in front of the planted trees and what is the plan for that, because your maintenance plan talks about seeded areas and it wasn't clear to me whether or not the detailed maintenance plan extended out to the right of way to the road way or not.

Ms. Qualey: Yes it will extend as far as the lot line as much as the project stretches out, and we will have quarterly visits for that and that will be considered the seeded area as well, so we will have maintenance crews out there obviously weeding and cutting.

Mr. Hart: It's not just the seeded areas it is up to the lot line, and that's where the mowing would end, so it might be good to have that clearer on the piece of the site plan that applies to that, because that brought a question in mind when I heard that there was you know possibility of disturbance there that was disturbing.

Mr. Romeo: The intent is not to disturb in that area. To go further we don't want to clear out all the vegetation wherever, the intent is to leave most of the existing vegetation just supplement with tree plantings. Any mowing that would be done, especially as the detail maintenance plan says that area is intended to have less aggressive weed killers and everything else used on that really that is going to apply to the fenced in area and the area immediately around it for maintenance.

Ms. Galvin: So what about the panels, what about the grasses and plantings just the existing vegetation where the panels are.

Ms. Qualey: We will be keeping them around four to six inches in height all of the habitat in that area. There won't be consistent mowing, you would say, but we keep it native habitat of the area.

Mr. Romeo: So the existing plantings would not be completely killed off and regrown the idea is, so again to apply a broad cast seed to the entire area, because inevitably what we've included that there is going to be some disturbance there, you know as trucks go over it, you are going to kill some plants. So you would leave the native plants there, put a new native mix down there and they would use weed killers to prevent the really tall growing weeds that would cause shade to the solar panels.

Ms. Galvin: The mention of weed killers is interesting because I attended a training put on by the Association of Towns and it actually had a section about solar projects. One of the things they pointed out or recommended against is the use of weed killers because their point was that if and when at some point the project needs to be decommissioned and we are going to reclaim the land if you've been consistently using chemicals on the land over time the land becomes saturated with chemicals and that becomes useless for any kind of agricultural or anything else. I don't know how I feel about the weed killers. Their suggestion was to not saturate the property with chemicals.

Ms. Qualey: And to answer that our use of the spray decreases over time, so in the first couple of years as we are growing the habitat we do three checkups, three sprayings to keep them to four to six inches, but then as time goes by it ends up more like one year checkup. It is not a consistent saturation of spraying.

Ms. Romeo: Once the native grasses are there the intent is to have those drown out the ability to grow. The maintenance plan says you can spot herbicides. You know if you have one plant in one area you wouldn't broadcast over the whole site.

Mr. Hart: So spot application what are you intending to use glyphosate or?

Ms. Qualey: Good question we will follow up with that.

Mr. Romeo: Do you have banned chemicals?

Mr. Voss: We don't have a standard at this point, but certainly best practice is you know I think would apply NYS standard DEC.

Mr. Hart: The mildest and most biodegradable.

Ms. Galvin: How do you manage the weeds with the flowers?

Ms. Qualey: Pretty successful. We have a pretty successful pollinator program we are harvesting bees at several of our sites.

Ms. Galvin: Ms. Stolzenburg your understanding presenting of this new landscaping plan is what, with respect to its capacity ability to screen as is required by our law.

Ms. Stolzenburg: Are you looking for coverage by time?

Ms. Galvin: Well, the law, and I've stated my position on this earlier, the law says that the panels need to be screened that's what it says. The suggestion that okay maybe there will be screening in a few years, doesn't to me equal screening now, so I don't have a rendering, but what I'm saying here this land is pretty flat, so I see what the heights are, but those are mature heights. Am I right, looking at this plan will not provide screening for today or tomorrow?

Ms. Stolzenburg: I would agree with that.

Ms. Galvin: Are there means or methods for remedy that can be employed using this type of concept that is shown on this map in terms of the natural appearance of configurations of the plantings that is shown on here.

Ms. Stolzenburg: Adding in vegetated berms adds that topography that you would need to screen from the road to more effectively do it quicker.

Ms. Galvin: Are there locations on this plan that you think berms should be placed or included or are we talking about the whole length along the road, what do you envision.

Ms. Stolzenburg: I guess it depends on if you want total screening, so you don't want to see it at all from driving along the road with that kind of topography there you would need a berm along the entire length of the road. There are strategic locations, I think that would help add that topography along with the landscaping and leaving of the existing vegetation that is growing. I think at the corners next to end by Furbeck's house and on the other end towards the railroad tracks, strategically located in that vegetation area to give some topography and make the screening more effective. Vegetated berms are going to more effective than waiting

for the trees to grow. Will the trees grow to be effective over time? I think what they got is a lot better than what they had and yes, but I think it depends on the code doesn't say it has to be screened immediately tomorrow. I think it's the Board's interpretation of what is, what amount of screening are you looking for. The vegetated berms in my opinion and we talked about that with them, you know honestly that is the most effective way to do screening. You add that height from the berm and then you'd have that vegetation, basically the same scheme that they have only it would give that slope. Berms are used in all sorts of commercial situations.

Mr. Richards: Also an issue with berms in that you can't plant any trees in those berms they will not survive. It will be grassland berm and also we just got through covering how we didn't want the land to be disturbed too much. That is going to be a big disturbance.

Mr. Voss: There is another thought process to berms, I hear where Chris is going, strict interpretation of the code would be you use screening that means you can't see through necessarily, but the code does not require 100% screening, some softening and some buffering, again its an interpretational thing that we are going to grapple with. The intent was to really soften the look, right now it is an open field, with the solar panels out there it will be 6 to 8, 10-feet in height give or take the road topography changes, so the elevation of those panels and your view lines will change, so one of the things that Nan was describing is trying to utilize the topography of the road effectively by putting more screening in certain locations where those view lines are more clear and direct versus where those areas aren't. I think also the intent early on was not to try and build a wall across an open field which we have now. Its more to soften the look across that field, so you don't always necessarily know there are solar panels behind it. We could require 100% screening and you'd have to build a 20-foot berm along front there and you wouldn't see anything, but that would look unnatural. One of the other thoughts was instead of berms, Nan was going to suggest some small hills four or five feet in height, but they aren't a long linear berm, they are more of an expanded area, but then that gets into what Peter was saying that's more ground disturbance and that will affect ground water, your SWPPP. Unless it's a long flat hill you know half the size of this room you know in width and depth you could put trees on that but we haven't had good success really anywhere, and I haven't seen too many examples of you know the typical berm that is four or five feet tall with trees on top. It just doesn't work.

Mr. Hart: I think at this location the berms would just stand out, more than the vegetation and as long as this is going to effectively clump and I think that you have achieved that in this design in which you said coming up with islands of vegetation as opposed to linear stands and also looking at off set distances from the roadway to smooth that even further. I think the line of sight is going to be, it will take a little bit of time, but I'm thinking about how this looks compared to the one that's off similar size down by GE in Feura Bush and what light years ahead this is from that.

Ms. Galvin: Nan why were you saying though there were two strategic places basically on either end of this, why did you pick those particular areas?

Ms. Stolzenburg: Well one is closer to the house from the neighbor's perspective. The other strategic location was addressed by insuring relieving that existing vegetation that is shown on the site plan. Then down at the other end I think if you look at, if you are going toward the railroad track, there is a bank there that is kind of a natural, well I don't know if it was a natural berm or if it was through the construction of the railroad or the road there. There is some, pretty much where the tree line is to try and emulate that and just extend that a little further into the parcel just to balance it out on either end. I will have to do some more research into the species and lively hood of berms. The berm can be three to six feet in height. I totally get and I don't think I would want to see a wall along there, that's not what you were looking for, but my original thought was some strategically located smaller ones to add some topography and variation in the view so it wouldn't look out of place, but I understand you know this is all a balance, the alteration of the runoff calculations, the compaction of brining in trucks to build it those are all considerations, so it depends on what you want and when you want it.

Ms. Qualey: I would just like to add with respect to that conversation we did push back on the berm we prefer not to move forward in that way from our experience again it complicates things it would create more testing, hydrology reports, planting changes, and with that compromise we added more trees, we added more mature trees, so as you review the site plan now as a opposed to just the recommended height of plantings we are doing 7-foot trees from the get go. We layered up more of the trees, we thickened the clusters, we added 96 trees, which is almost double what we normally do for landscaping with our other gardens, so we tried to meet in the middle with that request, we strongly request not to move forward with berms, it's just not how we manage our sites. We would like to move forward with the site plan that we have presented.

Mr. Romeo: I have used berms on a couple of projects some of which we pushed back on client requests the most notable one was the Tapensee Bridge project and we tried to use that for screening and within a couple of years all the trees were really struggling in the one area because they were about four foot tall berm against the landscape architects request the State Police really wanted a berm there with pine trees and within a few years they were all struggling. They were just above the water table there was no way for everything to be watered to keep them alive. Just to echo Peter's thoughts if we are going to use berms, which we do not want to do, they will be brush only and you would effectively get less screening over time.

Ms. Scahllop: How do the pesticides get applied?

Ms. Qualey: Spot spray with a wand, within the fenced in area around the panels not the whole area.

Mr. Hart: I don't know about the white spruce.

Mr. Romeo: The white spruce and the black spruce should also grow fairly quickly. They grow over 12 inches a year.

Mr. Hart: Any fertilization plans for these plantings?

Mr. Romeo: Obviously when we plant it, it will be fermented soil that goes within in the group ball when we plant it, we will look into that specifically.

Mr. Hart: You could do maybe some root injection or maybe some fertilizer spikes?

Mr. Romeo: Yes I think that would make sense especially for that first few seasons.

Mr. Voss: What we discussed with you early in the process is the type of fence. We are looking more of a kind of rural agricultural pasture type of fence. We had also asked for the instillation of the fence to somewhat accommodate the traversing of smaller wild life across the site which exist there now, there is a flock of turkeys that like to hang out back there, so smaller creatures can pass through the site still.

Mr. Voss opened up the meeting to the public.

Ms. Martha Oden, owner of the site, what I was trying to say that in that corner by the railroad track, I've lived here since 1965. I am very familiar with that property, when they came through in the early 80's and re-did the road they took a lot of my aunt's property there and they also took some of the property across the road, because they were trying to straighten the road, and they did solve that problem. They also used that field put all their trucks and equipment in and when they did they completely obliterated the regular field. There are bunches of grasses and mounds of stuff and they just pushed the dirt over them, so there is buckets and everything else in there and the reason why I know it is when I walk the field after a heavy rain I was pulling coffee cups out of the soil, so I went and asked them and they said that they had no place to put it they just covered it up with the soil. I said well they can't even get their plows through there, they also came and asked later on if they could bury their giant long tree trunks. They had cut a number of trees from across the road down and they just wanted to roll them across the road and bury them along this big curve and finally I just said okay what the heck, because my aunt was very ill at the time. I said go ahead you minus well you ruined it for anything else. They dug out a huge trench and put everything in there and I mean a ton of stuff and it was mounded up and they said they tried to cover it, but they couldn't cover it, they tried. It began to sink down, so what you are interpreting actual vegetation was mowed right the road way there was nothing there, and what was by the railroad tracks was all there junk and garbage and stuff and the poor farmers couldn't get through that so they couldn't take down all that tree growth there, its not trees its shrubbery its no good for anything. I wouldn't worry about it. Now as far as my neighbors down the road there in the summer time you cannot see their house driving down the road at all. They are completely screened by their own items. I'm not sure most of their vision is to the back where the trees are, out across my field and across to their north which is of course a very nice area that they have with a pond down there and the stream is over there, so they really don't look the

other way. Maybe in the winter time, if you put up a great big pines there its going to cut their views in the winter time, that's up to them what they want there, but its something that they might want to think about. Thank you!

Ms. Lynn Furbeck, 381 New Scotland South, so I'm the little parcel there in the corner, I think this is going to really affect us I think. Just a question, because I wasn't at the first meeting, is there any sound related to this or any like humming sound? I'm assuming it's safe, I'm just making the assumption that you guys wouldn't let this go in if it weren't safe for humans or animals, other than that is there any lighting or sound associated with it whether day or night, I'm assuming from what I read on the internet that at night it is a quiet thing, but I'm not sure. I had a question about the vegetation which you addressed. I do have like a little bit of a buffer between, it is not on our property but there is a buffer between our driveway and the road and it's scrubby stuff, there are no leaves on it during the winter, but it does give us a little bit of protection there. When you were talking earlier about removing some of that before they put in the new plants I was wondering if that corner pieces was going to go. I'm pleased with the fact that you are adding more trees. I have not found a tree in this town that a tree does not eat. We tried to grow a number of different trees and the deer do a serious number on that. I'm really concerned with the mention of the weed killers. We have a well and I know many people on that road have requested water for years but we are still on a well and we have drainage from that field that kind of goes towards the slope down the hill toward our pond and our creek, and I'm a little concern even if they are spraying the weed killer within that fence I'm still concerned just living in close proximity that is an issue. I think that is all I have right now.

Mr. Voss: There is typically no sound associated with the project. That was a question we had earlier on, there is what they call a control station if you will, but it is more of a panel that sits on a large board, but that does not make any noise. We've asked in terms of the safety issues really there is no safety issues associated with solar panels themselves other than somebody climbed the fence and climbed on a panel and fell off of one. The height of a panel is about 10-feet maximum. There is no lighting associated with the site at all, but there might be one small dim light by the panel. I think we asked you about that early on and you didn't need to have illuminated, so no lighting on the site. Vegetation near the house, I know the area you are talking about, I think it is the applicants intent to leave all that in place. The spruce trees are not moving. Native species for the trees will be planted and they are deer resistance. The flag markers are out there to see where they are going, the ones in the woods are marking the boundaries of the parcel, but not the boundaries that they are clearing, please check on that. Pesticide use we will be sensitive to that the property does slope down back to the ravine area, we will be sensitive to that and we will look into that.

Mr. Richards: Herbicides kill plants.

Ms. Furbeck: I wouldn't want any like thing that can be harmful spray in the air or on the ground.

Ms. Qualey: Many of our gardens where we do spot spraying are built in densely populated areas so for a long time we take into account neighbors and how it affects also their property with our spot spraying. We are working with endangered plants and seedlings as well so we want to make sure that we meet to code all that is required working with those endangered species.

Mr. Carlson, I live down the road from this, one suggestion and this is a public meeting it would be helpful to have a full presentation. I sort of gathered what is going on here and its fine. I am strongly supportive of this I think it is a great idea. I think there should be more of this kind of thing going on. It generates electricity instead of traffic. It's a great thing. The berm thing is a terrible idea, let's plant something, don't mess with the landscape. Herbicides, what about mowing, it costs more maybe they don't want to do that, maybe it's not economically feasible, I don't know look into that.

Mr. Chet Boehlke, I live across the street, I am looking right into that open field is, I'm going to miss seeing my deer and stuff out there, but I think it's a great idea. There are no kids in school, there is no traffic and we are going to get taxes from this project. Be concerned with the development on Miller Road. I am in support of this. I travel through Vermont and it is loaded with these solar farms, and none of them have barriers around them. Trees grow slow they will grow eventually. I am definitely in favor of it. Thank you!

Johana Marshall, Bullock Road, I apologize I had to step out and I missed a lot of what happened the last half hour, but it was interesting about the horse farm and what is going to happen with the manure from the horse farm, I mean you guys covered a lot detail about a horse farm which I think really benefits our neighborhood. I just wonder what is going to happen with the solar farm and the same thing like have people look at water runoff. That water is not going to go to the grass. I heard about weed killer, as a bladder cancer surgeon, I'm really concerned about bladder cancer, the weed killers have a huge effect on the insistence of bladder cancer, so these are things that I don't know if it's been looked at. I don't know if you have considered it. There is a lot that I would like to learn about the whole plan. We are getting some information tonight. I would like more of it to be public.

Mr. Voss: Water runoff was an issue that we look at relatively early on and we had our engineer working with their engineer to certainly mitigate any storm water.

Mr. Frueh: There really is minimal disturbance proposed with this site. It is all the hydrology staying the same.

Mr. Voss: The DEC requires that all storm water be mitigated on the parcel it cannot be allowed to run off or move off the site. We have been working very closely with their engineer to make sure that the storm water is managed appropriately on the site. With solar panels there is really minimal ground disturbance they are driving piles in essentially and mounting the panels to those so

there is minimal disturbance. Certainly during construction moving equipment across the site and then they will stabilize the site and replant.

Mr. Romeo: I would like to add to that, because the site is so flat most of the water is going to travel that is runoff of the site naturally is going to travel very low velocities.

Mr. John Ragonese, I own the land across from the proposed solar panels, first question is if it is zoned residential how does something commercial get put on there. Someday I would like to build a house there I've owned that land for many years, if not myself, my kids, if you have two story house built there and you are looking down and you are still going to see their solar panels. What is going to be done for that?

Mr. Cramer: To answer your question, the local law that our Town Board created, puts together a lot of requirements to allow for a large scale solar facility. With that said, the zoning is not one of those requirements, so it can be sent over different zones whether its R2, RA, residential forestry, commercial, if you go through our zoning book as it is now in every residential zone they allow for commercial uses generally with a special use permit or an approval from the Planning Board or Zoning Board to allow for them to happen in those residential zones. The fact that they give names to the zones that imply that they are one thing other than what they actually are right now is kind of misleading.

Mr. Boehlke, I just wanted to say I've never seen water laying out on that field. The ground soaks it up, but you can't walk on it once it rains. There is no runoff of the water over there.

Ms. Oden, I just wanted to say to Mr. Ragonese, it is down by the railroad tracks. It is not by your house. It is the land by the railroad tracks.

Mr. Carlson, if you are looking for landscaping do you use the County right of way as constraints because of site distant concerns, that may not be an issue, you can work with the County.

Mr. Voss: You are right off the center line, we are just talking about 25-feet. It's not an issue we can discuss that with the Town. We are going to leave the public hearing open, because there are still a little bit more information we are developing with the applicant. If you have any additional thoughts, please them to Mr. Cramer through the building department, and we will have the public hearing open in December as well for any additional comments.

Mr. Hart: I would like to follow up since there are people interested and a couple of questions and explanations; what is the maintenance that happens on site once it is constructed?

Ms. Qualey: The maintenance we do in the first year three site visits that do seeding, spot spraying, weeding, monitoring the panels, and we also do that

remotely. The second year I believe it is two visits a year and then it slowly tapers off to about one year of maintenance visits. After construction there will probably two guys on this site maximum. During construction it takes about two month process where you may see an uptick in traffic, probably four to six weeks.

Ms. Peck: Your short form EAF has the physically disturbed area as 9.36 acres, but the long form that was provided has it at .48.

Mr. Romeo: So a couple of things, short form was provided very early on in the project, initially when we were talking to Stantec and we said we are going to show this whole 9.73 acres in just this area for right now. It is more than 9.73 acre parcel once we got into it we understood, so that short form EAF is incorrect.

Ms. Peck: It has the full size of the parcel, but it has the physical disturbed area as being 9.36 acres.

Mr. Romeo: That is incorrect.

Ms. Peck: Thank you for the clarification.

Ms. Qualey: Are we in agreement with landscape plan? Can we move forward with that plan?

Mr. Voss: It certainly sounds we are pretty comfortable. There might be some enhancements that you know we might here from the public that we will share with you. As it stands right now we are in agreement with what we are seeing.

Ms. Schallop: We need to explore potential ways to deal with herbicides. I would like to see the applicant comes back with some real information about what alternatives there is to that.

Mr. Hart: Is it possible to mow underneath the panels?

Ms. Qualey: I believe so, I think so.

Mr. Hart: All good to go to Albany County? None of the things we are asking for prior to the next meeting need to go to Albany County.

Ms. Peck: Yes, we are going to verify that with Albany County tomorrow.

Mr. Cramer: The majority of the information was submitted to Albany County in September.

Mr. Voss: Thank you!

**Old Business:**

- 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 approx. 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).

Board recommended to the applicant to keep the animals away from the well area while this application is being reviewed by the Board.

Mr. Voss moved to schedule a public hearing for this applicant in December.

#### **New Business:**

- 1) **Special Use Permit Application # 606:** Application originally submitted and approved for David Moreau to allow a Special Use Permit to for the construction of a single family dwelling on a 3.01 acre parcel owned by him. The new owner, Milt Orietas, is requesting to finalize the original special use request 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. Orietas: Just looking to build a single family home, about 2500 square feet, a colonial style, similar to the other ones that are out there.

Mr. Voss: One of the issues is the access issue and the shared maintenance issues. We received some communication from the neighbors about the concerns and we will have Ms. Peck address the legal issues of that.

Mr. Cramer: This was not a requirement that could of been triggered before this application was submitted. A little history, going back to this was lands of Moreau at one time. Prior to 2010 when these lots were created Mr. Moreau had come in with a subdivision of three lots at the time for the two the houses that were existing on Greylock, to build the two houses on Greylock Lane. That driveway from Greylock Lane was constructed by Mr. Moreau across the stream with Army CORE of Engineers approval permitted and there was an agreement that that the two houses to be build were to be the driveway of Greylock or the private road of Greylock would maintained by those two applicants. In 2010 Mr. Moreau comes back with a four lot subdivision to divide three more building lots off those three lots are to access Greylock Lane as well. They had gone through minor subdivision, they received special use permit to allow for single family houses on those lots and

then the approvals lapsed, because of the time frame, the developer at the time had passed away. Fast forward, Mr. Orietas had come in for lot A for special use for his own house, that was dwelling number three on Greylock Lane and then in February he came back in for lot B and that was the fourth house to use Greylock Lane now we are at parcel number five and in the building codes for driveways or private roads section 511.2.6 says driveways serving more than four building shall meet the design requirements of a fire apparatus access road in section 503. If you remember in the maximum subdivision that we were working on there was a three lot subdivision turned into a four lot subdivision and then we had the neighbor who was using Toby Lane, well one of those lots could not utilize Toby Lane because if they did that would make five which would have triggered a fire apparatus access road. Now we are in a similar scenario that had a driveway maintenance agreement that was decided to at the time Summer and Miller that they had to maintain this. At this point in order to put a fifth house on the lot the level of access of the private driveway or private road right now would have to be increased in order to allow for fire capacity. The majority of Greylock Lane is on this last parcel that the applicant is looking to construct a dwelling on. In my opinion that where it splits would have to have fire apparatus road to that point with an approved design turnaround to be incorporated so that fire departments could get in there and have the ability to turn around. Normally with a single family house the rules on a driveway are that there needs to be 13-foot wide and 12-feet in height to allow for a fire truck to be able to get into the driveway.

Ms. Peck: The subdivision was approved but the code section doesn't come into play until you actually have buildings that are being built. You could have lots that will never be developed, so that's where that comes into play.

Mr. Cramer: You need to speak to an engineer and coming up with a design spec for the driveway to go up to where it would split and trying to find an acceptable turn around style whether it be cul de sac or whether it be a hammer head turnaround. You would discuss this with the fire department, they may have special requirements for this turnaround.

Mr. Hart: You have to look at the cost, but regardless with what Mr. Guyer says you have to think about whether or not you are able to cross the stream with additional construction through that excavation, I wouldn't be good with that. Just to make it clear. From our perspective, our current code it's a no go for me.

Mr. Cramer: You need to hire an engineer and they would approach the fire district chief and discuss what they would find reasonable as far as the difference style of turn arounds and the sizes of those turn arounds that would require for them to be able to get in and get out.

Mr. Voss: If it is cost feasible, I have no idea what this would cost. Just keep Mr. Cramer advised on what you decide to do. Thank you!

- 2) **Major Subdivision Final Plat Application # 624:** This application purchased by Maxim Real Estate LLC to divide the land into four parcels received preliminary plat approval May 1, 2018. The project received water and sewer approvals from Town Board October 10, 2018 in order to apply for final plat subdivision approval. The parcel identified as tax id # 84.-2-55.20 consists of 11.8+/- acres and is located within the MDR Zoning District at 22 Toby Lane. The scope of this subdivision is defined in Article II, section 164-6 and is subject to the major subdivision review procedures as described and made pursuant to Article III, Section 164-19 of the subdivision law.

Mr. Slingerland, explained to the Board what was new with the project.

Ms. Peck: The initial easement package that was provided to us and it showed the easement area but the area didn't cover Naughton or Rollins property and the problem with it was that the Town wants the easement because this a major drainage channel. If there is an emergency situation where either of his culverts gets clogged it will cause a problem. The Town is not taking responsibility for maintaining it, but if there is an emergency the Town wants to be able to go in and unclog those culverts if need be and even if need be if they have to tear them up. The problem with the easement that was initially provided was that it was an easement that ran from Maxim to the Town, but we would necessarily needed to involved Rollin and Naughton as well because we may need to access their property and I believe it also drains on to Naughton's property. We need to have that revised. We did get a revised map right before the meeting today, but I haven't had time to review this. The other issue too is that both Naughton and Rollin will have to sign off on the easements. We cannot go through with an approval tonight.

Mr. Voss: I would default to Mr. Guyer's preference was and if he wants those easements along Toby Lane I think we would be more in compliance.

Mr. Romeo: It might be two different easements one with Mr. Naughton and one with Mr. Rollins and Maxim for lot three.

Ms. Peck: We can work out the details.

Mr. Hart: Is there any provision for future maintenance of the culvert so we don't get to the point where there is catastrophic failure. It is easy for us to do a condition on this that they have to be maintained with an engineer quality specs as built.

Mr. Romeo: I can add that language in.

Ms. Peck: We are waiting on Bethlehem for the Bethlehem agreement apparently they are waiting to hear back from the DEC. Once they get DEC's nod on that, but they can take a while on their decisions.

Mr. Voss: Thank you!

- 3) **Special Use Permit Application # 605:** Application submitted by Ann Neander for a Special Use Permit to allow for a parcel owned by Catherine Donato to be used for "Farming activity personal." The parcel is located within the R2 Zoning district at 64 Normanskill Road, contains approx. 1 acre, and is identified as New Scotland tax parcel 83.-1-54. This application is a Special Use of Article II, Section 190-14 (D)(10) of the Town of New Scotland Zoning Law and local law #2 of 2016, Section 3e(3).

Ms. Neander explained that they are looking to get some more chickens we have seven people in our household. The firewood we are selling small amounts of firewood to help defray the costs of heating our own home, which is a six bedroom old farmhouse, very leaky, so we burn a lot of wood. We are looking to get a couple of goats for goat milk for the kids. We have 20 to 30 chickens right now and we would like to add some Guinea hens to be able to roam free to get the ticks.

Mr. Voss: The wood operation you use yourself, but also sell it too.

Mr. Cramer: I don't know where the wood is coming from I would think it's under agricultural under the required acreage if coming off the land. I have received some complaints in the past, not as much as they were selling firewood, but that it was right up against the road and people driving by see a residential house and don't necessarily want a production right next door alongside the road. We don't define selling firewood.

Ms. Peck: How much of it is sold and how much of it is kept for personal use?

Ms. Neander: We burn approximately 12 to 15 cords a year depending on the weather. It seems like the older my mom gets the warmer and the harder it is to keep her warm, so we are up to towards the 15 cords right now, and we have a handicapped brother in the house and an elderly mother, plus an infant. We spoke with the Town of New Scotland Food Pantry and we are up for 3 cords of delivery if they find use for their needy people, we have waived all delivery fees. We are donating to the Hilltown Christmas if the need arise for heat in the winter, again that is another couple of cords delivery charge is waived. The wood is coming from tree companies and it is coming approximately 7 or 8 miles from the house. It is a short

distance and it is not getting delivered a far distance either. Everything is local and everything is staying local.

Mr. Cramer: Small scale farming activity allows for 50% of the product to be sold on the land. It is being imported mostly for the main source of fuel for the house.

Ms. Peck: There are a few issues with one that I will take a look at.

Mr. Hart: I don't think this fits as farming, I think it's more commercial use. I am impressed with what you have done with splitting with what you have. You also have done a vegetable stand for sales too. I will wait for the analysis with how this all sorts out.

Ms. Neander: We are going to have some changes with the family estate, so we may have the opportunity to pick up 24 more acres.

Ms. Peck: We do need more detail to the question of the proximity of coop to the well and whether that needs to be moved.

Mr. Cramer: The penned animals need to be separation from the well of at least 100-feet. It looks like you are more about 30-foot separation from the well. The coop needs to be moved further to the northern property line, further into the back, so that there is a 100-foot separation distance. I would be curious to know where the location of the well is on the parcel to the southeast would be. What would you estimate the profit from firewood would have been last year.

Ms. Neander: I think we sold 17 cords last year and we get \$300 per cord, but out of the 17 cords we had to pay for loads to come in, which is right off the top \$600 for the load then you have the \$200 trucking coming and then you have the labor to take it down and take care of it. The profit maybe was \$5,000 and that's on the high side. It's more to offset the heat for our family.

Mr. Voss: I don't think keeping of the chickens is an issue. Ms. Peck will review and get back to us. Thank you for coming in.

- 4) **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, is 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.

Mr. Easton, developer, keeping the same footprint for code and we are bringing water into this site, after I made that application Ms. Stolzenburg was able to look at it and we certainly had a meeting and she had some comments. You really wanted more of a true cluster plan and we are in the process of incorporating that into the design. I will send that back over to Ms. Stolzenburg, and she will make some changes and we will review together. I hope to see you in January again. I will get everything over to Mr. Cramer.

Ms. Stolzenburg: We just talked about looking at it from designing with the features of the land, instead of around the houses. We looked at the features on the land are first and then strategically placing the location of the houses. This is what you would call a conservation subdivision.

Mr. Voss: Thank you!

**Discussion items:**

**1) Comment/Discussion:** Planner escrow procedures during November 1 meeting.

Ms. Peck discussed with everyone what was discussed at the November 1<sup>st</sup> meeting. The fee schedule will be changing. The Town Board will be looking at this tomorrow. We would change it so that the fee schedule that is supposed to be covering the preliminary review so that if she feels there is additional escrow required based on the complexity of the project then that will be requested and that will be provided by the applicant. The preliminary review should actually not need an escrow submitted because it will be part of the fee schedule.

Ms. Galvin: You did a good job of drafting it. But my only suggestion would be that we not require the creation of minutes for informal meetings with developers, because for one reason I thought it could have a chilling effect I enjoy the informality of being able to work with the developer in the pre-application meeting. I'm thinking the last thing that we really do need are formal minutes.

Ms. Peck: What I meant by that is a summary or a synopsis or some sort of a report.

Ms. Galvin: Even a verbal summary.

Mr. Voss: Whatever you are comfortable with. We will show who has attended the meeting. I will send out an e-mail to see who is available on such and such a date and it will be limited to whoever responds first. That way everyone will know there is a meeting taking place. Do you need us to adopt this?

Ms. Peck: No, I do not want you to adopt this.

Ms. Stolzenburg: I do have one question just so that I am clear, so on D where it says in the instance a pre-application meeting is requested by the applicant, so I'm assuming that the way it was set up you don't want me to just meet, and I don't feel

comfortable with meeting alone with the applicant, it would always be with the Chair and one other member of the planning board. I just wanted to make sure we are all clear.

Ms. Peck: I don't want you to adopt this for two main reasons and that is we still need to figure how we want to define industrial uses and commercial uses. I sent over a suggestion that I grabbed from the Town of Guilderland code, I looked at a couple of different codes. I didn't love the way some of them was set out, I didn't mind the way Guilderland's was, I think it was on commercial uses.

Ms. Galvin: We don't have those definitions in our code?

Ms. Peck: No we do not. We have industry, we have industrial development, which we could arguable say that the uses that fall within the definition of industry or industrial development are industrial uses and then we can always tweak this or broaden it as applications happen and I would expect that is something we would do as situations arise.

Mr. Cramer: A lot of the definitions to the uses in the industrial zone say that they can only be allowed in the industrial zone.

Ms. Peck: We can narrow for industrial not a problem, if you are comfortable with what I sent around for a proposed informal definition of commercial we can do that. When talking to Ms. Stolzenburg, she doesn't really think, and I agree with her, home occupations should be included in commercial, at least not for an automatic referral.

**2) Minutes** for October 2, 2018- Mr. Voss moved to approved the October 2, 2018 minutes and Ms. Schallop seconded the motion; Ms. Galvin abstained, all in favor; motion so carried.

- January meeting will be set for Thursday, January 3, 2019. Ms. Peck will check with her schedule and get back to the Board.

**3) Minor Subdivisions** for the month of October 2018

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

**Adjournment:** At 10:20 Mr. Voss moved to adjourn and Mr. Richards seconded the motion; all in favor; motion so carried.

**Respectfully submitted,**

**Lori Saba**

