

TOWN OF NEWFANE PLANNING BOARD MINUTES
JUNE 24, 2025

Presiding: William Clark

The following Members were present:

Paul Conrad	Thomas Mays
Eoin Walsh	Daniel Whorley
James Evarts	Peter Russell

Attending: James Sansone, Town Attorney
David Schmidt, Building Inspector
Joshua Rogers, Consultant, Wendel Engineering

Public Hearing 1 - Home Based Food Truck business application for 3030 Hess Road.

Gabe Szell has applied for a Special Exception Use Permit upon his premises known as 3030 Hess Road, Appleton, a Rural Residential (RR) District, to establish a home based business to sell food from a food truck upon the premises. Section 5-2 D-5 of the Newfane Zoning Ordinance permits a home based business in the (RR) District when a Special Exception Use permit is authorized by the Planning Board.

Mr. Clark explained how the Board interprets a home based business, and while the ordinance permits a home based business, there is no definition in the ordinance. Mr. Clark noted situations and conditions when the Board has both approved and denied home based business applications in the town.

Mr. Szell presented his proposal to sell kettle corn and soft drinks from a food truck he owns in his driveway. The truck will be 20-25 ft. off the road and the business hours would evenings, primarily between 5 pm - 8 pm.

Board member Peter Russell asked if traffic would pull-off and park off the road and if there was a turnaround for vehicles. Mr. Szell said that customers can pull in his driveway and there is room for parking and turning. Mr. Clark and other board members emphasized that parking on the road or shoulder could not be permitted.

It was suggested that since the business would be selling a corn product, that it might meet the definition as an agri-tourism business.

There were no public questions or comments.

A Motion to close the Hearing was made by Paul Conrad and seconded by Thomas Mays.
All present voted Aye.

A Motion was made by Eoin Walsh and seconded by Daniel Whorley to allow Mr. Szell to sell from his food truck on his property with the following conditions and stipulations.

No parking or standing on the road or shoulder.

There must be a professionally designed sign clearly visible from the road on Mr. Szell's property, and another sign on the opposite side of the road (if permitted in the right-of-way and/or by the opposite side property owner) advising motorists to use the driveway and park off the road.

When not in operation, the food truck shall be removed well back away from the road.

The only lighting shall be that on the food truck and lighting should be directed on the owner's property not to neighboring properties.

Food sales are limited to kettle corn and soft drinks.

Business sign(s) can only be that displayed on the food truck, there shall be no freestanding business or advertising sign.

Business hours will be 5pm – 8pm. No restrictions were placed on the days of operation.

All present voted Aye. The Board was polled by Chairman Clark:

Daniel Whorley	Aye
James Evarts	Aye
Eoin Walsh	Aye
Paul Conrad	Aye
Thomas Mays	Aye
Peter Russell	Aye
Bill Clark	Aye

Motion carried.

Public Hearing 2 -- 1707 West Creek Road – Animal Husbandry

Justin Janca and Jennifer Janca, residing at 1707 West Creek Road, Burt, New York have applied for a Special Exception Use Permit upon their premises, located in a Rural Residential (RR) District, to allow the raising of chickens pursuant to section 5-2 B-2 of the Newfane Zoning Ordinance, which allows animal husbandry in a Rural Residential (RR) District if a permit is approved by the Planning Board.

Mr. Clark went over the conditions and requirements the Board follows when reviewing an animal husbandry application and the procedures for considering and approving a special exception permit.

Justin and Jennifer Janca presented their proposal of raising chickens on their property for personal use; there is currently 1 turkey, 2 ducks and 18 chickens.

Judy Hugaboon, 1715 West Creek Road, asked if they were going to get more chickens? It was noted that when raising chickens the number is can vary over time.

Charles Hugaboon, 1715 West Creek Road asked that if they get the permit, does it extend to a new or succeeding property owner if they sell the property? Attorney Sansone said the permit remains in place when the property is sold.

Nick Smith, 1699 West Creek Road, the neighboring property owner, complained about the chickens coming onto his property and that it was also difficult to manage his dog when the chickens are not contained. The Janca's noted they started building a fence that partially separates the properties, but it does not contain the chickens. Board members asked about penning the chickens since the fence was not complete.

Mr. Clark noted that many residents in the town have chickens that free range on their property or that of their neighbors. Mr. Clark further said that while laws may apply, there is also a generally accepted expectation they cannot go on neighboring properties without permission. He also noted there is little problem with uncontained chickens on large lots or farmland, but a challenge exists in this case because the neighboring properties are small and separated by only a few feet.

A Motion was made by Paul Conrad and seconded by Thomas Mays to close the Public Hearing. All present voted Aye. Motion carried.

A Motion was made by Daniel Whorley, seconded by Paul Conrad to grant a conditional Special Exception Use permit with the following stipulations.

The permit holders have sixty (60) days to properly secure and confine the domestic fowl on their property.

The number of fowl on the property cannot exceed 25.

All present voted Aye. Motion carried.

The Board was polled by Chairman Clark:

David Whorley	Aye
James Everts	Aye
Eoin Walsh	Aye
Paul Conrad	Aye
Thomas Mays	Aye
Peter Russell	Aye
Bill Clark	Aye

Motion carried.

Public Hearing 3 - Omni Newfane Drake Settlement, 5 Megawatt Solar Energy Project

A predecessor developer of Omni Newfane Drake Settlement and property owner, Patrick Dannebrock, located at 6260 Drake Settlement Road, Burt in the Town of Newfane had previously applied for a Special Exception Use permit, pursuant to the Solar Energy Local Law of the town to construct and operate a 5-megawatt solar energy project on the Dannebrock site. The Planning Board previously began the Site Plan Review and approved a negative SEQR declaration. More than a year has passed since these actions were taken, and ownership rights

to the project have since been transferred to a new developer, Omni Newfane Drake Settlement. The developer has now reapplied to obtain a Special Exception Use permit for the project and the Planning Board is resuming the Site Plan Review and conducting this public hearing as part of the Special Exception Use permit approval process.

Planning Board member Peter Russell recused himself as a voter on the decision since Mr. Russell owns the neighboring property and is in negotiations with the developer and Mr. Dannebrock regarding an easement for the solar project.

Sydney Rosensaft and Chris Mavity of UGE, USA, LOC, 417 Fifth Ave., Suite 9833, NY, NY were present with a presentation about the project and its status. The project is essentially the same as the proposal previously reviewed by the Board, but has slightly smaller area coverage and a redesign of some electrical components. They noted they are also working on the stormwater and drainage plans.

Daniel Whorley asked how long it will take to complete the project. Mr. Mavity said weather permitting they will start about November 1, 2025 to March 1, 2026, with 10 to 15 workers onsite.

Max Russell of Hess Road, Appleton asked who sends out the public notices of this meeting. Attorney Sansone said the Building Inspector gives him a list of residents that are 300 ft from the proposed development and he sends USPS letters to them.

Roxann Fitch, 2457 Transit Road, Newfane, a neighbor, said she is not happy with the project and does not want the electrical poles that access National Grid lines near her house and is afraid of related health issues.

Rita LaFountain, 2451 Transit Road, Newfane, stated she does not want the electrical poles near her house and is afraid of health issues.

Joshua Rogers of Wendel, the town consulting engineer, said he will talk with his associates about the electrical pole locations and if there is any health risk, and then advise the Board.

Max Russell, Hess Road, Appleton asked if the zoning setbacks target the electrical poles or the panels. It was noted there are setbacks for the project fence line and the panels have a setback from the fence, but the placement of the electrical access poles leading to the road are determined by National Grid.

Eoin Walsh asked how many poles and how far apart from each other. Attorney Sansone said 5 to 6 poles, 30 to 50 feet apart.

It was asked if the easement for the electrical poles could be moved further north on the neighboring farmland, away from the adjacent residences. The farm owner said that was not possible.

A Motion to close the Public Hearing was made by Eoin Walsh, seconded by Daniel Whorley.

All present voted Aye. Motion carried.

No action was taken by the Planning Board. The developer will continue working with the town's consultant, engineer and the Building Inspector to finalize project engineering and design plans, and evaluate the location and risk, if any, related to the utility access poles. The project must be reviewed by the Niagara County Planning Board and a future meeting of the Newfane Planning Board will be scheduled to complete the Site Plan Review and make a determination on the Special Exception Use application.

A Motion to adjourn the meeting was made by Paul Conrad and seconded by Eoin Walsh. All present voted Aye. Motion carried.

Respectfully submitted,

Mickie M . Kramp
Planning Board Secretary

Next meeting: July 22, 2025