



## Town of New Lebanon

Planning Board regular meeting minutes – unapproved  
February 17, 2016

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**Present:** Ray Herrmann, Planning Board Chairman  
Jerry Grant, Planning Board Member  
Greg Hanna, Planning Board Member  
Wes, Powell, Planning Board Member  
Josh Schuster, Planning Board Member  
Bob Smith, Planning Board Member

**Absent:** Michael Blatt, Planning Board Member

**Others Present:** Deb Gordon, J.J. Johnson-Smith, Fred Haley, Cynthia Creech

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Chairman Herrmann opened the regular meeting of the Town of New Lebanon Planning Board at 7:35 pm. Josh Schuster arrived at 7:41 pm. Jerry Grant arrived at 7:55 pm.

### Minutes Review:

Upon review of the January 20, 2016 meeting minutes and public hearing minutes, a motion was made by Bob Smith and seconded by Greg Hanna to approve them as submitted.

### Regular Meeting:

#### **Case No.: PB-2015011: The Phoenix Project of Eastern NY – TM#19.2-1-66**

Deb Gordon is requesting Site Plan Approval only on the store (19.2-1-66) however is submitting depictions of the residential abutting lot as well (TM# 19.2-1-67)

Latest Map Notes: issue date 10.09.15; Rev. Date 02.10.16

Chairman Herrmann reminded the applicant that at the last meeting the Board asked to see all of the new exterior lighting depicted on the map. Additionally, the Board received the final comments from Paul McCreary, Engineer for the Town, specifics are as follows:

- *The proposed vehicular protection for the Sewage disposal field lists options. If the Board feels this to be appropriate, you may want to have more details for the intended construction of each option. This could be the size, number and spacing of landscape boulders, or composition, size and spacing of fencing (assuming that there would not be a gate and that it would not be a continuous fence), or the composition style and construction details for a curb. It is typical for these details to be included.*

Chairman Herrmann indicated that he is uncomfortable with multiple options and would like to see a more definitive plan for the vehicular protection of the Sewage Disposal System.

- *While the design of the system is appropriate. A concern regarding the on-site sewage disposal system for the commercial property is the unknown use of the future commercial space in the building. The design proposed is appropriate for a "low sewage strength use" type of commercial endeavor such as a realtor's office. It is not appropriate for food preparation and/or a dining establishment.*

*While a "hold and haul" storage tank is being proposed for that possible future use, it brings to light a potential confusion regarding piping to the holding tank from the building, the real need for this if the future use will not require a hold and haul style of*

*disposal and the required approval (NYSDEC) for accomplishing this for the use that will occur. The concern is that once the system is in place, it could be abused (not necessarily on purpose) in the future. Perhaps a note on the site plan can clarify the design and uses that this system would be appropriately suited to and the steps to be taken to assist in overall compliance in this matter should the future use result in a stronger than designed sewage outflow from the building. Just trying to think 5 years down the road and keep this new system working well, serving the use well, and protecting, to the best practical extent, the neighboring properties.*

Deb Gordon stated that she is not planning to put a holding tank on the property. Her sister talked to DOH about putting a butcher shop in the retail space and they said "yes, if there was a holding tank". She further stated that her engineer said to get it in writing from Mike DeRuzzio. When she told Mr. DeRuzzio this he said "First I want to see a plan". So she asked her engineer to depict the holding tank on the plan for her to take to Mike DeRuzzio before her sister commits to purchasing the building. She added that Mr. DeRuzzio also indicated that if he were to approve it there would be no reason for DEC involvement.

- *Will the dumpster location allow for access by a dumpster pick up vehicle? It seems like it would be a challenge for the driver to access this location and then exit the site.*

Chairman Herrmann asked what the applicants plan was to remedy the accessibility problem for the Dumpster. Deb Gordon said that she is not planning to use a dumpster. She only depicted it because she was told she had too. Chairman Herrmann stated that it was discussed 'if' a dumpster was going to be utilized it should be depicted on the map and that as it is depicted it is inaccessible. Deb Gordon said that it could go on the 'peninsula' or it could be turned so that trucks can access it. She is selling the property and the new owners may want to use trash pickup canisters on wheels.

Wes Powell asked the applicant if she would consider depicting 3.5 yd canisters on wheels and eliminate the dumpster on the map. Deb Gordon said "Yes".

- *While I believe that 5 parking spots on the residential property is far more than needed, spots 1, 2, 3 and 5 do not have radii at the entrant corners making pulling in and out a challenge without leaving the "paved area".*

Chairman Herrmann indicated that this has been discussed at a prior meeting but has yet to be addressed on the map.

Bob Smith stated that he has done a site visit and that there is not a lot of room pulling in with a car and trying to turn around to get back out.

- *There was an initial comment by the Planning Board Chair about snow removal, specifically snow storage areas. This is not currently shown on the site plan.*

Bob Smith said there is a good chance that people will wind up parking at the edge of the edge of the road if it is that difficult to park in the parking lot. In fact, when the previous owners owned it; that is where people parked.

Deb Gordon stated that maybe the new owner will not be able to plow the snow maybe they will use a snow blower and blow it on to the 'green areas' depicted on the map.

Bob Smith stated that snow can't be blown 40 ft. it will go onto the neighbor's property.

Chairman Herrmann indicated that the reality is that it may wind up piled into one the parking spaces which then would cost the site yet another space on very limited parking to begin with.

- *The easements that will be needed are important. What I would do, and what I would recommend to a client, would be to have a survey along with a description of the easement and then have an attorney file it with the County. This is not necessarily required to establish an easement, but it lends significant clarity to the situation as the Applicant has noted she wants to sell the properties.*

Deb Gordon stated that she has not drafted her easements for Planning Board approval as she must do them before the property is sold and does not see a need to draft them now. There are to be two easements one for driving across the commercial property to get in and out of the residential lot and the other easement will be drafted for the septic that invades both lots. She further indicated that she may consider a subdivision (lot line adjustment). She asked "Why does the Town need to see the easements on the plan". "The ordinance doesn't say easements need to be shown on the plan". She also added that it has been established previously that a stand-alone driveway can be installed on the residential lot by its new owners and that parking on the residential lot can be established by other means.

The applicant also stated that she made an assumption that the easements were done upon the sale of the property; "If I have to do them for this site plan approval it will delay the project".

Wes Powell asked if the applicant has reached out to the DOT about a driveway cut off of Route 20.

Chairman Herrmann stated that the Planning Board cannot approve a site plan with so many open ended issues.

Deb Gordon said that it is difficult to be more definitive as she does not know what sort of business will be going in there. "We all know that it can't be a restaurant".

Bob Smith commented that the next person to buy the property may not want people crossing one property to get to the other and that the plan should depict the potential standalone driveway off of Route 20 for the residential lot. Deb Gordon stated that she has a shared driveway at her residence in Lebanon Springs. It is a common practice. "You can make that case but it is a risk I am willing to take".

Chairman Herrmann stated that he feels that a lot line adjustment would be better than an easement so that the septic does not impose upon the adjoining lot and that while there is a proposed easement for ingress and egress off of West Street; the map should depict that a standalone driveway off of Route 20 can be achieved.

Deb Gordon asked "Can you show me in the ordinance where it says I need these things?"

Chairman Herrmann stated that he is not comfortable approving the site plan as it drawn currently.

Greg Hanna stated that she is actually improving both of the properties.

Wes Powell asked Chairman Herrmann if he was comfortable with the lighting that is depicted. Chairman Herrmann indicated that it is lacking detail.

Bob Smith indicated that he agrees that a lot line change is needed to prevent the septic from encroaching on both lots. Deb Gordon stated that she is not disagreeing; the problem is just timing. Bob Smith stated that a lot of time has been spent trying to determine if this would be a retail space or a butcher shop.

Chairman Herrmann stated that the map is too vague and needs to be revised to include: Easement for the ingress and egress off of West Street through the commercial lot to the residential lot; a depiction of potential standalone driveway off of Route 20 for the residential lot that would be pending DOT approval; a lot line adjustment so that the septic is all on one lot; the depiction of an appropriately located dumpster or canisters on wheels; lighting on the front of the building and a snow storage area.

Chairman Herrmann noted that the applicant seems to be resisting on every point and tabled the discussions for next month's regularly scheduled meeting.

**Case No.: PB-2016-001 – Minor two-lot subdivision [18.-1-67.1]**

Total acreage located on Hand Hollow Rd (County Rt. 34) Lot 1: 50 acres; to be retained – Lot 2 453± to be conveyed

Agent: Fred Haley – map dated: 01.27.16

Fred Haley, representing Christine Dreyfus, in the above noted matter presented the above noted map for Planning Board review. He explained that the request is for two lots on a previously approved two lot subdivision of 2006. Prior to that subdivision of 2006 there were a total of 500± acres that were subdivided into two lots - one lot of 5 acres was to be conveyed while retaining the remaining 500± acreage. Now, ten years later, the property owner requests to subdivide two more lots. Lot #1 containing 55.80± acres with the residence and outbuildings is to be retained while Lot #2 containing 447.75± is to be conveyed.

The Board saw no problem with the request or the map.

Bob Smith moved to accept the map as a preliminary plat and to schedule the public hearing for next month's regularly scheduled meeting (March 16, 2016 at 7:30 pm). Wes Powell seconded the motion that was carried on the following vote:

Ray Herrmann	Aye
Michael Blatt	Absent
Jerry Grant	Aye
Greg Hanna	Aye
Wes, Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye

**Informational Only session -**

Cynthia Creech, representing the Farmer's Market would like to discuss site alternatives as well as sign law exceptions for temporary signage

Cynthia Creech, representing the Farmers Market, summarized that the Farmers Market is presently operating on Sundays on John Senger's Property known as Windswept Farm located on Old Route 20 and because Windswept Farm was already a Farm Operation the Farmers Market did not need Town permits from the Town. She continued that Farmers Markets, on a national level are decreasing and ours is no exception. The Farmers Market is thinking of moving its location to a main road. There are three sites that have been discussed. 1) Meissner's Auction House property – the property owner has expressed an interest. 2) The former Triple Nickle Property and 3) The grassy area of the Town Property known as the Shatford Park on the Route 22 side where the Christmas Tree is. They would utilize the existing parking lot and electrical outlet for the tree. They would need to check the little league schedule but presumably the little league may be finished in June by the time the Farmers Market begins. There are 8-12 vendors and each of their locations would be approximately 10 ft. wide. The food vendors take up a little more space. The Town Supervisor is checking with the Town's insurance company to see if a rider would be needed. Presently, there are 20 – 25 cars to be accounted for parking.

Chairman Herrmann asked if they are on a year to year basis. Cynthia Creech responded that she supposes they have to revisit annually.

Wes Powell inquired about signage. Cynthia Creech stated that they will probably need a variance for signage and was hoping for a moratorium as they currently utilize about 20 political type signs.

Chairman Herrmann wasn't quite sure if it would be proper protocol but since the Planning Board does not have variance granting authority and because it is a time sensitive matter in that they wish to begin the Farmers Market in June; he referred the matter to the Zoning Board of Appeals in that if they grant a variance for the signage she would not then have to come back to the Planning Board for approval. The

Board, via general consensus, they recommended that the ZBA grant the variance.

**New Business:**

- Chairman Herrmann requested that the Board members submit their 2015 four hour training requirement verifications.
- Greg Hanna reported that at the last Zoning Re-write committee a few its members discussed that, in their opinions, Site Plan Review should be in the jurisdiction of the Zoning Board of Appeals. The Planning Board wanted to know why they felt this way.
- Chairman Herrmann indicated that he wished to review the Phoenix project next month whether Deb Gordon appears or not.

**Adjournment:**

Chairman Herrmann adjourned the meeting at 9:45 pm

Respectfully submitted,

Cissy Hernandez  
Planning/Zoning Clerk