



Town of New Lebanon  
Zoning Board of Appeals Minutes - unapproved  
January 15, 2019

---

**Present:** Anthony Murad, Chairman  
Ted Salem, Member  
Phyllis Stoller, Member  
Jeannine Tonetti, Member

**Absent:** Chuck Gerald, Member

**Others Present:** Cissy Hernandez, CEO; Jeff Hattat, Deputy CEO; Michael Benson; Joe Benson; Michael Benson; Tegan Joy Cook

---

**I. Call to Order**

Chairman Anthony Murad called the Special Meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:00 p.m.

**II. Minutes Review**

Upon review of the November 6, 2018, regular meeting minutes and public hearing minutes, a motion was made by Ted Salem, and seconded by Phyllis Stoller, to approve the minutes as submitted. The vote carried as follows:

Chuck Gerald	Absent
Ted Salem	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye
Chairman Murad	Aye

**III. Special Meeting**

**Case No. ZBA-2019-001–Christine Benson/Shadow Brook Farm, LLC (19.-1-58)**

(Preliminary) The Applicant is requesting an area variance to build a farm stand on its property located at 2479 County Route 5, the location being 55' from the center of County Route 5.

Michael Benson, Joe Benson and Michael Benson appeared on behalf of the Applicant. Chairman Murad asked the Applicant to explain the project to the Board. The Applicant described the project and identified where the farm stand would be located. The farm stand would be used to sell the Applicant's farm-raised meat. The building will also contain freezers.

The reason for this location is because it's easily accessible and the most level spot on the property, with the farm being located on a hill. If they moved the building the 75' from the road, as required by the Town code, it would be in the middle of their driveway. Parking will be provided in the barnyard. It's 10' from the parking area to the building itself.

The Applicant will be selling frozen beef, pork and poultry, grown onsite, all USDA grade, which meat will be processed offsite.

The retail space will be 20' x 20' and there will be a with a 10' x 20' freezer space (chest freezers) for a total of 20' x 30'. The farm already has a sign on the road. They will probably install a farm stand sign on the building to identify the building and the products to be sold (beef, pork and poultry), but there will be no additional signs placed on the roadside, except for the existing Shadow Brook Farm sign.

There will be someone onsite to conduct business. They haven't figured out the hours of operation yet. Chairman Murad said he doesn't see any restriction on hours open in the zoning law.

Chairman Murad asked if anyone had any questions, and there were none. Member Salem made a motion to schedule this matter for a Public Hearing on February 5, 2019, which motion was seconded by Member Stoller. The vote carried, as follows:

Chuck Gerald	Absent
Ted Salem	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye
Chairman Murad	Aye

**Case No. ZBA-2019-002 – Tegan Joy Cook (20.1-1-60.1)**

(Preliminary) The Applicant is requesting an area variance (sign law) for excessive signage on her property located at 435 US 20.

The Applicant appeared on her own behalf and explained to the Board that out-of-town visitors/potential customers are having difficulty locating her business which she believes is due to the clutter of various other signs on the roadside that distract from and hide her business. She would like to use two "feather flags" saying "open" on the roadside to draw attention to her business, but has been advised by CEO Hernandez that these signs are not allowed in this town.

The Applicant either wants a variance allowing her to use the "open" feather flags, so people can find her, possibly through a temporary variance through the winter or, in the alternative, be allowed to install two single-sided signs which she would place on either

end of the property, so people can see them as they drive past from either direction. She feels she can't install these signs in frozen ground, so would like to use the feather flags at least through the winter. These two-sided signs would be placed on either side of the driveway, but wording would only appear on one side of each.

Member Salem said language regarding not allowing feather signs will appear in the new language drafted by the Zoning Rewrite Committee ("ZRC") being considered this week by the Town Board. Businesses are allowed one sign on the building and one freestanding sign on the grounds. If an option is not specifically permitted in the Code, then it's not allowed. Member Salem expects the Town Board will accept the ZRC's proposal.

Chairman Murad said he thought the ZRC discussed allowing "open" flags, and Member Salem said they are expressly permitted in the proposed ZRC regulations. This Board has more or less allowed people to display "open flags". The new language expressly permits banners under the new zoning code, but it says feather flags are not allowed.

Chairman Murad said he does not see a hardship here. Member Salem has done extensive work on the Sign Law. It's not this Board's responsibility to design this for the Applicant. The Applicant needs to come up with the best signage for her property within the confines of the Sign Law. The Board members offered several alternatives. Chairman Murad asked why she can't install a post or pole in the ground and then attach the open flag to that; if she can get a feather flag in the ground, this should work. He feels feather flags are an unfortunate distraction, and it's a difficult case for the Applicant to make that those are what will bring people into her business.

Member Tonetti said the current sign is not legible; there's too much stuff on it. While she agrees there's a lot of signage on the road, she thinks the Applicant needs a more legible, less cluttered sign. Member Stoller said she agrees that it's hard to see the business.

The Applicant said locals can find her, but it's the visitors to town that can't find her and are driving past. Member Tonetti said she's very sympathetic, but this is a situation that the Applicant walked into and is not a hardship because she knew that was the situation when she rented the space. Member Tonetti asked if the current Berkshire Thrift sign located on the building is as large as it can be, and the Application said that sign is in accordance with the dimensions that are allowed under the Town Code. Member Tonetti asked why that sign is located off to the side of the building and is not in the middle. The Applicant said if it was in the middle, you wouldn't see it. Member Tonetti feels the font is too busy which makes it hard to read.

Chairman Murad said the Applicant is permitted two businesses in that building which allows her two freestanding signs. However, the Applicant said she is no longer operating the second (concrete) business, so she's only allowed one sign on the building and one freestanding sign for Berkshire Thrift.

Chairman Murad suggested the existing gas sign be removed and relocated, and then the Applicant could use that pole on which to put a sign. The Applicant said that's her

second option. She would like to use the banners through the winter and then put up different signs in the warm weather. It's a matter of trying to attract customers through the winter.

Member Salem said the Board has been pretty consistent about these types of flags. This Town does not accept these types of flags, and this Board has consistently had them taken down. Chairman Murad said he is all for signage that identifies a business, but he does find the feather flags unpalatable. Member Salem said there is a size limitation on banners. He feels the Board has been fairly consistent on excessive signage on the freestanding, roadside signs. Regarding the concept of clutter, they've asked other businesses to remove signs when they've had excessive signage, less so when the signs are located on the building. Maybe repurposing the existing sign and putting it in a more advantageous spot would be a more workable idea. To add two signs on top of that would require a lot of thought, setting precedent to something the Board has already established.

Member Tonetti said the old gas sign that's up adds to the clutter and is distracting and should come down. She feels that the existing American flag, the New Lebanon 200 sign, and the gas sign all add clutter to the area and should be removed. Member Stoller said having a sign that could be seen from both directions could help.

The Applicant said her objective is to get people to find her business so she will be able to continue to operate. The feather flags were a temporary solution which she didn't think would be approved by the Board. Her second proposal is to use two single-sided signs placed on either side of the entrance as opposed to one double-sided sign which couldn't be located anywhere and still be visible from both directions. Chairman Murad said this option could be considered, but the Applicant's proposal must be specific. The Applicant does not need Board approval to install an open sign.

Member Tonetti mentioned the writing that exists on the building's windows, and Member Salem said currently there's no regulation on that. Member Tonetti said she doesn't see the hours of operation posted, but the Applicant said they are posted, but the sign is small. Member Tonetti suggested that be made more visible so people will know when the business is open.

Chairman Murad discussed other businesses in town where the Board has made the owner remove signs that they considered excessive signage, and removing those signs hasn't affected the business. He suggested the Applicant just put up an open flag and if she can frame it that's perfectly acceptable. Member Salem said he noticed a tripod on the property, and that's permitted as long as it is taken in at night. Member Tonetti suggested the old gas sign be removed. The Applicant said the owner of the property won't allow that because he loves the nostalgia of the old gas station. Member Tonetti said they can't advise the Applicant how to deal with the landlord.

Member Tonetti suggested removing the American flag and the New Lebanon 200 sign as they are clutter at this point. Member Salem said the 200 signs are going to come down once the weather improves. Chairman Murad said he doesn't see how the American flag is causing problems. The biggest problem is the location of the old

roadside signs which don't advertise an existing business at a location but have been allowed to stay up – such as the gas sign. The Applicant was advised to return with a different plan showing the two signs on the roadside. Chairman Murad asked if the Applicant wishes to return for a Public Hearing in February with a specific request for a variance to have two separate roadside signs and the Applicant said yes. The Applicant said if she is approved for a sign at either end of the grounds, then the existing sign that she has up would be removed. Member Salem said she's entitled to one 24 sf double-sided sign, but she would be splitting them into two single-sided signs with the back side of each remaining blank.

Chairman Murad said if the Applicant wishes to return in February with a request for two separate signs, the Board can make a motion to hear it in a public hearing. The Applicant's plans need to show where these signs would be located. He believes a variance is required because the applicant is really installing two double-sided signs of 24 sf which wouldn't be allowed anywhere else in town, but the Applicant has the special circumstance of lack of visibility. Member Salem suggested the variance be for two freestanding 24 sf signs, where one is currently allowed. Chairman Murad said there has to be a reason for granting the variance, and in this case, the reason is visibility on either side.

Chairman Murad made a motion to schedule this matter for a Public Hearing on February 5, 2019, which motion was seconded by Member Salem. The vote carried, as follows:

Chuck Gerald	Absent
Ted Salem	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye
Chairman Murad	Aye

[This Clerk provided the Applicant with a sample abutter's letter and a list of abutters, and instructed the Applicant to immediately send out same by certified mail to be within the time requirements.]

Member Salem moved to close the meeting at 8:00 p.m., which motion was seconded by Chairman Murad. The motion carried with the following vote:

Chuck Gerald	Absent
Ted Salem	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Aye
Chairman Murad	Aye

Respectfully submitted,  
*Donna M. Gedeon*  
Donna M. Gedeon  
Planning/Zoning Clerk