

**MINUTES OF THE PUBLIC HEARING OF
THE NEW LEBANON TOWN BOARD
ON PROPOSED LOCAL LAW AMENDING SPECIFIED SECTIONS OF
CHAPTER 205 (ZONING) OF THE NEW LEBANON TOWN CODE
HELD ON JUNE 9, 2015**

Present: Michael Benson, Supervisor
Dan Evans, Councilmember
Chuck Gerald, Councilmember
Irene Hanna, Councilmember
Matthew Larabee, Councilmember

Recording Secretary: Colleen Teal, Town Clerk

Others Present: Andy Howard, Attorney for the Town
Jeff Winestock, Highway Superintendent
Cynthia Creech, Deputy Court/Assessor's Clerk;
Recreation Commission, CAC, & Zoning Re-Write
Committee Member
Ted Salem, Zoning Board of Appeals Member & Zoning
Re-Write Committee Chair
Robert Smith, Planning Board Member
Jack Nevers, Town Justice
Gregg Gilliland, LVPA
Scott Larabee, Recreation Commission Chair
Sharon Moon, Town Historian
Thaddeus Flint, Reporter for *The Eastwick Press*
Gail Heinsohn, Reporter for *The Chatham Courier*
Ellen Gaydos, Reporter for *The Columbia Paper*
Several members of the public

CALL TO ORDER:

Supervisor Benson called the public hearing to order at 6:53 p.m.

PROOF OF PUBLICATION AND POSTING:

Town Clerk Teal provided the Town Board with proof of publication and posting of the public notice as follows:

NOTICE OF PUBLIC HEARING
OF THE TOWN BOARD
TOWN OF NEW LEBANON
COUNTY OF COLUMBIA

**PROPOSED LOCAL LAW AMENDING SPECIFIED SECTIONS OF CHAPTER 205 (ZONING) OF THE NEW LEBANON
TOWN CODE**

NOTICE IS HEREBY GIVEN that the Town Board has proposed a local law *amending specified sections of Chapter 205 (Zoning) of the Town of New Lebanon Code* that will provide additional and/or amended definitions for Agricultural Operation, Small Business Operation (SBO), and Farm; amend Small Business Operation (Section 205-13); and further to amend the Zoning Use Table. A copy of said proposed law is available for public review in the office of the New Lebanon Town Clerk during regular office hours and is available on the town website at www.townofnewlebanon.com.

PLEASE TAKE FURTHER NOTICE that a public hearing upon said proposed local law will be held at the Town Hall at 14755 Route 22 in New Lebanon on the 9th day of June 2015, at 6:45 p.m. and that an opportunity to be heard will be given to those favoring or opposing the passage of said proposed law.

Colleen Teal
Town Clerk
06/1/15

PUBLIC COMMENT:

Ted Salem, Chairman of the Zoning Re-Write Committee, summarized the changes in the proposed local law. He noted that there were basically two elements of this proposed change in the ordinance. One relates to two definitions that they seek to change relating to farms; one is the definition of *farm* that they seek to amend because it was in conflict to some small extent with the definition of *farm* in the “Right to Farm” ordinance. So they are recommending rectifying that disparity and basically the disparity related to an exclusion for furbearing animals where the “Right to Farm” law allowed for that enterprise and the definition within the Zoning Ordinance did not. They want to conform it so that they both permit it. Secondly, there were conflicts in the definition of *agricultural operation* and a definition within the Zoning Ordinance. This was really more about property taxes and the exemptions for property taxes related to agriculture rather than describing what agriculture is so they are simply seeking to conform the two definitions and actually seeking to reference within the Zoning Ordinance the definition that is there in the “Right to Farm” law. That is one piece of the change. The second piece is the establishment of a “Small Business Operation (SBO)”. They set forth the definition in Section 205-17. Generally speaking it seeks to enable small manufacturing enterprises of an artisan nature within Commercial Zones. Then they have the regulations that more or less set forth the process by which that would be enabled which includes an application to the Zoning Enforcement Officer, a special permit through the Zoning Board of Appeals which would entail a public hearing and it also puts some limitations on what would be permitted and what would not be permitted.

The following persons spoke opposing the passage of the above noted local law:

Joan Phelps addressed the board expressing her concerns about this proposed amendment specifically related to the Small Business Operation (SBO) amendment allowing manufacturing in the Commercial/Residential Zone. The intent may have been just artisanal type businesses but it says small business. Boards change and the intent gets lost. Additionally, what starts out as a small business may not stay a small business. She noted there is plenty of acreage still vacant in the commercial/industrial district so she asked the board to consider not making this change in the commercial/residential district.

Ted Salem, Zoning Re-Write Committee Chairman, could address Ms. Phelps’ concerns. Mr. Salem stated that within the [unclear] of the definition, it is clearly intended that this be a retail enterprise where there are goods that are sold on premise that are manufactured on premise. The spirit of this is meant to be a retail operation that combines some manufacturing and in fact basically echoes what is permitted in residential zones now by home occupancy. Under the current regulations, someone could

manufacture soap in their house and sell it there. However, that cannot be done in the Mid-Town Mall and that is exactly the problem that the Zoning Re-Write Committee (ZRC) sought to address. The spirit and intent, which is reflected in the definition and procedures, is that we are looking at artisanal kinds of uses of a small scale where crafts and other types of operations [unclear] are able to thrive in a commercial zone.

Attorney Howard noted that someone could apply for a special use permit under this particular amendment and what that would mean is a review by the Zoning Board; the issuance of a special use permit if it was deemed appropriate; and it would delineate specific conditions that would attach to that particular business so that it could be monitored, tracked, and enforced by the Code Enforcement Officer.

Dorothy Dooren addressed the board expressing her concerns about this proposed amendment noting her concerns were with the SBO amendment noting it would open all the property along the property along Route 20 and the 20/22 corridor currently zoned commercial to manufacturing essentially allowing the town to become one extended industrial strip. Is this what we want for our town, to become an industrial park and to risk losing our rural character? Currently, manufacturing is allowed in the 520 acres zoned for industrial development in West Lebanon. According to current property assessment records of the town, only 34 acres or 6 % of the property zoned for manufacturing is currently used for manufacturing. Two-hundred fifty seven acres are actually vacant. Under the current zoning regulations, there is already ample opportunity for Small Business Operations (SBO). Is this really necessary and what are the trade-offs? What are the costs and what are the benefits? To promote small business? The term small business is not defined. The proposed amendment gives examples of cottage type industries but actually allows any kind of industry. She feels the benefits are questionable. The costs on the other hand are more clear. What we would risk losing are the small businesses – the commercial businesses we rely on every day – the retail stores, restaurants, auto supply stores, hardware stores, auto repair shops, convenience stores, the theater and more could be displaced by manufacturing projects. Manufacturing processes are generally accompanied by noise, odors, vibrations, dust, release of toxins into the air and water, and noise at night. The proposed amendment does not have any standards. And under the proposed amendment, all small business projects will be exempt from review by the planning board. Under the current zoning regulations, site plan review by the Planning Board is required for all retail stores, most business uses and all manufacturing projects. Under the proposed amendment, all manufacturing retail projects would be exempt from site plan review. The result would be a serious inconsistency in the zoning ordinance and a lack of oversight of development projects by the town. The SBO proposal appears to take the town in the opposite direction from local grass roots efforts to help local businesses, encourage tourism, promote our Shaker heritage, and to get a grocery store. The proposal appears to be inconsistent with the Town's Comprehensive Plan which values the rural character, scenic beauty, natural resources, and the cultural and historic heritage of the Town. She also noted that many people are not aware of the proposal and if they are, they are not clear as to what it does. She asked the board for more

public discussion before they act and she noted that she really thinks the intent needs to be clarified.

Judy Zimmer addressed the board asking that they consider tightening it up and looking at the definition of small business as well as some of the other definitions. She also asked to board to reconsider the need for this amendment noting that it seems that people have not really had a problem getting the special use permit so is this big change necessary.

Supervisor Benson stated that this is why we have public hearings and we should take another look at the amendment. He noted that one of the reasons this amendment was proposed goes back to a soap manufacturer. That use was perceived to be very benign and yet we could not put them into what seemed to be an appropriate place. However, he noted, maybe we need to take another look at it and just make it is tight enough.

Cynthia Creech addressed the board noting that the location the soap maker wanted was in a commercial zone; however, the act of making soap was considered manufacturing and that created the problem.

Unknown commenter – but the variance was granted.

Jagat Pandy addressed the board asking for more clarification before anything is done.

All persons desiring to be heard, having been heard, a motion was made by Supervisor Benson, seconded by Councilmember Evans, and approved to close the public hearing at 7:15 p.m.

Respectfully submitted,

Colleen Teal
New Lebanon Town Clerk