



Town of New Lebanon  
Zoning Board of Appeals Minutes - unapproved  
March 20, 2018

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

**Absent:** None

**Others Present:** Cissy Hernandez, CEO; Jeff Hattat, Deputy CEO; Daniel J. Tuczinski, Esq., Town Attorney; Jesse Newton; Tegan Joy Cook; Michael Darcy; Ryan Darcy; Patricia Farnam; Kevin Smith; Bob Smith; J.J. Johnson-Smith; Joe Ogilvie; Mark Baumli

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**I. Call to Order**

Chairman Anthony Murad called the Special Meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:30 p.m.

**II. Minutes Review**

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

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

**III. Special Meeting**

Upon conclusion of the Public Hearing on Case Nos. ZBA-2018-002 and ZBA-2018-004, Chairman Murad called the resumption of the Special Meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:38 p.m.

**Case No.: ZBA-2018-002 – Tegan Joy Cook, Buffalo Concrete Designs (20.1-1-60.1)**

The Applicant is seeking a Special Permit for a SBO (Small Business Operation) with signage that exceeds code to operate a small artist studio that would fabricate small concrete items, with some retail sales and art classes.

Chairman Murad said this is essentially two businesses in the same building.

CEO Cissy Hernandez stated the Applicant has received site plan approval for the thrift store business. This meeting is just to grant the special permit.

Member Ted Salem asked CEO Hernandez if parking at the businesses conforms with the Code. CEO Hernandez said parking should be discussed. The Applicant indicated that the two businesses would be operating during alternate hours, so parking will be shared. Ted Salem asked if that would be a condition of the permit. Chairman Murad said he was not sure if it needs to be, and inquired how many customers there would be to make it necessary since it appears there is plenty of parking available behind the building. Ted Salem asked how much parking exists and how much is required? Chairman Murad asked how many cars would be parked and could they park in the front and rear of the building. According to the Applicant, in the worst case scenario, if both businesses happen to be open at the same time, which would be rare, there would be enough parking. However, if necessary, the Applicant could prepare another parking plan and add more spaces for overflow.

Chairman Murad asked what the Zoning Law requires for parking spaces.

The Applicant said the thrift store will be 1,200 sf with 500 sf of useable retail space. Chairman Murad said the requirement is one space for each 50 sf devoted to customer space; i.e., 500 sf of retail spaces means 10 spaces are required. The Applicant said they have 11 spaces.

On the other side, there is about 150 sf of space, and Chairman Murad said that space will require three additional parking spaces – for a total of 13 spaces, which spaces may be unpainted. The Applicant said she has more than 13 spaces available.

Member Gerald said he counts 13 spaces on the plan which is all the Applicant needs, and noted there is more space available in front of the building should it be needed.

Chairman Murad said they don't need anything. He will prepare the decision documents on that basis, indicating there are adequate parking spaces available, with a total of 650 sf of retail space between both businesses.

Chairman Murad asked for a motion to approve the application for a special permit on the business itself. Jeannine Tonetti moved to close the application for a SBO with adequate parking, and the motion was seconded by Ted Salem.

The motion carried on the following vote:

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

**Case No.: ZBA-2018-004 – Tegan Joy Cook, Buffalo Concrete Designs (20.1-1-60.1)**

The Applicant is seeking a variance from the Sign Law. The intent of the oversized sign will be to accommodate both businesses.

Member Chuck Gerald said he has questions on the proposed sign. There will be two signs in front of the building. He then asked if there were going to be signs on the building as well. According to the Applicant, one sign presently exists, and another sign will be erected for the Buffalo Concrete Designs business, totaling 24 sf – which is within code.

A motion was made by Ted Salem to grant the variance based on these numbers, that the sign is not overly large, and given Applicant’s assurance that it won’t block anything and will not be obtrusive – for a total of 36 sf. Member Phyllis Stoller seconded the motion, which carried on the following vote:

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

Chairman Murad indicated he will prepare the decision documents on these two cases before the end of the week.

**IV. Discussion [cont. of discussion from the Regular Meeting of March 6, 2018]**

**Case No.: ZBA-2018-001 – Michael Darcy – (19.2-1-85)**

The Applicant is appealing a Notice of Violation and is seeking an interpretation regarding home occupations.

Chairman Murad said the Board has already heard from the public on this matter, there will be no commentary; no issues are debatable.

Town Attorney Daniel Tuczinski said he has prepared a Resolution based on the Board’s vote at the March 6, 2018, meeting. The Board is permitted to revoke its vote, but the requirement is that it be a unanimous decision of the people seated at the meeting.

Chairman Murad said he is opposed to reopening the discussion. This matter has been properly noticed, and Chairman Murad was interested to learn it isn't required that it be published in the paper. We just have to tell them that we noticed it on the Town website and on the community board. CEO Cissy Hernandez said proper notice has been given of this meeting.

At this point, Member Jeannine Tonetti read the Resolution prepared by Attorney Tuczinski aloud.

Chairman Murad asked for a motion to accept the decision document as written, which motion was made by Member Chuck Gerald and seconded by Member Phyllis Stoller.

The motion carried on the following vote and was declared duly adopted:

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

Member Ted Salem said that he would like to discuss changing the start time of all Board Meetings from 7:30 p.m. to 7:00 p.m. going forward.

Member Jeannine Tonetti said she would like to read a personal statement regarding behavior at public hearings and the Board's response to same. She would ask that a copy of her personal statement be included in the record.

Chairman said he appreciates Member Tonetti's sentiments, but the Board is not responsible for what other people at a meeting say or do. He can ask that they be respectful, but he cannot order them to be so, and what comes out of their mouths isn't something the Board can control. Member Tonetti said the Board can intervene, recognize the behavior, and keep the meeting safe. At this point, Chairman Murad pointed out the three room exits.

Ted Salem then brought up the Board meeting time change issue. He recalls they didn't change the time previously so as to remain consistent with the start time of the Planning Board meetings, and for no other reason. Chairman Murad said he has no objection. Ted Salem made a motion that the meetings will continue to be held on the first Tuesday of the month, but will now begin at 7:00 p.m., which motion was seconded by Chuck Gerald. Notice of the time change will be posted on the Town's website, and the Town Clerk will be so advised.

Member Phyllis Stoller said she is not clear as to what happens to a case if the Board decides something is not a home occupation. Chairman Murad said once the Zoning Board has made a decision, and same has been recorded, the applicant or a member of the public can bring an Article 78 proceeding in State Supreme Court, and the judge would issue a written decision. Once leaving the Board, the matter goes to CEO Hernandez for enforcement (cease and desist) and will never come back to the Zoning Board again.

Chuck Geraldi moved to close the meeting at 8:17 p.m. and Chairman Murad seconded. The motion carried with the following vote:

Phyllis Stoller	Aye
Jeannine Tonetti	Aye
Chuck Geraldi	Aye
Ted Salem	Aye
Chairman Murad	Aye

Respectfully submitted,

*Donna M. Gedeon*

Donna M. Gedeon  
Planning/Zoning Clerk