



## Town of New Lebanon

Planning Board Regular Meeting Minutes – unapproved  
April 18, 2018

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**Present:** Ray Herrmann, Chairman  
Michael Blatt, Planning Board Member  
Elizabeth Brutsch, Planning Board Member  
Greg Hanna, Planning Board Member  
Wes Powell, Planning Board Member  
Josh Schuster, Planning Board Member  
Bob Smith, Planning Board Member

**Absent:** None

**Others Present:** Cissy Hernandez, CEO; Nick Daniels, Hershberg & Hershberg; Bryan Davis, BBL Construction Services, LLC; JJ Johnson-Smith; Paul McCreary, Town Engineer; Jesse Newton, Kevin Smith, Thomas Light, Chris Potter, Michael Darcy, Tammie Darcy, and Ryan Darcy

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### I. Call to Order

Chairman Herrmann called the regular meeting of the Planning Board to order at 7:30 p.m.

### II. Regular Meeting

#### **Case No.: PB-2018-002: Mount Lebanon Heritage (19.1-1-69); Darrow School (29.-1-17)**

(Preliminary) Darrow School is requesting Site Plan review to install a driveway on Mount Lebanon Heritage's property.

Representing the Applicant was the principal designer of the project, Nick Daniels, of Hershberg & Hershberg in Albany, which is the consulting engineer for Darrow School; and Bryan Davis from BBL Construction Services, the construction manager for the project.

Nick Daniels described the changes which were made since the previous meeting. They have performed research at the Columbia County Clerk's Office to determine ownership of the parcel; copies of the Deeds have been provided to the Board. New grading has been added to the driveway. Directional (one-way) signs have been added to circulate traffic. Utilities have been added to the catch basin to enable it to accept more drainage from the driveway; this will tie into the existing storm sewer. Three new trees were added, consistent with the Darrow School's campus core. Three new light poles have been added, and they have shields on the rear portion so light will project toward the campus and not toward the road.

Chairman Herrmann asked why the Applicant decided to pave the area instead of leaving it as gravel. Mr. Daniels said they wanted the drop off area to be more attractive. Chairman Herrmann asked where the snow removal would be placed, and Mr. Daniels said snow would be plowed into the grass.

The Town Engineer, Paul McCreary, has not yet seen the plans. CEO Hernandez said this is because the Town has not asked him to review same. Furthermore, the Applicant has not been asked for escrow, to which Chairman Herrmann said he felt escrow would be necessary since he himself is not qualified to review drainage and lighting.

Chairman Herrmann asked if the lighting was on short poles; the Applicant said it was; and Chairman Herrmann said he was ok with the lighting aspect.

Member Robert Smith asked if the drains are going into the existing system. Member Greg Hanna clarified, asking if drainage would be into the old aqueduct, and Mr. Daniels confirmed it would. Member Hanna asked if part of the property is located in a floodplain. The Applicant said it's partially located in wetlands. The Applicant owns over 300 acres, but this proposed development is located so far away from the wetlands that they won't be affected by this project.

Member Smith asked if the Highway Superintendent, Jeff Winestock, had reviewed the plans, as the property is coming off a town road. Mr. Daniels said no, but they could send the plans to him for his review. Member Hanna asked if there were any curb cuts. Mr. Daniels said they are providing curbing at the drop off with handicapped access at both sides of the crosswalk. Member Hanna said he was ok with the drainage and had no questions as it was going into the existing system. Member Wes Powell asked if the drainage would be treated before discharge. Mr. Daniels said no; they did SWIP for the entire project. If this is approved, SWIP will be amended and the parking lot concerns will be addressed at that time.

Chairman Herrmann asked if a timeline had been determined. Mr. Daniels said not yet; timing will be based on funding to determine if the parking lot will be built. Member Hanna informed the Applicant that they have one year to complete the project once it's approved. Mr. Daniels said they plan on having it completed by next summer. Brian Davis said if they get the funds, they will do it this summer. If not, is there a renewal process or must they reapply? CEO Hernandez said the Code book allows one year for completion. Paul McCreary said under the Code, the Applicant could go before the Board and request one six-month extension – so the Applicant actually has 18 months to complete the project.

Member Powell made a motion to accept the proposal as preliminary. Member Hanna seconded the motion. The vote carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

Chairman Herrmann asked if the Applicant wants to set the matter for a public hearing at the next monthly meeting of the Board in May. The Applicant advised that they sent out notices for this evening's meeting, believing this was the public hearing. Chairman Herrmann said

the Board had not set this for a public hearing. However, the public hearing can be held next month, but the Applicant will have to send out new notices.

**Case No.: PB-2018-003: Stewart's Shops Corp. (19.2-1-48)**  
**(Sketch Plan Conference) The Applicant is proposing a new Stewart's Shop.**

Chris Potter appeared on behalf of the Applicant which is proposing to redevelop the existing Mini Mart. All existing structures would be demolished and a 3,695 sf building and an 1,800 sf gas canopy with six fueling positions would be built. Underground fuel tanks would be installed. This proposal is similar to the plan previously before the Board; this new location is directly across the street. The store is the same size but is narrower based on the lot width. Parking would be on two sides of the building instead of the previous three sides. An additional storage area of 160 sf would be installed to house milk crates, totes, etc. 24 parking spaces are proposed; the current location has 12 spaces, so they're doubling existing parking. Chairman Herrmann asked if the requirement is 30 parking spaces. Mr. Potter said they'd reached out to the DOT who wanted the entrance located on the eastern side and the exit located on the western side, as well as a 16' wide driveway; however, they're actually proposing a 20' wide driveway. Member Powell asked if there would be a single exit lane; Mr. Potter said there would be no separate right/left hand turn lanes.

Mr. Potter went on to say the building architecture is exactly the same as before. They previously needed a variance for a free-standing sign (39 sf sign). They will seek a variance again for that 39 sf sign and will apply for same. Regarding utilities on the site, septic will be installed and a new well will be drilled. Regarding lighting, the same LED fixtures will be used as previously, which lights will be located on poles and on the building. A new plan with more detail, lighting, drainage, etc., will be submitted. The property covers an acre, so they will do SWIP. Landscaped beds and trees will be installed at the front and side of the building. A dumpster enclosure with white screening around it will be installed behind the building.

Member Smith asked if new tanks would be installed, and Mr. Potter said the old tanks would be removed and new tanks installed. CEO Hernandez asked what distance these tanks would be from kerosene. Mr. Potter said 6'-8'. CEO Hernandez said a variance may be needed; she will check and let Mr. Potter know. Mr. Potter said electrical and telephone lines will be coming off the store and run underground. CEO Hernandez asked if they would be removing curbing. Mr. Potter said they've reached out to the DOT and submitted a permit application. It took six months to receive a response from the DOT last time; however, he has spoken to the DOT and gotten some direction. Mr. Hanna asked if the building will run on propane or oil; Mr. Potter said it will be all electric. The building doesn't need much heat, so there will be all AC machines.

Chairman Herrmann asked if the existing Stewart's would be demolished. Mr. Potter said they will remove the gas tanks and canopy and put the building up for sale.

CEO Hernandez asked if the Board is ok with the proposed plan for parking in front of the building. Chairman Herrmann said he's ok with it. Paul McCreary said the Code requires parking be behind or on the side of the building. Member Smith said he prefers to park in the front. Chairman Herrmann said the Code requires parking be in the back. Mr. Potter said you're not putting the septic or the storm water impact out front; that has to be in the back.

Half the parking is on the side of the building. Member Michael Blatt said parking should be in the front. Mr. Potter said deliveries will be in the back. CEO Hernandez suggested the Applicant propose this change to the Zoning Rewrite Committee so they don't override the Code. Member Powell said they have to explain why they're overriding the Code. Mr. Potter said they are counting the six spaces at the pumps.

Member Hanna asked how far they are into the plan. Mr. Potter said the contract is contingent upon the approvals. They have a contract which says if they get all their permits, they are obligated to proceed with the purchase. Member Powell asked when they intend to break ground. The Applicant said they're hoping to break ground in August, as soon as they get the DOT permit.

Member Elizabeth Brutsch asked if there is any generator on site. Mr. Potter said no, but the stores are broken into districts, and a generator can be delivered to the site if needed.

Chairman Herrmann asked for a motion to accept the plan as preliminary. The motion was made by Wes Powell and seconded by Robert Smith. The vote carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

The plan is accepted with parking in front of the building because the Board believes that is appropriate for this application. Paul McCreary said they are now moving from the sketch plan to preliminary approval. Any off-street parking needs beds, etc., stalls and driving aisles. Chairman Herrmann said they have to separate the gas pump area from parking. Paul McCreary said 20 spaces is considered substantial parking and you need a different parking scheme to break up the visual parking lot. Mr. Potter said there is landscaping in front of the building, and if you make a bed out of a planned parking space, how would you plow. Mr. McCreary said it's for aesthetics. Member Brutsch said it's also for traffic control. Mr. McCreary said perhaps the Applicant can come up with some reasoning why they didn't meet that code, then the Planning Board can approve it. Member Smith said now they're being nitpicky. Chairman Herrmann said go back to the Zoning Rewrite Committee and advise them that some things are unenforceable. Member Powell asked if the Applicant can come up with reasons why they can't comply with the existing Code. Mr. Potter said yes they will. Paul McCreary said the DOT Region 8 doesn't follow overall DOT parking schemes and has different standards. He will forward these requirements to Mr. Potter. The old store is in compliance because of the island in front. Mr. Potter said this plan meets the current State DOT driveway standards. Mr. McCreary said yes, but they're not followed in Region 8. Mr. McCreary will provide the specific DOT requirements to Mr. Potter.

Chairman Herrmann asked for a motion to accept the sketch plan. The motion was made by Wes Powell and seconded by Robert Smith. . The vote carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

CEO Hernandez said the Applicant will require a parking variance with the amount of parking; a kerosene variance because of the distance from the pumps, and a sign variance. Mr. Potter said they won't need a parking variance if they are counting the six parking spots at the pumps, which would give them the 30 spaces required. Grading and lighting will be on the next plan. Mr. Potter asked if a Public Hearing would be scheduled. Chairman Herrmann said they have to go to the Zoning Board for the variances. Chairman Herrmann suggested they schedule the Planning Board Public Hearing for next month and also go to the Zoning Board next month as well. Mr. McCreary said they can come to the PB next month with preliminary and also go to the ZBA in May. CEO Hernandez asked if an escrow check was mailed; Mr. Potter said he'll check on it. Chairman Herrmann asked if the Applicant will be ready for next month and Mr. Potter confirmed they will. Chairman Herrmann told the Applicant to get the Board their preliminary plan asap so it can be reviewed. Mr. Potter requested an engineer's comment letter like last time. He also asked that the Public Hearing be scheduled for the May meeting. He will send out notices to abutters. Mr. McCreary said the Board should see the preliminary application in advance of the Public Hearing. Chairman Herrmann said the Public Hearing can stay open and be continued at the next meeting. They will schedule the Public Hearing for May and if there are still items in question, they won't close the Public Hearing.

**Case No.: PB-2018-004: Jeremiah 2911 Properties (8-1-32.1)**  
**(Sketch Plan Conference) Certified Document Security is requesting site plan review to install a certified document storage building.**

Thomas Light appeared on behalf of the Applicant which is seeking to have additional boxes stored in their facility for which they do not have any room. Therefore, the Applicant is seeking to build another building separate from the current building. The area is approved for storage but would be a separate building which would be heated, insulated and have fire suppression and humidity control. Their customer will need these services after December 1<sup>st</sup>. The new building will be located to the north of the existing building. They may possibly add a review room where people can sit to review documents. This building will house high security documents. Approximately 21 cartons go out per month by courier service (DHS, UPS). At best, 1-2 cars will be parked. Member Brutsch said that must be shown on the plan. CEO Hernandez asked about the lighting. Mr. Light said the building will be under 24-hour surveillance with video and security alarms. Member Powell asked if the lighting will be the same as the other building. Mr. Light said yes, the inside of the building will be lit enough to show up on the video. There will be minimal lighting on the outside of the building. There will be one dock and one door to drive into to unload trucks. Chairman Herrmann said this must be included on the plan. Mr. Light said he is not sure of the orientation of the building. The fire suppression people have certain archival storage requirements. They are still deciding what size the building should be. 40,000 cartons will

fit. CEO Hernandez asked if he will have the information documented on the plan by the next meeting. Mr. Light said he will have their architect prepare a rendition.

Chairman Herrmann asked where the loading dock will be and if there will be a traffic pattern. Mr. Light said they could use the current system, but they intend to improve the dock as it's now too close to the road. The dock entry should be on the north end of the building away from the highway. This will be included in the next sketch. Mr. Light asked the Board if they feel the building will not be able to be done. Chairman Herrmann said they want to see the plan, what's paved, where parking will be, etc. Member Powell said yes, the plan can work, and suggested the Applicant prepare their next sketch. CEO Hernandez told the Applicant to complete the formal PB application and submit it. Chairman Herrmann wants to see more information before they move forward, such as paving, the size of the building, the location of outside lights, and the location of the loading dock. Chairman Herrmann asked if there with another driveway cut. Mr. Light said possibly, but it's not necessary. Member Brutsch asked if there will be fencing, and Mr. Light said possibly, but it's not necessary. Member Powell said they could use the existing driveway. Mr. Light said there is plenty of field available. They currently have crusher run as a service. Traffic is quite minimal. They will only have 2-3 employees.

Member Powell made a motion to table the discussion until next month and the Applicant should come in with a new sketch, which motion was seconded by Member Smith. The motion carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

Chairman Herrmann said more detail is necessary. Mr. Light asked if this project can be done; if not, there's no point in making a proposal. Chairman Herrmann said there is nothing wrong with the plan, but they need more detail to go forward. Member Brutsch said they have a list of requirements for site plan review. CEO Hernandez said Chapter 13 of the Code is about site plan review and is available on the Town's website. Chairman Herrmann suggested the Applicant read through that and see what is needed.

**Case No.: PB-2018-004-5: Michael Darcy (19.2-1-85)**  
**(Sketch Plan Conference) The Applicant is requesting a Special Permit with Site Plan Review for the purpose of conducting a Home Occupation 3 (HO3) on his residential property located at 45 Lover's Lane.**

Chairman Herrmann asked CEO Hernandez if this meets the requirements, to which CEO Hernandez responded that's for the PB to decide and approve or deny the permit and put conditions on it (per the decision of the Zoning Board). The Zoning Board felt it met the requirements of an HO3, but couldn't approve it. That's for the Planning Board to decide.

The Applicant, Michael Darcy, described the project to the Board. He is currently in the process of building a driveway to utilize the rear of his property. Some of this is located on property the DEC has designated as wetlands. The DEC has not been back to confirm what they're allowed to do on the property. Member Powell asked if he is waiting for the DEC at this point. Mr. Darcy said yes, during a phone call with the Theresa Swenson from the DEC, he proposed that she revisit the property and she agreed. A lot of the trees which he anticipated would be used for screening came down in the last wind storm. Mr. Darcy said a possibility would be to remove the hedgerow and move the vehicles further from the wetlands. The DEC said it generally requires a 100' buffer, but that can be changed. He can apply for a permit to utilize some of the wetlands. A lot of the trees in the wetlands were snapped off and uprooted. The neighbor across the street is concerned about being able to see the trucks. His intent was to get the trucks back from the road. He doesn't think the space is big enough to build a shop there. He is currently storing three dump trucks on the property. The logging truck has been moved to another location, hopefully permanently. At this time, there will be no additional trucks.

Mr. Darcy asked if the HO3 must be renewed annually, and CEO Hernandez confirmed it would. Mr. Darcy would like to use the property as parking unless Theresa Swenson (DEC) determines otherwise. CEO Hernandez asked if he had any permits in place at all, and Mr. Darcy said no, he needs a permit for where the vehicles are currently parked. At present, he's waiting for the DEC to approve the back section (wetlands) of his property. They had required he fix what he did to the wetlands (remove stump and silt), which he did. Ms. Swenson is going to come back to review the property. Chairman Herrmann said if the DEC doesn't give him permission, is he going to continue to park the vehicles where they are. Mr. Darcy said yes, he'd like to continue to park there, but will look for a bigger location/commercial property. If he can utilize his current property, he'd be in favor of that.

CEO Hernandez asked if he has a survey delineating the wetlands and floodplain, and Mr. Darcy said no, he doesn't. Member Smith said the stream doesn't run all the time. Member Powell said beavers back it up and it floods. Mr. Darcy said it will flood across Route 20 if they back it up.

Chairman Herrman said whether he can use it is not up to the Planning Board but will be determined by the DEC. The Planning Board's only decision is whether this meets the requirements of an HO3. If so, it will require a special permit and site plan review. The Planning Board first has to determine if it meets that criteria for an HO3.

Paul McCreary said there are certain specific conditions that must be met per Code. He is concerned whether an HO3 is carried out within the confines of a building, but may make some minor use of outside space. Mr. Darcy said the vehicles can be there if screened. He intended to use existing trees to screen the vehicles.

Mr. McCreary said the second point is there must not be more than 3 non-resident employees. Mr. Darcy said there are no outsiders currently - only he, his son and daughter are working there.

Mr. McCreary said he is allowed to store more than one commercial vehicle, but there can be no noise, smoke, or dust; they can't increase traffic, parking is limited, etc. Mr. Darcy said he occasionally has some customers coming to the property, but this doesn't happen often.

The trucks that are parked there leave in the morning and return in the evening. Two of the three trucks are run by outside contractors.

Chairman Herrmann said they can't assume the DEC will approve. Mr. Darcy will install shrubbery along the driveway area and Lover's Lane to shield the property. Chairman Herrman asked when he expects to have an answer from the DEC, and Mr. Darcy said he will get back in touch with Ms. Swenson who wanted to wait to reinspect until after the snow cover was gone and the property had dried out.

Chairman Herrmann and Member Smith said they are ok with this as an HO3. Member Hanna said Mr. Darcy would be better off going out to lease. Mr. Darcy said it would be cheaper to make his yard comply instead of renting a place in town.

Member Michael Blatt asked if site plan review can limit the number of vehicles. Chairman Herrmann said yes, including where the trucks will be located.

CEO Hernandez asked if the Board would require escrow. Chairman Herrmann said Mr. Darcy will have to go through site plan review. Member Smith made a motion to accept this as an HO3, contingent on what the DEC does. Member Brutsch said what if they do site plan review next month, but still haven't received the DEC's final determination. Mr. Darcy said he's hoping he can get the DEC out there by then, and he believes it will be approved by the DEC.

Mr. McCreary urged Mr. Darcy to have a conversation with the DEC. The permit should include the delineation of the wetlands. The DEC must decide where the wetlands area located, then they'll know where the 100' buffer area is. Ms. Swenson should be able to give him a feel for what the DEC needs. Mr. Darcy hopes to use the property within the 100' buffer, which the DEC said is possible. Mr. McCreary said once he knows the result of what she is going to determine in the field, he'll know which way to move ahead and the plan can be given to the Planning Board so the Applicant and the Planning Board will know what needs to take place.

Member Smith made a motion to accept the plan as an HO3, which motion was seconded by Member Powell. The motion carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

Chairman Herrmann asked if the Board was agreeing to accept this for site plan review, and Member Brutsch suggested they wait for the information from the DEC. Mr. Darcy said he needs to get her out there and get an idea of what is considered wetlands, etc.

Chairman Herrmann will put this on the agenda for next month for a sketch plan conference, assuming the DEC has gone out. If that hasn't happened, the matter won't be on next month's agenda. Member Smith said it could then be extended to the following month.

Chairman Herrmann said they can approve the project for the front section of the property since the DEC has approved that area. Member Brutsch said that would mean two sets of requirements – one for the front section and one for the back section (assuming the DEC approves the back section). Chairman Herrmann said the Board can approve something contingent on DEC approval. Mr. Darcy said he'll contact Ms. Swenson in the morning and try to get her out there.

Member Powell asked if they would collect escrow to cover the cost of engineering. If Paul McCreary is involved, they should collect the standard \$1,500 escrow, and what's unused would be returned to the Applicant. Mr. Darcy asked what the escrow would be used for since there's no building, no septic to be reviewed, so what would they need engineering for. At this point, CEO Hernandez read a portion of Chapter 13 of the Zoning Code and asked the Board if they felt qualified to review the site. She said the Applicant would need a special permit and site plan review, and there is a great deal of criteria involved. Member Smith said he didn't feel they needed to escrow \$1,500 and a different amount could be set. Mr. Darcy said he'd understand the amount if there was a building and septic involved. CEO Hernandez said it's about use, not a structure. There are many requirements and multiple questions that Mr. Darcy would have to answer. Chairman Herrmann said they would need to escrow \$1,500, and Mr. Darcy agreed. Chairman Herrmann instructed Mr. Darcy to be in touch with the Clerk, and the matter will be placed on next month's agenda.

### **III. Minutes Review/Approval**

Upon review, Member Wes Powell made a motion to approve the minutes of March 21, 2018, as submitted, which motion was seconded by Elizabeth Brutsch. The motion carried as follows:

Michael Blatt	Aye
Elizabeth Brutsch	Aye
Greg Hanna	Aye
Wes Powell	Aye
Josh Schuster	Aye
Bob Smith	Aye
Ray Herrmann, Chairman	Aye

### **IV. Other Business**

CEO Hernandez reminded the Board that several members had discussed at the March meeting, moving the Planning Board meeting time from 7:30 to 7:00, in keeping with the new start time for Zoning Board Meetings and the existing start time for Town Board meetings. Member Smith said he is opposed to changing the start time since it had been in effect for the past 8 years that he's been on the Board. Chairman Herrmann doesn't care, but after discussion, the Board decided to keep the meetings at 7:30 since the decision wasn't unanimous.

The meeting was adjourned at 9:04 p.m.

Respectfully submitted,

*Donna M. Gedeon*

Donna M. Gedeon  
Planning/Zoning Clerk