



## Town of New Lebanon

Planning Board Regular Meeting Minutes – unapproved  
June 20, 2018

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

**Absent:** Wes Powell, Planning Board Member

**Others Present:** Cissy Hernandez, CEO; Jeff Hattat, Deputy CEO; Daniel J. Tuczinski, Esq., Town Attorney; Thomas Light, Certified Document Security; Chris Potter, Stewart's Shops Corp.; Michael Darcy; Ryan Darcy; Phyllis Hulbert

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### I. Call to Order

Chairman Herrmann called the regular meeting of the Planning Board to order at 7:32 p.m.

### II. Regular Meeting

Upon conclusion of the Public Hearing on Case No. PB-2018-003, Chairman Herrmann called the resumption of the Regular Meeting of the Town of New Lebanon Planning Board at 8:00 p.m.

**Case No.: PB-2018-003: Stewart's Shops Corp. (19.2-1-48)**  
**(Public Hearing) The Applicant is seeking a Special Permit with Site Plan Review for a new Stewart's Shop. [Plans revised 6/8/18.]**

Chris Potter appeared on behalf of the Applicant which is proposing to redevelop the existing Mini Mart.

Chairman Herrmann reopened the Public Hearing which started last month and which has not been closed. He asked if anyone was in the audience who had come to speak on this matter. Attorney Dan Tuczinski had sent an email regarding the SEQRA issue. He said the Applicant has submitted a thoughtful application saying they believe this is a Type II action, which means the Applicant doesn't have to go through a SEQRA process since there will be no significant impact on the environment.

The Columbia County Planning Department conducted a review of the plans, finding this proposal has no significant county-wide or intercommunity impacts associated with it. The Town Planning Board may take final action with a simple majority vote. The County believes there should be an EAF, which is typical in a situation such as this.

Attorney Tuczinski said certain elements in the Application give the Board discretion to require an EAF. The Board won't be wrong whichever way they decide. If they think it is a Type II action, the Board can ask for a short form EAF giving a little more information about the situation. Given the specifics of the project, the apparent demolition involved, the installation of fuel tanks and pumps, and the project location, Attorney Tuczinski doesn't feel this project falls squarely within the Type II criteria. As such, the Planning Board can require an EAF as suggested by the County Planning Board. Requiring an EAF should not result in undue delay or hardship to the Applicant and will result in a more complete record upon which the Planning Board will make its determination. However, the Town Planning Board ultimately has the discretion to agree with the Applicant that this is a Type II action, same being a matter of interpretation. The Board will have the opportunity to obtain additional information concerning environmental considerations during the permit review process. The Applicant may want to have an unconditional coordinated review with the DOT since the DOT has been an issue. It is Attorney Tuczinski's opinion that the Board would not be making a mistake either way – if it accepts it as a Type II, but requires an EAF. This Application doesn't fall neatly into one category.

Chairman Herrmann asked if the Board had any questions. Member Smith said we have all the information we need. We are beating this Application around to death. You have an existing building and tanks. There's no water, no stream. Chairman Herrmann said there's a stream in the back. Mr. Potter said the only stream is across the street on Route 20. Chairman Herrmann asked Mr. Potter if he has talked to the DOT. Mr. Potter said they have received minor comments from the DOT. They just received a traffic improvement study and will resubmit to the DOT addressing their concerns. He expects they'll receive a permit from the DOT within the month.

The Department of Health sent a letter this week containing a small amount of minor comments, such as septic and well location. Chairman Herrmann said the letter received from the County said they wanted to see a SEQRA. Mr. Potter said they already received variances that approved the Application without SEQRA, but they asked the Planning Board to take lead agency. Chairman Herrmann said the Planning Board will take Lead Agency. Mr. Potter said we want to proceed as a Type II. If the Board fails to make a determination will impact whether the Applicant will be able to build this year. If they do not receive a conditional approval tonight and are required to return in July, there is the possibility that they will be unable to begin construction this year. Mr. Potter then asked if the Planning Board would be willing to hold a special meeting this month in order to allow the Applicant to submit SEQRA and so they are not forced to wait another month.

Chairman Herrmann asked if there were any concerns over environmental issues. Member Hanna said there is going to be something like ten times the amount of traffic and septic going out of there, and he'd like to see the plan in one piece instead of piecemeal. Mr. Potter said according to the traffic impact study done, there were 17 AM trips and 16 PM trips per day, which is just a minor increase over existing traffic. Member Smith said traffic is immaterial. A store already exists at the proposed location and there's a Stewart's across the street.

Member Brutsch said she has no problem with doing the SEQRA. Member Schuster said it's probably safer to do the SEQRA.

Chairman Herrmann asked the Board how they felt about holding a special meeting.

Phyllis Hulbert said she used to work at that store when they had 40-50 cars there at one time. There was a swimming pool in back that was filled in and had a water line. Mr. Potter said they are aware of that. Mrs. Hulbert said she is in favor of the project.

Chairman Herrmann said the Planning Board will hold a Special Meeting in one week, on Wednesday, June 27, 2018, at 7:30 p.m. He instructed this Clerk to advise the newspaper and to hang notice of the meeting in the Town Hall.

Attorney Tuczinski said given the fact that Chris Potter is providing more information, he suggested the Public Hearing be adjourned to the date of the meeting, June 27<sup>th</sup>, and the Board can make a determination that night. It will be hard for anyone to challenge the record. There will be a continuation of the Public Hearing; it will be open until next week.

Mr. Potter said at the last meeting there was conversation about some additional trees and parking. The Applicant has added some evergreens to the back of the property to fill in the space. They also removed four spaces which they had been counting under the canopy, and added three and one to still meet the 30 space requirement; however, now there are only two spaces under the canopy.

Chairman Herrmann said they had a concern with the complete plan, like parking in front of the building and the number of spaces. The Planning Board is concerned that they don't set a precedent for future applicants. Chairman Herrmann then asked Attorney Tuczinski to assist them with the wording to grant this application. Attorney Tuczinski asked if the Applicant asked for an area variance to comply with the parking issue because if you make filings in conjunction with a variance, it doesn't become precedent. To allow the Applicant to access parking alongside the line, you control precedent by making it an area variance. Mr. Potter said the code states 'parking where practical'. The code requires all parking be in the rear of the building; however, the septic, well and deliveries are located there. The Board is agreeable with Stewart's having parking in the front of the building; they just don't want to set a precedent. Attorney Tuczinski said when you are dealing with a project of this nature, you fold in some language as to why you are permitting this. This is more practical solution.

Member Brutsch asked if Stewart's owned the parcel, and Mr. Potter said they do not. The Applicant is under contract, pending receipt of the necessary approvals. He anticipates construction would take 12-13 weeks from start to finish. They have already filed with the Columbia County DOH and DOT, both of whom had minor comments. Larabee Fuel does have a well but it is located far enough away from this site. All areas that are not paved will be landscaped. Lighting gets run by both a photocell and a timer and are set to automatically come on an hour before opening and go off an hour after closing. As for the truck routing plan, their fuel tanker will be the largest truck – other trucks, such as delivery trucks, will be smaller. Deliveries will take place at the rear of the building, which is another reason why no parking can take place behind the building.

Chairman Herrmann asked Mr. Potter if he would have those answers from the DOH and DOT next week; then the Planning Board could give them a conditional approval, but Mr. Potter doesn't think he will hear from them that quickly. CEO Hernandez asked Mr. Potter if he submitted a construction timetable, and he said no. The existing tanks will be removed,

cleaned and sent to a landfill if they're fiberglass and recycled if they're steel. Member Smith said they are fairly new tanks in there, and Mr. Potter said he thinks they'll find the tanks are fiberglass. CEO Hernandez said when the town issues a demolition permit, they need removal receipts to be sure it is handled properly. Mr. Potter said there will be an asbestos survey prepared which will close out the report.

Attorney Tuczinski said we have two pieces to this – the demolition and the construction. There has been a situation where people have relocated and not resolved a vacant parcel. The applicant should provide some guidance. The Town wants the old site restored within a certain time period. Mr. Potter said once they open the new store, they will be getting the permit to demolish and remove the gas tanks and canopy from the existing site. The building will remain, similar to the situation in Nassau. The tank area will be paved over. Mr. Potter said he will provide a demo plan.

Chairman Herrmann asked if anyone had any additional questions. No one did, so the meeting will resume next week. Chairman Herrmann said they will continue to talk about this matter at the next meeting. The Public Hearing will be continued.

**Case No.: PB-2018-004: Jeremiah 2911 Properties (8-1-32.1)**  
**(Preliminary) 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.

This matter was tabled at the last meeting because there was not sufficient detail provided. The Applicant has the requested information at this time and submitted architectural drawings showing the exterior, outside lighting, etc. The Applicant met with the County DOT and they see no problems with site distance. The DOT will advise the Applicant as to what they need. There will be a requirement for paving a certain distance in the driveway off the main highway. The Applicant met with the DOT last Friday, and they're sending him a template.

Member Brutsch asked the Applicant if he has a light selected? Mr. Light responded, saying he could provide information such as the light he's using on the garage. Member Brutsch asked if there were any toilet facilities being installed, and Mr. Light said there were none. Member Brutsch informed Mr. Light that if you disturb more than an area, you have to do a SWPP. Mr. Light said its less than an area, maybe half an acre.

Chairman Herrmann asked if there were any more questions and if the Board was prepared to accept this Application as a preliminary. Member Hanna said he thinks the Applicant answered all the questions. Chairman Herrmann said the Planning Board will schedule the Public Hearing for next month.

Member Hanna made a motion to accept this as a preliminary and to schedule the public hearing for next month, which motion as seconded by Member Smith.

The vote carried as follows:

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

CEO Hernandez asked the Applicant if he had submitted a SEQRA with his application, and Mr. Light said yes, a short one.

**Case No.: PB-2018-005: Michael Darcy (19.2-1-85)**

**(Preliminary) 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 said the Board is awaiting word from the Town Engineer on this property; therefore, no decision will be made on this application at this meeting.

Mr. Darcy asked if the Board had any concerns. Chairman Herrmann said with applications such as this, they await input from the Town Engineer; however, they haven't gotten that yet. CEO Hernandez said if the layout in the Application is acceptable to the Board (per Paul McCreary's (the Town Engineer) email), then a site visit can be scheduled. Originally, the Applicant intended to park vehicles in the DEC area, which is still under review. The Application before this Board provides for parking in a temporary spot at the front of the property. The Planning Board should decide if that's acceptable.

Member Brutsch asked if the Board has to determine if this qualifies as an HO3. Chairman Herrmann said no, the Zoning Board has already determined that it does qualify as an HO3. The Planning Board has to decide what constraints they have to put on it. CEO Hernandez said the Planning Board also has the option of denying the Special Permit. Chairman Herrmann said he would rather wait for Paul's McCreary's comments before making a decision. At this time, there has been no change, so the matter will be put off for another month.

CEO Hernandez asked Mr. Darcy when he expects to hear back from the DEC. Mr. Darcy said timing is based on the growth of the grass he planted. Once the grass grows, he will apply to the DEC for a permit to remove it. That's how the matter has been left with the DEC with whom he has been exchanging emails. The DEC wanted an update on the growth, so Mr. Darcy sent pictures.

Chairman Herrmann said the matter will be tabled until next month, pending a response from the Town Engineer, which will consist of an assessment of the site. Mr. Darcy asked if the money he has in escrow with the Town is for that purpose, and Chairman Herrmann confirmed it was. Chairman Herrmann said he didn't know Mr. McCreary was going to be on vacation, so nothing changes right now. Mr. Darcy said maybe within the next month he

can get some information from the DEC as to when he can start the permit process. Member Smith suggested Mr. Darcy spread organic manure on the grass to help it grow.

Chairman Herrmann said this matter is going to be tabled until next month.

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

Upon review, Member Robert Smith made a motion to approve the minutes of May 16, 2018, as submitted, which motion was seconded by Member Greg Hanna. The motion carried as follows:

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

The meeting was adjourned at 8:15 p.m. There will be a Special Meeting one week from tonight to further discuss the Stewart's Application.

Respectfully submitted,

*Donna M. Gedeon*

Donna M. Gedeon  
Planning/Zoning Clerk