



Present: John Dax, Zoning Board of Appeals Chairman
Charles Gerald, Zoning Board of Appeals Member
Jeff Hattat, Zoning Board of Appeals Member
Tony Murad, Zoning Board of Appeals Member
Phyllis Stoller, Zoning Board of Appeals Member
Jeannine Tonetti, Zoning Board of Appeals Member

Absent: Jeannine Tonetti, Zoning Board of Appeals Member

Others Present: Kent Pratt, Blossom Hasher, Louise Gilbert, James Moore, Charles Banker, Mr. Ingersoll, Mr. Weaver, Paul and Lisa St. Germain, JJ Johnson-Smith, Bob Smith, Pierre Joseph

I. Call to Order:

Chairman Dax called the regular meeting of the Town of New Lebanon Zoning Board of Appeals to order at 7:32 pm pm.

II. Minutes Review:

Upon Review of the 05.03.2011 minutes, Tony Murad wished to clarify that the Hannaford public Hearing was not officially opened at the January meeting and would like the minutes to be clarified. A motion was made by Chairman Dax , seconded by Tony Murad to approve them as submitted. The motion carried upon the following vote:

Chairman Dax	Aye
Charles Gerald	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Absent

III. Application Review

Case No: ZBA-2011-016 – Paul St. Germain [TM# 10.3-1-35.2]

Request for an SUP for a HO2. Applicant wishes to construct a studio for the purpose of a home occupation to design & construct custom furniture

Chairman Dax stated that Town regulations allows for Home Occupations for which there are standards. If the Board finds that the applicant meets the standards it is bound to grant the special use permit. The noise and traffic issues have been addressed. Kent Pratt, CEO/ZEO measured the decibels and found no discernable noise levels at the property lines. The traffic

impacts are no different than an active internet shopper who frequently could have UPS/Fed Ex deliveries.

Tony Murad agreed that this request is in keeping with our Zoning Ordinance. If he expands in the future ie: hires 3 or more employees, the applicant would need to apply for a HO3 which would undergo further Zoning Board review. He stated that he was on the zoning re-write committee as well and they wanted to create regulations that permitted Home Occupations so that our residence could make a living. The noise may be bothersome at first, but noise is a fact of life. In most cases where abutters have opposed a proposal, in time, they have come to embrace it. We live in a small Town and we want to keep people in Town. He furthered that he empathized with Ms. Hasher but he also feels that Mr. St. Germain has the right to make a living.

Ms. Hasher stated that Mr. St.Germain's access crosses a culvert over a ravine to get to his property. Mr. St. Germain told her that an Engineer associated with the Town had stated that the culvert would be ok. However, her concern is that her property line is to the center of the culvert and her home owners insurance company stated they would like indemnification from the Town holding her harmless if something were to happen to the culvert.

Chairman Dax stated that the Town will not issue indemnification and that if this is a problem Ms. Hasher should review her ROW agreement. The ZBA can not deny a permit on that basis. Tony Murad asked Ms. Hasher if her driveway crosses the same culvert that Mr. St. Germain uses. Ms. Hasher stated "no". Mr. Murad stated that he feels that there was no issue because if Mr. St. Germain damages the culvert in question he should fix it. Ms. Hasher stated that when Mr. and Mrs. St. Germain were building their house a few years ago and were digging for electrical service, barrels were dug up at the edge that she was held liable for them. Chairman Dax stated that the ZBA does not have authority over their ROW agreement and that if there are concerns about this matter, she should consult her attorney.

Tony Murad moved to grant the Special Use Permit for a Home Occupation 2 provided that the applicant remains in compliance with all the stipulation set fourth in the Zoning Ordinance. The motion was seconded by Jeff Hattat and carried on the following vote:

Chairman Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Absent

Case No: ZBA-11-021 – Pierre Joseph [TM# 19.2-1-68]

Request for a Special Permit to convert office space into a one bedroom apartment in the general commercial zone

Pierre Joseph stated that the building currently contains one apartment and one commercial office space. He would like to convert the office space into an apartment creating a two family dwelling which requires a Special Use Permit.

Chairman Dax and Tony Murad both stated that they felt that a two family dwelling unit in the general commercial zone should not require a Special Permit. Kent Pratt, CEO/ZEO agreed. Chairman Dax stated that it should be recommended that the Town Board change this requirement.

Chairman Dax moved to schedule the Public Hearing for next month's regularly scheduled meeting and to refer the application for Columbia County Planning Board review. Jeff Hattat seconded the motion which carried on the following vote:

Chairman Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Absent

Case No: ZBA-11-014 – James Moore for Max Gitter [TM#18.-1-66]

Request for an area variance for a proposed addition to a garage. The existing garage is non-conforming at 27 ft. from the center of Cty. Rt. 34

Mr. Moore summarized that the proposal is for an addition on the pre existing non-conforming garage which is only 27 ft. from the center of Route 34. The current requirement is 75 ft. from the center of the road. The proposed addition will be 16 ft toward the west.

Chairman Dax asked if the other side was considered. Mr. Moore stated that it was too close to the existing driveway. Chairman Dax asked Mr. Moore to submit a more detailed plot plan depicting more clearly what distance is being requested.

Tony Murad moved to set the public hearing for the next regularly scheduled meeting and to refer the application for local Planning Board review for recommendations. The motion was seconded by Jeff Hattat and carried on the following vote:

Chairman Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Phyllis Stoller	Aye
Jeannine Tonetti	Absent

Referral from the Town Board:

The Town Board is seeking ZBA recommendations on LVS Campground License Application

Chairman Dax explained that the Lebanon Valley Speedway has applied to the Town Board for a Campground License which requires recommendations from the ZBA and that the application also requires SP/SPR from the Planning Board.

Chairman Dax stated that the application is inadequate and clearly does not meet the requirements of the Town's Campground. Chairman Dax also noted that it is the same application that was submitted to the ZBA two years ago. Chairman Dax read the requirements as listed on page 8803 of the Campground Ordinance.

Bob Smith stated that he thinks Chairman Dax should recuse himself and that LVS puts more tax money into the Town than any other entity. Chairman Dax stated that he is simply citing the law at the moment which is not bias.

Tony Murad commented that it's the Town Board and Planning Board who have jurisdiction. "What is our recommendations worth? If it doesn't comply, it doesn't comply, they will decide.

Tony Murad moved that the Zoning Board of Appeals offers no opinion on the application but to make the observation that the application does not meet the requirements of the Town of New Lebanon Campground Ordinance. The motion was adopted on the following vote:

Chairman Dax	Aye	
Charles Geraldi	Aye	
Jeff Hattat	Aye	
Tony Murad	Aye	
Phyllis Stoller	Aye	
Jeannine Tonetti		Absent

IV. Adjournment

The meeting adjourned at 8:27 pm

Respectfully submitted,
Cissy Hernandez
Planning/Zoning Clerk