

**MINUTES OF THE PUBLIC HEARING OF  
THE NEW LEBANON TOWN BOARD  
ON THE PROPOSED ZONING RE-WRITE  
HELD ON JANUARY 25, 2010**

**Present:** Margaret Robertson, Supervisor  
Bruce Baldwin, Councilmember  
Doug Clark, Councilmember  
Karl (K.B.) Chittenden, Councilmember

**Absent:** Allen Livermore, Councilmember

**Recording Secretary:** Colleen Teal, Town Clerk

**Others Present:** John Dax, Zoning Re-write Committee, Zoning Board of Appeals Chairman  
Tony Murad, Zoning Re-write Committee, ZBA Member  
Monte Wasch, Deputy Town Supervisor  
Robert Mittnight  
Bud Godfroy  
Chuck Gerald, ZBA Member  
Sharon Smullen  
Fiona Lally  
Vivien Steinberg  
Larry Benson  
Cheryl Hattat  
Robert Weber  
Tom Benson  
Robert Smith  
Joanne Johnson  
Karen Ross  
Several other members of the public

**CALL TO ORDER:**

Supervisor Robertson called the public hearing to order at 7:10 p.m. A moment of silence was followed by the flag salute.

**PROOF OF PUBLICATION AND POSTING:**

Town Clerk Teal noted that postcards were not mailed this time and, per the Town Attorney, since the date of this meeting was *not* announced at the last public hearing meeting, this cannot be an official public hearing. The following notice was published in the official newspaper:

**NOTICE OF PUBLIC HEARING  
TOWN OF NEW LEBANON  
COUNTY OF COLUMBIA**

**Town of New Lebanon Proposed Zoning Re-Write**

NOTICE IS HEREBY GIVEN that a Local Law has been introduced by the Town Board of the Town of New Lebanon to modify the Zoning Regulations. The Proposed Zoning Re-write is a local law regulating and restricting the uses of land, and the locations, construction and use of buildings and structures; establishing boundaries of districts for said purposes; establishing a Zoning Board of Appeals with power to determine and vary the application of the regulations hereby established in harmony with their general purpose and intent; and providing for the enforcement of the

provisions herein; all for the purpose of promoting the health, safety, economy, esthetics, morals and general welfare of the inhabitants of the Town of New Lebanon. The purpose of the Zoning Re-write is to meet the goals expressed in the Town of New Lebanon Comprehensive Plan and for the following purposes: to protect and enhance scenic vistas and the towns' natural beauty and rural and small town character; to preserve and protect the environment; to promote an environment that supports appropriate business growth and retention; to promote housing opportunities; to preserve farms and farmland; to lessen congestion in the streets; to secure safety from fire, flood, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to facilitate the adequate provision of transportation, schools, parks and other public requirements; to enhance the value of land and buildings; and to encourage the most appropriate use of land throughout the town. A copy of said Proposed Zoning Re-Write and a memorandum summarizing the differences between the existing and proposed zoning laws are available for public review in the office of the New Lebanon Town Clerk during regular office hours as well as on the town website at [www.townofnewlebanon.com](http://www.townofnewlebanon.com). Additional copies are available for public review at the New Lebanon Library and the New Lebanon Planning, Zoning & Building Department.

PLEASE TAKE FUTURE NOTICE that a public hearing upon said proposed Local Law will be held on June 29, 2009 and said public hearing was held open. The continuation of this public hearing will be held at the New Lebanon Firehouse at 523 US Route 20 in New Lebanon on the 25<sup>th</sup> day of January 2010, at 7:00 p.m. and that an opportunity to be heard will be given to those favoring or opposing the passage of said proposed law.

By order of the New Lebanon Town Board  
Colleen Teal, Town Clerk  
12.28.09

***PUBLIC COMMENT:***

The following letter was read *opposing* the adoption of the Proposed Zoning Law as it currently stands:

To the Town Board:

I am writing to express my concern over the proposed "Hilltop/Ridgeline" and "Scenic Overlay" zoning. I do not think these districts should be created under the new zoning because of the potential for over-regulation.

I understand the desire for land conservancy and protection of small town character, but I am asking the town to reconsider creating the hilltop/ridgeline district.

Hilltops and ridgelines are the basis of our geography. If you aren't living right in the valley, aka immediately along side routes 20 or 22, you are likely situated on a hill or possibly a ridgeline. I have not seen any description or criteria defining a hilltop or ridgeline. I'm hopeful that these will be forthcoming as the town continues to complete the new zoning map before the zoning laws are considered for final approval.

The committees have worked hard to develop a new comprehensive plan and proposed zoning to protect our rural character, but I feel some of the proposed zoning, particularly the "hilltop/ridgeline" overlay district is too stringent. Sadly, our current small town could be described as a speedway that decreases property values due to noise pollution, decrepit trailer parks, abandoned businesses and derelict buildings. I am not suggesting that we add to the deleterious effects of these, but rather shift our focus to address zoning enforcement along the main roads before we create additional districts under zoning laws.

Applying for a housing grant to refurbish the midtown mall is a step in the right direction and essential in promoting the economic development of our town; however, it will not increase the tax base. There needs to be a focus on promoting housing opportunities to create a larger tax base to contribute to the extraordinary taxes we see. I see the zoning laws in relation to the hilltop/ridgeline areas as barriers to new development. In other words, there will be too much red tape to cut through in order to build if the Town adopts a hilltop/ridgeline or scenic overlay district.

This is not the time to create new overlay districts which would discourage development, especially when we may be facing a huge tax burden to close the landfill. It is not reasonable to expect these zoning laws to attract

builders and homeowners when the procedures outlined in the site plan review place the burden on the property owner to prove why they should be allowed to place a house on their own land.

If the town does decide to move forward with creating the hilltop/ridgeline and scenic overlay districts, I would strongly advocate for only those areas directly in the line of sight of major thoroughfares be considered for such zoning.

Respectfully submitted,

Meredith Art Winch

The following persons spoke *opposing* the enactment the Proposed Zoning Re-write as it stands for the noted reasons:

Robert Mittnacht: change of zoning classification of his property will have a significant negative impact on him; he is currently in three (3) different zones and he has been diligently working – including investment of monies - on projects for each of these three zones; a change in the zoning classification of this property now would mean that much of the time and money he has spent will be gone. Mr. Mittnacht asked who he could talk to about exceptions, waivers, or changes to the proposed new law before it is enacted. (A meeting will be scheduled with Mr. Mittnacht to discuss his property and his concerns.)

Chuck Gerald: a new zone was created after the last public hearing, commercial residential (C-R), but there is no column in the use table for this zone to determine what is permitted, what requires a special permit or site plan review, and etcetera. A new column should be added for this new zone. (*It was determined that a new column had been created but this update was not included in the newest version available at the Town Clerk's office.*) The boards may understand site plan review but how do they know or understand enough about my business to make decisions about my business. With regards to removing overlay language, Mr. Gerald noted that it is just adding more expense to the process; each time an overlay zone is completed, the board will have to go through this whole process again – wait and bring a finished document to the public. (*Tony Murad, Zoning Re-Write Committee member, noted that the new law eliminates the need to send postcards.*)

Sharon Smullen: requested removal of the hamlet definition and expressed concern that Lebanon Springs would be part of a hamlet overlay. (*Tony Murad noted that a hamlet overlay should be applied when the citizens in the area decide they want a hamlet imposed on them; it was not meant to be a situation where the town board or the committee assigned the district. There was also general discussion about the ability to accommodate the standards for a hamlet without town sewer and water.*)

Vivien Steinberg: concern with over-regulation and with the overlays; concerned about cost of doing anything under the new law. (Ms. Steinberg noted that without the overlay language, she could support the enactment of the new zoning law. However, she implored the enforcement officers and boards to be aware of how they respond to applicants; it can be an overwhelming process for the property owner.) Additionally, she noted that overlay districts need to have as much input as possible and mailing the

postcards is a *very* important way to notify property owners; elimination of this requirement before the overlay process is complete is not a good idea.

Bud Godfroy: the hamlet zone would be a major tax burden on those that did not need a sewer and/or water district. *(It was noted that, by state law, water and sewer districts must be paid only by those served by them.)* Mr. Godfroy noted that he felt it should be perfectly clear that the overlays may be out there.

Larry Benson: expressed concern with the language and definitions in regards to agriculture and requested that the verbiage be reviewed before enactment. *(John Dax noted that the sizes mentioned by Mr. Benson were for the principle use buildings – the residence – in the agricultural districts, not for accessory uses which is what a barn would be.)* Mr. Benson also noted that “library” is not included in the definitions or the use tables. Mr. Dax noted that these laws cannot eliminate pre-existing uses; Tony Murad noted that we also have the Shaker Museum & Library moving up to New Lebanon and we should include “library” in the definitions and use tables.

Cheryl Hattat: concern about streamlining or reducing the Zoning Board of Appeals from a seven (7) member board to a five (5) member board. How will board members be held accountable?

Robert Weber: the qualifications for sitting on the boards; need some kind of credentials to sit in judgment of what other people can do with their land. What type of schooling/training/education will be required or provided?

The following persons spoke *favoring* the enactment the Proposed Zoning Re-write:

Karen Ross: noted that fairness was the operative objective for the new law while at the same time, maintaining the vision for the town.

#### **USE TABLES:**

Councilmember Chittenden pointed out that commercial agri-tourism is not allowed in the commercial zone and a commercial stable is not allowed in the commercial zone. He expressed concern that the law would ban farm stands in the commercial zone. *(John Dax noted that commercial agri-tourism should be permitted in the General Commercial zone and this should be amended.)*

#### **GENERAL DISCUSSION:**

##### **Overlay Districts:**

Supervisor Robertson noted that the Columbia County Planning Board noted the lack of the overlay maps in their recommendation. At this point, it needs to be decided to either get the overlay districts defined and mapped out before adoption of the new law or to remove reference to the overlay districts from the law for adoption now and amend the law as needed to include the overlay districts as they are defined.

Monte Wasch noted that the Columbia County Planning Board found that the proposed new zoning law does not have any significant county-wide or intercommunity impacts and then noted the overlay maps in an “informal comment offered for consideration.” Mr. Wasch noted that he fully supported adopting the new zoning law without the overlays and continuing the process of building the overlay districts.

John Dax, Zoning Re-write Committee Chair, noted that the committee recommended adopting the new law with the text of the overlays in it so transparency of intent was in place. The committee wanted the public to understand what these overlays would mean when applied but *where* to apply them would be a much bigger process, not for a six member committee. Mapping of the overlay districts could be a long process; they will certainly require a lot of public input and debate. Mr. Dax noted that, reluctantly he could support removal of the overlay text for now but he implored the board to move fairly quickly to get the overlays completed.

Councilmember Baldwin noted that the overlays will generate the greatest emotional response. If the wording stays in the law without the maps, it will be an incentive to get them completed. If the wording is removed, it may lead to a more lax attitude toward getting them done.

Tony Murad noted he felt the overlay language should be removed; it should not be in there unless we have the maps to depict where it applies. With regard to the concern expressed by some that inclusion of the language is important to be upfront with people and let them see that they may be subject to it in the future, Mr. Murad suggested an addendum that references future overlay districts. Supervisor Robertson noted that she liked the idea of the addendum. John Dax noted that he is not sure that an addendum would be legal. He recommended adopting the zoning law without any reference to the overlays but for complete transparency; maintain a draft copy on the website with the overlay language intact. It makes it clear that they are pending. Mr. Dax recommended that the board charge separate committees with reviewing the draft text for each overlay district and for mapping the same overlay.

Mr. Murad also noted that the overlays are not really more restrictive but more detailed in planning and provide for more negotiations – not mandates but suggestions to minimize the effect on other people.

The Town Board announced that the next step will be decided at the next Town Board meeting on Monday, February 8, 2010. This will include whether or not to include the overlay language in the current document and whether or not to proceed without the completion of the overlay districts. The date for the next public hearing will also be set at this meeting.

**AUDIT OF A BILL:**

General Fund Claim No. 44, in the amount of \$150.00;  
As set forth in Abstract No. 2-A, dated January 25, 2010; was audited.

A motion was made by Councilmember Baldwin, seconded by Councilmember Chittenden, and passed unanimously (Councilmember Livermore absent) to pay the above noted claim from the respective account.

All persons desiring to be heard, having been heard, a motion was made by Councilmember Baldwin, seconded by Councilmember Chittenden, and approved to adjourn the Public Hearing at 9:00 p.m. and noted that another public hearing will be held at a date to be determined at the February 8, 2010 Town Board meeting.

Respectfully submitted,

Colleen Teal, RMC  
Town Clerk