

Town of Middlefield  
Minutes of the Zoning Board of Appeals

Date: September 20, 2023

Meeting called to order at 7:25 PM

Present: Richard deRosa, Brennan Hoag, Alicia Nemec, Lorna Wilhelm. Also: ZEO Neal Newman

Applicant: Sydney L. Waller, 689 Beaver Meadow Road, Cooperstown, NY. Phone: 607-547-5327, 315-941-9607. Email: [leartgarage@gmail.com](mailto:leartgarage@gmail.com)

Tax Map #: 131.15-1-22.03

Summary of Application:

The applicant appeared before the board to request a use variance. It is in response to her receiving an official notification from the Town of Middlefield's Zoning Enforcement Officer, Neal Newman, that she is in violation of Town of Middlefield Zoning Law {Article II, B, 9 (d) (5)}. It stipulates that with respect to a Home Occupation "no articles produced elsewhere may be sold except those incorporated in products being manufactured on the premises or those which are incidental to the services offered." The Art Garage has operated for the past twelve years. In addition to lectures, talks, exhibitions and receptions, artists' work is often on display and available for sale. The issue, then, is whether or not the sale of art works, however many and often, not produced on the premises by the applicant, puts her in violation of the Zoning Law stipulated above. Much discussion occurred with reference to inevitable ambiguities of language. For instance: 'In particular, a Home Occupation includes, but is not limited to the following:" Or, how might one interpret such words as "manufacture" or "incidental." These are intellectually interesting issues, but not germane to the specific task before the board.

Therefore, the board is required to take two steps: (1) Agree or disagree with the ZEO's interpretation of Article II or not. (2) Upon resolving step 1, consider the applicant's request that a variance be granted.

The Board acted on Step 1:

Motion by Alicia Nemec: The ZBA agrees with the determination of the ZEO that sales are not incidental to the business

Seconded by: ?

Unanimous consent

Subsequent to the above determination, the board completed its portion of the required EAF form. It further agreed to convene again on October 12, 2023 to then consider the applicants' request for a 'use variance."

Minutes submitted by: Richard J. deRosa, Secretary