

# ***ZONING BOARD of APPEALS***

TOWN OF HOPEWELL

2716 County Road 47 – Canandaigua, NY 14424

585-394-0036 ext. 8 – [www.townofhopewell.org](http://www.townofhopewell.org)

Minutes – July 17, 2023

**Present: Chairman Rich Vienna, Bob Price, Mickie Kelly, Grace Perry, Shawn Cotter**

**Chairman Vienna opened the meeting at 6:30 p.m.**

**Approval of Minutes: June 19, 2023**

**Grace Perry moved to approve the June 19, 2023 minutes as presented. Motion seconded and carried.**

**Board Business: Eysa Sharhan – Smoke Shop Heaven LLC – PZ-2023-010  
4237 Recreation Drive – TM 85.03-1-24.000 – Area Variance Building Mounted Sign**

The applicant is seeking a second building mounted commercial sign. Zoning permits 1 commercial building-mounted sign in the C1 Zoning District.

The Board reviewed the application and determined the other business located at parcel 4237 Recreation Dr. have two-building mounted commercial signs. One facing Routes 5 & 20 and the other facing Recreation Dr.

**Bob Price moved to retain application PZ-2023-010, Smoke Shop Heaven, LLC, and not set a public hearing, nor send it to the OCPB for comments, since the application is comparable to existing building-mounted signs at the same parcel address. Motion seconded.**

Roll Call: Rich Vienna – aye   Grace Perry - aye   Mickie Kelly – aye   Bob Price – aye  
Motion carried unanimously.

The Board moved forward to review SEAF Part II & III and Findings Statement (attached)

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Project:	EYSA SHARHAN - PZ-2023010
Date:	Smoke Shop Heaven LLC
JULY 17, 2023	

## Short Environmental Assessment Form Part 2 - Impact Assessment

### Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Project:	Sharhan - PZ-2023-010
Date:	7/17/2023

## ***Short Environmental Assessment Form Part 3 Determination of Significance***

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

Based upon this evaluation, the Planning Board, in a separate resolution adopted on Monday, April 24, 2023 has determined the proposed Action will not likely result in a significant adverse impact upon the environment and that a Negative Declaration is issued.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Zoning Board of Appeals	July 17, 2023
Name of Lead Agency Richard Vienna	Date Zoning Board of Appeals Chairman
Print or Type Name of Responsible Officer in Lead Agency Richard Vienna	Title of Responsible Officer Shawn L. Cotter - ZBA Secretary
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

**Adjournment:** Grace Perry moved to adjourn.

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## ZONING BOARD OF APPEALS AREA VARIANCE FINDINGS & DECISION

Applicant: Smoke Shop Heaven LLC, Eysa Sharhan

Appeal Concerns Property at the following address:

4237 Recreation Drive - Canandaigua 14424

County Tax Map Section: 85.03 Block 1-24 Lot 000

Zoning District Classification: C-1

### OFFICE USE ONLY

Application No. PZ- 2023-010

Date of Application: 5/20/23

(Postmarked or Hand Delivered)

Date of Public Hearing: n/a

Date Notice Published:

Date of County Referral: n/a

Date of Final Action: 7/17/2023

Date of Filing of Decision with the

Municipal Clerk: 8/21/2023

Requirement for which Variance is Requested:

Two Building Mounted Signs where One is Permitted by TOH Zoning Ordinance

Applicable Section(s) of Zoning Code: Article XII 1205 A

TEST: No area variance will be granted without a consideration by the board of the following factors:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes  No X

Reasons: The proposed business is located in C1 Zoning District, the additional sign is in keeping as the other Commercial Mounted Signs located at the same property address

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes  No X

Reasons: The parcel is unique in the fact that the store faces Routes 5 & 20 and Recreation Drive.

3. Whether the requested variance is substantial: Yes  No X

Reasons:

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes  No X

Reasons: There will be no adverse impact on the physical or environmental conditions in the neighborhood.

5. Whether the alleged difficulty was self-created: Yes X No

Reasons: Self Created to identify the business, however, the parcel is unique in the fact that the store faces two roadways - Routes 5 & 20 and Recreation Drive

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## DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, finds that:

☐ the Benefit to the Applicant DOES NOT Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.

☒ the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community.

**Reasons:** There is no detriment to the neighborhood. Similar businesses at the same parcel have Building Mounted Signs facing both Recreation Drive and Routes 5 & 20. The total signage is in compliance with TOH Zoning

The ZBA further finds that a variance of XII from Section 1205 A of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because:

s/a/a

**CONDITIONS:** The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1:

Adverse impact to be minimized:

Condition No. 2:

Adverse impact to be minimized:

Richard Vienna 7/17/2023  
Chairman, Zoning Board of Appeals Date

## RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	Richard Vienna	x	
Member	Mickie Kelly	x	
Member	Robert Price	x	
Member	Grace Perry	x	
Member	n/a	x	

Grace Perry moved to adjourn, seconded and carried.  
Submitted by Shawn L. Cotter – August 22, 2023