

# ZONING BOARD OF APPEALS

## TOWN OF HOPEWELL

2716 County Rd 47 – Canandaigua – NY 14424  
585-394-0036 ext. 8 – [www.townofhopewell.org](http://www.townofhopewell.org)  
Minutes – June 21, 2021

Present: Chairman Rich Vienna, Grace Perry, Bob Price, Mickie Kelly, Stacey Gray, CEO Justin Bruen, Shawn Cotter, Bill Coe (Finger Lakes Extrusion – EMCOR)

### WORKSHOP 6:45 p.m.

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Chairman Vienna opened the meeting at 7:00 p.m.

**ZBA Roll Call:** Robert Price, Grace Perry, Mickie Kelly, Rich Vienna, Stacey Gray

#### **General Business: Approval of Minutes**

**Mickie Kelly moved to approve the May 17, 2021 minutes, seconded and carried.**

**Block Motion:** Authorize Staff to set Public Hearing for July 19, 2021 /referral application to OCPB (Ontario County Planning Board)

**Grace Perry moved to set Public Hearing date for July 19, 2021 for application PZ-2021-014 and send referral to OCPB, seconded and carried.**

1. Dennis Mussaw – 3994 State Route 488 – PZ-2021-014 – TM#58.00-2-32.000 Set-back Variances

**Public Hearing: Finger Lakes Extrusion – 2437 State Route 21 – TM# 72.00-1-18.000  
PZ-2021-013 – Area Variance**

Secretary read aloud public hearing notice. (Copy attached to minutes)

No one from the public was present.

**Grace Perry moved to close the Public Hearing for Finger Lakes Extrusion, PZ-2021-013, seconded and carried.**

**New Business: Finger Lakes Extrusion – 2437 State Route 21 – TM# 72.00-1-18.000  
PZ-2021-013 – Area Variance Pre-existing non-conforming lot**

Board reviewed OCPB comments – Class 1, referred back to Board with comments. (Attached to minutes)

Bill Coe stated the applicant seeks to place HVAC system along the side of the pre-existing building. They are seeking a variance of 5' in order to place the individual units along the building.

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Stacey Gray asked Mr. Coe why the units could not be placed on another part of the property in order to avoid a variance request.

Mr. Coe stated solar panels were placed on the roof of the building and to the rear of the building several years ago. The side set-back request is the least expansive and intrusive area to place the HVAC units. Current duct work is existent along the wall where units would be located. He added, there is a possibility of building expansion in the future and the applicant would like to leave that area open.

Mr. Coe further added, the cost would increase substantially if the HVAC units were to be placed in other locations.

Stacey Gray asked if the traffic area from the additional business on the property will be affected by the HVAC units.

Mr. Coe stated no traffic will be affected by the placement of the proposed units.

Further Board discussion ensued concerning the HVAC units.

**ZBA Findings: Finger Lakes Extrusion – 2437 State Route 21 - PZ-2021-013  
TM#72.00-1-18.000 – Area Variance/Side Set-back**

1. Whether an undesirable change will be produced in the character of the neighborhood or, a detriment to nearby properties will be created by the granting of the area variance: **No - low impact noise 86 decibels with the HVAC units**
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: **No – not feasible due to pre-existing solar panels**
3. Whether the requested variance is substantial: **No - only a 5ft. request (25' side set-back where 30' is required)**
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: **No**
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the Area Variance: Discussion – **Yes - Self-created due to location of solar panels erected previously by owner, however due to cost involved to remove panels to install HVAC units, the cost is unfeasible.**

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Agency Use Only [If applicable]

Project:	Finger Lakes Extrusion PZ2021-013
Date:	June 21, 2021

### 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. <u>Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. <u>Will the proposed action result in a change in the use or intensity of use of land?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. <u>Will the proposed action impair the character or quality of the existing community?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. <u>Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. <u>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?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. <u>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?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. <u>Will the proposed action impact existing:</u>		
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. <u>Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. <u>Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. <u>Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. <u>Will the proposed action create a hazard to environmental resources or human health?</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Project:	FL Extrusion
Date:	6/21/21 PZ-2021-013

### *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.

Applicant is seeking to install a HVAC system to the existing building in order to control the temperature and condition of air in the production space area. Solar Panel units are pre-existing on the building roof and rear portion of the property, and is therefore not possible to re-locate the proposed HVAC units. The side setback is minimal and will not change the character of the neighborhood since it is zoned Industrial.

- 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.
- 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.

Town of Hopewell Board of Appeals	June 21, 2021
Name of Lead Agency	Date
Rich Vienna	Board of Appeals Chairman
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Richard Vienna	
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

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### TOWN OF HOPEWELL BOARD OF APPEALS RESOLUTION FINGER LAKES EXTRUSION 2437 STATE ROUTE 21 - INDUSTRIAL ZONING DISTRICT TM# 72.00-1-18.000 PZ-2021-013 AREA VARIANCE – SIDE SET-BACK

#### SEQR – DETERMINATION OF NON-SIGNIFICANCE RESOLUTION

**WHEREAS**, the Town of Hopewell Zoning Board of Appeals (hereinafter referred to as ZBA) is considering Area Variance Side Set-back for placements of HVAC Units located at 2437 State Route 21 as shown on the Plans prepared by EMCOR Services (Betlem) and all other relevant information submitted as of June 21, 2021 (the current application); and

**WHEREAS**, the ZBA has reviewed the Short Environmental Assessment Form (EAF) Part 1, prepared by the applicant on the above referenced application (hereinafter referred to as Action); and

**WHEREAS**, the ZBA determines that said Action is classified as an Unlisted Action under Part 617 of the State Environmental Quality Review (SEQR) Regulations; and

**WHEREAS**, the ZBA has determined that the proposed development is subject to a single agency review pursuant to Part 617.6(b) (4) of the SEQR Regulations; and

**WHEREAS**, the ZBA determines that it is the most appropriate agency for making the determination of significance thereon under the SEQR Regulations; and

**WHEREAS**, the ZBA has given consideration to the criteria for determining significance as set forth in Section 617.7(c) (1) of the SEQR Regulations and the information contained in the Full EAF Part 1; and

**WHEREAS**, the ZBA has completed Part 2 and Part 3 of the Short EAF as this was identified as an Unlisted Action; and

**NOW, THEREFORE BE IT RESOLVED** that the ZBA does hereby designate itself as lead agency for the proposed development above herein; and

**BE IT FURTHER RESOLVED** that the ZBA has reasonably concluded the following impacts are expected to result from the proposed Action, when compared against the criteria in Section 617.7 (c):

- (i) there will not be a substantial adverse change in existing air quality, ground or surface water quality or quantity, traffic noise levels; a substantial increase in solid waste production; a substantial increase in potential for erosion, flooding, leaching or drainage problems;
- (ii) there will not be large quantities of vegetation or fauna removed from the site or destroyed as the result of the proposed Action; there will not be substantial interference with the movement of any resident or migratory fish or wildlife species as the result of the proposed Action; there will not be a significant impact upon habitat areas on the site; there are no known threatened or endangered species of animal or plant, or the habitat of such species; or, are there any other significant adverse impacts to natural resources on the site;

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- (iii) there are no known Critical Environmental Area(s) on the site which will be impaired as the result of the proposed Action;
- (iv) the overall density of the site is consistent with the Town's Comprehensive Plan land use recommendations;
- (v) there will not be an increase in the use of either the quantity or type of energy resulting from the proposed Action;
- (vi) there will not be any hazard created to human health;
- (vii) there will not be a change in the use of active agricultural lands that receive an agricultural use tax exemption or that will ultimately result in the loss of ten acres of such productive farmland;
- (viii) there will not be a larger number of persons attracted to the site for more than a few days when compared to the number of persons who would come to the site absent the Action;
- (ix) there will not be created a material demand for other Actions that would result in one of the above consequences;
- (x) there will not be changes in two or more of the elements of the environment that when considered together result in a substantial adverse impact; and
- (xi) there are not two or more related Actions which would have a significant impact on the environment.

BE IT FURTHER RESOLVED, based upon the information and analysis above and the supporting documentation referenced above, the proposed Action WILL NOT result in any significant adverse environmental impacts.

**BE IT FINALLY RESOLVED**, that the ZBA does hereby make a Determination of Non-Significance on the proposed development, and the ZBA Chairman is hereby directed to sign the Short Environmental Assessment Form Part 3 and issue the Negative Declaration as evidence of the ZBA determination.

The above resolution was offered by Grace Perry and seconded by Bob Price at a meeting of the ZBA held on Monday, June 21, 2021. Following discussion thereon, the following roll call vote was taken and recorded:

Rich Vienna - yes                      Stacey Gray - yes                      Grace Perry - yes  
Mickie Kelly - yes                      Bob Price - yes

I, *Shawn L. Cotter*, Board of Appeals Secretary, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Hopewell ZBA Secretary

 L. S.

Shawn L. Cotter, Board of Appeals Secretary

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### TOWN OF HOPEWELL ZONING BOARD OF APPEALS FINGER LAKES EXTRUSION 2437 STATE ROUTE 21 – TAX MAP 72.00-1-18.000 PZ-2021-013 – INDUSTRIAL DISTRICT AREA VARIANCE NON-CONFORMING LOT

#### RESOLUTION AREA VARIANCE – SIDE SET-BACK

**WHEREAS**, the Town of Hopewell Zoning Board of Appeals (hereinafter referred to as ZBA) is considering an Area Variance for a side set-back of 25' where 30' is required, for placement of (HVAC) heating, ventilation and air-conditioning equipment,

**WHEREAS**, the ZBA has completed Part II – SEAF and has made a determination of non-significance and has listed the application as a Type II Action, no further action is required; and

**NOW, THEREFORE, BE IT RESOLVED**, the ZBA hereby  Approves without Conditions;  Approves with the following Conditions; or  Denies the application for the following reasons:

1. All consultant and Town of Hopewell building dept. fees shall be paid prior to issuance of any permits.

The above resolution was offered by Bob Price and seconded by Grace Perry at a meeting of the Zoning Board of Appeals held on Monday, June 21, 2021 Following discussion thereon, the following roll call vote was taken and recorded:

Bob Price - yes      Grace Perry - yes      Mickie Kelly - yes  
Stacey Gray – yes      Rich Vienna - yes

I, **Shawn L Cotter**, Zoning Board of Appeals Clerk, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Hopewell Zoning Board of Appeals for the June 21, 2021 meeting.

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### Adjournment:

Stacey gray moved to adjourn, seconded and carried. Meeting adjourned at 7:25 p.m.  
Submitted by: Shawn L Cotter L.S. 7/22/2021

128 - 2021	Town of Hopewell	Zoning Board of Appeals	Area Variance - Class: 1
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**Applicant:** Wright, Erica

**Tax Map Parcel No:** 72-1-18.000

**Brief Description:** Area variance for placement of heating, ventilation, and air-conditioning equipment 25' from the south property line when 30' side setback is required at Finger Lakes Extrusion, 2437 SR 21 in the Town of Hopewell.

**Board Motion:** To retain referrals 106-2021, 108-2021, 112-2021, 121-2021, 125-2021, 126-2021, 127-2021, and 128-2021 as class 1s and return them to the local boards with comments.

**Motion made by:** David Wink **Seconded by:** Mike Woodruff

**Vote:** 11 in favor, 0 opposed, 0 abstentions **Motion carried.**

## NOTICE OF PUBLIC HEARING

Pursuant to Article III, Section 306 of the Town of Hopewell Zoning Ordinance, a Public Hearing before the Zoning Board of Appeals of the Town of Hopewell will be held on June 21, 2021 at 7:00 P.M.

Said Hearing will be held in the Town Hall at Hopewell Center, Ontario County, New York.

The Public Hearing is to consider the application of Finger Lakes Extrusion owners of property located at 2437 State Route 21, Canandaigua NY, TM #72.00-1-18.000, in the Town of Hopewell, for the following Variance application - #PZ-2021-013. HTZO Appendix §1901, Article VI, Section 605, Subsection F, for a side setback variance of 5 feet (25' where 30' is required) for HVAC installation. Zoned Industrial.

All persons wishing to appear at such Hearing may do so in person or by attorney or other representative.

Shawn L. Cotter Board of Appeals - Clerk

Date - June 7 2021