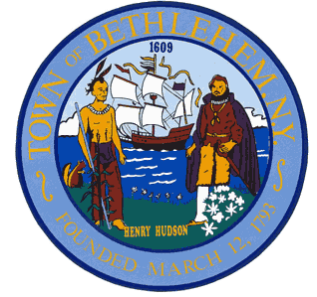


# TOWN OF BETHLEHEM

*David VanLuven*  
Town Supervisor

## Zoning Board of Appeals Minutes



*David Devaprasad*  
Chairman

Wednesday, January 3, 2018  
6:00 PM

### I. Call to Order

A Regular Meeting of the Zoning Board of Appeals of the Town of Bethlehem was held on the above date at the Town Hall Auditorium, 445 Delaware Avenue, Delmar, NY. The Meeting was called to order at 6:00 PM.

Attendee Name	Title	Status	Arrived
Dave Devaprasad	Chairman	Present	
Jane Barnes	Board Member	Present	
Joshua Beams	Board Member	Present	
Donna Giliberto	Board Member	Present	
Jeremy Martelle	Board Member	Absent	
Michael Moore	Planning/Zoning Board Counsel	Present	
Mark Platel	Assistant Building Inspector	Present	
Craig Yaiser	Assistant Building Inspector	Present	
Kathleen Reid	Assistant to the Zoning Board of Appeals	Present	

### II. Public Hearings

- A. Victor Kustov- 619 Wemple Road, Glenmont, for area variance(s) under article V, District Regulations, Section 128-25 Rural District D.(17-01000029)

The Applicant is proposing to construct a 6,000 square foot machine shop which is 2,000 square feet over the maximum 4,000 square foot non-residential, non-agricultural structure allowed. Also a 50 foot landscape buffer is required when a non-residential non-agricultural structure is constructed abutting a residential district. The property is zoned Rural and is currently vacant land.

A motion to indent the Public Hearing notice into the minutes was offered by Ms. Barnes, Seconded by Mr. Beams.

## NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of Appeals of the Town of Bethlehem, Albany County, New York will hold a Public Hearing on Wednesday, January 3, 2018 at 6:00 PM, at the Town Offices, 445 Delaware Avenue, Delmar, New York, to take action on an application submitted by John Romeo of Insite Northeast on behalf of Victor Kustov for area variance(s) located at 619 Wemple Road, Glenmont. The applicant is

proposing an expansion of the existing building and to reduce the landscape buffer to accommodate construction of a metal fabrication and machine shop. The proposal does not meet the requirements of the Zoning Law under Article V, Section 128-25, D.

John Romeo, of Insite Northeast was present to speak on behalf of the Applicant, Victor Kustov who was also present to answer questions.

Mr. Romeo gave a brief description of the surrounding area and its topography. The Applicant owns two vacant parcels to the west of the site and would like to expand on the building footprint in order for the business to grow. The expansion would require a reduction to the required landscape buffer.

Items discussed:

Ingress and egress to the site

Alternate layouts and landscaping proposed

Wetland Impact

Parking

Building height and elevations

Future business growth

Road infrastructure and traffic impact

The Board requested the following from the Applicant:

1. Impact on development costs if the variances were denied
2. Submit copy of business plan to include growth projections for the business
3. Cost comparison to move building further back on site
4. Landscaping Plan

The following residents had questions and concerns regarding visual impact, impact on value of adjacent homes, wetland impact, traffic safety, future development and access for fire protection:

Philip, Susan and Kara Peters - 595 Wemple Rd, Glenmont

Jeffrey Biel - Weisheit Road, Glenmont

Mr. Romeo addressed the residents concerns and will submit information requested for the next scheduled meeting.

There was no one present to speak in favor or opposed to the project

If the variances are approved the project will be required to go before the Town Planning Board for site plan review.

**RESULT: KEPT OPEN**

- B.** Public Hearing continuation-Innovative Solutions - 454 River Road, Glenmont - for an area variance under Article VI, Section 128-59(I) (K). Signage. (17-01000028)

The Applicant is proposing to replace an existing pre-existing nonconforming freestanding

sign with a sign that is the same size and in the same location. The existing use of the property is an industrial use and is located in a Heavy Industrial District.

Emma VanVorst of AJ Signs was present to speak on behalf of the Applicant. She expressed the company's desire to replace the existing sign in keeping with the consistency of signage due to a re-branding of the facility.

Items Discussed:

Location of sign

Size and height of sign

Lighting

Traffic

There was no one present to speak in favor or opposed to the variance.

The Public Hearing was closed as follows:

<b>RESULT:</b>	<b>CLOSED [UNANIMOUS]</b>
<b>MOVER:</b>	Jane Barnes, Board Member
<b>SECONDER:</b>	Joshua Beams, Board Member
<b>AYES:</b>	Dave Devaprasad, Jane Barnes, Joshua Beams, Donna Giliberto
<b>ABSENT:</b>	Jeremy Martelle

### III. Applications - Review and Possible Public Hearing Scheduling

No New Applications

### IV. Resolutions

- **ELSMERE FIRE DISTRICT - FEURA BUSH AND WEMPLE ROAD**

#### RESOLUTION

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\*

WHEREAS, an application has been filed with the Zoning Board of Appeals of the Town of Bethlehem, Albany County, New York ("the Board") seeking an interpretation of the Town Code under Article X, Zoning Board of Appeals, Section 128-90 B (1) (b) (Permitted Actions, Public Projects and improvements, private land and public funding, proposed firehouse substation) requested by the Elsmere Fire District, John Brennan, Chairman ("Applicants") for vacant property at Feura Bush Road and Wemple Road, Glenmont, New York; and

WHEREAS, the Board, acting on said application, duly advertised in the Spotlight and sent written notice to all persons listed in the petition as owning property within 200 feet of the premises in question and held a public hearing on said application at the Town Hall, 445 Delaware Avenue, Delmar, New York on December 20, 2017; and,

WHEREAS, Members of the Board are familiar with the area in which the proposed construction is to be done and the specific site of same; and,

WHEREAS, all those who desired to be heard were heard and their testimony duly recorded at the above hearing; now therefore,

BE IT RESOLVED, that the Zoning Board of Appeals makes the following Findings of Fact and Determination in this matter:

#### FINDINGS OF FACT

The Elsmere Fire District (“District”) owns vacant property at the southeast corner of Feura Bush Road and Wemple Road, Glenmont, in a Residential A zoning district. The District’s Board of Commissioners has determined to construct a new firehouse substation on the property. The District has applied to the Board for a determination of the applicability of Town Code Chapter 128 to this proposed project, pursuant to Section 128-90 B (1) (b) and the “balancing of interests” test set forth by the NY Court of Appeals in *Matter of County of Monroe*, 72 NY2d 338 (1988). The Board must determine whether this project should undergo “site plan review and approval... before the Town Planning Board.”

Attorney and member of the Elsmere Fire Company Terry Hannigan testified in support of the project, citing the need for the new fire station to provide better service (response time) to residents of the District. Rich Campanola of the District’s engineering firm (C.T. Male) also testified in support of the project, discussing the design and layout of the proposed firehouse building on the property.

The Board finds that the District is a “quasi-governmental entity” within the

meaning of Section 128-90 B (1) (b) and that the proposed firehouse is a public “project and improvement” subject to Section 128-90 B (1) (b).

The Board has received and considered a memorandum dated December 15, 2017 from Robert Leslie, Town Director of Planning, recommending that the project undergo site plan review by the Town Planning Board.

At the public hearing, District representatives testified that they had no objection to site plan review of the project by the Town Planning Board.

On December 12, 2017, voters of the Elsmere Fire District approved a bond resolution to fund the construction of the proposed firehouse.

The Board received several written statements in support of the proposed project. At the public hearing, several persons testified in support of the proposed project.

The Board also received written statements in opposition to the proposed project. At the public hearing, one person testified in opposition to the proposed project, citing concerns over traffic.

#### DETERMINATION

Based upon the above Findings, consistent with its policy in similar applications regarding “public projects and improvements,” and after consideration of the applicable factors set forth in *Matter of County of Monroe*, the Board determines that the proposed construction of a firehouse substation by the Elsmere Fire District on vacant property at Feura Bush Road and Wemple Road should be referred to the Town of Bethlehem Planning Board for site plan review under Town Code Article VII, Section 128-71.

This action by the Board is in the nature of an “interpretation” of the Town Code, a “Type II” action under the NY State Environmental Quality Review Act (“SEQRA”) (6 NYCRR Section 617.5 [c] [31]); and no environmental impact review is required.

January 3, 2018

S. David Devaprasad

Chairman

Zoning Board of Appeals

The foregoing Resolution filed with the Clerk of the Town of Bethlehem, Albany County, New York, on January \_\_\_\_, 2018.

Kathleen Reid, Secretary

Zoning Board of Appeals

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Joshua Beams, Board Member  
**SECONDER:** Jane Barnes, Board Member  
**AYES:** Dave Devaprasad, Jane Barnes, Joshua Beams, Donna Giliberto  
**ABSENT:** Jeremy Martelle

**V. Discussion/Possible Action**

• **INNOVATIVE SURFACE SOLUTIONS - 454 RIVER ROAD, GLENMONT**

The Board voted to APPROVE the variance(s) as follows:

Chairman Devaprasad-

The sign was existing prior to the sign code change

Not an undesirable change to the neighborhood

Not a substantial request

No change to the environment

Ms. Barns-

Variance is substantial but is mitigated by other factors mentioned

Mr. Beams-

For all reasons previously stated

Ms. Giliberto-

Not an undesirable change

For all reasons previously stated

**RESULT:** APPROVED [UNANIMOUS]  
**MOVER:** Donna Giliberto, Board Member  
**SECONDER:** Joshua Beams, Board Member  
**AYES:** Dave Devaprasad, Jane Barnes, Joshua Beams, Donna Giliberto  
**ABSENT:** Jeremy Martelle

**VI. New Business**

No New Business

**VII. Minutes Approval**

**A. Wednesday, December 20, 2017**

**RESULT:** **ACCEPTED [UNANIMOUS]**  
**MOVER:** Joshua Beams, Board Member  
**SECONDER:** Jane Barnes, Board Member  
**AYES:** Dave Devaprasad, Jane Barnes, Joshua Beams, Donna Giliberto  
**ABSENT:** Jeremy Martelle

**VIII.**

**Motion To:**

**RESULT:** **ADJOURN [UNANIMOUS]**  
**MOVER:** Joshua Beams, Board Member  
**SECONDER:** Donna Giliberto, Board Member  
**AYES:** Dave Devaprasad, Jane Barnes, Joshua Beams, Donna Giliberto  
**ABSENT:** Jeremy Martelle

The Meeting was adjourned at 6:56 PM

Next Regular Meeting January 17, 2018 at 6 PM