



# AGENDA

Town of New Palestine  
BZA  
Tuesday, June 29, 2021  
6:00 PM - Town Hall

Page

## 1. CALL TO ORDER

## 2. MINUTES

- 2 - 4      2.1. Approve minutes from 6/17/21  
[BZA - Jun 17 2021 \(4\)](#)

## 3. NEW AGENDA ITEMS

- 5 - 7      3.1. Finding of facts  
[BZA Findings of Fact \(rehearing\)](#)

## 4. OLD BUSINESS

## 5. NEW BUSINESS

## 6. PUBLIC COMMENTS

## 7. ADJOURN



# MINUTES

Town of New Palestine  
BZA  
Thursday, June 17, 2021  
6:45 PM - Town Hall

The BZA of the Town of New Palestine was called to order on Thursday, June 17, 2021, at 6:45 PM, in the Town Hall, with the following members present:

**PRESENT:** BZA President Adam Axthelm, BZA Vice President Mike Evans, Kathy Hall, Raven Smathers, and Debra Green

**ABSENT:**

## 1. CALL TO ORDER

## 2. MINUTES

2.1. Approval of February 3, 2021 minutes

**Mike Evans moved, seconded by Kathy Hall, Mike Evans made the motion to approve the BZA minutes.**

<b>RESULT:</b>	Carried
<b>MOVER:</b>	Mike Evans
<b>SECONDER:</b>	Kathy Hall
<b>AYES:</b>	Adam Axthelm, Mike Evans, and Kathy Hall
<b>ABSTAINED:</b>	Raven Smathers and Debra Green

## 3. NEW AGENDA ITEMS

3.1. Adopt Procedures

3.2. Public Hearing

3.3. Ron Adams is requesting a special exception on his property at 121 E. Main Street. He is asking to change from storage use to assembly hall.

John Merlau: Presented two letters, one from the fire department and one from the chief of police, and photos to show the type of business format and layout. He then moved on to discuss parking. Per Mr. Merlau, the storage facility/ banquet hall is 3672 sq ft and is required to have 10 designated spots. He stated that there were 15 designated parking spots for the storage facility/banquet hall. He also stated the concerns from the citizens about the storage facility/banquet hall lowering property value. He said he checked the assessor's records, and the property value in the last 10 years has increased. He went on to say there were comments about having another tavern in town, and this isn't another tavern. The storage facility/banquet hall is up to code in safety and noise. The floor was

then opened for people in favor of the banquet hall, and owner Scott LeBeau spoke about the events he would like to host. No one else spoke in favor of the banquet hall. Board member Mike Evans asked Scott LeBeau if he knew the building was for storage only before buying the building, and LeBeau stated he did not. Evans also stated that he was concerned that Mr. Adams, who did not attend tonight's meeting, hosted events in this facility before it was brought up to code. The floor was then opened to people who opposed the storage unit being changed into a banquet hall. Steve Rainey presented a petition of residents who live close to the facility who do not want the storage facility changed to a banquet hall. He also stated ongoing issues with noise complaints and ongoing parking issues with overflow parking in the alleyway and even in the resident's property. Diane Rainey stated that she has issues with Mr. LeBeau and Round the Corner pub, his other business, with patrons urinating in the parking lot and employees from the pub verbally attacking her. Her issue is how he can contain the issues at the banquet hall when he can't contain the issues at the pub. Shannon Kropp said her 13-year-old has seen men urinating in her backyard. They have found used condoms in her backyard, cigarette butts, and broken beer bottles all over her yard. She also had concerns about parking and the possibility of shuttling patrons back and forth to the banquet facility. Ashle Krempel had concerns about the loud music and patrons disturbing the younger kids late at night. Board member Mike Evans asked Mr. Rainey if any of the petitioners asked to sign for the banquet hall. He said five people did not want to sign. Debra Green asked about the liquor license at the banquet hall. Mr. LeBeau stated they do not have a liquor license for that facility. Adam Axthelm asked about the food truck ordinance and asked if an opportunity food truck could be hosted on that property. Food trucks must be 200 feet away from a business that serves food unless the pub sponsors the food truck. Town council member, Angie Fahrnow, asked the town attorney, Ted Nolting, to clarify the parking code for the BZA members. Mr. Nolting stated the code in which business parking is not based on square footage and 25 parking spaces is the minimum amount needed for the banquet hall. Parking will continue to be an issue. The concert series at the Pub from March 2020 was discussed, and the fact that Mr. LeBeau was not willing to adjust the schedule due to the pandemic. There were also several noise complaints, and police were called to the pub requesting the music to be turned down, or the concert wrapped up. Mr. LeBeau did not comply with either request, which is a cause for concern with asking for a special exception for the banquet hall. In closing, Mr. Merlau stated they could add fencing to the alleyway to provide additional parking, and they could bring in portable toilets on event days and adjust end times on the events. Mr. Merlau stated that the former town manager, David Book, was over there many times and assured Mr. Adams that it was ok to operate events in the storage building. He found it strange that events have taken place at the facility over the past 9 years, and the issues regarding the facility have never come up. Eric Kropp, Steve Rainey, Chester Mosley, and Shannon Kropp stated concerns regarding the parking overflow. Bill Niemier informed the board and Mr. Merlau that the former town manager, David Book, didn't have the authority to grant any zoning issues. Adam Axthelm called for the vote, and each board member filled out a ballot. Mr. Axthelm then had each member read their vote. Special Exception for 121 East Main Street was denied 5-0.

#### **4. OLD BUSINESS**

#### **5. NEW BUSINESS**

**6. PUBLIC COMMENTS**

**7. ADJOURN**

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Adam Axthelm

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Mike Evans

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Kathy Hall

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Debra Green

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Raven Smathers

## **Town of New Palestine**

### **Board of Zoning Appeals**

#### Findings of Fact on Petition for Special Exception

The property involved in the request is located at 121 E. Main St.

A Special Exception Petition was submitted to the Town of New Palestine Board of Zoning Appeals for the above referenced location. The Petition submitted by Ronald Adams requested that approval be granted to a Special Exception Petition pursuant to Zoning Ord. § 3.03 to permit the operation of an Assembly Hall in a B-2 zoning district. The Town of New Palestine Board of Zoning Appeals initially conducted a hearing regarding this Petition on October 21, 2020 and denied the Petition. The Petitioner filed a Verified Petition for Judicial Review on November 4, 2020 with the Hancock Circuit Court. The Court remanded the case back to the Board on May 3, 2021. In compliance with that Order, the Board conducted a rehearing on June 17, 2021 to reconsider Mr. Adams' Petition.

In its deliberations, the Town of New Palestine Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in denying the request for Special Exception. Zoning Ord. § 3.03 states that a Special Exception may be approved only upon a determination that the following are true.

**1. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health, safety or general welfare**

The maintenance or operation of the special exception will be detrimental to or endanger the public health, safety, or general welfare. Multiple residents testified to concerns for the safety of their families if the special exception were granted. If the Assembly Hall were allowed to operate, foot and vehicular traffic along U.S. 52 would increase raising the risks of accidents. Further multiple residents who lived close to the proposed Hall testified that they were concerned that operation of the Hall would lead to increases in disruptive behavior such as littering on and around their properties.

**2. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood**

The special exception would be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted there. Residents living close-by testified to having been disturbed by noise coming from the property. Noise complaints have been made to local authorities about the property. Many residents living close to the property signed a petition indicating their opposition to the operation of the Assembly Hall. Further multiple residents testified about their concerns that the pub parking lot would not have enough parking for both an assembly hall and the pub. The insufficient parking in the area increases the likelihood that patrons will park illegally, such as on resident's yards or in alleys. Finally, the operation of an assembly hall does not fit with the historic, residential nature of the surrounding properties.

**3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district**

The establishment of the special exception would impede the normal and orderly development and improvement of surrounding property. The special exception relies on an adjacent parcel of property for its parking spaces. It would encumber development and improvement of the adjacent parcel of property as much of it would have to be maintained as a parking lot to service the Assembly Hall.

**4. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided**

Necessary facilities have not been, and will not be provided because adequate parking has not been and will not be provided for the proposed special exception. Petitioner has not provided the minimum off street parking spots required under Zoning Ord. 1.05 B(H). Petitioner only identified a maximum of four available parking spots on the Assembly Hall parcel. Although Petitioner attempted to provide additional parking on adjoining property where a restaurant is located, the use of adjoining lots to meet the ordinance's minimum parking requirement is prohibited by Zoning Ord. 1.05 B(H)(2)(g). Further, even if it were allowed, the pub's parking lot does not have enough spaces to service both the assembly hall and the pub. Multiple individuals testified that the pub's parking lot is frequently full without any events occurring at the Assembly Hall.

Adequate utilities, access roads, and drainage have been provided for the facility.

**5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets**

Adequate measures have been, or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

The findings of fact contained herein are adopted by the Town of New Palestine Board of Zoning Appeals on June \_\_\_, 2021

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Chairperson

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Secretary