



# Plattsburgh, New York

Zoning Board of Appeals  
City Hall  
Plattsburgh, New York 12901  
518-563-7707

USE  
CLASS A VARIANCE

X AREA  
CLASS B VARIANCE

SUP  
SPECIAL USE PERMIT

Date: 12/23/2020

Appeal No.: 2261

An application is hereby made to the Zoning Board of Appeals pursuant to the City of Plattsburgh Zoning Ordinance for a variance to allow the property use as herein described.

Applicant: TW Way, LLC

Applicants Address: 69 Fort Browb Drive Unit 2  
Plattsburgh, NY 12903

Telephone Number: (518) 572 - 3509

Parcel Identification: 207.17-5-1

Location of request: 9 Healey Ave

Property Owner: TW Way. LLC

Request Description: Proposed Subdivision of Existing Multi Family Complex  
See attached letter

Zoning District: R2

Section Appealed: - Section 360-18 Number of buildings and dwellings units restricted

Previous Appeal: No. \_\_\_\_\_ Date: \_\_\_\_\_

Identify applicants the right to apply for variance:

Ownership: X Long term lease: \_\_\_\_\_ Contract to purchase: \_\_\_\_\_

Other (Please explain): \_\_\_\_\_

Applications for zoning variances must be accompanied by:

- 11 copies of existing and proposed site plan.
- 11 copies of existing and proposed floor plan

The ZBA may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Kenneth Mousseau  
OWNER/APPLICANT

[Signature]  
NOTARY PUBLIC

JOCELYN P. BOMBARD  
Notary Public, State of New York  
#01B05072115  
Qualified in Clinton County  
My Comm. Expires 01-21-23

AFFIDAVIT

TO BE COMPLETED BY OWNER OF TITLE OF THE FOLLOWING PROPERTY:

Property Address: 9 Healey Avenue

City of Plattsburgh, Clinton County, New York

Tax Map Parcel(s): 207.17-5-1 Zoning District(s): R-2

Application: [X] Subdivision [ ] Site Plan [ ] Special Use Permit [ ] Use Variance [ ] Area Variance

In The State of New York, County of Clinton:

That TW Way LLC, the undersigned, being duly sworn deposes and says:

1. That he/she resides at 69 Fort Brown Drive Unit 2 Plattsburgh in the county of Clinton and the State of New York. That he/she is the owner of the within Property Address as described hereinabove and referenced in the foregoing application for Subdivision approval(s) and that the statements contained therein are true to the best of his/her knowledge and belief.

2. That we hereby authorize Robert M Sutherland, P.C. to act as our representative in all matters regarding the application that may come before the City of Plattsburgh Planning Zoning Board.

3. That he/she has the legal right to make or authorize the making of said application.

4. That he/she understands that the City of Plattsburgh Planning / Zoning Board intends to rely on the foregoing representation in making a determination to issue the requested applications and approvals and that under penalty of perjury he/she declares that he/she has examined this affidavit and that it is true and correct.

5. In the matter of pending application before the City Planning / Zoning Board for a Subdivision, the owner swears that the proposed use will be constructed and operated in accordance with the standards and qualifications hereinafter set forth in the Zoning Code of the City of Plattsburgh; except as set forth in the pending variance application.

6. The undersigned, owner of the subject premises, further certify that the proposed use is not restricted or otherwise prohibited by or from covenants, agreements or other restrictions running with the subject lands. (initial)

7. That he/she understands that the approval or disapproval of this subdivision / site plan/ special use permit by the Planning Board does not constitute express or implied support for any required expansion of any special (highway, sewer, water, fire or other) district.

Kenneth Mousseau
Owner Signature

Owner Signature

Sworn to before me this 19th day of February, 2021

Notary Public Signature

JOCELYN P. BOMBARD
Notary Public, State of New York
#01B05072115
Qualified in Clinton County
My Comm. Expires 01-24-23

February 19, 2021

City of Plattsburgh Zoning Board  
City of Plattsburgh  
41 City Hall Place  
Plattsburgh, NY 12901

RE: Terrace West Apartments  
Proposed Subdivision 2021

Dear Members of the Zoning Board:

TW Way, LLC also known as Tax Map Parcel 207.17-5-1 is looking to subdivide its property located on the east side of Healey Avenue. The current property is fully developed with 12, 8-plex buildings for a total of 96 dwelling units with related access drives and parking. The proposed subdivision would split the development in half, resulting in two 48 dwelling unit parcels. Although the subdivision would create two separate tax parcels, the two lots would be bound together by a reciprocal easement agreement, allowing the development to continue to operate as it has for over 40 years. This easement agreement would allow for common ingress and egress over the existing access drives, shared maneuverability within the parking area, and utilities.

With the original development of the property predating the City Zoning Ordinance for bulk controls, there is no existing Planned Unit Development, or variance, that has been issued for the parcel in question. The proposed subdivision would alter the lot area of this development and would require a variance in order to move forward.

Although the development meets most of the bulk area requirements for the R-2

Zone, a variance for more than one principal structure per lot and more than 24 dwelling units per lot would be required for each of the two lots. The front yard setback along Healey Avenue which is less than the current zoning requires, would be “pre-existing” non-conforming dimension that is not being altered by this application. Similarly, with the development sharing a driveway access, there would be no variance required for paving within 3 feet of the property line, no requirement to screen between the two parking lots.

With regards to the State guideline for granting an area variance, we offer the following;

*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 use variance.*

The project is already fully developed with no new construction proposed that would alter the character of the neighborhood.

*Whether the benefit sought by the Applicant can be achieved by some method; feasible for the Applicant to pursue, other than an area variance;*

As the development predated the zoning ordinance, any modification to the parcel would trigger the need for a variance.

*Whether the requested use variance is substantial;*

With the project meeting all the bulk area requirements for the R-2 Zone except for the pre-existing front yard along Healey Avenue, and the variance only being for multiple structures on a single lot, and more than 24 units per lot, the subdivision will not create any more development than currently exists. To the average person, the subdivision will not change any part of the existing development, therefore not being substantial or creating any chance over existing conditions.

*Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;*

With the site being fully developed, the subdivision will not result in an adverse impact on the physical or environmental condition in the neighborhood.

*Whether the alleged difficulty was self-created;*

The alleged difficulty is self-created as the Applicant wishes to subdivide an existing property. Furthermore, Section 267-b(3)(b)(5) provides that a "self-created hardship" would not preclude the Zoning Board of Appeals from granting these variances.

We hope this addresses all of your concerns and ask that the project be placed on the agenda of the March Zoning Board of Appeals meeting for consideration. To assist in your review, we have enclosed an area Variance Application, a copy of the proposed Subdivision Plan, and a Short Environmental Assessment Form. Thank you for your time in the review of this matter, and if you have any further questions, please feel free to contact our office.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Aaron J. Ovios', is written over a large, light blue oval shape.

Aaron J. Ovios, P.E.

## *Short Environmental Assessment Form*

### *Part 1 - Project Information*


#### Instructions for Completing

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

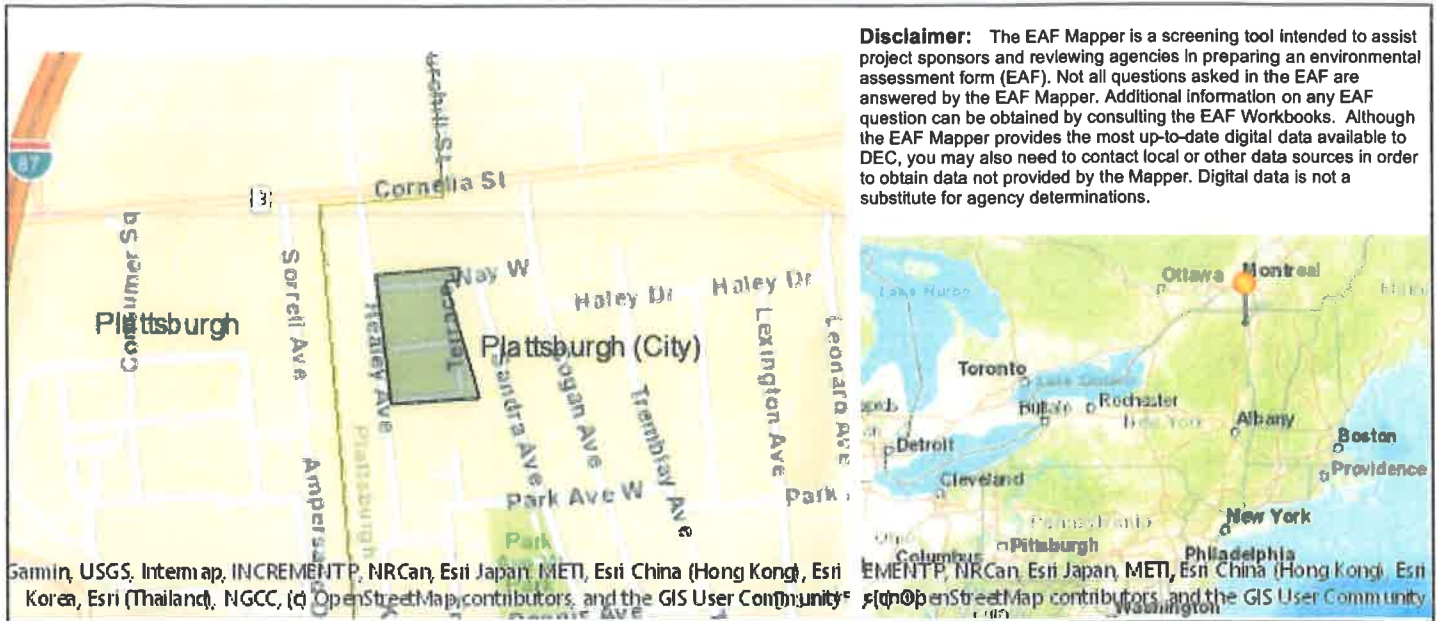
Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>				
Two lot subdivision				
Name of Action or Project: Terrace West Apartment Subdivision 2021				
Project Location (describe, and attach a location map): 9 Healey Avenue, Plattsburgh, NY 12903				
Brief Description of Proposed Action: TW Way LLC, owner of City of Plattsburgh Tax Parcel: 207.17-5-1, Deed Instrument # 2020-311669, would like to subdivide Tax parcel 207.17-5-1 into two parcels. Proposed "Lot 1" being northern part of existing parcel would consist of 146,527.25 sq. ft.(3.36 acres. Proposed "Lot 2" being southern part of existing parcel would consist of 128,661.08 sq. ft.(2.95 acres).				
Name of Applicant or Sponsor: Robert M. Sutherland, P.C.		Telephone: 518-561-6145 E-Mail: RMSPC.COM		
Address: 11 MacDonough Street				
City/PO: Plattsburgh		State: New York	Zip Code: 12901	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: City of Plattsburgh Planning Board, City of Plattsburgh Zoning Board			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		6.31 acres		
b. Total acreage to be physically disturbed?		0.00 acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		6.31 acres		
4. Check all land uses that occur on, are adjoining or near the proposed action:				
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):				
<input type="checkbox"/> Parkland				

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input checked="" type="checkbox"/>	<input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe:		
_____		
_____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?	NO	YES
If Yes, explain the purpose and size of the impoundment: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?	NO	YES
If Yes, describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____		
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor/name: Jeffrey F. Burns of Robert M. Sutherland, P.C.		Date: 2/19/2021
Signature: 		Title: Professional Land Surveyor





**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Map data © OpenStreetMap contributors, and the GIS User Community

Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	No
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	No
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No