

## BOARD OF APPEALS

Regular Session

North Tonawanda, New York 14120

Monday, November 16, 2020

5:56 P.M.

---

THE REGULAR SESSION OF THE BOARD OF APPEALS WAS CALLED TO ORDER  
BY CHAIRMAN BRAUN.

### ROLL CALL

Present: Chairman Braun  
Commissioner Dreier, Haacker, Evans, Lewis

Absent: None

Also Present: City Attorney Luke Brown  
Building Inspector Cosimo Capozzi

---

### APPROVAL OF THE MINUTES OF THE REGULAR SESSION OCTOBER 19, 2020

MOVED by Commissioner Lewis SECONDED by Commissioner Evans  
That the minutes of the regular session held October 19, 2020 be approved as circulated and  
filed in the office of the City Clerk-Treasurer.

Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
Nays: None (0)  
CARRIED.

---

### PROOF OF PUBLICATION PUBLISHED OCTOBER 10, 2020

MOVED by Commissioner Dreier SECONDED by Commissioner Haacker  
That the proof of publication presented by the Clerk of the Board of Appeals of the notice  
of a public hearing of the various appeals filed with and to be presented at the regular  
session of the Board of Appeals, which was published October 10, 2020 be received and  
filed.

Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
Nays: None (0)  
CARRIED.

---

### OLD BUSINESS

#1.  
AREA VARIANCE TO INSTALL A 3'11" WIDE X 13'6" HIGH POLE SIGN LESS THAN  
THE REQUIRED FRONT SET BACK AND HAVING THE LOWEST POINT OF THE  
SIGN LESS THAN 8' FROM FINISH GRADE. [§103-9A 12 (c) POLE SIGN NOT TO BE  
LESS THAN 8' FROM FINISH GRADE.] [§102-15A (5) (a) SIGNS NOT PERMITTED  
TO BE LESS THAN THE 25' REQUIRED FRONT SET BACK FROM M&T BANK].

M&T Bank - Re: Area Variance to install a 3'11"  
943 Payne Avenue wide by 13'6" high pole sign  
North Tonawanda, NY 14120 located at 943 Payne Avenue

Chris McCaffrey  
Ulrich Signs  
177 Oakhurst Street  
Lockport, NY 14094

At this time the Chairman asked if anyone wanted to speak for or against the requested  
variance.

There were no speakers for or against the requested area variance.

---

MOVED by Commissioner Haacker SECONDED by Commissioner Evans  
That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 943 Payne Avenue and will notify other agencies involved. The Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR, with a change to #1 to No, #5a to No and #5b to No.

Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
Nays: None (0)  
CARRIED

MOVED by Commissioner Lewis SECONDED by Commissioner Haacker  
That the Zoning Board of Appeals approves the Area Variance request from M&T Bank to install a 3'11" wide by 13'6" high pole sign located at 943 Payne Avenue; sign must be 5 feet from the side walk. The request will not change the character of the neighborhood, there was not an alternate solution, the request was not substantial, the request will not have an adverse effect on the physical or environmental conditions of the neighborhood and the alleged difficulty was not self-created.

Ayes: Commissioner Dreier, Evans, Haacker, Lewis, Braun (5)  
Nays: None (0)  
CARRIED

#### NEW BUSINESS

#1.

AREA VARIANCE ERECT 4' PICKET STYLE FENCE IN FRONT YARD.  
[§103-15B (4)(b) FENCES CANNOT EXCEED FOUR (4) FEET WHERE LOCATED IN FRONT OF THE PRINCIPAL BUILDING AND IN EXCESS OF 15 FEET FROM THE FRONT PROPERTY LINE AND NO MORE THAN 3 FEET WHERE LOCATED WITHIN 15 FEET OF THE FRONT PROPERTY LINE. ANY FENCE CONSTRUCTED IN THE FRONT YARD MUST BE LESS THAN 50% SOLID WITH NO LESS THAN 2 ¼ INCHES OF SPACE BETWEEN EACH PICKET OR, UPON THE APPROVAL OF THE BOARD OF APPEALS, SUBJECT TO CONFORMANCE WITH THE CORNER VISIBILITY PROVISIONS ESTABLISHED UNDER THIS SECTION].

Vincent J. Kalota - Re: Area Variance to erect a 4'  
139 Eleventh Avenue picket style fence in front yard  
North Tonawanda, NY 14120 located at 139 11<sup>th</sup> Avenue

At this time the Chairman asked if anyone wanted to speak for or against the requested variance.

There were no speakers for or against the requested area variance.

MOVED by Commissioner Haacker SECONDED by Commissioner Dreier  
That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 139 11<sup>th</sup> Avenue and will notify other agencies involved. The Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR, with a change to #2 to Yes, #5a to No, #5b to No and #9 to No.

Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
Nays: None (0)  
CARRIED

MOVED by Commissioner Lewis SECONDED by Commissioner Dreier  
That the Zoning Board of Appeals hereby tables the aforementioned request till the December meeting for applicant to submit a different fence design to the board.

Ayes: Commissioner Dreier, Evans, Haacker, Lewis, Braun (5)  
Nays: None (0)  
CARRIED

**#2a.**  
**AREA VARIANCE TO CONVERT AN EXISTING SCHOOL INTO 87 APARTMENTS WITH LESS THAN THE REQUIRED LOT SIZE. [§108 C (1) (b) MINIMUM OF 3,000 SQ. FT. OF LOT PER DWELLING UNIT REQUIRED].**

Rochester Cornerstone Group, Inc. - Re: Area Variance to convert an existing school into 87 apartments located at 621 Payne Avenue  
 460 White Spruce Blvd.  
 Rochester, NY 14623

At this time the Chairman asked if anyone wanted to speak for or against the requested variance.

There were no speakers for or against the requested area variance.

---

**MOVED by Commissioner Haacker**      **SECONDED by Commissioner Lewis**  
 That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 621 Payne Avenue and will notify other agencies involved. The Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR, with a change to #5a to No.  
 Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
 Nays: None (0)  
**CARRIED**

---

**#2b.**  
**USE VARIANCE FOR APPROVAL TO USE AN EXISTING THEATER IN AN R-2 ZONING DISTRICT. [§103-8 GENERAL RESIDENTIAL DISTRICT DOES NOT PERMIT THE USE OF THEATERS IN AN R-2 ZONING DISTRICT – SAID USE FIRST PERMITTED IN §103-11 C-2 GENERAL COMMERCIAL ZONING DISTRICT].**

Rochester Cornerstone Group, Inc. - Re: Area Variance to use an existing theater in an R2 zoning district located at 621 Payne Avenue  
 460 White Spruce Blvd.  
 Rochester, NY 14623

At this time the Chairman asked if anyone wanted to speak for or against the requested variance.

There were no speakers for or against the requested area variance.

---

**MOVED by Commissioner Lewis**      **SECONDED by Commissioner Evans**  
 That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 621 Payne Avenue and will notify other agencies involved. The Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR, with a change to #5a to No.  
 Ayes: Commissioner Dreier, Haacker, Evans, Lewis, Braun (5)  
 Nays: None (0)  
**CARRIED**

---

**MOVED by Commissioner Haacker**      **SECONDED by Commissioner Dreier**  
 That the Zoning Board of Appeals approves the Area Variance request from Rochester Cornerstone Group, Inc., to convert and existing school into 87 apartments and use an existing theater in an R2 zoning district located at 621 Payne Avenue. The request will not change the character of the neighborhood, there was not an alternate solution, the request was not substantial, the request will not have an adverse effect on the physical or environmental conditions of the neighborhood and the alleged difficulty was not self-created.

Ayes: Commissioner Dreier, Evans, Haacker, Lewis, Braun (5)  
 Nays: None (0)  
**CARRIED**

---

**ADJOURNMENT**

**MOVED** by Commissioner Haacker      **SECONDED** by Commissioner Dreier  
That the meeting of the Zoning Board of Appeals be adjourned.  
**CARRIED.**

---

**Time Adjourned: 6:35 P.M.**  
**Next Regular Meeting: December 14, 2020 at 6:00 P.M.**

Respectfully submitted,



**Donna L. Braun**  
**City Clerk-Treasurer**