

BOARD OF APPEALS

Regular Session

North Tonawanda, New York 14120

Monday, September 16, 2024

6:00 P.M.

THE REGULAR SESSION OF THE BOARD OF APPEALS WAS CALLED TO ORDER BY COMMISSIONER SMOLINSKI.

ROLL CALL

**Present: Chairman Smolinski
Commissioner Haacker, Kuebler, Wistner, Guagliardo**

Absent: None

**Also Present: Asst. City Attorney Mario Gregori
Building Inspector Robert C. DePaolo**

APPROVAL OF THE MINUTES OF THE REGULAR SESSION AUGUST 12, 2024

**MOVED by Commissioner Kuebler SECONDED by Commissioner Wistner
That the minutes of the regular session held August 12, 2024, be approved as circulated and filed in the office of the City Clerk-Treasurer.**

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

PROOF OF PUBLICATION PUBLISHED AUGUST 3, 2024

**MOVED by Commissioner Kuebler 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 August 3, 2024, be received and filed.**

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

NEW BUSINESS

#1.

USE VARIANCE TO PERMIT OUTPATIENT VETERINARY CARE IN A FORMER HEALTH CARE TENANT SPACE IN AN R-C ZONE. SMALL ANIMAL HOSPITALS FIRST PERMITTED IN A C-2 ZONE. [§103.11-A (2)(m) SMALL ANIMAL HOSPITALS, KENNELS].

**Robert Albert
525 Wheatfield Street LLC
601 Division Street
North Tonawanda, NY 14120**

**Re: Use Variance to move an urgent care for
pets into an existing Medical Facility,
located at 1089 Kinkead 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 Kuebler
That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 1089 Kinkead Avenue and will notify other agencies involved. The Zoning Board of Appeals also finds that there will be no significant environmental impact for 1089 Kinkead Avenue and as such declares a Negative Declaration on the SEQR with a change to #5a to No and #5b. to Yes.

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

MOVED by Commissioner Kuebler SECONDED by Commissioner Wistner
That the Zoning Board of Appeals hereby approves the Use Variance to Robert Albert, 601 Division Street for kennels and a small animal hospital, located at 1089 Kinkead Avenue. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone. The applicant's difficulty stems from unique circumstances and not to the general neighborhood conditions. The requested use will not alter the essential character of the neighborhood. The applicant's hardship has not been self-created.

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

#2.

AREA VARIANCE TO ERECT A 1,020 SQ/FT GARAGE ADDITION TO SINGLE DWELLING. [§103-6A (9)(e) PRIVATE GARAGES WITH A LIMIT OF 750 SQUARE FEET IN SIZE AND OF SIMILAR CONSTRUCTION STYLE AS THE SURROUNDING NEIGHBORHOOD].

**Patricia McCarthy
 100 Witmer Road
 North Tonawanda, NY 14120**

Re: Area Variance to erect a 1,020 sq/ft garage addition, located at 100 Witmer Road

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 Kuebler
That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 100 Witmer Road and will notify other agencies involved. The Zoning Board of Appeals also finds that there will be no significant environmental impact for 100 Witmer Road and as such declares a Negative Declaration on the SEQR with a change to #2. to Yes, #5a to No and #5b. to Yes and #14 to Suburban.

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

MOVED by Commissioner Haacker SECONDED by Commissioner Guagliardo
That the Zoning Board of Appeals hereby approves the area variance to Patricia McCarthy to erect a 1020 sq. ft. garage on property located at 100 Witmer Road. The request did not change the character of the neighborhood. The request was not substantial and the request will not have an adverse effect on the physical or environmental conditions of the neighborhood.

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)

Nays: None (0)

CARRIED.

#3.

AREA VARIANCE TO ERECT A 6' SOLID FENCE ALONG EAST (SIDEWALK) AND SOUTH PROPERTY LINES. NT FENCE REGULATION. CORNER LOT FENCING MUST BE SET BACK 15' FROM PROPERTY LINE IF YOUR REAR YARD ADJOINS YOUR NEIGHBORS SIDE YARD.

**Byron Zaharako
849 Park Avenue
North Tonawanda, NY 14120**

Re: Area Variance to erect a 6' solid fence along sidewalk and south property line, located at 849 Park 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 Wistner
That the Zoning Board of Appeals hereby officially designates themselves as lead agency for said SEQR for 849 Park Avenue and will notify other agencies involved. The Zoning Board of Appeals also finds that there will be no significant environmental impact for 849 Park Avenue and as such declares a Negative Declaration on the SEQR with a change to #2. to Yes, #5a to No and #5b. to Yes and #8c. to No.

Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)
Nays: None (0)
CARRIED.

MOVED by Commissioner Haacker SECONDED by Commissioner Guagliardo
That the Zoning Board of Appeals hereby approves the area variance to Byron Zaharako, to erect a 6' solid fence to replace the existing chain link fence, located at 849 Park Avenue. The fence will have to be 3' from sidewalk with a 15' setback and a 45° angle on the southeast corner of lot. The request will not change the character of the neighborhood, the request was not substantial, the request will not have an adverse effect on the physical or environmental conditions of the neighborhood.

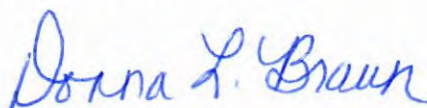
Ayes: Commissioner Haacker, Kuebler, Wistner, Guagliardo, Smolinski (5)
Nays: None (0)
CARRIED.

ADJOURNMENT

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

Time Adjourned: 6:25 P.M.
Next Regular Meeting: October 21, 2024, at 6:00 P.M.

Respectfully submitted,



Donna L. Braun
City Clerk-Treasurer