

**BOARD OF APPEALS**  
**Regular Session**  
**North Tonawanda, New York 14120**  
**Monday, October 17, 2016**  
**6:00 P.M.**

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

**ROLL CALL**

**Present: Chairman Braun**  
**Commissioner Dreier, Evans, Haacker, Lemke**

**Absent: None**

**Also Present: Assistant City Attorney Luke Brown**  
**Building Inspector Cosimo Capozzi**

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**APPROVAL OF THE MINUTES OF MEETING OF SEPTEMBER 19, 2016**

**MOVED by Commissioner Dreier      SECONDED by Commissioner Haacker**  
**That the minutes of the regular session held September 19, 2016 be approved as**  
**circulated and filed in the office of the City Clerk-Treasurer.**

**Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun      (5)**

**Nays: None      (0)**

**CARRIED.**

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**PROOF OF PUBLICATION PUBLISHED SEPTEMBER 10, 2016**

**MOVED by Commissioner Evans      SECONDED by Commissioner Dreier**  
**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 September 10, 2016 be**  
**received and filed.**

**Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun      (5)**

**Nays: None      (0)**

**CARRIED.**

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**OLD BUSINESS**

**#1**

**USE VARIANCE TO EXPAND NON-CONFORMING USE OF A BEAUTY SALON. [§103-8 (A) REQUESTED USE IS NOT A PERMITTED USE UNDER R-2 ZONING DISTRICT.]**

**John Cobernus**  
**3220 Woodland Court**  
**North Tonawanda, NY 14120**

**Re: Use variance to expand non-conforming**  
**use of a Beauty Salon located at 1246**  
**Payne Avenue.**

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

**Sonia Dusza 123 Miller Street – Stated she was in opposition from what she has heard, and the Board did not ask substantial questions.**

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**MOVED** by Commissioner Haacker      **SECONDED** by Commissioner Dreier  
That 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 the exception of a change to #5a & b to No.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

**CARRIED.**

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**MOVED** by Commissioner Dreier      **SECONDED** by Commissioner Haacker  
That the Zoning Board of Appeals grants a use variance to John Cobernus to expand within the existing building located at 1246 Payne 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, and the applicant's hardship has not been self-created.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

**CARRIED.**

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**#2**

**USE VARIANCE TO BE ABLE TO SERVE FOOD AND DRINK OUTSIDE OF BUILDING. [§103-10A (3) (c) NO FOOD OR DRINK SHALL BE DISPENSED TO CUSTOMERS OUTSIDE OF THE BUILDING OR BY CURB SERVICE.]**

Paul Schwandt  
224 DiMatteo Drive  
North Tonawanda, NY 14120

Re: Use variance to be able to serve food  
& drink outside of Canal Club Tap &  
Eatery Located at 62 Webster Street.

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

Sonia Dusza 123 Miller Street – Stated she was in opposition of the aforementioned request.

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**MOVED** by Commissioner Haacker      **SECONDED** by Commissioner Dreier  
That the Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

**CARRIED.**

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**MOVED** by Alderman Braun      **SECONDED** by Alderman Pecoraro  
That the Common Council hereby grants permission to Canal Club 62 for an easement to serve food in front of their business located at 62 Webster Street, to allow people to sit outside and dine, subject to review by the City Attorney

Ayes: Zadzilka, Braun, Pecoraro (3)

Nays: None (0)

Abstained: Schwandt (1)

**CARRIED.**

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**MOVED** by Commissioner Braun      **SECONDED** by Commissioner Drier  
That the Zoning Board of Appeals per the aforementioned motion from the Common Council minutes of August 16, 2016, approves the use variance to Paul Schwandt, 224 DiMatteo Drive, to be able to serve food and drink outside of Canal Club Tap & Eatery located at 62 Webster Street. Applicant must have permission from the SLA and vehicle impact barriers have to be installed in front of area. 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, Lemke, Braun (5)

Nays: None (0)

CARRIED.

NEW BUSINESS

#1

AREA VARIANCE TO ERECT 30' x 90' POLE BARN. REQUESTING 20' FRONT SETBACK, 5' SIDEYARD SETBACK, AND 10' REAR SETBACK. [§ 103-13-D REQUIRED YARDS: (1) FRONT YARD DEPTH SHALL BE 25 FEET. (2) SIDE YARD WIDTH: MINIMUM OF 10 FEET. (3) REAR YARD DEPTH IS A MINIMUM TWENTY-FIVE FEET.]

Todd Brosius  
4759 Bayview Road  
Hamburg, NY 14075

Re: Area Variance to erect 30' x 90' pole barn on property located at 1010 Oliver Street.

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.

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

MOVED by Commissioner Braun      SECONDED by Commissioner Dreier  
That the Zoning Board of Appeals makes no decision on the SEQR and tables the aforementioned request. Applicant will have to go in front of the Planning Board for their recommendation scheduled for November 7, 2016.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

CARRIED.

#2

USE VARIANCE TO INSTALL A 3.0 KW GROUND MOUNTED SOLAR PANAL ARRAY. [§ 103-5 B (2) GROUND MOUNTED SOLAR ARRAYS NOT PERMITTED BY EXCLUSION.]

Solar Liberty Energy Systems  
6500 Sheridan Drive #120  
Buffalo, NY 14221

Re: Use Variance to install a 3.0 KW ground mounted solar panel array on property located at 1377 Weaver Pkwy.

Michael Meritt  
1377 Weaver Pkwy.  
North Tonawanda, NY 14120

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

MOVED by Commissioner Haacker      SECONDED by Commissioner Dreier  
That the Zoning Board of Appeals finds that there will be no significant environmental impact and as such declares a Negative Declaration on the SEQR.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

CARRIED.

**MOVED** by Commissioner Braun      **SECONDED** by Commissioner Haacker  
That the Zoning Board of Appeals denies the use variance to install a 3.0 KW ground  
mounted solar panel array to Michael Meritt, 1377 Weaver Pkwy. The City does not  
allow ground mounted solar arrays and the requested use will alter the essential  
character of the neighborhood. The applicant's hardship is self-created.

Ayes: Commissioner Dreier, Evans, Haacker, Lemke, Braun (5)

Nays: None (0)

**CARRIED.**

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**ADJOURNMENT**

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

**CARRIED.**

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Time Adjourned: 7:50 P.M.

Next Regular Meeting: November 14, 2016, 6:00 P.M.

Respectfully submitted,



Daniel R. Quinn  
City Clerk-Treasurer