

June 8, 2017

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 8th day of June 2017, at 7:00 P.M., and there were

PRESENT: DANIEL BEUTLER, MEMBER
LAWRENCE PIGNATARO, MEMBER
FRANK SWIGONSKI, MEMBER
RICHARD QUINN, CHAIRMAN

ABSENT: JOHN BRUSO, MEMBER
JILL MONACELLI, MEMBER

ALSO PRESENT: DIANE M. TERRANOVA, TOWN CLERK
KEVIN LOFTUS, TOWN ATTORNEY
MATTHEW FISCHIONE, CODE ENFORCEMENT OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF: RANDY ZINK

The 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Randy Zink, 175 Pleasantview Drive, Lancaster, New York, 14086 for one variance for the purpose of erecting a six [6] foot high wood stockade fence in a required front yard area on premises owned by the petitioner at 175 Pleasantview Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster. The petitioner proposes to erect a six [6] foot high fence in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owner of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Randy Zink, Petitioner

Proponent

Tamara Nelson

Questions/Comments

IN THE MATTER OF THE PETITION OF: RANDY ZINK

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Randy Zink and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS ABSENT	
MS. MONACELLI	WAS ABSENT	
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

June 8, 2017

PETITION OF: LINDA BRAINARD

The 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Linda Brainard, 66 Nichter Road, Lancaster, New York for one [1] variance for the purpose of installing a deck to an existing dwelling on the property owned by the petitioner at 66 Nichter Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9C.(3)(b)(1) of the Code of the Town of Lancaster. The location of the proposed deck would result in a side yard setback of two point seven [2.77] feet from the east side property line.

Chapter 50, Zoning, Section 9C(3)(b)(1) of the Code of the Town of Lancaster requires a seven point five [7.5] foot side yard setback. The petitioner, therefore, requests a four point seven three [4.73] foot east side yard variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Linda Brainard, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: LINDA BRAINARD

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. SWIGONSKI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Linda Brainard and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS	ABSENT
MS. MONACELLI	WAS	ABSENT
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

June 8, 2017

PETITION OF: GARY/TAMARA CHAPLES

The 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Gary and Tamara Chaples, 58 Fox Hunt Road, Lancaster, New York 14086 for one variance for the purpose of erecting a six [6] foot high stockade fence in a required front yard area on premises owned by the petitioners at 58 Fox Hunt Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50 Zoning, Section 35C. of the Code of the Town of Lancaster. The petitioners propose to erect a six [6] foot high fence in a required front yard.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard area the three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Gary Chaples, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: GARY AND TAMARA CHAPLES

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. BEUTLER, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gary and Tamara Chaples and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the day of 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS ABSENT	
MS. MONACELLI	WAS ABSENT	
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

June 8, 2017

PETITION OF: BRAD KEATLEY OF O'CONNELL ELECTRIC

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Brad Keatley, O'Connell Electric Company, Inc. located at 20 Lancaster Parkway, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a sign on premises owned by the petitioner, at 20 Lancaster Parkway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster for the purpose of erecting wall signs on the premises containing a total maximum face area of 128 square feet.

Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster limits the total maximum face area of all signs on the premises to 180 square feet. The petitioner, therefore, requests a 48 square foot variance of the total maximum face area of all signs permitted on the premises.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Brad Keatley, Petitioner
O'Connell Electric Company

Proponent

IN THE MATTER OF THE PETITION OF: BRAD KEATLEY OF O'CONNELL ELECTRIC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. SWIGONSKI
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Brad Keatley of O'Connell Electric and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant are the present owners of the premises in question.

WHEREAS, the property for which the applicant are petitioning is within a Light Industrial District, (LI) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premise.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS	ABSENT
MS. MONACELLI	WAS	ABSENT
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

June 8, 2017

PETITION OF: ROBERT AND CHARLOTTE JASKOLKA

The 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Robert and Charlotte Jaskolka, 8 Nicholas Lane, Lancaster, New York 14086, for one [1] variance for the purpose of erecting a deck and sunroom on property owned by the petitioners at 8 Nicholas Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster. The proposed deck and sunroom would result in a twenty six [26] foot rear yard setback.

Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster requires a thirty-five [35] foot rear yard setback. The petitioners, therefore, request a nine [9] foot rear yard setback variance.

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Robert Jaskolka, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: ROBERT AND CHARLOTTE JASKOLKA

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. SWIGONSKI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. BEUTLER
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Robert and Charlotte Jaskolka and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the day of 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby
GRANTED.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS	ABSENT
MS. MONACELLI	WAS	ABSENT
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **ADOPTED.**

June 8, 2017

PETITION OF: ADAM AND ANTONINA McMAHON

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Adam and Antonina McMahon, 30 Tanglewood Drive, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a shed on premises owned by the petitioners at 30 Tanglewood Drive, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The proposed location of shed would result in a four [4] inch side property line set back.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five [5] foot side yard lot line set back. The petitioners, therefore, request a four [4] foot eight [8] inch side yard lot line set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster to permit construction of a shed within one [1] foot eight [8] inches of the primary structure.

Chapter 50, Zoning, Section 10D.(1)(a) of the Code of the Town of Lancaster requires an accessory structure to be located ten [10] feet from any other structure. The petitioners, therefore, request an eight [8] foot four [4] inch variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Adam McMahon, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: ADAM AND ANTONINA McMAHON

THE FOLLOWING RESOLUTION WAS OFFERED
BY CHAIRMAN QUINN, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Adam and Antonina McMahon and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of June 2017, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That a detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self-created.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **CONSIDERED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. BEUTLER	VOTED	YES
MR BRUSO	WAS	ABSENT
MS. MONACELLI	WAS	ABSENT
MR. PIGNATARO	VOTED	YES
MR SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

The resolution granting the variance was thereupon **DENIED**.

PETITION OF M & B FLIX, LLC

The 7th CASE CONSIDERED BY THE ZONING Board of Appeals was tabled at the request of the petitioner until the next Zoning Board of Appeals meeting on July 13, 2017.

ON MOTION DULY MADE, SECONED AND CARRIED, the meeting was adjourned in memory of James Perry at 7:57 P.M.

Signed _____
Diane M. Terranova, Town Clerk and
Clerk, Zoning Board of Appeals