August 13, 2015

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 13th day of August 2015, at 7:00 P.M., and there were

PRESENT:	DANIEL BEUTLER, MEMBER
	JOHN BRUSO, MEMBER
	JILL MONACELLI, MEMBER
	JAMES PERRY, MEMBER
	ARLIE SCHWAN, MEMBER
	RICHARD QUINN, CHAIRMAN
ABSENT:	LAWRENCE PIGNATARO, MEMBER
ALSO PRESENT:	JOHANNA M. COLEMAN, TOWN CLERK
	KEVIN LOFTUS, DEPUTY TOWN ATTORNEY
	SCOTT PEASE, ASST., 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.

THE FOLLOWING RESOLUTION WAS
MADE BY CHAIRMAN QUINN, AND
SECODED BY MR. PERRY TO WIT:

WHEREAS, the New York State Board of Elections has designated Thursday, September 10, 2015 as primary election day for all counties in New York State, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster conducts their regular meetings on the second Thursday of each month, and

WHEREAS, the regularly scheduled meeting in September of 2015 falls on September 10th, and

WHEREAS, the Erie County Board of Elections must use the Lancaster Town Hall as a polling place for the conduct of the primary election, and

WHEREAS, there will not be adequate space to conduct the pending Zoning Board hearings on September 10, 2015.

NOW THEREFORE BE IT RESOLVED, that the regular meeting of the Zoning Board of Appeals be rescheduled to Wednesday, September 9, 2015 at 7 o'clock p.m. local time. and shall take place in the Town Board Chambers of the Lancaster Town Hall located at 21 Central Avenue, Lancaster, New York.

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

PETITION OF: DAVE & MICHELE HOELZL

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the adjourned hearing of Dave & Michelle Hoelzl, 590 Columbia Avenue, Lancaster, New York 14086 for two [2] variances for the purpose of constructing an inground pool and fence on premises owned by the petitioners at 590 Columbia Avenue, Lancaster, New York, to wit:

A. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Columbia Avenue with an exterior side yard (considered a front yard equivalent) fronting on Kennedy Court. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Kennedy Court.

   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 or an exterior side yard (considered a front yard equivalent) to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

B. A variance from the requirements of Chapter 50, Zoning, Section 17A. (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Columbia Avenue with an exterior side yard [considered a front yard equivalent] fronting on Kennedy Court. The location of the pool results in a twenty-five [25] foot east exterior side yard set back on Kennedy Court.

   Chapter 50, Zoning, Section 17A. (3) of the Code of the Town of Lancaster requires a thirty five [35] foot exterior side yard (considered a front yard equivalent) set back on Kennedy Court. The petitioners, therefore, request a ten [10] foot east exterior side yard set back 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.

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

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

PERSONS ADDRESSING THE BOARD

Dave Hoelzl, Petitioner	Proponent
Michele Hoelzl, Petitioner	Proponent

IN THE MATTER OF THE PETITION OF DAVE & MICHELE HOELZL

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Dave & Michele Hoelzl and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of August 2015, 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 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.

WHEAREAS, the Village of Depew has indicted that this project will have no impact upon the village or its residents.

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 substantial, however, not sufficient to cause declination of requested variance.

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.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:**.**

- That landscaping shall be added to the exterior side of the fence along Kennedy Court.

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	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PERRY	VOTED	NO
MR. PIGNATARO	WAS ABSENT	
MR. SCHWAN	VOTED	YES
MR. QUINN	VOTED	YES

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

August 13, 2015

PETITION OF: JAMES & STACY WIND

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of James and Stacy Wind, 1 Rose Street, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 1 Rose Street, 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 premises upon which this variance is sought is a corner lot fronting on Rose Street with an exterior side yard (considered a front yard equivalent) fronting on St. Anthony Street. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on St. Anthony Street.
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> 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 or an exterior side yard (considered a front yard equivalent) to three [3] feet in height. The petitioners, therefore, request 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

James Wind, Petitioner	Proponent

IN THE MATTER OF THE PETITION OF JAMES & STACY WIND

THE FOLLOWING RESOLUTION WAS OFFERED BY MS. MONACELLI, 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 James & Stacy Wind and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of August 2015, 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 duly shut out light or air to adjoining properties.

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

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence shall be five feet inside the sidewalk along St. Anthony Street.

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	VOTED NO
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. QUINN	VOTED YES

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

August 13, 2015

PETITION OF: DENY & ALIESA ADELMAN

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Deny & Aliesa Adelman, 1 Sterling Place, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four foot six inch [4' 6"] high fence in a required open space area on premises owned by the petitioners at 1 Sterling Place, 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 premises upon which this variance is sought is a corner lot fronting to the south on Sterling Place with an exterior side yard (considered a front yard equivalent) fronting to the east on Sterling Place. The petitioners propose to erect a four foot six inch [4' 6"] high fence within the required open space area of the exterior east side yard fronting on Sterling Place.
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> 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 or an exterior side yard (considered a front yard equivalent) to three feet in height. The petitioners, therefore, request a one foot six inch [1' 6"] east side yard 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

Deny Adelman, Petitioner	Proponent
Aliesa Adelman, Petitioner	Proponent
Barb Gomlak	Opponent
Mary Treger	Proponent
Thi Tran	Proponent
Kenneth Berg	Proponent
Dr. Patricia O’Donnell	Proponent
Nicole Paulus	Proponent

IN THE MATTER OF THE PETITION OF DENY & ALIESA ADELMAN

THE FOLLOWING RESOLUTION WAS OFFERED BY MR.QUINN, WHO MOVED ITS ADOPTION, SECONDED BY MR. PERRY, MR. SCHWAN AND MR. BEUTLER TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Deny & Aliesa Adelman and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of August 2015, 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 somewhat 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 such fence will not create a fire hazard by reason of its construction or location.

That this board considered both written and verbal testimony of the neighborhood residents which included the proponents of the variance request as well as that of the opponent of the variance request.

That this board considered the verbal testimony provided by Ms. Treger, a real-estate professional, who opined on the marketability of homes with fences.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence shall be located three feet six inches (3'6") inside the east side property line and that the northeast corner and southeast corner of the fence shall be angled at 45°.

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	VOTED YES
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. QUINN	VOTED YES

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

August 13, 2015

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:55 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: August 13, 2015