

February 21, 2019

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 21st day of February 2019, at 7:00 P.M., and there were

PRESENT:

JOHN MIKOLEY, MEMBER

JILL MONACELLI, MEMBER

TYLER SOJKA, MEMBER

FRANK SWIGONSKI, MEMBER

RICHARD QUINN, CHAIRMAN

ABSENT:

DANIEL BEUTLER, MEMBER

LAWRENCE PIGNATARO, MEMBER

ALSO PRESENT:

DIANE M. TERRNOVA, 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: KASEM MORSHED**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Kasem Morshed, 400 Harris Hill Road, Williamsville, New York 14221 for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 400 Harris Hill Road, Williamsville, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand nine hundred and twenty [1,920] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a one thousand one hundred and seventy [1,170] square foot variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty one [21] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a five [5] foot 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 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**

Kasem Morshed, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: KASEM MORSHED**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kasem Morshed and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of February 2019, 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 2, (R2) 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 substantial but not to the extent necessary to preclude the granting of the area variance relief sought.

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	WAS ABSENT
MR. MIKOLEY	VOTED YES
MS. MONACELLI	VOTED YES
MR. PIGNATARO	WAS ABSENT
MR. SOJKA	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

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

February 21, 2019

**PETITION OF: BRENT GARNER & JEFFREY ROWE**

THE 2<sup>ND</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition Brent Garner and Jeffrey Rowe, Great Lakes Coffee Roasters, Inc., 227 Thorn Avenue, Suite V, Orchard Park, New York 14127 for one [1] variance for the purpose of operating a Retail Business on premises owned by Scott Kolassa, 219 Gilman Road, Churchville, New York at 123 Stutzman Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 22, Subsection B of the Code of the Town of Lancaster. The request is to operate a retail business in a Residential Commercial Office (RCO) District.

Chapter 50, Zoning, Section 22, Subsection B of the Code of the Town of Lancaster does not permit a Retail Business in a Residential Commercial Office (RCO) District, therefore, the petitioners request a use variance use the land in a manner not otherwise permitted by the zoning ordinance.

**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 and New York State Department of Transportation of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Brent Garner, Petitioner	Proponent
Jeffrey Rowe, Petitioner	Proponent
Scott Kolassa, Property Owner	Proponent

**IN THE MATTER OF THE PETITION OF: BRENT GARNER & JEFFREY ROWE**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY CHAIRMAN 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 Brent Garner & Jeffrey Rowe and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of February 2019, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has requested further information from the petitioner.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster, with the concurrence of the petitioner, agrees that an adjournment of this hearing is in the best interest of both the residents of the Town of Lancaster and the petitioner.

**NOW, THEREFORE, BE IT**

**RESOLVED** that this hearing be adjourned to allow for further testimony and evidence to be presented.

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

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

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

February 21, 2019

**PETITION OF: MICHAEL SCHIAPPA/SCHIAPPA WINGS, LLC.**

THE 3<sup>rd</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Schiappa, Schiappa Wings, LLC., 2348 Wehrle Drive, Williamsville, New York for three [3] variances for the purpose of installing signage on two existing poles and on the premises owned by the petitioner at 6635 Transit Road Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster. There are currently two [2] pole signs situated at the premises, the petitioner proposes to replace a sign face on a second pole sign.

Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one [1] pole sign for each individual building in General Business (GB) Zoning. The petitioner, therefore, requests a variance to permit two [2] pole signs.

- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster. The total face area of the pole signs is one hundred and twenty [120] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum face area of a pole sign to sixty-four [64] square feet. The petitioner, therefore, requests a fifty-six [56] square foot variance of the total maximum face area permitted for the pole signs.

- C. 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 signs on the premises containing a total maximum face area of two hundred and sixty-nine [269] 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 one hundred and twenty [120] square feet. The petitioner, therefore, requests a one hundred and forty nine [149] 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.

Copy of a letter notifying the Erie County Department of Environment and Planning, New York State Department of Transportation and the Town of Cheektowaga of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Yost, Representing Sign Company

Proponent

**IN THE MATTER OF THE PETITION OF: MICHAEL SCHIAPPA/SCHIAPPA WINGS, LLC.**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. SOJKA, 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 Michael Schiappa/Schiappa Wings, LLC. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of February 2019, 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 General Business, (GB) 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.

**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	WAS ABSENT
MR. MIKOLEY	VOTED YES
MS. MONACELLI	VOTED YES
MR. PIGNATARO	WAS ABSENT
MR. SOJKA	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

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

February 21, 2019



**IN THE MATTER OF THE PETITION OF: ROBERT OSTEMPOWSKI**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Robert Ostempowski and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of February 2019, 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, (R1) 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.

**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	WAS ABSENT
MR. MIKOLEY	VOTED YES
MS. MONACELLI	VOTED YES
MR. PIGNATARO	WAS ABSENT
MR. SOJKA	VOTED YES
MR. SWIGONSKI	VOTED YES
MR. QUINN	VOTED YES

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

February 21, 2019

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:07 P.M.

Signed \_\_\_\_\_  
Diane M. Terranova, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: February 21, 2019