

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 February 2020, at 7:00 P.M., and there were

PRESENT: CARLO DI RIENZO, MEMBER
JOHN MIKOLEY, MEMBER
JILL MONACELLI, MEMBER
LAWRENCE PIGNATARO, MEMBER
FRANK SWIGONSKI, MEMBER
TYLER SOJKA, CHAIRMAN

ABSENT: RICHARD QUINN, 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: BENDERSON DEVELOPMENT COMPANY, LLC.

The petition of Benderson Development Company LLC, 570 Delaware Avenue, Buffalo, New York 14202 for three [3] variances for the purpose of erecting a sign on premises owned by the applicant at 4733 William Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster to install a sign advertising Rachel’s Mediterranean located at 4931 Transit Road on an existing pole sign at 4733 William Street.

Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster requires no sign shall be used to attract attention to a business not available or located on the premises where the sign is located. The petitioner, therefore, requests a variance to allow offsite advertising to be placed on a parcel.

- 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 pole sign face is sixty [60] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum pole sign face to thirty-two [32] square feet in a GB District with a 170 foot wide lot frontage. The petitioner therefore, requests a forty-eight [48] square foot variance of the total maximum pole sign face.

- 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 a sign with a total sign face of 199.5 square feet.

Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster limits the total maximum sign face in a GB District with an eighty-one [81] foot wide building to 180 square feet. The petitioner, therefore, requests a 19.5 square foot variance of the total sign face area 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 of the time and place of this public hearing.

THE MOTION WAS MADE BY MS. MONACELLI TO SEPARATE THE VARIANCES, SECONDED BY MR. PIGNATARO, AS FOLLOWS:

MR. DI RIENZO	VOTED YES
* MR. MIKOLEY	ABSTAINED
MS. MONACELLI	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	WAS ABSENT
MR. SWIGONSKI	VOTED NO
MR. SOJKA	VOTED YES

MOTION CARRIED. VARIANCES WILL BE DECIDED SEPARATELY.

* Mr. Mikoley has ongoing business dealings with the petitioner.

PETITION OF: BENDERSON DEVELOPMENT COMPANY, LLC.

The petition of Benderson Development Company LLC, 570 Delaware Avenue, Buffalo, New York 14202 for one [1] variances for the purpose of erecting a sign on premises owned by the applicant at 4733 William Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster to install a sign advertising Rachel’s Mediterranean located at 4931 Transit Road on an existing pole sign at 4733 William Street.

Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster requires no sign shall be used to attract attention to a business not available or located on the premises where the sign is located. The petitioner, therefore, requests a variance to allow offsite advertising to be placed on a parcel.

PERSONS ADDRESSING THE BOARD

Matthew Oates, Representing Petitioner
Robert Thill

Proponent
Opponent

IN THE MATTER OF THE PETITION OF: BENDERSON DEVELOPMENT CORPORATION, LLC.

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Benderson Developmet Company, 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 13th day of February 2020, 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. DI RIENZO	VOTED YES
MR. MIKOLEY	ABSTAINED
MS. MONACELLI	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	WAS ABSENT
MR. SWIGONSKI	VOTED YES
MR. SOJKA	VOTED YES

This variance petition is ADJOURNED until March 12, 2020.

PETITION OF: BENDERSON DEVELOPMENT COMPANY, LLC.

The petition of Benderson Development Company LLC, 570 Delaware Avenue, Buffalo, New York 14202 for one [1] variances for the purpose of erecting a sign on premises owned by the applicant at 4733 William Street, Lancaster, New York, to wit:

- 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 pole sign face is sixty [60] square feet.

Chapter 50, Zoning, Section 30F.(2)(c)[3][e] of the Code of the Town of Lancaster limits the total maximum pole sign face to thirty-two [32] square feet in a GB District with a 170 foot wide lot frontage. The petitioner therefore, requests a forty-eight [48] square foot variance of the total maximum pole sign face.

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TO WIT:

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WHEREAS, the applicant is the duly authorized agent of the property.

WHEREAS, the property for which the applicant is petitioning is within a General Business District, (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 not 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. DI RIENZO	VOTED YES
MR. MIKOLEY	ABSTAINED
MS. MONACELLI	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	WAS ABSENT
MR. SWIGONSKI	VOTED YES
MR. SOJKA	VOTED YES

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

PETITION OF: BENDERSON DEVELOPMENT COMPANY, LLC.

The petition of Benderson Development Company LLC, 570 Delaware Avenue, Buffalo, New York 14202 for one [1] variance for the purpose of erecting a sign on premises owned by the applicant at 4733 William Street, Lancaster, New York, to wit:

- 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 a sign with a total sign face of 199.5 square feet.

Chapter 50, Zoning, Section 30F.(2)(a) of the Code of the Town of Lancaster limits the total maximum sign face in a GB District with an eighty-one [81] foot wide building to 180 square feet. The petitioner, therefore, requests a 19.5 square foot variance of the total sign face area permitted on the premises.

PERSONS ADDRESSING THE BOARD

Matthew Oates, Representing Petitioner
Robert Thill

Proponent
Opponent

IN THE MATTER OF THE PETITION OF: BENDERSON DEVELOPMENT CORPORATION, LLC.

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

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WHEREAS, the property for which the applicant is petitioning is within a General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

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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.

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roll call which resulted as follows:

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

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

February 13, 2020

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 8:15 P.M.

Signed _____
Diane M. Terranova, TOWN CLERK and
Clerk to Zoning Board of Appeals
Date: February 13, 2020