

August 13, 2020

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

PRESENT: CARLO DIRIENZO, MEMBER  
JOHN MIKOLEY, MEMBER  
JILL MONACELLI, MEMBER  
\* LAWRENCE PIGNATARO, MEMBER  
RICHARD QUINN, MEMBER  
FRANK SWIGONSKI, MEMBER  
TYLER SOJKA, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: DIANE M. TERRNOVA, TOWN CLERK  
EMILY ORLANDO, DEPUTY TOWN ATTORNEY  
MATTHEW FISCHIONE, CODE ENFORCEMENT OFFICER  
KEVIN LOFTUS, TOWN ATTORNEY

\* Arrived at the meeting at 7:05pm.

**EXECUTIVE SESSION:**

AT 9:35 P.M., UPON A MOTION DULY MADE BY MEMBER QUINN SECONDED BY CHAIRMAN SOJKA, AND CARRIED, the Zoning Board of Appeals entered into Executive Session to deliberate on the announced purpose of discussing pending litigation with Benderson Development Co.

At 9:49 P.M., the Zoning Board of Appeals reconvened with all members present. The Town Clerk reported that the Zoning Board of Appeals has agreed to the terms as negotiated with Benderson Development in Executive Session.

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: SHAUN DIMINO**

THE 1<sup>st</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Shaun Dimino, 95 Center Street, Depew, New York 14043 for three [3] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 211 Pavement Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed pole barn is 1,800 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 1,050 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is twenty-one [21] feet.

Chapter 50, Zoning, Section 9D.(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.

- C. A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the pole barn would result in a ten [10] foot south property line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot lot line set back. The petitioner, therefore, requests a five [5] foot property line set back 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.

**PERSONS ADDRESSING THE BOARD**

Shaun Dimino, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: SHAUN DIMINO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. 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 Shaun Dimino 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 2020, 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, (AR) 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 applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

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**PETITION OF: GREGORY WENER AND LUCINDA KILBURY**

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Gregory Wener and Lucinda Kilbury, 15 Red Clover Lane, Lancaster, New York 14086 for one [1] variance for the purpose of installing a storage shed on premises owned by the petitioners at 15 Red Clover Lane, Lancaster, New York, to wit:

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 storage shed eight [8] feet from an existing in-ground pool.

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 a two [2] foot 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**

Lucinda Kilbury, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: GREGORY WENER & LUCINDA KILBURY**

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 Gregory Wener & Lucinda Kilbury 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 2020, 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, (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 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 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

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**PETITION OF: MICHAEL FERRARACCIO**

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Ferraraccio, 35 Pinegrove Court, Elma, New York 14059, for one [1] variance for the purpose of constructing a garage on premises owned by Caroline Lombardo at 730 Pavement Road, Lancaster, New York; to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the garage will result in a ten [10] foot north yard property line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot property line set back. The petitioner, therefore, requests a five [5] foot north property line set back 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**

Michael Ferraraccio, Petitioner

Proponent

Vincent Lombardo

Proponent



**IN THE MATTER OF THE PETITION OF: MICHAEL FERRARACCIO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. MIKOLEY, 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 Michael Ferraraccio 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 2020, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

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

**WHEREAS**, the property for which the applicant is petitioning is within a Agricultural Residential District, (AR) 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

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**PETITION OF: KRISTA BOJT**

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Krista Bojt, 5730 Broadway, Lancaster, New York 14086 for two [2] variances for the purpose of constructing an addition to an existing, nonconforming pole barn on premises owned by the petitioner at 5730 Broadway, Lancaster, 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 request is for a 480 square foot addition to an existing nonconforming, 1200 square foot pole barn, for a total of 1680 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 and fifty [750] square feet. The petitioner, therefore, requests a 930 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 existing nonconforming structure is nineteen [19] 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 three [3] 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**

Krista Bojt, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: KRISTA BOJT**

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 Krista Bojt 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 2020, 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 Commercial Office District, (RCO) 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

August 13, 2020

**PETITION OF: LANCASTER PEACH, LLC**

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Lancaster Peach, LLC, 570 Delaware Avenue, Buffalo, New York 14202 for one [1] variance for the purpose of installing pole and wall signs on premises owned by the petitioner at 4817 Transit Road, Depew, 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 pole and wall signs on the premises containing a total maximum face area of 564.74 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 240 square feet. The petitioner, therefore, requests a 324.74 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 and the Town of Cheektowaga of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

James Boglioli, Representing Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: LANCASTER PEACH, LLC**

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 Lancaster Peach, 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 August 2020, 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 applicants are petitioning is within a Commercial and Motor Service District, (CMS) 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.

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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

August 13, 2020



**PETITION OF: BRAD REFERMAT**

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Brad Refermat, 2 Squirrel Run, Lancaster, New York 14086 for one variance for the purpose of erecting a fence in a required front yard area on premises owned by the petitioner at 2 Squirrel Run, 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 owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Brad Refermat, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: BRAD REFERMAT**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Brad Refermat 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 2020, 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 applicants are 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 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.

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

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

August 13, 2020

**PETITION OF: DANIEL FREDERICK**

THE 7th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Daniel Frederick, 119 Avian Way, Lancaster, New York 14086 for one variance for the purpose of erecting a privacy fence in a required front yard area on premises owned by the petitioner at 119 Avian Way, 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 owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Daniel Frederick, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: DANIEL FREDERICK**

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 Daniel Frederick 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 2020, 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 applicants are petitioning is within a Agricultural Residential District, (AR) 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 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.

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

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

August 23, 2020

**PETITION OF: CINDY ZAPPO**

THE 8th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Cindy Zappo, 44 Hillside Parkway, Lancaster, New York 14086 for one [1] variance for the purpose of installing a retaining wall and paved area in a public drainage easement on premises owned by the petitioner at 44 Hillside Parkway, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 17A.(5) of the Code of the Town of Lancaster. The petitioner requests the approval to install a retaining wall and paved area in a public drainage easement.

Chapter 50, Zoning, Section 17A.(5) of the Code of the Town of Lancaster prohibits all structures other than fencing within any drainage or access easement. The petitioner, therefore, requests a four [4] foot public drainage easement 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.

**PERSONS ADDRESSING THE BOARD**

Cindy Zappo, Petitioner	Proponent
Robert Labenski, Representing Petitioner	Proponent
Donald D’Amato	Opponent
Russell Fitzgibbon	Comments

**IN THE MATTER OF THE PETITION OF: CINDY ZAPPO**

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 Cindy Zappo 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 2020, 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 applicants are 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 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 applicant can 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.

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 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 the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.



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

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

August 13, 2020

**PETITION OF: ERIC PERCY**

THE 9<sup>th</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Eric Percy, 21 Stutzman Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 21 Stutzman Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 1,152 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 402 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is nineteen [19] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a three [3] 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.

**PERSONS ADDRESSING THE BOARD**

Eric Percy, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: ERIC PERCY**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. MIKOLEY, 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 Eric Percy 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 2020, 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 applicants are petitioning is within a Agricultural Residential District, (AR) 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 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**-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:

Detailed plans for the following must be presented to the Code Enforcement Officer:

- Plans for the mezzanine
- Sewer treatment plan
- Siding plans
- Updated construction plans

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

MR. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

August 13, 2020

**PETITION OF: DONALD D'AMATO**

THE 10th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Donald D'Amato, 43 Greenmeadow Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting an eight [8] foot high fence in the rear yard on premises owned by the petitioner at 43 Greenmeadow Drive, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35A. of the Code of the Town of Lancaster. The height of the proposed fence is eight [8] feet.

Chapter 50, Zoning, Section 35A of the Code of the Town of Lancaster limits the maximum height of a fence in a residential district rear or side yard to six [6] feet in height. The petitioner, therefore, requests a two [2] 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 owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Donald D'Amato, Petitioner

Proponent

Russell Fitzgibbon

Proponent

**IN THE MATTER OF THE PETITION OF: DONALD D'AMATO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MS. MONACELLI, 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 Donald D'Amato 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 2020, 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 applicants are 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 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.

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

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

August 13, 2020

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting  
was adjourned at 9:50 P.M.

Signed \_\_\_\_\_  
Diane M. Terranova, TOWN CLERK and  
Clerk to Zoning Board of Appeals  
Date: August 13, 2020