

April 13, 2023

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 April 2023, at 7:00 P.M., and there were

PRESENT:           TONY CASTELLANA MEMBER  
                          MICHAEL HAEN, MEMBER  
                          JILL MONACELLI, MEMBER  
                          KEITH STOERR, MEMBER  
                          MELISSA STUDLEY, MEMBER  
                          MARK TILLMANNS, MEMBER  
                          JOHN MIKOLEY, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    DIANE M. TERRNOVA, TOWN CLERK  
                          EMILY ORLANDO, DEPUTY 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.

**EXECUTIVE SESSION:**

AT 7:03 P.M., UPON A MOTION DULY MADE BY CHAIRMAN MIKOLEY, SECONDED BY MEMBER MONACELLI, the Zoning Board of Appeals entered into Executive Session to deliberate on the announced purpose of conferring with legal counsel.

The question of entering into Executive Session was duly put to a vote, which resulted as follows:

ALL IN FAVOR, MOTION CARRIED.

At 7:05 P.M., the Zoning Board of Appeals reconvened with all members present. The Chairman reported that no official actions were taken by the Board in Executive Session.

The question of closing the Executive Session was duly put to a vote, which resulted as follows:

ALL IN FAVOR, MOTION CARRIED.

April 13, 2023

**PETITION OF: GARY MACHNIAK**

THE 1<sup>st</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was the petition of Gary Machniak, 21 Pavement Road, Lancaster, New York 14086 for one [1] variance for the purpose of amending an approved site plan on premises owned by the petitioner at 21 Pavement Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 17, Subsection C, Schedule B of the Code of the Town of Lancaster. The request calls for a five [5] feet, one quarter [1/4] inch side yard setback from the north property line.

Chapter 400, Zoning, Section 17, Subsection C, Schedule B of the Code of the Town of Lancaster requires a minimum side and rear yard for parking, loading and stacking areas abutting a residential district. The petitioner, therefore, request a nineteen [19] foot, eleven and three quarters [11 3/4] inch 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**

Gary Machniak, Petitioner

Proponent

Steve Bice

Opponent

**IN THE MATTER OF THE PETITION OF: GARY MACHNIAK**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Gary Machniak 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 April 2023, 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 Light Commercial District, (LC) 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. CASTELLANA	VOTED	YES
MR. HAEN	VOTED	YES
MS. MONACELLI	VOTED	NO
MR. STOERR	VOTED	YES
MS. STUDLEY	VOTED	YES
MR. TILLMANNNS	VOTED	NO
MR. MIKOLEY	VOTED	NO

April 13, 2023

**PETITION OF: BRYCE BLAIR**

THE 2<sup>nd</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was the petition of Bryce Blair, 6518 Broadway Street, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a shed in a rear yard on premises owned by the petitioner at 6518 Broadway Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 400, Zoning, Section 17, Subsection C of the Code of the Town of Lancaster. The request calls for constructing a twelve by fourteen foot shed in a rear yard, five [5] feet from the rear lot line abutting a Residential District.

Chapter 400, Zoning, Section 17, Subsection C of the Code of the Town of Lancaster requires a minimum side and rear yard for structures abutting a Residential District of fifty [50] feet. The petitioner, therefore, requests a forty-five [45] foot variance.

- B. A variance from the requirements of Chapter 400, Zoning, Section 17, Subsection C of the Code of the Town of Lancaster. The request calls for constructing a twelve by fourteen foot shed in a rear yard, five [5] feet from the side property line abutting a Nonresidential District.

Chapter 400, Zoning, Section 17, Subsection C of the Code of the Town of Lancaster requires a minimum side and rear yard for structures abutting a Nonresidential District of twenty-five [25] feet. The petitioner, therefore, requests a twenty [20] foot 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, New York State Department of Transportation and Town of Alden of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Bryce Blair, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: BRYCE BLAIR**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Bryce Blair 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 April 2023, 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 Light Commercial District, (LC) 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. CASTELLANA	VOTED	YES
MR. HAEN	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. STOERR	VOTED	YES
MS. STUDLEY	VOTED	YES
MR. TILLMANNNS	VOTED	YES
MR. MIKOLEY	VOTED	YES

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**PETITION OF: LUKE FISHER**

THE 3<sup>rd</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was the petition of Luke Fisher, 555 Pleasant View Drive, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 555 Pleasant View Drive, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for constructing an eighteen hundred [1,800] square foot pole barn.

Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster requires the maximum accessory structure of seven hundred fifty [750] square feet. The petitioner, therefore, requests a one thousand fifty [1,050] foot variance.

- B. A variance from the requirements of Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for constructing a twenty [20] foot, four [4] inch tall pole barn.

Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster requires the maximum building height of an accessory structure of sixteen [16] feet. The petitioner, therefore, requests a four [4] foot, four [4] inch 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**

Luke Fisher, Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: LUKE FISHER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. CASTELLANA 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 Luke Fisher 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 April 2023, 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, (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 not self-created and 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 400 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 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:

- The pole barn will be considered an accessory structure to a single-family residence.

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

MR. CASTELLANA	VOTED	YES
MR. HAEN	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. STOERR	VOTED	YES
MS. STUDLEY	VOTED	YES
MR. TILLMANNNS	VOTED	YES
MR. MIKOLEY	VOTED	YES

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**PETITION OF: JASON KWIATKOWSKI**

THE 4<sup>th</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was the petition Jason Kwiatkowski, 33 Summit Street, Lancaster, New York 14086 for one [1] variance for the purpose of installing a front porch deck on premises owned by the petitioner at 33 Summit Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 36, Subsection C (2) of the Code of the Town of Lancaster. The request calls for installing a front porch deck, twenty-five [25] feet, one and a half [1.5] inches from the front property line.

Chapter 400, Zoning, Section 36, Subsection C (2) of the Code of the Town of Lancaster requires that an open porch or entranceway not project more than eight [8] feet into a required front yard. The petitioner, therefore, requests a one [1] foot, ten and a half [10.5] inch 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**

Jason Kwiatkowski, Petitioner

Proponent

Mandi Johnson-Fisher

Questions

**IN THE MATTER OF THE PETITION OF: JASON KWIATKOWSKI**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jason Kwiatkowski 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 April 2023, 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, (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 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. CASTELLANA	VOTED	YES
MR. HAEN	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. STOERR	VOTED	YES
MS. STUDLEY	VOTED	YES
MR. TILLMANNNS	VOTED	YES
MR. MIKOLEY	VOTED	YES

April 13, 2023

**PETITION OF: KYLE BANASIK ON BEHALF OF AUTOPIA**

THE 5<sup>th</sup> CASE CONSIDERED BY THE ZONING Board of Appeals was the petition of Kyle Banasik, Autopia, LLC, 5520 William Street, Lancaster, New York 14086 for one [1] variance for the purpose of the proposed construction of a commercial building on premises owned by the petitioner at 6218 Broadway Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 17, Subsection C, Schedule B of the Code of the Town of Lancaster. The request calls for constructing an eight thousand [8,000] square foot commercial building, twenty-five [25] feet from a side yard abutting a Residential District.

Chapter 400, Zoning, Section 17, Subsection C, Schedule B of the Code of the Town of Lancaster requires a minimum side and rear yard for structures abutting a Residential District of fifty [50] feet. The petitioner, therefore, requests a twenty-five [25] foot 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 and New York State Department of Transportation of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Christopher Saeli, Representing Petitioner

Proponent

**IN THE MATTER OF THE PETITION OF: KYLE BANASIK ON BEHALF OF AUTOPIA**

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

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kyle Kwiatkowski 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 April 2023, 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 an Agriculture Residential District, (AR) as shown on the Zoning Map of the Town of Lancaster and rezoning to Light Commercial District (LC).

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and no recommendations were 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. CASTELLANA	VOTED	YES
MR. HAEN	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. STOERR	VOTED	YES
MS. STUDLEY	VOTED	YES
MR. TILLMANNNS	VOTED	YES
MR. MIKOLEY	VOTED	YES

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

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:18 P.M.

Signed \_\_\_\_\_  
Diane M. Terranova, TOWN CLERK and  
Clerk to Zoning Board of Appeals  
April 13, 2023