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 8th day of October at 8:00 P.M., and there were

PRESENT: MARK AQUINO, MEMBER
JAMES PERRY, MEMBER
LAWRENCE PIGNATARO, MEMBER
RICHARD QUINN, MEMBER
ARLIE SCHWAN, MEMBER
ROBERT THILL, MEMBER

ABSENT: JEFFREY LEHRBACH, CHAIRMAN

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
JEFFREY SIMME, CODE ENFORCEMENT OFFICER
NICHOLAS LOCICERO, TOWN PROSECUTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

In the absence of Chairman Lehrbach, the Town Clerk asked for a motion to appoint a temporary Chairman. A motion to appoint Mr. Quinn temporary Chairman was made by Mr. Thill and seconded by Mr. Pignataro.

The motion was duly put to a vote as follows:

MR. AQUINO VOTED YES
MR. PERRY VOTED YES
MR. PIGNATARO VOTED YES
MR. QUINN VOTED YES
MR. SCHWAN VOTED YES
MR. THILL VOTED YES
MR. LEHRBACH WAS ABSENT

Motion Carried
PETITION OF ROSS & ROSEMARIE CONTELLA

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Ross and RoseMarie Contella, 41 Creekwood Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioners at 41 Creekwood Drive, Lancaster, New York, to wit:

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

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicants with exhibits and schedules attached thereto.

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

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

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

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

PERSONS ADDRESSING THE BOARD

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<tr>
<th>Name</th>
<th>Role</th>
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<tr>
<td>Ross Contella</td>
<td>Proponent</td>
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<td>Paul Gburek</td>
<td>Opponent</td>
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<td>Brian Coffey</td>
<td>Opponent</td>
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IN THE MATTER OF THE PETITION OF ROSS & ROSEMARIE CONTELLA

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Ross and Rose Marie Contella and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of October 2009, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has not commented.

WHEREAS, the Village of Lancaster has received a full copy of the proposed zoning action and has not commented.

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 the granting of the area variance will have a negative effect on the vistas of the neighborhood.

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 can be achieved by some other method, feasible for the applicants to pursue; namely positioning the fence thirty-five [35] feet inside the property line along Village View.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse impact on the physical conditions in the neighborhood.

That the alleged difficulty is self created 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 there is only one corner lot in this neighborhood with a six [6] foot fence of this type which is located at 1 Park Walk.

That three immediate neighbors have written letters of opposition regarding the variance request and two neighbors spoke in opposition to the variance request.

After the adoption of the aforementioned findings and before the Roll Call vote, the petitioner withdrew his request for a variance.
PETITION OF BRIAN A. DERMON:  

THE 2ND CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Brian A. Dermont, 685 Ransom Road, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 1,280 square foot garage on premises owned by the petitioner at 685 Ransom Road, Lancaster, New York, to wit:

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 1,280 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 530 square foot accessory use area 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

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<tr>
<th>Name</th>
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<tr>
<td>Brian Dermont</td>
<td>Proponent</td>
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<td>Antoinette Tamrowski</td>
<td>Questions</td>
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<tr>
<td>Ron Jozwiak</td>
<td>Questions/Concerns</td>
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IN THE MATTER OF THE PETITION OF BRIAN DERMONT

THE FOLLOWING MOTION WAS OFFERED BY MR. THILL, 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 Brian Dermont and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of October 2009, 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 as well as input from the Town Building Inspector and Town Engineer related to drainage and the septic system.

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 motion was duly put to a vote on roll call which resulted as follows:

MR. AQUINO VOTED YES
MR. PERRY VOTED YES
MR. PIGNATARO VOTED YES
MR. QUINN VOTED YES
MR. SCHWAN VOTED YES
MR. THILL VOTED YES
MR. LEHRBACH WAS ABSENT

This hearing was thereby adjourned to the next regular hearing date of November 12, 2009.

October 8, 2009
PETITION OF BRENT GOODWIN:

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Brent Goodwin, 2 Shadyside Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a five [5] foot high fence in a required open space area on premises owned by the petitioner at 2 Shadyside Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Shadyside Lane with an exterior side yard [considered a front yard equivalent] fronting on Tanglewood Drive. The petitioner proposes to erect a five [5] foot high fence within the required open space area of the exterior side yard fronting on Tanglewood Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The 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

Brent Goodwin, petitioner Proponent
IN THE MATTER OF THE PETITION OF BRENT GOODWIN

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Brent Goodwin and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 8th day of October 2009, 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 are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the 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-subject to the following conditions which in the opinion of this board are
appropriate conditions to minimize adverse effects on the character of the surrounding area and
to safeguard the public health, safety, convenience and general welfare:

• That the fence shall be set back at least fifteen [15] feet inside the sidewalk
  along Tanglewood Drive.
• That the fence shall be a "picket fence" with a maximum height not
  exceeding five [5] feet and may have angles of ninety degrees [90] at each
  corner.
• That any repair or replacement of the fence shall be of like kind.

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

    MR. AQUINO  VOTED YES
    MR. PERRY   VOTED YES
    MR. PIGNATARO VOTED YES
    MR. QUINN   VOTED YES
    MR. SCHWAN  VOTED YES
    MR. THILL   VOTED YES
    MR. LEHRBACH WAS ABSENT

The resolution granting the variance was thereupon ADOPTED.

October 8, 2009
ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:09 P.M.

Signed

Johanna M. Coleman, Town Clerk and Clerk, Zoning Board of Appeals
October 8, 2009