

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 May 2010, at 8:00 P.M., and there were

PRESENT: DARLENE HUMPHREY, MEMBER
 JAMES PERRY, MEMBER
 LAWRENCE PIGNATARO, MEMBER
 RICHARD QUINN, MEMBER
 ARLIE SCHWAN, MEMBER
 ROBERT THILL, MEMBER
 JEFFREY LEHRBACH, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK
 JOHN DUDZIAK, TOWN ATTORNEY
 JEFFREY H. SIMME, CODE ENFORCEMENT OFFICER
 DANIEL SPITZER, ESQ., CONSULTANT

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: ROBERT AND CAROL KERL

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Robert and Carol Kerl, 1 Woodstream Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a fence on property owned by the petitioners at 1 Woodstream 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 Woodstream Drive with an exterior side yard [considered a front yard equivalent] fronting on Rollingwood Drive. The petitioners propose to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Rollingwood 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 petitioners, therefore, requests 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.

PERSONS ADDRESSING THE BOARD

Robert Kerl, Petitioner	Proponent
Carol Kerl, Petitioner	Proponent
Michael Fronczak	Proponent

IN THE MATTER OF THE PETITION OF ROBERT & CAROL KERL

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Robert and Carol Kerl 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 May 2010, 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)

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; the fence is already on the property and will be relocated between the house and the sidewalk.

That no detriment to nearby properties will be created by the granting of 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.

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:

- The fence shall be sixteen [16] feet inside sidewalk along Rollingwood Drive.
- The exterior corners shall be angled.

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

MS. HUMPHREY	VOTED	YES
MR. PERRY	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. QUINN	VOTED	YES
MR. SCHWAN	VOTED	YES
MR. THILL	VOTED	YES
MR. LEHRBACH	VOTED	YES

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

May 13, 2010

THE SECOND CASE CONSIDERED BY THE ZONING Board of Appeals was a **NOTICE OF APPEAL TO THE ZONING BOARD of APPEALS for an interpretation concerning**

the zoning status of the Buffalo-Lancaster Airport, 4343 Walden Avenue, Lancaster, New York. This case was adjourned on March 11, 2010 in order to allow for further testimony and evidence to be considered by the Zoning Board of Appeals.

The petition of the Safe Aviation Coalition of Lancaster [SACL], and its spokespersons, David and Carmen Hangauer, 166 Nichter Road, Lancaster, New York 14086 and Kevin and Deborah Lemaster, 720 Schwartz Road, Lancaster, New York 14086, are calling upon the Zoning Board of Appeals for an interpretation concerning the zoning status of the Buffalo-Lancaster Airport located at 4343 Walden Avenue, Lancaster, New York 14086. Arthur J. Giacalone, Esq., 140 Knox Road, East Aurora, New York 14052 represents the members of [SACL].

The members of SACL contend that pursuant to Chapter 50, Zoning, Section 45.C(1) of the Code of the Town of Lancaster and Section 267-a(4) of New York State Town Law, the Board shall hear and decide appeals where it is alleged that there is an error or misinterpretation in any order, requirement, decision or determination by any administrative official of the Town charged with the enforcement of the provisions of this ordinance or other regulations adopted pursuant to the Town Law. The Board may reverse, modify or affirm, in whole or in part, any such appealed order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as in its opinion ought to be made in strictly applying and interpreting the provisions of this ordinance, and for such purposes shall have all the powers of the officer from whom the appeal is taken.

The petitioner hereby appeals to the Zoning Board of Appeals of the Town of Lancaster for an interpretation of the Zoning status of the Buffalo-Lancaster Airport, pursuant to the authority granted in Chapter 50, Zoning, Section 45.C(1) of the Code of the Town of Lancaster and Section 267-a(4) of New York State Town Law.

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 the subject property of the time and place of this public hearing.

Documents given to the Zoning Board of Appeals Members:

- 3/11/10 Copy of Laurence Boylan letter to ZBA and Jeffrey Simme
- 3/15/10 Unsigned letter dropped off at Town Clerk's office
- 3/17/10 Copy of Town Clerk's letter and information packet sent to ZBA members
- 3/18/10 Letter to ZBA with copy of the minutes of 3/11/10 ZBA meeting
- 3/18/10 Letter to Mr. Giacalone sent with copy of the minutes of 3/11/10 ZBA meeting
- 3/18/10 Copy of article in Lancaster Bee
- 3/29/10 Letter from American Sales Company with their new address
- 3/31/10 Letter from Robert/Angela Lemaster
- 3/31/10 Various emails mailed to ZBA members
- 4/8/10 Airport Special Use file mailed to ZBA members
- 4/16/10 Packet from Mr. Giacalone to ZBA members & Town Clerk
- 4/26/10 Copy of letter to Mr. Giacalone from Town Clerk
- 4/26/10 Copy of letter to neighbors from Town Clerk
- 4/26/10 Copy of letter to ZBA members
- 4/26/10 Legal for the Lancaster Bee
- 5/7/10 Letter from Mr. Thill
- 5/10/10 Fax to Mr. Giacalone
- 5/12/10 Legal in Bee
- 5/13/10 Phillips Lytle, LLP Packet Received

PERSONS ADDRESSING THE BOARD

Arthur Giacalone, Esq., representing SACL spoke to the Zoning Board of Appeals on the Buffalo-Lancaster Zoning matter.

Adam Walters, Esq., representing the Buffalo-Lancaster Airport presented his oral testimony on the matter which he presented to the Zoning Board of Appeals in written form, a copy of which is in the official Town record.

IN THE MATTER OF THE PETITION OF SACL

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, 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 SACL, having heard parties interested who were in attendance regarding said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of SACL and its spokespersons, David and Carmen Hangauer, 166 Nichter Road, Lancaster, New York 14086 and Kevin and Deborah Lemaster, 720 Schwartz Road, Lancaster, New York 14086.

NOW, THEREFORE, BE IT

RESOLVED that the three (3) principal parties, namely the Safe Aviation Coalition of Lancaster [SACL], the Buffalo-Lancaster Airport, and the Zoning Board of Appeals of the Town of Lancaster do hereby agree to the following stipulation:

That the Buffalo-Lancaster Airport will provide a minimum ten (10) days prior notice to Mr. Arthur Giacalone, Esq. on behalf of SACL of any request for Zoning Approval as well as applications for Building Permits, to include but not limited to the following approvals and permits:

- Building Permits
- Site Plans
- Variances
- Zoning Amendments (including text amendments and rezonings)
- Special Use Permits

BE IT FURTHER

RESOLVED that the execution of a stipulation stating the above, this matter closed. The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MS. HUMPHREY	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution was thereupon ADOPTED.

May 13, 2010

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 10:46 P.M.

Signed _____

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

Dated: May 13, 2010