

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 10th day of June 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
 NICHOLAS LOCICERO, DEPUTY TOWN ATTORNEY
 GEORGE PEASE, ASST. CODE ENFORCEMENT OFFICER

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

PETITION OF: RUSSELL SALVATORE LLC

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the amended petition of Russell Salvatore, LLC, 6671 Transit Road, Lancaster, New York 14086, for three [3] variances for the purpose of constructing a retail plaza on property owned by Russell Salvatore, LLC, 6669 Transit Road, Lancaster, New York; to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster. The proposed landscaping is ten [10] feet wide beginning from the exterior lot line along Freeman Road.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a width of twenty-five [25] feet of landscaping along Freeman Road. The petitioner, therefore, requests a fifteen [15] foot wide landscaping variance along Freeman Road.

- B. A variance from the requirements of Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster. The proposed structure will result in a front yard set back from Freeman Road Extension of thirty [30] feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a sixty [60] foot front yard set back from Freeman Road Extension. The petitioner, therefore, requests a thirty [30]foot front yard set back variance.

- C. A variance from the requirements of Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster. The proposed landscaping is ten [10] feet wide beginning from the exterior lot line along Freeman Road Extension.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a width of twenty-five [25] feet of landscaping along Freeman Road Extension. The petitioner, therefore, requests a fifteen [15] foot wide landscaping variance along Freeman Road Extension.

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.

Copy of a letter notifying Amherst Town Clerk of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Daryl Martin, Architect

Proponent

IN THE MATTER OF THE PETITION OF RUSSELL SALVATORE LLC

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 Russell Salvatore 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 10th day of June 2010, 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 General Business District, (GB) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has commented in letters dated March 30, 2010 and May 21, 2010 which are entered into the record.

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. The project will be of a quality that will enhance neighboring establishments.

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; the project sponsor has mitigated any impact to neighboring establishments.

That the requested area variance relief is substantial, however should not preclude the granting of the variance.

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 project will have a positive economic impact upon the community.

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:

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.**

June 10, 2010

PETITION OF: JOHN M. AND MARYANN L. DOSKOCZ

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of John M. and MaryAnn L. Doskocz, 5612 William Street, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a detached garage on premises owned by the petitioners at 5612 William Street, 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 1,200 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 petitioners, therefore, request a 450 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 garage is twenty four [24] 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 petitioners, therefore, request an eight [8] foot 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.

PERSONS ADDRESSING THE BOARD

John Doskosz, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF JOHN M. AND MARYANN L. DOSKOCZ

THE FOLLOWING RESOLUTION 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 John M. and MaryAnn L. Doskocz and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of June 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 an Agricultural Residential District, (A-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 commented that this proposed action is of local concern.

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 applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial, however should not preclude the granting of the requested variance.

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.

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 architecture of the proposed garage shall match that of the existing dwelling, vis `a vis, like siding, roofing and shutters.
- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

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**.

June 10, 2010

PETITION OF: KERRY AND PATTY CHAMBERLIN

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Kerry and Patty Chamberlin, 312 Schwartz Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 30' x 60' pole barn on premises owned by the petitioners at 312 Schwartz Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand eight hundred [1,800] square feet.

Chapter 50, Zoning, Section 9.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioners, therefore, request a one thousand and fifty [1050] square foot variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty-two feet, nine inches [22' 9"].

Chapter 50, Zoning, Section 9.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioners, therefore, request a six foot, nine inch [6' 9"] height variance.

The Clerk presented and entered into evidence the following items:

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

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.

PERSONS ADDRESSING THE BOARD

Kerry Chamberlin, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF KERRY AND PATTY CHAMBERLIN

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kerry and Patty Chamberlin and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 10th day of June 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 an Agricultural Residential District, (A-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 commented that the proposed action is of local concern.

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 can be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought, however this shall not preclude the granting of the requested variance.

That the requested area variance relief is substantial, however it should not preclude the granting of the variance when considering the size of lot.

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.

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 construction of the accessory structure shall conform to that of the residence.
- That no commercial enterprise, other than those permitted in Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

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**.

June 10, 2010

PETITION OF: DENNIS E. RADECKI, JR.

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Dennis E. Radecki, Jr., 27 Red Clover Lane, 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 petitioner at 27 Red Clover 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 Red Clover Lane with an exterior side yard [considered a front yard equivalent] fronting on Chicory Lane. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Red Clover Lane.

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 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

Dennis E. Radecki, Jr., Petitioner

Proponent

IN THE MATTER OF THE PETITION OF DENNIS E. RADECKI, JR.

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. LEHRBACH, 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 Dennis E. Radecki, Jr. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the

10th day of June 2010, 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 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, noting that a five foot fence would not afford the privacy sought by the applicant.

That the petitioner has agreed to a seventeen [17] foot property line set back.

That such fence will not unduly shut out light or air to adjoining properties.

That the height and location of this fence shall not set a precedent.

That this Board notes the cumulative effect of granting such variances can be detrimental to the aesthetics of our subdivisions.

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 located at least seventeen [17] feet north of the south property line.
- That the southeast and southwest corners of the fence shall be angled on six [6] foot panels.

- That the fence shall not exceed six [6] feet above grade.

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**.

June 10, 2010

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:22 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: June 10, 2010

