

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 11th day of April 2019, at 7:00 P.M., and there were

PRESENT: DANIEL BEUTLER, MEMBER
JOHN MIKOLEY, MEMBER
JILL MONACELLI, MEMBER
LAWRENCE PIGNATARO, MEMBER
TYLER SOJKA, MEMBER
FRANK SWIGONSKI, MEMBER
RICHARD QUINN, CHAIRMAN

ABSENT: NONE

ALSO PRESENT: DIANE M. TERRNOVA, TOWN CLERK
KEVIN LOFTUS, 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.

PETITION OF: JASON GONZALES

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of Jason Gonzales, Owl Homes of Fredonia, 3752 East Main Street, Fredonia, New York 14063 for three variances for the purpose of constructing a single family house located on premises owned by Paul and Laura Connolly at 4841 William Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning Section 32 of the Code of the Town of Lancaster. The front yard setback from the centerline of William Street is 84.36 feet.

Chapter 50, Zoning Section 32 of the Code of the Town of Lancaster requires a 90 foot front yard setback from the center line of William Street. The petitioner, therefore, requests a 5.64 foot front yard setback variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed dwelling would result in a side yard setback of 6.55 feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a seven [7] foot side yard setback. The petitioner, therefore, requests a side yard setback variance of 0.45 feet.

- C. A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The total of both side yard setbacks is 13.39 feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a fourteen [14] foot total side yard setback as granted through variance on July 12, 2018. The petitioner, therefore, requests a total side yard setback variance of 0.61 feet.

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

Dominic Bellanti, Petitioner Owner, Owl Homes of Fredonia	Proponent
Jeffrey Reina, Esq., Representing Petitioner	Proponent

IN THE MATTER OF THE PETITION OF JASON GONZALES

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 Jason Gonzales and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of April 2019, 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 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 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. BEUTLER	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI.	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SOJKA	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

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

April 11, 2019

PETITION OF: JASON GONZALES

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of Jason Gonzales, Owl Homes of Fredonia, 3752 East Main Street, Fredonia, New York 14063 for one variance for the purpose of installing a deck on premises owned by Paul and Laura Connolly at 4841 William Street, Lancaster, New York; to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster. The location of the proposed deck on the east side of the house would result in a side yard lot line setback of 2.75 feet.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a seven [7] foot side yard lot line setback per the variance granted on July 12, 2018. The petitioner, therefore, requests a side yard lot line setback variance of 4.25 feet.

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

Dominic Bellanti, Petitioner
Owner, Owl Homes of Fredonia

Proponent

Jeffrey Reina, Esq., Representing Petitioner

Proponent

IN THE MATTER OF THE PETITION OF JASON GONZALES

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jason Gonzales and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of April 2019, 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 and Code Enforcement Officer.

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.

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

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

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

April 11, 2019

PETITION OF: DEREK AND MELISSA FOGARTY

THE 3rd CASE CONSIDERED BY THE ZONING BOARD OF APPEALS was that of Derek and Melissa Fogarty, 656 Pleasantview Drive, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a fence in a required front yard on premises owned by the petitioners at 656 Pleasantview Drive, Lancaster, New York.

The petitioners have withdrawn their application by phone message received in the Town Clerk's Office.

PETITION OF: DAVID SZCZESNY

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of David Szczesny, 28 Quail Hollow, Lancaster, New York 14086 for one [1] variances for the purpose of installing a shed in a public drainage easement on premises owned by the petitioner at 28 Quail Hollow, 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 ten [10] foot by fourteen [14] foot shed 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, six [6] inch 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

David Szczesny, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF DAVID SZCZESNY

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of David Szczesny and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of April 2019, 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, (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 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 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 shed would be removable in the event that the Town of Lancaster or any other entity would have cause to work on the area of the easement.

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

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

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

April 11, 2019

PETITION OF: JAKE NICOMETI AND DEBBIE OVER

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of Jake Nicometi and Debbie Over, 132 Belmont Avenue, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a deck on property owned by Debbie Over at 132 Belmont Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster. The proposed deck would be twenty-eight [28] feet from the rear property line.

Chapter 50, Zoning, Section 10C.(3)(c) of the Code of the Town of Lancaster requires a thirty-five [35] foot rear yard setback. The petitioners, therefore, request a seven [7] foot rear yard setback 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

Jake Nicometi, Petitioner

Proponent

Debbie Over, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF JAKE NICOMETI AND DEBBIE OVER

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jake Nicometi and Debbie Over and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 11th day of April 2019, 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.

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

MR. BEUTLER	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI.	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SOJKA	VOTED	YES
MR. SWIGONSKI	VOTED	NO
MR. QUINN	VOTED	YES

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

April 11, 2019

PETITION OF: 50 FREEMAN ROAD, LLC

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was the tabled petition of 50 Freeman Road, LLC, represented by Sean Hopkins, Esq, 5500 Main Street, Williamsville, New York, for six [6] variances for the purpose of the demolition of an existing building and construction of a four story hotel at 50 Freeman Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster. The height of the proposed building is 50.83 feet.

Chapter 50, Zoning, Section 19C.(5) of the Code of the Town of Lancaster limits the building height to thirty-five [35] feet. The petitioner, therefore, requests a 15.83 foot height variance.

- B. A variance from the requirements of Chapter 50, Zoning Section 19C.(3) of the Code of the Town of Lancaster. The west side parking lot setback is 9.2 feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a ten (10) foot parking lot set back. The petitioner, therefore, requests a 0.8 foot west side parking lot setback variance.

- C. A variance from the requirements of Chapter 50, Zoning Section 19C.(3) of the Code of the Town of Lancaster. The north side parking lot setback is 0 feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a ten (10) foot parking lot set back. The petitioner, therefore, requests a ten [10] foot north side parking lot setback variance.

- D. A variance from the requirements of Chapter 50, Zoning Section 19C.(3) of the Code of the Town of Lancaster. The east side parking lot setback is 1.1 feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a ten (10) foot parking lot setback. The petitioner, therefore, requests an 8.9 foot east side parking lot setback variance.

- E. A variance from the requirements of Chapter 50, Zoning Section 19C.(3) of the Code of the Town of Lancaster. The south side parking lot setback is ten [10] feet.

Chapter 50, Zoning, Section 19C.(3) of the Code of the Town of Lancaster requires a twenty five (25) foot parking lot set back from right-of-way of a dedicated street. The petitioner, therefore, requests a fifteen (15) foot south side parking lot setback variance.

- F. A variance from the requirements of Chapter 50, Zoning, Section 28G.(5) of the Code of the Town of Lancaster. The petitioner has no provision for a loading area.

Chapter 50, Zoning, Section 28G.(5) of the Code of the Town of Lancaster requires one [1] loading area. The petitioner, therefore, requests a variance for one [1] loading area.

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

Sean Hopkins, Esq., Representing Petitioner Proponent

Hopkins, Sorgi & Romanowski, PLLC

Paul Gliss, Petitioner Proponent

Anthony Pandolfe, Project Engineer Proponent

IN THE MATTER OF THE PETITION OF 50 FREEMAN ROAD, LLC

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of 50 Freeman Road, 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 11th day of April 2019, 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 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. BEUTLER	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI.	VOTED	YES
MR. PIGNATARO	VOTED	YES
MR. SOJKA	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. QUINN	VOTED	YES

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

April 11, 2019

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 8:26 P.M.

Signed _____
Diane M. Terranova, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: April 11, 2019