

May 14, 2020

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held via teleconference, on the 14th day of May 2020, at 7:00 P.M., and there were

PRESENT: CARLO DIRIENZO, MEMBER

JOHN MIKOLEY, MEMBER

JILL MONACELLI, MEMBER

RICHARD QUINN, MEMBER

FRANK SWIGONSKI, MEMBER

TYLER SOJKA, CHAIRMAN

ABSENT: LAWRENCE PIGNATARO, MEMBER

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.

PETITION OF: BRIANNA & NICHOLAS FIOCCO

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Brianna and Nicholas Fiocco, 64 Tranquility Trail, Lancaster, New York 14086 for one [1] variance for the purpose of installing a storage shed on premises owned by the petitioners at 64 Tranquility Trail, Lancaster, New York.

A MOTION WAS MADE TO TABLE THIS
PETITION BY MR. DIRIENZO, SECONDED BY
MR. QUINN. ALL IN FAVOR. MOTION CARRIED.

PETITION OF: MARIO ZAGARRIO

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Mario Zagarrio, 6360 Genesee Street, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a pole barn and attached covered porch on premises owned by the petitioner at 6360 Genesee Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10D.(4) of the Code of the Town of Lancaster. The area of the proposed pole barn and attached covered porch is 1800 square feet.

Chapter 50, Zoning, Section 10D.(4) of the Code of the Town of Lancaster limits a detached garage or shed to 750 square feet. The petitioner, therefore, requests a 1050 square foot area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure will be eighteen [18] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a two [2] foot 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.

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

Mario Zagarrio, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: MARIO ZAGARRIO

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. QUINN, 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 Mario Zagarrio and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of May 2020, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property.

WHEREAS, the property for which the applicant is petitioning is within a Residential Commercial Office District, (RCO) 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 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	WAS ABSENT	
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

May 14, 2020

PETITION OF: TRANSIT RD ACQUISITIONS LLC.

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Transit Rd Acquisitions LLC, 550 Latona Road, Building E, Suite 501, Rochester, New York 14626, for two [2] variances for the purpose of replacing a non-conforming pylon sign advertising Transit French Plaza, 4783 Transit Road, Lancaster on premises owned by the applicant at 4779 Transit Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster to replace a non-conforming sign advertising Transit French Plaza located at 4783 Transit Road.

Chapter 50, Zoning, Section 30D.(1) of the Code of the Town of Lancaster requires no sign shall be used to attract attention to a business not available or located on the premises where the sign is located. The petitioner, therefore, requests a variance to allow offsite advertising to be placed on a parcel.

- B. A variance from the requirements of Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster to replace a non-conforming sign that totals two [2] pylon signs situated on the parcel.

Chapter 50, Zoning, Section 30F.(2)(c)[3] of the Code of the Town of Lancaster permits one [1] pole sign for each individual building not a part of a multiple development in General Business (GB) Zoning. The petitioner, therefore, requests a variance to permit a non-conforming sign that totals two [2] signs on the parcel.

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

Corey Auerbach, Esq., Representing Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: TRANSIT RD ACQUISITIONS LLC

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Transit Rd Acquisitions 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 14th day of May 2020, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the duly authorized agent of the property.

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 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 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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	WAS ABSENT	
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

May 14, 2020

PETITION OF: JASON PFEFFER

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Jason Pfeffer, 591 Lake Avenue, Lancaster, New York 14086 for one [1] variance for the purpose of adding a garage on premises owned by the petitioner at 591 Lake Avenue, 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 garage would be 5.79 feet from the side property line.

Chapter 50, Zoning, Section 10C.(3)(b)[1] of the Code of the Town of Lancaster requires a ten [10] foot side yard. The petitioner, therefore, requests a side yard variance of 4.21 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.

PERSONS ADDRESSING THE BOARD

Michelle Maccagnano, Representing Petitioner

Proponent

Jason Pfeffer, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: JASON PFEFFER

THE FOLLOWING RESOLUTION WAS OFFERED
BY MS. MONACELLI, 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 Jason Pfeffer and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 14th day of May 2020, 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, (R1) 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.

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. DIRIENZO	VOTED	YES
MR. MIKOLEY	VOTED	YES
MS. MONACELLI	VOTED	YES
MR. PIGNATARO	WAS ABSENT	
MR. QUINN	VOTED	YES
MR. SWIGONSKI	VOTED	YES
MR. SOJKA	VOTED	YES

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

May 14, 2020

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting
was adjourned at 7:50 P.M.

Signed _____
Diane M. Terranova, TOWN CLERK and
Clerk to Zoning Board of Appeals
Date: May 14, 2020