

July 14, 2022

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 14th day of July 2022, at 7:00 P.M., and there were:

PRESENT: CARLO DIRIENZO, MEMBER

JOHN MIKOLEY, MEMBER

TONY CASTELLANA, MEMBER

KEITH STOERR, MEMBER

JILL MONACELLI, CHAIRMAN

ABSENT: PETER SUGG, MEMBER

MARK TILLMANNS, 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: SANDRA GANDY

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Sandra Gandy, 705 Pavement Road, Lancaster, New York 14086 for one [1] variance for the purpose of installing a fence on premises owned by the petitioner at 705 Pavement Road, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 34, Subsection C of the Code of the Town of Lancaster. The request calls for installing a six [6] foot tall fence in a required front yard.

Chapter 400, Zoning, Section 34, Subsection C of the Code of the Town of Lancaster requires within nonindustrial districts, no fence or wall, other than a necessary retaining wall, over three [3] feet in height, shall extend into the front yard of any lot. The petitioner, therefore, requests a three [3] 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

Sandra Gandy, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: SANDRA GANDY

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. STOERR, 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 Sandra Gandy 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 July 2022, 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 Agricultural 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 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 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**.

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 |
| MR. CASTELLANA | VOTED | YES |
| MR. STOERR | VOTED | YES |
| MR. SUGG | WAS ABSENT | |
| MR. TILLMANNS | WAS ABSENT | |
| MS. MONACELLI | VOTED | YES |

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

July 14, 2022

PETITION OF: THOMAS O'DONNELL

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Thomas O'Donnell, 19 Squirrel Run, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a shed on premises owned by the petitioner at 19 Squirrel Run, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for constructing a shed twenty-four [24] feet from the Right of Way.

Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum location of an accessory structure of thirty-five [35] feet from the front lot line. The petitioner, therefore, requests an eleven [11] foot 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

Thomas O'Donnell, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: THOMAS O'DONNELL

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. MIKOLEY, 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 Thomas O'Donnell 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 July 2022, 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, (R) 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.

**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 |
| MR. CASTELLANA | VOTED | YES |
| MR. STOERR | VOTED | YES |
| MR. SUGG | WAS ABSENT | |
| MR. TILLMANN | WAS ABSENT | |
| MS. MONACELLI | VOTED | YES |

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

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PETITION OF: LAWRENCE KLENK

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Lawrence Klenk, 5 Stream View Lane, Lancaster, New York 14086 for two [2] variances for the purpose of installing a shed on premises owned by the petitioner at 5 Stream View Lane, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for installing a shed ten [10] feet from the front property line.

Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum location of an accessory structure of thirty-five [35] feet from the front lot line. The petitioner, therefore, requests a twenty-five [25] foot variance.

- B. A variance from the requirements of Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for installing a Shed ten [10] feet from the front property line.

Chapter 400, Zoning, Section 14, Subsection D, Schedule B of the Code of the Town of Lancaster requires accessory buildings may not protrude into a front yard. The petitioner, therefore, requests a variance to allow an accessory structure within a required front yard.

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

Lawrence Klenk, Petitioner

Proponent

IN THE MATTER OF THE PETITION OF: LAWRENCE KLENK

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. STOERR, 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 Lawrence Klenk 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 July 2022, 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, (R) 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.

**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 |
| MR. CASTELLANA | VOTED | YES |
| MR. STOERR | VOTED | YES |
| MR. SUGG | WAS ABSENT | |
| MR. TILLMANN | WAS ABSENT | |
| MS. MONACELLI | VOTED | YES |

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

July 14, 2022

PETITION OF: MARK DEAN/DEAN ARCHITECTS, PLLC.

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Mark Dean, Dean Architects, PLLC, 3284 Walden Avenue, Depew, New York 14043 for one [1] variance for the purpose of interior buildout project for a Real Estate Office on premises owned by Design Works, LLC, 3284 Walden Avenue, Depew, New York, at 473 Aurora Street, Lancaster, New York, to wit:

A variance from the requirements of Chapter 400, Zoning, Section 28, Subsection E (1) (a) [4] [f] of the Code of the Town of Lancaster. The request calls for providing nine [9] parking spaces for a proposed Real Estate Office.

Chapter 400, Zoning, Section 28, Subsection E (1) (a) [4] [f] of the Code of the Town of Lancaster requires Real Estate offices to have the greater of eight [8] spaces or one and one half [1 ½] spaces per employee, which is twenty-three [23] spaces for this project. The petitioner, therefore, requests a fourteen [14] parking spaces 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

Mark Dean, Petitioner

Proponent

Brennan Macey, Vision Real Estate

Proponent

IN THE MATTER OF THE PETITION OF: MARK DEAN/DEAN ARCHITECTS, PLLC.

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

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Mark Dean/Dean Architects 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 July 2022, 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 Multi Family Mixed Use District, (MFMU) 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 |
| MR. CASTELLANA | VOTED | YES |
| MR. STOERR | VOTED | YES |
| MR. SUGG | WAS ABSENT | |
| MR. TILLMANN | WAS ABSENT | |
| MS. MONACELLI | VOTED | YES |

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

July 14, 2022

PETITION OF: 4781 TRANSIT ROAD

The 5th case was adjourned by request of the petitioner until August 11, 2022.

PETITION OF: TIMOTHY BOYLE/NOCO EXPRESS PROPERTIES, LLC.

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Timothy Boyle, NOCO Express properties, LLC, 2101 St. Rita's Lane, Williamsville, New York 14221 for six [6] variances for the purpose of constructing a car wash facility on premises owned by the petitioner at 3620 Walden Avenue and 371 Central Avenue, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a proposed lot size of .94 acres.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum lot area of one [1] acre. The petitioner, therefore, requests a .06-acre (= 2,613.6 square feet) variance.

- B. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a ten [10] foot side yard setback abutting a residential district.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum side and rear yard for structures abutting a residential district of fifty [50] feet. The petitioner, therefore, requests a forty [40] foot variance.

- C. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a ten [10] foot side yard setback abutting a non-residential district.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum side and rear yard for structures abutting a non-residential district of twenty-five [25] feet. The petitioner, therefore, requests a fifteen [15] foot variance.

- D. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a parking area with a ten [10] foot, six [6] inch setback from the west lot line right of way of a dedicated street.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum yard for parking, loading and stacking areas from the right of way of a dedicated street of twenty [20] feet. The petitioner, therefore, requests a nine [9] foot, six [6] inch variance.

- E. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a parking area with a ten [10] foot setback from the south lot line right of way of a dedicated street.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum yard for parking, loading and stacking areas from the right of way of a dedicated street of twenty [20] feet. The petitioner, therefore, requests a ten [10] foot variance.

- F. A variance from the requirements of Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster. The request calls for a parking area with a thirteen [13] foot, six [6] inch side yard setback abutting a residential district.

Chapter 400, Zoning, Section 18, Subsection D, Schedule B of the Code of the Town of Lancaster requires a minimum side and rear yard for parking, loading and stacking areas abutting a residential district of twenty-five [25] feet. The petitioner, therefore, requests an eleven [11] foot, six [6] inch 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, New York State Department of Transportation and the Village of Lancaster of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

| | |
|--|--------------------|
| Sean Hopkins, Representing Petitioner Hopkins Sorgi & McCarthy, PLLC. | Proponent |
| Timothy Boyle, Petitioner | Proponent |
| John Armstrong | Opponent |
| William Porebski | Opponent |
| Charlie Campbell | Questions/Comments |

PETITION OF: TIMOTHY BOYLE/NOCO EXPRESS PROPERTIES, LLC.

The petitioner asked to table this resolution due to the absence of two Zoning Board Members.

A MOTION WAS MADE BY COUNCIL MEMBER MIKOLEY to table the resolution, SECONDED BY COUNCIL MEMBER STOERR.

ALL IN FAVOR. MOTON CARRIED.

The resolution was tabled.

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:52 P.M.

Signed _____
Diane M. Terranova, TOWN CLERK and
Clerk to Zoning Board of Appeals
July 14, 2022