

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 8/20/09

Applicant: Mr. Donald & Marcella Burkard Variance No. # 070809--Z  
Address: 697 East Lake Road, Rushville, NY 14450 Zoning District: LR  
Telephone: (585) 554-4372 Published Notice on: 8/14/09  
Property Location: same Notice to County sent: N/A  
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: \_\_\_\_\_

## FACTORS CONSIDERED:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties would be created: Yes \_\_\_ No X

Reasons: This requested 6' variance can not be seen from the road. The proposed project seems to fit into the character of the neighborhood in its placement and materials used. It's height is 18" high as planned and not obtrusive.

2. Whether the benefit requested by the applicant could be achieved by some method, feasible for the applicant to pursue, other than a variance: Yes X No \_\_\_

Reasons: The applicant could make it smaller in size and/or height.

3. Whether the requested variance is substantial: Yes \_\_\_ No X

Reasons: The requested variance is not substantial as the applicant is only asking for 6' out of 60' required by the District's zoning requirements for front yard setback.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes \_\_\_ No X

Reasons: No adverse effects or impacts to the physical or environmental conditions are foreseen. The proposed patio design will be raised up and shall impede erosion from runoff from the roof pitch. The slope of the land will move all runoff appropriately off of the land involved in the project.

5. Whether the alleged difficulty was self-created: Yes X No \_\_\_

Reasons: A determination was made that this was self-created as the applicant is desiring a patio design of his choosing. Applicant would not have needed a variance from code if the patio design had been built within the old footprint of the existing porch foundation.

**DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:**

The ZBA, after taking into consideration the above five factors, in a motion made by Richard DeMallie and seconded by Liz Grant, finds that:

The benefit to the Applicant DOES NOT outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance request is denied.

X The benefit to the Applicant DOES outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance request is granted.

**CONDITIONS:**

The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

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Arthur Radin  
Chairperson, Zoning Board of Appeals

8/20/09  
Date

**RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	<u>   </u>
Member	<u>Benjamin Dunton</u>	<u>X</u>	<u>   </u>
Member	<u>Elizabeth Grant</u>	<u>X</u>	<u>   </u>
Member	<u>Don Burkhard</u>	<u>X</u>	<u>   </u>
Member	<u>Richard DeMallie</u>	<u>X</u>	<u>   </u>
Member	<u>Ted Carmen (alternate &amp; not present)</u>	<u>   </u>	<u>   </u>

(Version update: January, 2007)