

AREA VARIANCE FINDINGS & DECISION
MIDDLESEX ZONING BOARD OF APPEALS hearing on 1/15 & 1/29/09*

Applicant: Mr. Steven M. Cunningham

Variance No. # 111208-Z

Address: 96 Park Place, Canandaigua, NY 14424

Zoning District: LR

Telephone: 469-8360

Published Notice on: 1/12 & 1/20/09 *

Property Location: 1265 South Lake Road, Middlesex, NY 14507

Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II

Hearing held on: Jan. 15 & 29, '09

FACTORS CONSIDERED: * (NOTE: Hearing cont...due to legal notification not published within legal time minimum.)

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: The proposed design is more desirable than the existing property to the south, and with the proposed redesign to square off the angle of the curve design of the driveway at the road will be more desirable and fit better within the designated area requirements of the LR District.

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 ___ No X

Reasons: It was determined that the proposed design was the only method feasible for the applicant to gain access to the upper lot, given the incline of the natural terrain on the property.

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

Reasons: It was determined that the variance requested is not substantial for constructing a driveway on the property. Applicant is requesting 3' on each side out of the required 15' for a 10' wide driveway on road frontage of 120'.

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: The proposed design with alteration to the access curve and catch basin was designed to alleviate erosion possibilities and is a better design for storm water run-off and erosion concerns than the neighboring parcel to the south.

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

Reasons: The alleged difficulty resulting in a variance request resulted from the natural terrain of the property applicant is desiring access to. The proposed design is of reasonable incline and is proposed to access the flattest part of the property.

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 Charles Green , 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:

Arthur Radin
Chairperson, Zoning Board of Appeals

1/29/09
Date

RECORD OF VOTE

| | MEMBER NAME | AYE | NAY |
|--------|----------------------------|----------|-----|
| Chair | <u>Arthur Radin, Chair</u> | <u>X</u> | ___ |
| Member | <u>Benjamin Dunton</u> | <u>X</u> | ___ |
| Member | <u>Charles Green</u> | <u>X</u> | ___ |
| Member | <u>Don Burkhard</u> | <u>X</u> | ___ |
| Member | <u>Richard DeMallie</u> | <u>X</u> | ___ |
| Member | _____ | ___ | ___ |

(Version update: January, 2007)