

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 9/17/09

Applicant: Ms. Frances V. Tesdeschi and Ms. Marilyn Fumia Variance No. #081309-Z  
Address: 991 Old Vineyard Road, Middlesex, NY 14507 Zoning District: LDR  
Telephone: \_\_\_\_\_ Published Notice on: 9/08/09  
Property Location: 991 Old Vineyard Rd., Middlesex, NY 14507 Notice to County sent: N/A  
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

## FACTORS CONSIDERED:

**The Zoning Board of Appeals determined the following special conditions: 1. Section # 304.0 of our Town's Zoning States that "Undersized Lots are to be deemed buildable and since the setbacks for this district were not an issue, the Board determined based on this section the variance was not necessary. Dawn Kane, Code Enforcement Officer Decided in lieu of the nature of the determination to withdraw the variance request , stating that she had made a mistake and the application by the owners would be determined null and void, their application fee returned and the project Could be built without a variance. The board's vote\* reflects agreement with the Code Enforcement Officer's statement. The variance application was officially withdrawn at 8:35pm.**

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 \_\_\_

Reason: \_\_\_\_\_

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 \_\_\_

Reasons: \_\_\_\_\_

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

Reasons: \_\_\_\_\_

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

Reasons: \_\_\_\_\_

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

Reasons: \_\_\_\_\_

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

The ZBA, after taking into consideration the above five factors, in a motion made by Elizabeth Grant and seconded by Ted Carmen, finds that: \* **the application is to be withdrawn**

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.

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

9/17/09  
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>Elizabeth Grant</u>	<u>X</u>	___
Member	_____	___	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	<u>X</u>	___

(Version update: January, 2007)