

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 1/15 & 1/29/09 *

Applicant: Mr. Dan O'Brien Variance No. # 10409-Z

Address: 4591 Misty Hill Drive, Canandaigua, NY 14424 Zoning District: LR

Telephone: Home: # (585) 394-6351 Work: 987-2810 Published Notice on: 1/15 & 20/09*

Property Location: 1163 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, 2009

*NOTE: Hearing continued due to legal notification was published beyond legal minimum required.

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: It was determined that the dimensions of the proposed design for retaining walls around the perimeter of the DOH approved septic was in keeping with the aesthetic value, welfare and environmental impact of the area as proposed.

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: It was determined that a redesign of the perimeter boundaries of the septic could be considered, however such a redesign might create financial, safety and aesthetic concerns and approval by the Dept. of Health.

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

Reasons: A determination was made that the request is substantial as it is a request for 10' on each side which is 2/3 of the required 15' setback in the Lake Residential Zoning District of the Town.

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: A determination was made that the retaining wall/approved aerated septic system design as proposed is the best solution on this non-conforming 50' lot and the variance request provides the least adverse impact physically or environmentally.

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

Reasons: It was determined that there seemed to be a series of reasons why this variance request was necessary due to Problems that were self-created. Most of these were created by the previous owner and not as inherited by the applicant.

