

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 15, 2010

Applicant: Mr. Jon Schick, agent for Mr. Dan & Kirsten Mahar

Variance No: #032310-Z

Address: 248 East Avenue, Rochester, NY 14604

Zoning District: L/R

Telephone: agent:: Mobile cell #330-1820

Published Notice on April 4, 2010

Property Location: 968 South Lake Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II

Hearing held on N/A

## **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: There would not be an undesirable direction to granting this 48 foot variance because the original cottage was grandfathered in with this non-conforming measurement from the road. Applicant would only like to maintain the same setback distance from the road.as before.

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 house could be moved closer to the lake, however it would then block the lake view from the neighboring parcel to the south. Also,if moved, it would shorten the lawn distance from the house to the lake.

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

Reasons: The variance is only 12/60<sup>th</sup>s of the whole and so I believe it is not substantial.. It does not deter me from my opinion to grant this variance request.

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: I do not think the area setback requirement from road centerline will cause an adverse effect or impact in the neighborhood or with environmental conditions in the neighborhood. It will be the same setback requirement if granted.

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

Reasons: I believe it to be self-created because it is designed to be 48 feet from the road. This was chosen to provide parking areas for large family access and still to have a large side and front yard. I also refer to Reason #2 above which states other considerations taken into account when deciding to grant this variance.

**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 Mr. Donald Burkard, 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**.

*NOTE: SEC. 908.0 of the Town of Middlesex, NY Zoning Law states:*

*Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals, or any officer, department, board or bureau of the Town, may apply to the Supreme Court by proceeding under Article 78 of the Civil Practices Law and Rules. Such action must be instituted within thirty (30) days after the filing of a decision in the Office of the Town Clerk*

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, Chair  
Chairperson, Zoning Board of Appeals

4/15/2010  
Date

**RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	___	<u>X</u>
Member	_____	___	___

(Version update: February, 2009)