

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 10/15/09

Applicant: Ms. Linda Sheive

Variance No. # 073009--Z

Address: 1193 South Lake Road, Middlesex, NY 14507

Zoning District: LR

Telephone: (585) 554-3802

Published Notice on: 10/12/09

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 30' variance from front yard setbacks would not negatively impact or produce an undesirable change in the character of the neighborhood. The erosion runoff would remain the same. It is not visible from the road. Low railings will be used.

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: No they are replacing the current walkway.

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

Reasons: The requested variance is not substantial as the applicant is only asking for 30' out of 60' required by the district's zoning requirements for front yard setback and there are no stairs to the road. Applicant is using the road centerline setbacks that existed before the Town changed the road. Applicant released a portion of roadside property to allow a safety upgrade recommended by the Town's Engineering firm, Lu Engineers in a study already completed of South Lake Road.

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 deck design will not impact erosion and the walkway will be safer to traverse.

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

Reasons: Proposed project creates a safer and more aesthetic improvement to what is currently existing.

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

The ZBA, after taking into consideration the above five factors, in a motion made by Don Burkard and seconded by Elizabeth 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                      10/15/09  
 Chairperson, Zoning Board of Appeals                      Date

**RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Benjamin Dunton (not present)</u>	___	___

(Version update: January, 2007)