

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 2/19 & 2/26/09 *

Applicant: Mr. Kenneth Estes Jr. representing agent for Dr. Maurice Vaughan Variance No. # 012009-Z

Address: (agent's address) 8000 Victor-Mendon Rd, Victor, NY 14564 Zoning District: LR

Telephone: agent: (585) 381-9000, Ext. 20 Published Notice on: 02/04/09

Property Location: 626 East 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: _____

* NOTE: Hearing continued due to missing documentation legally 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: The applicant has gone through considerable steps to address the run-off concerns to his and neighboring properties as well as aesthetic plantings to enhance and soften the transitional grading needed.

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 the location of house, walkway and current driveway position gives the applicant limited options without the placement of the proposed retaining wall as designed to minimize the migration of water runoff.

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

Reasons: A variance request of 6' was not determined to be substantial as it is less than half 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 would not have any adverse effect but was a benefit to the existing slope and placement of the driveway on this property and to the neighboring parcels within this zoning district.

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

Reasons: It was determined that the location of the walkway, house and driveway were pre-existing and the variance requested would improve the erosion and stormwater runoff conditions existing on this lakeside 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 Arthur Radin and seconded by Benjamin Dunton, 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.
- 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

2/26/09
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	_____	___	___