

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 12/16/2010

Applicant: Mr. Jay Yates (agent: Rocco Venezia & Associates)

Variance No: #071510-Z

Address: 2800 Butternut Lane, Canandaigua, NY 14424

Zoning District: L/R

Telephone: (585) 396 - 3267

Published Notice on 9/25/10

Property Location: 708 East Lake Road (Cty. Rte. 505), Middlesex, NY

Notice to County sent 11/09/00

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

County Hearing held on 11/18/10

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: I believe that the existing driveway is immaterial to the variance request. Currently in this neighborhood, there are many driveways that weave in and out with unique configurations.

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: The configuration of the property is such that there is no other feasible method for the applicant to pursue except to reduce the driveway's width from 10 to 9 ft. which is the Town's standard (ref. NY Standards of Rural Roads - Sect. #7.1.2 which applies to driveway widths) which creates a 3 ft. instead of a 2 ft. setback .

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

Reasons: The requested variance was 2 ft. with a 10 ft. driveway width. Current zoning requires 15 ft. setback in the LR District. This request is for a 13 ft. side setback which I feel is substantial.

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 believe an adverse environmental or physical effect would be made in granting the variance because there is no elevation there such as if there were a structure there.

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

Reasons: I believe the variance to be self-created because the property was purchased as it is in its' configuration.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and

seconded by Ms. 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**.

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

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:

The driveway, by reference to NY Standards for Rural Roads, Sect. 7.1.2, shall be reduced from 10 ft. width to 9 feet. making the setback request 3 ft. The material used to construct the driveway shall remain gravel instead of blacktop which is an impervious surface and may affect storm water runoff in close proximity to the lake.

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

12/16/2010
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	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___

(Version update: February, 2009)