

## **Town of Middlesex / Zoning Board of Appeals / Public Hearing**

### **Minutes - March 4, 2021 / 7pm**

Zoning Board of Appeals Members: Chair – Rebecca Parshall;

Board Members present: Richard DeMallie, Ted Carman, Elizabeth Grant, Win Harper (alt)

Public Present: none

1. Application # 011521-ZBA

Applicant: Bill & Jan Scott, 818 Green Cove Drive, Tax ID # 11.74-1-53

Variance request: Area Variance for a side setback on the north property line to locate 6 ft. high privacy fence (3) three feet from the north line; whereas pursuant to Sect. #403, Schedule II of the Town of Middlesex Zoning Code, (15) fifteen feet are required in the Lake Residential Zoning District.

Legal Notices mailed on February 20<sup>th</sup> to parcels within 200 ft. of said property. Publication date in the Daily Messenger - 2/25/21

The Public Hearing was called to order at 7:00 p.m.

Chair Parshall stated that the ZBA could only grant the minimum variance allowed by the local Zoning Code with or without conditions. Any variance granted by the ZBA remains with the parcel, not with the property owner. Any decision made by the Board must be made within 62 days from the closing of the Public Hearing. Under Sec. 908 of the Town 's Zoning Law, any person or person(s) may appeal a decision, by applying to the Supreme Court of Yates County under Article 78 within (30) days after a decision has been filed in the Office of the Town Clerk.

Code Officer, Dawn Kane gave a brief summary of the application's history to Board Members in attendance. In particular, it was noted the property north of the Scott's boundary line was owned by the Town of Middlesex as the Vine Valley Public Beach and the County Boat Launch. She also noted an error in the legal notice had been corrected and reissued appropriately. The Code Office had not received any phone calls or written comments from the general public prior to the hearing.

Board Member DeMallie referenced Section #605.0 Fences & Hedges of the local Zoning Code which referenced a scenic view could not be located that blocked a scenic view. He commented further the only view obstructed was of the building itself.

The applicant provided the Board Members with pictures they had taken onsite. They stated the fence would most likely be made of wood or vinyl composite and would be finished on both sides of its 200 linear feet length.

Board Member Carman inquired of the measurement of the front setback to the High Mean Water Line. The applicant stated they were not seeking a front setback. CEO Kane stated the engineer's map did not call out the front setback measurement for a variance request and stated that measurement could be obtained. Lake Residential required a front setback of 40 ft. from the High Mean Water Line.

A maintenance agreement between applicant and the Town of Middlesex was discussed for the area between the Town of Middlesex Beach chain link fence and the applicant's fence. It was stated an agreement would be legally drawn up by the Town of Middlesex with the applicant.

After complete review of the file and the testimony given at the Public Hearing, and after due deliberation, the Board determined their findings of fact. Refer to Area Variance Findings & Decision.

Without further discussion and after consideration of the factors presented, a motion was made by Carman and seconded by Grant and resolved that the variance request is GRANTED because the benefit to the Applicant Does outweigh the detriment to the character, health, safety and welfare of the neighborhood.

The motion so carried.

Roll call vote:

Rebecca Parshall	aye	Richard DeMallie	aye
Elizabeth Grant	aye	Ted Carman	aye
Win Harper (alt)	aye		

2. Application # 011621-ZBA

Applicant: Brian Dooley, 5530 Sunnyside Road, Tax ID # 43.30-1-7

Variance request: Area Variance for a side & front setback on the south property line to locate 6 ft. high privacy fence 75 linear feet on the south line and a 12 ft. wide gate at the parcel's centerline of the drive; whereas pursuant to Sect. #403, Schedule II of the Town of Middlesex Zoning Code, (15) fifteen feet side setback and (40) feet front setback is required in the Lake Residential Zoning District.

Legal Notices mailed on February 20<sup>th</sup> to parcels within 200 ft. of said property.

Publication date in the Daily Messenger was 2/25/21

Code Officer Kane stated that the office had not received written comments or any phone calls in response to Public Notice of Public Hearing.

Applicant Dooley provided a brief summary of the application to Board Members stating his intent was to provide the neighborhood with a beneficial approach for allowing all property owners to use their property as they wanted and provide some protection for his rights as property owner. An easement ends at his north line and solid privacy fence would protect his family from general public walk-throughs. The front setback and property line was verified by a survey by Venezia & Associates. The land at the rear setback remains unusable due to steep slopes.

After complete review of the file and the testimony given at the Public Hearing, and after due deliberation, the Board determined their findings of fact. Refer to Area Variance Findings & Decision Form.

Without further discussion and after consideration of the factors presented, a motion was made by Harper and seconded by Grant and resolved that the variance request is GRANTED because the benefit to the Applicant DOES outweigh the detriment to the character, health, safety and welfare of the neighborhood.

The motion so carried.

Roll call vote:

Rebecca Parshall	aye	Richard DeMallie	aye
Elizabeth Grant	aye	Ted Carman	aye
Win Harper (alt)	aye		

Chair Parshall closed the Public Hearing for both applications at 7:30pm

After a brief discussion, Chair Parshall entertained a motion to adjourn the meeting of the Zoning Board of Appeals. Board Member Carman made the motion. Board Member Grant provided a second. The motion so carried with all Board Members present voting in favor. None opposed.

Meeting adjourned at 7:32pm

Draft Minutes submitted by L. Lersch, Zoning Clerk

Minutes accepted with slight revision on April 15, 2021