

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 2, 2021

Applicant: Roberta A. Brink

Variance No: #080721-ZBA

Address: 1807 Route #245, Naples NY 14512

Zoning District: (AR)

Telephone: (585) 623-6305

Published Notice on DM 08/26/21

Property Location: same – Tax ID # 40.00-02-14

Notice to County sent on N/A

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

County Hearing held on N/A

## NATURE OF REQUEST

Applicant is requesting an Area Variance for property located in the A/R Zoning District. Applicant seeks to build a covered deck and locate it 90 ft. from the front setback of the centerline of the road. Pursuant to Section #403, Schedule II of the Zoning Code, 100 feet is 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: There will not be an undesirable change in character or detriment to neighboring parcels, due to the owner's property is elevated above the road significantly. The west edge of the porch will be 90 feet from the centerline of the road, which results to no impact in my opinion.

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: In viewing the site and where the house is located on the property, I believe this to be the optimum position for the porch to be located for the owner's enjoyment and the reasonable use of the porch to receive the desired result.

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

Reasons: I don't believe it is a substantial request as the required distance is 100 feet, making the variance request only 10% of the total distance required and a reasonable request which abutting properties will not see 6 months of the year due to trees and shrubbery on the property.

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: Due to the house's elevation from the road, significant tree coverage most of the year, steep slopes in the rear, and the owner's reasonable request to have a porch to enjoy the view from the front of the house, there is no adverse effect or

impact on the physical or environmental conditions in the neighborhood.

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

Reasons: Simply because the variance is requested, it therefore is self-created, however due to the reasonable request of the owner to increase the enjoyment and pleasure of using their property, I don't feel this precludes the granting of the 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 Ted Carman and seconded by Win Harper, 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 to minimize adverse impacts upon the neighborhood or community:

Rebecca Parshall 09-02-21  
Chairperson, Zoning Board of Appeals Date

### **RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Rebecca Parshall, Chair</u>	<u>X</u>	<u>   </u>
Member	<u>Richard DeMallie</u>	<u>X</u>	<u>   </u>
Member	<u>Ted Carman</u>	<u>X</u>	<u>   </u>
Member	<u>Elizabeth Grant</u>	<u>X</u>	<u>   </u>
Member	<u>Win Harper (alt)</u>	<u>X</u>	<u>   </u>

(Version update: May, 2011)