

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on March 4, 2021

Applicant: Brian Dooley

Variance No: #011621-ZBA

Address: 169 Wilsonia Road, Rochester NY 14609

Zoning District: (LR)

Telephone: (716) 909-1808

Published Notice on DM 02/25/21

Property Location: 5530 Sunnyside Road – Tax ID #43.30-1-7

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 Area Variance(s) for the purpose of constructing a 6 ft. privacy fence to be located for a distance of 75 linear feet at the south boundary line and a 12 ft.- wide gate at the parcel's centerline of the drive; whereas, local zoning requires (15) fifteen feet for a side setback and (40) forty feet for a front setback, so required in the Lake Residential Zoning District per Section #403, Schedule II of the Town of Middlesex Zoning Code.

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: "Good fences help make good neighbors," an old adage that might help with the neighborhood character, making the current situation more desirable for everyone. It will also better define parking and traffic flow.

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: Trees, natural fencing would have spaces between plantings. A 6 ft. high solid fence will stop public walk-throughs on the parcel.

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

Reasons: It is substantial, as the fence is proposed to be located right on the property line, but it is not material due to its favorable impact and the granting the variances.

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: The privacy fence will not have an adverse effect or impact, but will improve the environmental and physical conditions in the neighborhood while providing some resolve and privacy for everyone.

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

Reasons: It is, by nature of the request, but this has no impact on the granting of the variance requests.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Win Harper and seconded by Liz 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.*

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
Chairperson, Zoning Board of Appeals

03-04-21
Date

RECORD OF VOTE

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