

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on March 7, 2019

NATURE OF REQUEST

Applicant: Robert A. Dreste

Variance No: #020119-Z

Address: 1758 Salt Road, Fairport, NY 14450

Zoning District: (LR)

Telephone: (585) 734-9022

Published Notice on DM (02-27-19)

Property Location: Tax ID #11.56-1-2

Notice to County sent on N/A

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

County Hearing held on _____

Applicant is requesting an Area Variance from Sec. #403, Schedule II of the Town Zoning Code for the construction of shoreline improvements and new construction of a boat accessory structure at shoreline to replace a pre-existing and non-conforming storage shed in disrepair. This application was denied because the applicant is desiring to replace the shed, changing the original footprint and height of the pre-existing shed, and requesting relief from multiple setback infringements with the new construction. The project is also not in compliance with the UDML which does not allow a Boat Accessory Structure at shoreline unless the site is in a steep slope area, which this site is not.

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 it would be desirable, to change the shoreline angle of the existing shed footprint to align with the existing seawall, because over many years it is professed that this angle shifted from its original position due to erosion and the growth of tree roots at roadside. There were no complaints received from neighboring parcel holders.

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 proposed location of the pre-existing storage shed could be shifted only slightly to align with the seawall which would be a safer option for the landowner and the possibility of falling in the water.

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

Reasons: It is not substantial, the applicant has chosen not to change the original footprint of the pre-existing storage shed in size dimensions and height, after discussing all available options.

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 square footage of the shed will not be increased, only repaired, so there will be no increased water run-off

from the roof to impact the surrounding land, and the view will not be impacted, but shall remain the same.

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

Reasons: I believe the difficulty was not self-created, because it is believed the land shifting and was a of nature, and was not self-created by anyone owning the property in the past or present.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Richard DeMallie and seconded by Elizabeth Grant, finds that:

X 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.

CONDITIONS:

The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community: * Applicant was listened to and allowed only to repair the pre-existing shed with new materials and shift the original footprint (shown in blue on submitted map) to line up with the western line (marked in red on map) to align the position of the shed with the existing shoreline seawall. Dimensions of the shed shall remain as pre-existing in size, width and height. An updated map showing dimensions and positioning of repaired shed, to be submitted to Code Office showing all setbacks for the front, side and rear.

Arthur Radin
Chairperson, Zoning Board of Appeals

March 7, 2019
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	_____	<u>X</u>
Member	<u>Mr. Win Harper</u>	_____	<u>X</u>
Member	<u>Mr. Ted Carman</u>	<u>absent</u>	_____
Member	<u>Ms. Elizabeth Grant</u>	_____	<u>X</u>
Member	<u>Mr. Richard DeMallie</u>	_____	<u>X</u>
Member	<u>Ms. Rebecca Parshall (alt.)</u>	_____	<u>X</u>