

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 7, 2018

NATURE OF REQUEST

Applicant: Matt Hanggi

Variance No: #051618-Z

Address: 1316 Bay Drive, Middlesex NY 14507

Zoning District: (LDR)

Telephone: (585) 857-0678

Published Notice on DM (05-30-18)

Property Location: Tax ID #23.80-1-2

Notice to County sent on N/A

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

County Hearing held on _____
Determination:

Applicant is requesting an Area Variance from Sec. #403, Schedule II of the Town Zoning Code to locate a 6-8 ft/privacy fence within the required fifteen side setback for the Low Density Residential Zoning District. Applicant would like to locate it 3-5 feet from the side property line, requesting a 15-17 ft. variance.

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: After visiting the site, it was evident that the desired location was between the two properties and not visible from the road or on Sunflower Drive. Also, the neighbor who would be impacted by this request is in favor of the project which would give him privacy as well. There is no undesirable change to the character of the neighborhood because it will be hidden inside the properties.

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 fence location by the side property line was determined because of the location of an existing septic distribution field and leach lines might need maintenance in the future.

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

Reasons: I believe the variance request is substantial, as the fence location will be 3 to 5 feet from the side property line whereas 20 feet is the required setback in LDR, however this fact does not preclude my decision to move to grant the variance.

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: No, because the parcel would not have any rainwater runoff concerns that would impact the neighboring properties and this is a secluded long stretch of road without a lot of neighboring parcels.

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

Reasons: I believe the difficulty was self- created, because the desire for more privacy is an owner's right but is also an individual choice that they made; however, this does not preclude my decision to move to grant the variance as requested.

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 Win Harper, finds that:

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**.

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:

Arthur Radin
Chairperson, Zoning Board of Appeals

June 7, 2018
Date

RECORD OF VOTE

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