

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 7, 2018

NATURE OF REQUEST

Applicant: Pat & Sarah Lavell

Variance No: #051718-Z (Front & Side Setback)*

Address: 11 Farm Field Lane, Pittsford NY 14534

Zoning District: (LR)

Telephone: (585) 233-3005

Published Notice on DM (05-30-18)

Property Location: Tax ID #21.64-1-7

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 driveway retaining wall 5 ft. from the centerline of the road, whereas the LR Zoning District requires 60 ft. Applicant is therefore requesting a 55 ft. front setback variance. * amended and included in this front setback variance is also a 5 ft. side setback currently within the north property line side setback, as it was unintentionally omitted though addressed by the Zoning Board of Appeals during this procedural review- current zoning requires 15 ft. in LR Zoning District.

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: This front setback request will not produce an undesirable change in the character of the neighborhood because the properties in this area are not in close proximity to each other. This variance request would place the retaining wall the same distance as the neighbor's to the north. Many of the properties on So. Lake Rd. have retaining walls close to the road to hold back steep embankments.

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 location for the retaining wall was determined to provide safety from steep slope embankments in the area. No other method would produce the same outcome.

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

Reasons: I believe the 55 ft. variance request is substantial, however the 6 to 8 ft. wall will provide safety and help the steep slope embankment from eroding. This retaining wall in this area was recommended by the Planning Board for safety reasons in Site Plan Review.

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 this proposed retaining wall is being built on the natural topography of the land and the surrounding neighborhood follows the same topography. It is a driveway access to the property and the proposed retaining wall protects the environmental erosion in steep slopes and provides safe vehicular access to the property..

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

Reasons: I believe the difficulty was self- created, as the owners are choosing to locate their house on steep slopes, making it necessary to build retaining walls when cutting in a driveway from the road to access the house.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Elizabeth Grant and seconded by Ted Carman, 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>