

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 7, 2018

NATURE OF REQUEST

Applicant: Pat & Sarah Lavell

Variance No: #051718-Z (Side Setback)

Address: 11 Farmfield 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 septic retaining walls approximately 5 ft. from the side property line, whereas the LR Zoning District requires 15 ft. Applicant is therefore requesting a 10 ft. side setback 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: This side setback request will not produce an undesirable change in the character of the neighborhood because the proposed location of the septic retaining walls is in the back of the property. Development in this area on South Lake Road is unique and requires special attention with variance requests in order to make it work.

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 by what part of the property provided a good perk test. The Planning Board vetted the site plan review and the walls are necessary due to the steep slope topography.

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

Reasons: I believe the variance request is substantial, however the retaining walls provide varying setback dimension on the property due to the land's topography from 3.4 feet to 5.3 feet and provides appropriate retention of the steep slopes in the area.

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 most of the lots that have been developed on this road after zoning, have needed variances in order to successfully develop the property making this variance request run consistent with the neighborhood.

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 develop the property as it is.

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:

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>

(Version update: May, 2011)