

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on December 5, 2019*

**Continuation of Public Hearing from November 7, 2019*

NATURE OF REQUEST

Applicant: Richard & Lynn Lersch rep. the Gary P. Hoffman Mgmt. Trust Variance No: #111319-Z

Address: 867 South Lake Road Zoning District: (LR)

Telephone: (585) 554-3825 Published Notice on DM (11-28-19)

Property Location: 890 S. Lake Rd., Tax ID #11.82-1-11 Notice to County sent on N/A

Applicable Section of Town Zoning Code: Sec. #403, Schedule II County Hearing held on N/A

Applicant is requesting (3) Area Variances & (1) Lot Coverage Variance. (2) side setbacks are for the purpose of installing a septic system retaining wall 4.8 ft. from the south property line and 7.1 ft. from the northern property line; and an on-grade stone walkway to access a residence to be located 2.3 ft. from the northern property line; and lot coverage request is for an additional 4% to an existing 20.8 % lot coverage, totaling 24.8 % coverage on a parcel in the Lake Residential Zoning District. Pursuant to Section #403, Schedule II of local zoning, lot requirements are 15 ft. side setback, and the minimum lot coverage is 20%.

(V4 Lot Coverage)

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: It is evident the neighbor's are not concerned with the variance request and it reflects positive use of unusable space on the property for years to come with all that is currently proposed.

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 applicant's variance request is the minimum variance request as it provides the parcel with an upgraded septic system and allows wheel chair accessibility to the residence in the future.

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

Reasons: However substantial, it is a small lot which would not function well in the future without the variance requested.

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: Physical and environmental conditions have been mitigated through Town of Middlesex Planning Board review, and the water run-off has been engineered appropriately with gutters and perforated curtain drain piping.

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

Reasons: However, the lot coverage request is reasonable for what is proposed on the lot based all considerations.

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 Elizabeth Grant, 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(s) are **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: * The exposed timber beam height of the retaining wall, surrounding the septic field, shall be no more than 24” in height at its’ tallest point.

Arthur Radin
Chairperson, Zoning Board of Appeals

December 5, 2019
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> </u>	<u> </u>