

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%.

(V2, V3 Septic Retaining Walls)

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 don't believe the change is a detriment to nearby properties as the existing septic design is sub-standard. The proposed new design is an upgrade and in keeping with current standards and beneficial for the lake.

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 best possible method in today's technology and code requirements. This septic design is considered the best available and "State of the Art" in today's standards.

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

Reasons: Though substantial, the benefit to all factors considered, warrants granting of the variance request.

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: Applicant's request will improve the impact on the environment with an upgraded septic system.

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

Reasons: The applicant is modifying the use of the property which requires a variance in order to upgrade the septic

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 Richard DeMallie, 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>	_____
Member	<u>Mr. Win Harper</u>	<u>X</u>	_____
Member	<u>Mr. Ted Carman</u>	<u>X</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>	_____	_____

(Version update: May, 2011)