

# 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%.

### (V1 Stone Walkway)

## 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: The parcel is buffered by natural landscaping and so the on-grade walkway will not be visible from abutting neighbors.

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 is moving the access walkway from one side of the house to the other due to the slope..

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

Reasons: The applicant is locating the new sidewalk and eliminating the other because the new location has a safer, gentler grade to access the residence.

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: Application shows the engineered site plan has mitigated all environmental erosion concerns and the walkway will provide a safer access to the home for future years.

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

Reasons: The applicant could have left the original sidewalk; however, as it will be impeded by the proposed septic field, this new entry walkway is a more convenient access to 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 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: \* If future events with water run-off occur from the proposed walkway on the north side, the applicant shall be required to take additional action to mitigate appropriate erosion control methods.

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>