

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 6, 2018

NATURE OF REQUEST

Applicant: John Cake & Julie McCormick (Lakeshore Ventures LLC)

Variance No: #062818-Z

Address: 31 Overbrook Road, Rochester, NY 14618

Zoning District: (LR)

Telephone: (585) 993-5379

Published Notice on DM (8-30-18)

Property Location: Tax ID #21.48-1-4.1 and #21.48-1-5

Notice to County sent on N/A

Applicable Section of Town Zoning Code: Sec. #403, Sched II

County Hearing held on _____

Applicant is requesting an Area Variance in order to subdivide 2-lots with less than the 100 ft. of frontage per parcel required in the Lakeside Residential Zoning District. Lot #3 has 94.3 ft. and Lot #2 has 81.5 ft. of frontage.

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 X No ___

Reasons: These two contiguous lots are non-conforming to the Town's LR Zoning District and to the Town's Master Plan which states to preserve without crowding the rural atmosphere and to protect against density. This Master Plan has alleviated past problems many times as development increased. I believe per the Master Plan, that this proposed action would create an undesirable change in the character of the neighborhood.

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 X No ___

Reasons: The applicant currently owns 400 ft. of contiguous frontage on the lake in this zoning district. I believe he could create four 100 ft. lots by using the tie-line measure, assuming the survey is correct, which could resolve his problem other than creating two non-conforming lots.

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

Reasons: In the context of the Town's Master Plan, believe in requesting to create two non-compliant lots by subdivision, is substantial because there are actually two requests (one for each lot) for relief from the LR District lot requirements, when there is reason to believe the applicant could investigate creating legal easements to physically connect the location of the structures at roadside and the structures on the lake by mere feet.

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: It is ambiguous as the structures at roadside and lakeside are laid out. In the current context, probably not; however, looking down the road, if lots are purchased, it increases density, specifically in the context of individual and vehicular traffic usage, and produce more highway cost in dollars for the town and homeowners on an extremely fragile road.

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

Reasons: I believe the alleged difficulty is self-created. The current owner purchased the property with eyes open. He purchased it with intent to use as is. I believe he can remedy his hardships by using care, control and the ability to make four conforming lots through other means rather than creating two non-conforming lots.

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 Elizabeth Grant, finds that:

X The benefit to the Applicant DOES NOT outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance request is **denied.**

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

September 6, 2018
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>	<u>absent</u>	___