

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 19, 2018

## NATURE OF REQUEST

Applicant: Stephen James Miller/agent Tim O'Brien

Variance No: #061818-Z

Address: 12 Elizabeth St. Pearl River NY 10965

Agent's Address: 59 N. Main St., Honeoye Falls NY 14472

Applicant's Telephone: (315) 254-5237

Zoning District: (LR)

Published Notice on DM (07-13-18)

Property Location: 690 East Lake Rd., Tax ID #11.58-1-2

Notice to County sent on N/A

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

County Hearing held on \_\_\_\_\_

Applicant is requesting an Area Variance for non-compliance with a rear and side setback from Sec. #403, Schedule II of the Town Zoning Code to locate a 24ft. x 24ft. garage to replace a pre-existing and non-conforming 20 f.t x 20 ft. garage that is in disrepair. Current zoning in the Lakeside Residential District requires 15 ft. side setback and rear setback is 60 ft. Applicant wishes to locate the new garage 5 ft. from the south and west boundary lines and 33 ft from the eastern boundary line. The southern and eastern new garage footprint maintains the pre-existing setbacks.

## 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: There is no undesirable change produced to nearby properties as this is a replacement and two sides of the structure maintains the pre-existing footprint and does not encroach on neighboring parcels. The new garage will improve the visual aspects of the property as the structure was in disrepair.

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 and his agent provided the following reasons why this location was the only feasible one to place the new garage: the lay of the land sheds water which drains off the steep slope and this area is the best area to locate a structure using two of the same setbacks as the pre-existing footprint and growing it by 4 ft. on the remaining two sides.

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

Reasons: I believe the variance request is substantial, as they are extending the footprint of a pre-existing garage built prior to zoning, which will increase its non-conformance. Built decades ago, the expansion is within the property lines without any encroachment on neighboring parcels.

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: In my opinion, they are not creating any adverse effect which would impact any of the physical or environmental conditions in the neighborhood because two of the existing sides of the garage maintain the original footprint, and the extension of 4 feet on two of the sides extend into the applicant's parcel, without encroaching on the neighbor's parcel. The neighbor's have been informed of all proposed plans and are alright with the project.

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

Reasons: I believe the difficulty was self- created, as the applicant wishes to replace his garage; however, this does not preclude my decision to move to grant the variance as requested.

**DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:**

The ZBA, after taking into consideration the above five factors, in a motion made by Richard DeMallie 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 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 July 19, 2018  
 \_\_\_\_\_ Date  
 Chairperson, Zoning Board of Appeals

**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>X</u>	_____