

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on March 4, 2021

Applicant: Bill & Jan Scott

Variance No: #011521-ZBA

Address: 845 South Lake Road, Middlesex NY 14507

Zoning District: (LR)

Telephone: (585) 329-4351

Published Notice on DM (02/25/21)

Property Location: 818 Green Cove Drive – Tax ID #11.74-1-53

Notice to County sent on N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for the purpose of the construction of a 6 ft. privacy fence to be located (3) feet from the north property line; whereas, local zoning requires (15) fifteen feet for a side setback so required in the Lake Residential Zoning District per Section #403, Schedule II of the Town of Middlesex Zoning Code.

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: Currently a bramble hedge is in the area next to the Town Beach chain link fence so differentiating and clarifying between and providing privacy between the Town's Beach and the Scott's contiguous parcel is a desirable change..

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: Not easily, due to the proximity of the Town of Middlesex property line. The (3) ft. gives enough applicant enough room to move around the fence to maintain it without trespassing on Town property.

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

Reasons: It is substantial, given the size of the variance request which is (12) twelve feet; whereas (15) fifteen feet are required, but this is immaterial to 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 property abuts the Town of Middlesex Public Beach. The fence will only block a view from the beach of the Ice House next door which is immaterial to recreation and an individuals' enjoyment of the lake and lake view. The proposed fence will give the applicant's private property protection from the public beach.

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

Reasons: The applicant is purchased the property knowing what conditions he would need to resolve. Desiring to construct a fence was self-created, but in my opinion, doesn't preclude granting of the variance.

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 Liz Grant, finds that:

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.*

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.

CONDITIONS:

The ZBA finds that the following conditions are necessary to minimize adverse impacts upon the neighborhood or community:

Rebecca Parshall
Chairperson, Zoning Board of Appeals

03-04-21
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Rebecca Parshall, Chair</u>	<u>X</u>	____
Member	<u>Richard DeMallie</u>	<u>X</u>	____
Member	<u>Ted Carman</u>	<u>X</u>	____
Member	<u>Elizabeth Grant</u>	<u>X</u>	____
Member	<u>Win Harper (alt)</u>	<u>X</u>	____