

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 7, 2018

## NATURE OF REQUEST

Applicant: Tom & Sharlene Dunton

Variance No: #051518-Z

Address: 1570 West Avenue, Middlesex NY 14507

Zoning District: (AG/Res)

Telephone: (585) 554-3878

Published Notice on DM (05-30-18)

Property Location: Tax ID #32.03-1-8.1

Notice to County sent on N/A

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

County Hearing held on \_\_\_\_\_  
Determination:

Applicant is requesting an Area Variance from Sec. #403, Schedule II of the Town Zoning Code to locate a 6 foot-high privacy fence within the required 100 ft. front setback for the Agriculture/Residential Zoning District. Applicant would like to locate it 28 feet from the centerline of the road, requesting a 72 ft. variance.

## 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: After visiting the site, an existing stone fence in front was visible and not in compliance, so if the proposed location of this fence will be located behind this fence, it will be more conforming than the existing stone fence. Also noticed from the road, are mature trees that make it difficult to place further from the road. I see no undesirable change here.

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 location for the fence was determined based on the location of existing trees and a pre-existing stone fence also in the front of the house. I feel the proposed location is the only option feasible to give the owner the privacy from traffic noise from the road. needed to be dug.

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

Reasons: I believe the variance request is substantial, as it is a 72 foot variance request, but this fact does not preclude the granting of the variance based on the need to reduce traffic noise and the location of the fence meet this need is in the only feasible location, so these facts does not preclude my decision to grant the variance.

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: No, this is a secluded long stretch of road without a lot of neighboring parcels. The closest neighbor is a

relative to the owner of this parcel and the next neighboring parcel is a long distance to the north.

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

Reasons: I believe the difficulty was self- created, as the house has been in the family for years, and the desire for privacy from traffic noise is an owner's right, though still a choice; 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 Win Harper and seconded by Ted Carman , 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*  
Chairperson, Zoning Board of Appeals

June 7, 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>	___