

2017

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 6, 2017

Applicant: Mr. Sean Donohoe, representing agent Phil Green-Worden Hill Inc. Variance No: #031017-Z
Agent's Address: 6000 Co. Rd. #33, Canandaigua NY 14424 Zoning District: (LR)
Telephone: (585) 233-2553 Published Notice on DM (3-29-17)
Property Location: 370 East Lake Road Notice to County sent on N/A
Applicable Section of Town Zoning Code: (UDML) County Hearing held on N/A

NATURE OF REQUEST

Applicant is seeking a variance from the Canandaigua Lake Uniform Docking and Mooring Law for the purpose of adding an additional 700 square foot permanent dock to the lake shore property. There is currently a pre-existing 1650 square foot permanent dock onsite and the applicant is proposing an additional 700 square feet totaling 2350 square feet whereas the UDML only allows a total of 1080 square feet for this property.

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: The variance request would create an undesirable change as the request for relief almost doubles (at 2350 square feet) the standards set forth in the UDML which allows 1080 sq. ft. based on the linear shoreline footage.

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 benefit requested by the applicant could be achieved by other alternatives than what is proposed. The applicant could remove what exists and construct two docks at 720 sf each or construct one large one to be in compliance with the UDML requirements.

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

Reasons: The proposed modifications are substantial as they are almost double the required standards for this property as specified in the Canandaigua Lake Dock and Mooring Law.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No __

Reasons: If allowed there would be more docking structures on the shoreline than are allowed and based on the intent of the UDML requirements, this would set an unfair precedent for adding additional structures at the shoreline in the neighborhood or district.

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

Reasons: I believe the difficulty was self-created as the owner purchased the property with the current shoreline docking system. If the owner wants to add boat slips to dock a boat, he will have to make the existing dock conform by redesign or remove what is currently there.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Win Harper and seconded by Mr. Richard DeMallie, 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

April 6, 2017
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>	(absent)	

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 18, 2017

Applicant: Distributed Sun/SUN 8 PDC LLC/Jeanette L. Daum

Variance No: #021417-Z-SUP

Address: 601 13th St. NW, Suite 450 S., Washington DC 20005

Zoning District: AG

Telephone: (202) 536-5766

Published Notice on May 12, 2017 DM

Property Location: 4450 Town Line Road, Rushville NY 14544

County Hearing Date May 25, 2017

Applicable Section of Town Zoning Code: Sec. 3402, Sched I, #8 (502.2.1)

County Recommendation approval

PB Site Plan Approval Date: 6/07/17

NATURE OF REQUEST

Per Schedule #402, Schedule I, #8 this land use is allowed in our current zoning law; however, it requires a Special Use Permit prior to permitting. Therefore; this variance request, not denied by the Code Enforcement Office, but must be reviewed by the Planning Board for Site Plan Review and by the Zoning Board of Appeals which has the authority to grant a Special Use Permit pending Planning Board Site Plan Approval.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No Reasons: The proposed land use will be located, constructed and operated as a long term benefit to the public health, safety and welfare due to its business plan sponsored by NYSERDA, its' self-contained infrastructure with a security fence for protection as well as its' financial investment that will benefit the community by electricity cost reduction through interconnection with NYSEG.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes No X Reasons: It is an investment and an improvement to the land and its' financial benefits will be available to other properties in the surrounding neighborhood. This proposed project will have minimal impact to the environment and surrounding neighborhood but immense value to the financial benefits it will offer to low income families in the community.

502.1.3 That adequate landscaping and screening is provided.

Yes X No ___ Reasons: The proposed project has planned provisions for adequate landscaping and vegetative screening to buffer it from view from neighboring parcels. The solar arrays themselves blend into the environment without glare.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: Off-street parking and loading will not occur onsite except during active installation of the components for the solar arrays. There is plenty of road shoulder for construction vehicle parking during construction. The location of the project is very rural with little traffic to speak of and after construction of the project it will return to being rarely traveled except by local country residential traffic.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes ___ No X Reasons: The parcel's slope and lay of the land will remain unchanged. Erosion management will be mitigated through well planned engineering. Surface water discharge will not runoff onto abutting properties as after installation is complete, the project will be seeded with a slow growing vegetative cover so any water runoff from the solar panels themselves will enter the ground and be absorbed.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: Onsite gravel maintenance roads serving the project have been designed with appropriate turnouts. The project will interconnect with the NYSEG grid to provide financial benefit to the local community.

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Win Harper, finds that

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 in order to minimize adverse impacts upon the neighborhood or community:

Determination is pending Yates County Planning Board Review on 5/25/17 and the Planning Board Final Site Plan Review on 6/07/17. Approval was determined on both YCPB referral and the Town of Middlesex Planning Board Application.

Arthur Radin
Chairperson, Zoning Board of Appeals

May 18, 2017
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>x</u>	_____
Member	<u>Elizabeth Grant</u>	<u>x</u>	_____
Member	<u>Ted Carman</u>	<u>x</u>	_____
Member	<u>Richard DeMallie (absent)</u>	_____	_____
Member	<u>Rebecca Parshall (absent)</u>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 18, 2017

Applicant/Owner: Marc Maser for owner Jeanette L. Daum
Agent's Address: 112 No. Main St., Horseheads, NY 14845
Telephone: Agent's # 607-377-7990
Location: 4450 Townline Road, Rushville NY 14544
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 2.61-1-2

Variance No: #021417-Z-AV (east & west)
Zoning District: AG
Published Notice on 05/12/17 DM
Referral to County sent 04/18/17
County Hearing held on 04/27/17
Referral Response recommended approval

NATURE OF REQUEST

Applicant is requesting two variances for the purpose of locating an 8-ft. high chain link security fence and gravel access road that passes from the north parcel to the south parcel on the east and west boundary lines. This is a security fence separating two parcels containing two solar arrays one of which is required by current zoning to have a 30-ft. rear setback. Applicant is requesting (2) 30 ft. variances, (the fence on the east and the fence and the gravel road on the western boundary lines) where they encroach onto the setbacks on both sides. Applicant is requesting 30 feet for this rear setback.

FACTORS CONSIDERED: * *The following factors consider both east and western variance requests.*

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 created which would be a detriment to nearby properties because the location of the security fence is a see-through chain link fence and it is for the protection of the surrounding neighboring parcels.

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 has stated that it is not feasible to due to the quantity and placement of the proposed solar arrays installed are necessary for their Mega Watt output for the company installing and for it to be financially feasible for the community to benefit from its installation.

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

Reasons: The variance request is substantial because it is right on the boundary line; however, in correlation to the benefit of the project to the surrounding community, the request is reasonable and I would support it.

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: This proposed variance requests are located in a materially insignificant location and so will not create an adverse effect or impact the physical / environmental conditions in the neighborhood or district.

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

Reasons: Though self-created by the owner leasing the land to Distributed Sun PDC LLC, this Community Solar PV

Facility will be maximizing the project by locating it where it is proposed.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

May 18, 2017
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 (absent)</u>	_____	_____
Member	<u>Ms. Rebecca Parshall (alt – absent)</u>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 20, 2017

Applicant: Mr. Benjamin Dunton

Variance No: #061617-Z

Agent's Address: 1032 State Rte. #364, Middlesex, NY 14507

Zoning District: (AG)

Telephone: (585) 554-5134

Published Notice on DM (7-07-17)

Property Location: same as above

Notice to County sent on 7-18

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

County Hearing held on 7-27

YCPB recommendation: _____

NATURE OF REQUEST

Applicant is requesting a variance for a front setback from the centerline of the road for the purpose of constructing a proposed 20 x 28 foot two story addition to a pre-existing and non-conforming single family residence. The required front setback for the Agricultural Zoning District is 100 feet. Applicant requests a 44-foot variance in order to locate the addition in line with the current front line of the house which is 56.4 feet from the centerline of the road.

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 nearby residential properties are in line with the same non-conforming distance to the road, and the abutting parcel is the Town of Middlesex Water Tower so there would not be an undesirable change produced in the neighborhood nor detriment created by the proposed action.

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 has stated he had looked into other options and due to the topography of the land, this was the only feasible option.

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

Reasons: I don't believe it is as all residences in the direct neighborhood are visually constructed the same distance from the centerline of the road as they are all pre-existing and therefore substantial only because of it's non-conformance to current code requirements.

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: The proposed action will not have an adverse effect or impact as physically it is in character with the rest of the

neighborhood in its location and environmentally it is the least invasive option available.

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

Reasons: The proposed action is self-created as the applicant's extended family has expanded creating the need for increasing the square footage of the existing house. I believe it to be the best possible way after weighing all alternatives.

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 Mr. Win Harper, 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:

* pending Yates County Planning Board review on July 27th.

Arthur Radin
Chairperson, Zoning Board of Appeals

July 20, 2017
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>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 20, 2017

Applicant: Mr. Case Smeenk

Variance No: #061517-Z

Agent's Address: 5790 Widmer Road, Middlesex, NY 14507

Zoning District: (LR)

Telephone: (585) 943-8745

Published Notice on DM (7-07-17)

Property Location: same as above

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 two front setback variances that do not comply with current Lakeside Residential code requiring a setback of 40 feet from the Mean High Water Line: (1) Area Variance request of 32 feet, 6.5 inches for the purpose of constructing an addition to a pre-existing home and non-conforming residence. (2) Area Variance request for 17 feet, 6 inches to construct a stair system to an existing deck at shoreline.

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: (1) & (2) Yes ___ No X

Reasons: (1) Because the property has an extensive frontage on the lake without any immediate abutters, I believe this variance request is reasonable and without any undesirable changes to the character of the neighborhood. (2) There is no material change here with 600 feet of lake frontage, there is no view to neighboring parcels impacted and if site development is managed properly, there will not be any drainage or water run-off problems to the 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: (1) & (2) Yes ___ No X

Reasons: (1) With the topography of the property with its' steep rise to the east, there is no other feasible option to achieve. (2) The existing structure is positioned close to the water's High Mean Water Line. There seems to be no other options to minimize the lack of compliance for the applicant than the one chosen.

3. Whether the requested variance is substantial: (1) Yes X (2) No X

Reasons: (1) I believe it is substantial as the variance request is to locate the structure closer to the water. (2) The bottom of the proposed stairs will rest upon the existing deck, so there will not be any excavation at the shoreline.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: (1) & (2) Yes ___ No X

Reasons: (1)& (2) No I don't believe so, and with proper site planning, the watershed will be closely managed and controlled and the proposed stairs will rest upon the existing deck, so the shoreline will not be excavated.

5. Whether the alleged difficulty was self-created: (1) & (2) Yes X No ___

Reasons: I believe the difficulty was self-created as the owner has chosen to create an addition with current code requiring it to be in compliance. (2) the applicant's request to modify a pre-existing and non-conforming structure is self-created; however his family is growing and needs proposed changes that will add to the value of his home and lifestyle.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by (1)Ted Carman (2)Elizabeth Grant and seconded by (1) Mr. Richard DeMallie and (2) Win Harper, 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:

None were applied to this application.

Arthur Radin
Chairperson, Zoning Board of Appeals

July 20, 2017
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>

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 5, 2017 (rescheduled for 10-19-17)

Applicant: John Finnan

Variance No: #081617-Z-SUP

Address: PO Box 587, Rushville NY 14544

Zoning District: HB

Telephone: (585) 489-3922

Published Notice on October 08, 2017 DM

Property Location: 179 Rte. #245, Tax Map ID # 3.03-1-7

County Hearing Date: October 26, 2017

Applicable Section of Town Zoning Code: Sec. #402, Sched I, #1(B-19)

County Determination: no significant impact

PB Site Plan Approval Date: 9/06/17

NATURE OF REQUEST

Applicant requests a permit to locate a wood workshop business within the Highway Business Zoning District on a vacant lot at 179 State Route #245 in the Town of Middlesex. Pursuant to the Town of Middlesex Zoning Code, this Business Use is allowed with approval of a Site Plan by the Planning Board, which determination approval on 9/06/17 and the granting of a Special Use Permit by the Zoning Board of Appeals.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No ___ Reasons: The proposed land use will be located in a rural area with few developed parcels in the neighborhood. The business will be conducted by appointment with little additional traffic other than occasional deliveries or client appointments.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes ___ No X Reasons: Due to the nature of the business, all activity will be mainly enclosed within the building. The property contiguous to this is also a business that has operated from this location for years with little traffic and/or impact that might affect property values in the surrounding neighborhood which is low density and mostly agricultural land.

502.1.3 That adequate landscaping and screening is provided.

Yes ___ No X Reasons: Landscaping and screening is not necessary as the building is simply a pole barn in a rural

area which is common on this road. _____

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No _____ Reasons: All parking will be within the confines of the property that the proposed building will be located. Any deliveries to the business will have adequate space to do so with ingress and egress so designed to have no impact on the abutting road, Route #245.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes _____ No X Reasons: The application states that Mr. Finnan has planned for appropriate erosion drainage and the Town's Planning Board has reviewed all erosion control and management during their Site Plan on September 6, 2017.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No _____ Reasons: Absolutely. Utility service is pending NYSEG installation which will be two poles with overhead cable.

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Determination is pending Yates County Planning Board Review on 10/26/17. County Determination: This application has no significant county-wide impact.

<u>Arthur Radin</u>	<u>October 19, 2017</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>x</u>	<u> </u>
Member	<u>Elizabeth Grant</u>	<u>x</u>	<u> </u>
Member	<u>Ted Carman</u>	<u>x</u>	<u> </u>
Member	<u>Richard DeMallie</u>	<u>x</u>	<u> </u>
Member	<u>Win Harper</u>	<u>x</u>	<u> </u>
Member	<u>Rebecca Parshall (absent)</u>	<u> </u>	<u> </u>

(Version update May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS October 5, 2017(rescheduled for October 19, 2015)

Applicant/Owner: SUN 8 PDC LLC/DIST SUN, Marc Maser & Chet Feldman agents for owner Jeanette L. Daum
Applicant's Address: 4450 Townline Rd., Rushville, NY 14544 Variance No: #021417-Z-AV (amended 5-18-17)
Agent's Address: 601 13th St. NW, Suite 450 S, Washington, DC 20005 Zoning District: AG
Telephone: Agent's # (202) 558-4465 Published Notice on 10/08/17 (DM)
Location: 4450 Townline Road, Rushville NY 14544 Referral to County sent 10/13/17
Applicable Section of Town Zoning Code: Section #403, Sched II County Hearing held on 10/26/17
Tax ID # 3.01-1-4 Referral Response no significant county impact

NATURE OF REQUEST

Applicant is requesting an amendment to an Area Variance granted by the Zoning Board of Appeals for this Parcel (B) on May 18, 2017. Due to a Lot Line Adjustment to the configuration of these parcels and to accommodate the reconfiguration of solar array tables, this reconfiguration was approved by the Planning Board on 9/06/17. The reconfiguration of a row of array tables, created the amendment to the "previously approved variance" for a fence line which surrounds these array tables to change position and now fall within the rear setback on Parcel B. Applicant requests to locate this fence 2-ft., 1-in. from the rear property line. The AG Zoning District, in which this parcel falls, requires 30-feet for a rear setback from the property line.

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 created which would be a detriment to nearby properties because the location of the security fence chain-link fence is not visible from the neighboring parcels.

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 has stated that it is not feasible due to the quantity and reconfiguration of the proposed solar arrays installed are necessary for their K Watt hours output for the facility and for it to be financially feasible for the community to benefit from its installation. This reconfiguration is necessary to protect wetlands discovered on the property.

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

Reasons: The variance request is substantial because it is now approximately 2 ft. from the property line where 30 feet are required; however, in correlation to the benefit of protecting the wetlands discovered onsite, the request is reasonable and worth supporting.

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: This proposed variance request is located in a materially insignificant location and so will not create an

adverse effect or impact the physical / environmental conditions in the neighborhood or district, in fact it is for the protection of the environmental and physical protection from erosion of the wetlands on Parcel B.

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

Reasons: Though self-created, this does not preclude the motion made to grant the variance request due to the greater need for the wetlands to be protected.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community: pending Yates County Planning Board review on October 26, 2017 – no significant county-wide impact.

Arthur Radin
Chairman, Zoning Board of Appeals

October 19, 2017
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>	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 5, 2017(rescheduled for 10-19-17)

NATURE OF REQUEST

Applicant: Valley View Family Practice

Variance No: #092117-Z

Address: 213 Route #245, Rushville, NY 14544

Zoning District: (HR)

Telephone: (585) 554-3119 or (585) 554-6069

Published Notice on DM (10-08-17)

Property Location: Tax ID #3.04-1-1

Notice to County sent on 10/13/17

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

County Hearing held on 10/26/17

Determination: no significant countywide impact

Applicant is requesting an Area Variance to locate a 30" x 48" rectangular business sign 34-ft. from the center line of the road. Applicant is requesting a 26-ft. variance from the Hamlet Residential Zoning District in which it is located which requires a front setback of 60 ft. from the centerline of the road.

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 will be absolutely no change to the character of the neighborhood as the business had a sign which is being replaced, and the new sign meets town code requirements and will be placed to provide a better line of sight and visibility for identification of the business from the road. Neighboring parcels are rural and most are still vacant land.

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: Because of the topography of the property and its' proximity to the road and the building setting far back from the road, there really seems to be no other method feasible for the applicant to pursue.

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

Reasons: I believe it is substantial in terms of the setback as the variance request is 40% of the total setback. That being stated, I feel it is no major significance when reviewing all of the criteria components to 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: No I don't believe so, it is a rural road without any development and so much of the parcels on this road are farmed or vacant. I do not see any negative effect. I also feel after review of the criteria, that the variance request if granted will increase visibility to identify the business from the road.

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

Reasons: I believe the difficulty was self-created and is significant. That is the nature of a variance request. In this case, I believe the positive outcomes in granting this variance request outweigh the fact that it is self-created and significant. The new location of this sign will improve the business identification from the road and the safety aspect creating a better view for ease in finding the business for potential patients traveling on the road.

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 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: Pending Yates County Planning Board Review on Oct. 26, 2017. Determination: no significant county-wide impact.

Arthur Radin
Chairperson, Zoning Board of Appeals

October 19, 2017
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>	(absent)	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 5, 2017 (rescheduled for 10-19-17)

Applicant: Michael H. Messina > agent Peter Gorman (Marathon Engineers) Variance No: #092017-Z

Applicant's Address: 34 Meadow Cove Rd. Pittsford NY 14534

Agent's Address: 39 Cascade Drive, Rochester NY 14614

Agent's Telephone: (585) 458-7770

Zoning District: (LR)

Published Notice on DM (10-08-17)

Property Location: 344 East Lake Road, Tax ID #001.076-1-1.1

Notice to County sent on 10/13/17

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

County Hearing held on 10/26/17

County Determination: no significant county impact

NATURE OF REQUEST

Applicant is requesting an Area Variance to locate a Tram Hoist Station 16-feet from the rear setback on County Road #39, East Lake Rd. Per Section #403, Schedule II of the Town of Middlesex Zoning Code, the Lakeside Residential Zoning District requires a rear setback of 60 feet from the center line of the road.

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 will be absolutely no change to the character of the neighborhood as the tram and the Tram Hoist Station will be a positive improvement to the property, providing a safer access from the house to the shoreline in a steep slope area.

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: This new tram replacement of an existing tram is using the same path as the old tram and its Tram Hoist Station is using the same footprint, and though it will be wide, it will be the same distance from the road.

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

Reasons: Because the new replacement tram will be essentially in the same location as the old one, I believe this situation is a common occurrence in steep slope areas. The tram provides the owner with access to his shoreline property at lakeside which is his right.

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 in the existing footprint of the old tram and so environmentally and physically, it will not have an adverse impact on the land or neighborhood.

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

Reasons: I believe the difficulty was self-created. The owner purchased the property knowing that the replacement would need to be done sometime in the future.

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 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:

Pending Yates County Planning Board Review on Oct. 26, 2017. Determination: no significant county-wide impact.

Arthur Radin
Chairperson, Zoning Board of Appeals

October 19, 2017
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>(absent)</u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 2, 2017

NATURE OF REQUEST

Applicant: Terry Hafler

Variance No: #101817-Z

Address: 301 Bare Hill Road, Rushville, NY 14544

Zoning District: (LDR)

Telephone: (585) 554-4010 or (585) 750-1605

Published Notice on DM (10-27-17)

Property Location: Tax ID #3.04-1-1

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 to locate a 30' x 40 ft. Pole Barn 58-ft. from the center line of the road. Applicant is requesting a 42-ft. variance from the Low Density Residential Zoning District in which it is located which requires a front setback of 100 ft. from the centerline of the road pursuant to Sec. #403, Schedule II of the Town 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: Pole Barns are typical in this area and many are located close to the road for convenience purposes.

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: Because of the topography of the property and its' slope to the east, this location seems to create the least disturbance to the land and in my estimation this project is not relevant in importance for this area.

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

Reasons: I believe it is substantial in terms of the setback as the variance request is 40% of the total setback required in this Zoning District, but still does not create a major significance in the area.

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 I don't believe so, it is a rural road with little development and the neighbor down the road has a wood workshop that is clearly closer to the road than this project will be.

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

Reasons: I do not believe the difficulty was self-created due to the slope of the land and the owner's need to bypass

buried water lines on the property..

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Arthur Radin 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
Chairperson, Zoning Board of Appeals

November 2, 2017
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>(absent)</u>	_____
Member	<u>Ms. Rebecca Parshall (alt.)</u>	<u>(absent)</u>	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on December 7, 2017

NATURE OF REQUEST

Applicant: Evie Douglas

Variance No: #111517-Z

Address: 6369 Glenn Avenue

Zoning District: (LR)

Telephone: (585) 967-4492

Published Notice on DM (11-29-17)

Property Location: Tax ID #11.74-1-40/6369 Glenn Ave.

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 to locate a 6-foot-high solid security fence within the required fifteen side setback for the Lake Residential Zoning District. Applicant would like to locate it four inches from the side property line, requesting an 11-ft. variance, pursuant to Sec. #403, Schedule II of the Town 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: After site visits, discussion and fact findings, I believe there will not be an undesirable change or detriment to installing the fence. There is no fence height limit, but the only view it is impacting is the owner's yard.

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: Because of the narrowness of the lots on Glenn Avenue, and the way the lot is situated, a fence is the only way feasible for the owner to easily achieve the privacy desired.

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

Reasons: I believe the variance request is substantial, however due to the character of the neighborhood, and the tightness of the lots on Glenn Avenue, I believe the variance should still be granted to achieve the privacy desired since there is little impact to 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: No, as there were no responses from the neighboring parcels in reply to the legal notices sent out.

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

Reasons: I believe the difficulty was self-created, as it is the occupant that desires the request for change. The desire for

more privacy is an owner's right, but is also an individual choice that she made; 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 Ted Carman 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 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: * with the condition placed that the solid fence is installed a maximum of 6 feet tall and to begin approximately 12 feet back from the centerline of Glenn Avenue which is a private road.

Arthur Radin
Chairperson, Zoning Board of Appeals

December 7, 2017
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>absent</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alt.)</u>	<u>X</u>	___

(Version update: May, 2011)

2016

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 7, 2016

Applicant/Owner: Mr. Tim Hughes/Mr. Jim & Carol DeNardo
Address: 828 Green Cove Drive, Middlesex NY 14507
Telephone: (310) 707-7042
Location: same as address – Tax ID # 11.82-1-1
Applicable Section of Town Zoning Code: Section #403, Sched II

Variance No: 061516-Z (Rear Setback)
Zoning District: LR
Published Notice on July 1, 2016 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for the purpose of installing a water system. Property is located in the Lake Residential District which requires a 60 Foot Setback from center of road. Applicant is requesting a 33 Foot Variance placing the structure at 27 feet from center of road. Based on Section #403, Schedule II, a variance is required.

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: Other than having a 6 inch higher roof line than the existing garage, the proposed shed enclosure is in keeping with 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 ___ No X

Reasons: There are other methods for the applicant to pursue, yet the applicant gave multiple reasons for determining the location to place the proposed shed.

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

Reasons: I believe it is substantial; however the applicant is using the grandfathered existing garage for a measurement to align the eastern side of the shed enclosure and its distance from the center of the road and does not cause me to change my motion 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: The applicant has demonstrated that there will be no adverse effects on the physical or environmental conditions in the neighborhood. The applicant has stated he will provide proper tank maintenance to negate potential flooding.

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

Reasons: I believe the need for a variance is self-created because the decision to locate the shed housing for both of the 1,000 gallon water tanks, but this does not preclude my decision to move to grant the variance because the applicants reasons were reasonable due to septic location, installation of water line to house, wish to protect the views from neighboring parcels, protection of older trees and mature landscaping and entrance sidewalk to dwelling.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Ms. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

July 7, 2016
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-absent)</u>	_____	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 07, 2016

Applicant/Owner: Mr. Jeremy Fields/Mr. Michael Mullaly
Address: 5020 Wyffels Road, Canandaigua NY 14424
Telephone: Agent's # 315-0015
Location: 1265 South Lake Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 21.71-1-2

Variance No: #060116-Z (Front Setback)
Zoning District: LR
Published Notice on July 01, 2016 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for the purpose of installing a retaining wall intending to provide off road parking.
Property is located in the lake Residential District which requires a 60 foot Front Setback from center of the road. Based on
Section #303, Schedule II a variance is required.

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: There is no undesirable change created which would be a detriment to nearby properties because the proposed retaining wall will be installed exactly like the one that is directly to the north. It also improves the safety of the traffic flow and line of sight because vehicles will be parked completely off the road.

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: There is not another method feasible for the applicant to pursue that would be economically viable due to the property's steep slopes.

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

Reasons: Yes, it is substantial because the proposed project requires two variances (front and side setbacks) and involves cutting into the front and side of the existing embankment; however the enhancements to the project in my opinion outweigh it being substantial.

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: This variance request improves both the drainage to the road and the safety of the traffic flow and line of sight on this narrow road.

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

Reasons: The lay of the land created the necessity to improve the parking at this site; however the owner desires to alter the land for his benefit, and so in my opinion though self-created, this does not 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 Mr. Ted Carman and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community: NOTE: Granting a variance for the front setback on this property is directly contingent on the side setback granted as well.

Arthur Radin
Chairman, Zoning Board of Appeals

July 07, 2016
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) absent</u>	_____	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 1, 2016

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist

Variance No: # 081716-Z (Front Setback) Lot 1

Address: C/O Document Reprocessors, 40 Railroad Avenue, Rushville NY 14544 Zoning District: HR

Telephone: (585) 554-4500 (work)

Published Notice on 8/25/16 DM

Property Location: 5611 Water Street, Middlesex NY

Notice to County sent 8/16/16

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

County Hearing held on 8/25/16 PB Review
Recommendation: approval

NATURE OF REQUEST

Applicant requests an frontage area requirements of 45.12 feet when 100 feet is required in the Hamlet Residential District for the purpose of a Minor Subdivision on Lot #1

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because the access driveway to the buildings was this same pre-existing frontage on Water Street for years.

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 benefits requested cannot be achieved by any other method feasible for the applicant to pursue because the position and frontage dimensions are pre-existing. except to move the building.

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

Reasons: The proposed variance of 45.12 ft. when 100 ft. is required in Hamlet Residential is substantial, but in my opinion due to it's pre-existing non-conformance should still be granted and does not change my vote 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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as the variance requested is pre-existing and non-conforming. The access as it is has always worked for many years.

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

Reasons: The alleged difficulty was not self-created because it is pre-existing and non-conforming as it is.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

* Variance to be granted contingent on Site Plan Approval by the Planning Board – (9/07/2016)

Arthur Radin
Chairperson, Zoning Board of Appeals

September 1, 2016
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 (absent)</u>	_____	_____
Member	<u>Ms. Elizabeth Grant (absent)</u>	_____	_____
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	_____
Member	<u>Ms. Rebecca Parshall (alt. absent)</u>	_____	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 1, 2016

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist

Variance No: # 081716-Z (Rear Setback)

Address: C/O Document Reprocessors, 40 Railroad Avenue, Rushville NY 14544 Zoning District: HR

Telephone: (585) 554-4500 (work)

Published Notice on 8/25/16 DM

Property Location: 5611 Water Street, Middlesex NY

Notice to County sent 8/16/16

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

County Hearing held on 8/25/16:

Recommendation: approval

NATURE OF REQUEST

Applicant requests an area variance from current Zoning Law for: for a rear setback of 13.6 ft. on Lot 2, where current zoning requires 30 ft. for the purpose of a Minor Subdivision in the Hamlet Residential Zoning District.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because the rear setback on Lot #2 is pre-existing, and was split equally between the building on Lot 1 . Both buildings are pre-existing and nonconforming.

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 benefits requested cannot be achieved by any other method feasible for the applicant to pursue except to move the building. This is in my opinion the best for each lot subdivided.

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

Reasons: The proposed area variance of 13.6 ft. when 30 ft. is required in Hamlet Residential is not substantial, in my opinion as the owner's split the area between buildings on both lots.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as the variance requested is pre-existing and non-conforming. They will not affect the environmental or physical conditions in the neighborhood or district as this area previously exists and is the way the lot line was drawn.

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

Reasons: The alleged difficulty is self-created because the surveyor and owner made the decision to subdivide where they did, but it is not relevant to the decision to grant the variance 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 Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

* Variance is granted contingent on Planning Board Site Plan approval (9/07/2016)

Arthur Radin
Chairperson, Zoning Board of Appeals

September 1, 2016
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 (absent)</u>	<u> </u>	<u> </u>
Member	<u>Ms. Elizabeth Grant (absent)</u>	<u> </u>	<u> </u>
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	<u> </u>
Member	<u>Ms. Rebecca Parshall (alt. absent)</u>	<u> </u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 1, 2016

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist Variance No: # 081716-Z (Side)
Address: C/O Document Reprocessors, 40 Railroad Avenue, Rushville NY 14544 Zoning District: HR
Telephone: (585) 554-4500 (work) Published Notice on 8/25/16 DM
Property Location: 5611 Water Street, Middlesex NY Notice to County sent 8/16/16
Applicable Section of Town Zoning Code: Sect #403, Schedule II County Hearing held on 8/25/16 PB
Recommendation: approval

NATURE OF REQUEST

Applicant requests an area variance from current Zoning Law for a **side setback** of 13.6 ft. on Lot 1, where current zoning requires 15 ft. for the purpose of a Minor Subdivision in the Hamlet Residential Zoning District.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because the side setback on Lot #1 is pre-existing, and the situation was created by the nonconformance of the location of the pre-existing buildings which were already non-conforming to current zoning.

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 benefits requested cannot be achieved by any other method feasible for the applicant to pursue except to apply for a variance because the pre-existing buildings are located too close together.

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

Reasons: The proposed area variance of 13.6 ft. when 15 ft. is required in Hamlet Residential is in my opinion substantial, but does not preclude granting 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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as this is pre-existing and non-conforming.

The only change is the lot line which is equal distance from the other building on Lot #2.

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

Reasons: The alleged difficulty is self-created because the surveyor and owner made the decision to draw the lines as they did in order to subdivide the properties.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

*variance granted contingent on Planning Board Site Plan Approval of the subdivision (9/07/16)

Arthur Radin
Chairperson, Zoning Board of Appeals

Date September 1, 2016

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 (absent)</u>	___	___
Member	<u>Ms. Elizabeth Grant (absent)</u>	___	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alt. absent)</u>	___	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 1, 2016

Applicant/Owner: Mr. Bill Grove, agent for owner Mr. Dean Arpag
Address: 19 Rollins Crossing, Pittsford, NY 14534
Telephone: Agent's # 797-3989
Location: 1187 South Lake Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID #21.64-1-1

Variance No: #081716-Z (2 Front Setbacks)
Zoning District: LR
Published Notice on 8/25/16 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting two Area Variances for the purpose of locating (2) retaining walls on property for the purpose of allowing a driveway from the road to the garage located under the proposed house. One will be located between the driveway and the septic system along the north side of the driveway with the end of the wall 20.8 feet from the centerline of the road. The second retaining wall will be located between the driveway and the edge of the gully on the south side of the property and the end of the wall will be 41.0 feet from the centerline of the road. The property is located in the Lake Residential District which requires a 60 foot Front Setback from the centerline of the road. Based on Section #403, Schedule II, a variance is required.

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 created which would be a detriment to nearby properties because the proposed retaining wall is a standard variance request in this neighborhood.. These retaining walls are perpendicular to the road and will be hardly noticed once installed.

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: There is not another method feasible for the applicant to pursue . These retaining walls will allow for a driveway for the owner's use that will access the garage on the lower level of the proposed building without more excavation.

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

Reasons: Yes, both of the retaining walls (20.8 feet and 41.0 feet) are substantial as 60 feet is the required amount; however this does not change in my opinion granting 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: This variance request improves the drainage to the road and will enhance the property and driveway.

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

Reasons: Though self created, the alleged difficulty in my opinion does not 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 Mr. Win Harper and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community: *NOTE: The granting of the requested variances for both retaining walls is contingent upon new survey results of the southernmost property line which has been challenged by the contiguous neighbor to the south.*

Arthur Radin
Chairman, Zoning Board of Appeals

September 1, 2016
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 (absent)</u>	_____	_____
Member	<u>Ms. Elizabeth Grant (absent)</u>	_____	_____
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	_____
Member	<u>Ms. Rebecca Parshall (alt) absent</u>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 17, 2016

Applicant/Owner: Ms. Ashley Champion for owner Robert J. Brenner
Agent's Address: C/O Nixon Peabody LLP, Rochester NY 14604
Telephone: Agent's # 585 263-1361
Location: 262 East Lake Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 2.61-1-2

Variance No: #110316-Z (Retaining Wall)
Zoning District: LR
Published Notice on 11/11/16 DM
Referral to County sent 11/08/16
County Hearing held on 11/17/16
Referral Response _____

NATURE OF REQUEST

Applicant is requesting three variances for the purpose of locating a 4 ft. high timber retaining wall at the toe of the cliff at shoreline. A 7 ft. front setback variance where 40 ft. are required from the lake's High Mean Water Mark and two side setback requests of 2 ft. each where 15 ft. are required for the retaining wall facing the north and south boundary lines. This property is located in Lakeside Residential Zoning District. Based on Section #403, Schedule II, a variance is required.

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 created which would be a detriment to nearby properties because the location of the retaining wall will be positioned in the only place it could be which is behind the house and at the toe of the slope with low impact effect on the neighboring parcels.

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 has stated the parcel is quite narrow. This wall must be positioned where it is to protect the residence at lakeside from periodic falling Cliffside debris sloughing off. It is a reasonable request in my opinion as a retaining wall for the purpose of protecting the property.

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

Reasons: The variance request is not substantial in my opinion, as its two feet short of the required side setback on both sides and 20 feet instead of 40 feet from the HMWM, but is positioned behind the house and not visible from the shoreline.

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: This proposed variance request is positioned to help the environmental conditions on the property as it will protect the property and the lake from falling Cliffside debris.

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

Reasons: Though self-created by the owner purchasing the property at cliffside, the alleged difficulty in my opinion, does not 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 Mr. Win Harper and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

November 17, 2016
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>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 17, 2016

Applicant/Owner: Ms. Ashley Champion for owner Robert J. Brenner
Agent's Address: C/O Nixon Peabody LLP, Rochester NY 14604
Telephone: Agent's # 585 263-1361
Location: 262 East Lake Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 2.61-1-2

Variance No: #110316-Z (Stair System)
Zoning District: LR
Published Notice on 11/11/16 DM
Referral to County sent 11/08/16
County Hearing held on 11/17/16
Referral Response _____

NATURE OF REQUEST

Applicant is requesting two variances for the purpose of locating a wood low impact stair system from an upland location to the shoreline with multiple midway platforms and a final landing at shoreline. This final landing is located approximately 2 ft. from the side setback from the southern boundary line and 20 feet from the High Mean Water Mark. This property is located in Lakeside Residential Zoning District, which requires 15 feet side setbacks, and a front setback of 40 feet. Based on Section #403, Schedule II, a variance is required.

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 created which would be a detriment to nearby properties because the staircase is an improvement over the existing failing trams located on the property. All neighboring parcels have commented on the project, what is relevant to the variances, and environmentally, it is the only way feasible to access the residence from the road.

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 has stated after investigating the parcel in its' entirety, this is the most reasonable way to most closely conform to the setback requirements on the property and provide access to the residence from the road.

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

Reasons: The variance request is not substantial in my opinion, as it runs parallel to the original tram on the boundary line.

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: This proposed variance request is positioned to be of low impact and is surrounded by a wooded area. The owner must be able to access his residence in some manner and this project will improve the existing methods of doing so.

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

Reasons: This property was purchased with difficulties in place. It is a very narrow lot with no other relief. The owner must have the ability to access the pre-existing residence at shoreline, so though self-created, in my opinion, does not 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 Ms. Elizabeth Grant and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

November 17, 2016
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>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 17, 2016

Applicant/Owner: Mr. Brennan Marks, agent for owner Mr. John Savage
Agent's Address: 42 Beeman Street, Canandaigua NY 14424
Telephone: Agent's # 905-0360
Location: 6224 Vine Valley Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 11.60-1-6

Variance No: #110216-Z (Front Setback)
Zoning District: LDR
Published Notice on 11/11/16 DM
Referral to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 75 ft. front setback variance from the centerline of the road for the purpose of locating a two story 21 x 23 ft. house addition. The property is located in the Low Density Residential District, which requires a 100 ft. front setback from the centerline of the road. Based on Section #403, Schedule II, a variance is required.

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 created which would be a detriment to nearby properties because the location of the proposed addition, though closer to the road, actually is in line with many other residences on this road that are grandfathered in as existing prior to current zoning.

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 stated they have investigated all other options and they are not another method feasible for the applicant to pursue.

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

Reasons: The variance request is substantial but in my opinion, this does not change my decision to make a motion to grant the variance. The house itself is actually closer to the road than the variance request for the addition.

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: This variance request will not create an adverse effect. All drainage is well managed and all onsite water runoff will flow to the roadside ditch as explained by the agent Brennan Marks P.E.

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

Reasons: Though self-created by choice, the alleged difficulty in my opinion does not 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 Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

November 17, 2016
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>	_____	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on Nov. 17 & Dec. 01, 2016

Applicant/Owner: Mr. Tom Fromberger, agent for owner A. Komarek
Agent's Address: MRB Group, 145 Culver Road, Ste.#160 Roch NY 14620
Telephone: Agent's # 585 381-9520
Location: East Lake Road, Tax Map ID # 2.3-01-23
Applicable Section of Town Zoning Code: Section #403, Sched II

Variance No: #110116-Z (Side Setback)
Zoning District: LDR
Published Notice on 11/11/16 DM
Referral to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a variance from Sect. #403, Sched. II of the local zoning code to allow a side setback of 3.5 ft. when 20 ft. is required in the Low Density Residential Zoning District, for the purpose of installing a 46 ft. x 120 ft. tennis court and a 6 ft. side yard setback when 20 feet is required in the LDR Zoning District for the purpose of installing an open fence surrounding the tennis court.

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: Not unless the property is sold in the future, however the Zoning Laws are in place to protect a new owner.

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: There seems to be multiple options available for the applicant to pursue other than a variance. Some of these could be:

1. Since the same individual owns both lots, it would be feasible to redraw the lot lines to keep the proposed project in compliance with zoning. 2. Move the proposed tennis court to the south, with minimal tree removal and drainage to the south. 3. Start over and locate the tennis court in an alternate location.

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

Reasons: The variance request is substantial in my opinion, and the option of moving it to the south several feet seems advantageous to the applicant for the purpose of allowing for an anticipated buffer.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No ___

Reasons: I have no facts to state a view on this, however knowing the applicant purchased the property and started site preparation for this project while bypassing our zoning laws, when there was no reason or undue hardship to do so leads me towards denying the request in lieu of creating a nonconformity that benefits only the applicant.

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

Reasons: I do think the difficulty was self-created and is relevant to my decision to deny the variance request. It was the applicant's choice to locate the tennis court and prepare the site without the advantage of Planning Board Site Plan review, which would have guided him in siting the project properly; hence, the applicant created this difficulty himself.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. Richard DeMallie, 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

December 1, 2016
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>absent</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>	_____

2015

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on February 5, 2015

Applicant: Mr. Donald Miller

Variance No: #121714-Z

Address: 464 Bare Hill Road, Rushville NY 14544

Zoning District: LDR

Telephone: (585) 414-5613

Published Notice on January 16, 2015 (DM)

Property Location: same as address

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for a 57 ft. front yard setback to extend the north end of an existing workshop with a 16 x 31 foot addition. This request if granted will create a 43 foot variance. This project is located in the Low Density Residential District which requires a 100 ft. for a minimum front setback.

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: This workshop is located far from any nearby properties or structures. The road it is located on is sparsely traveled. The extension to the existing workshop is an addition to an already nonconforming structure that is grandfathered in. The applicant has stated tonight that he will set it back another foot on the north end where the building angles away from the road.

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 has stated that this existing workshed is located close to the driveway, and any alternative method would create more land disturbance with grading. This is the best alternative.

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

Reasons: I don't believe it is because the requested variance is not even double what the existing building measures.

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 doesn't seem so, as there will not be any water, or grading added, and the SEORA findings as submitted determined this action would not have an adverse effect or impact on the environmental conditions in the neighborhood.

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

Reasons: I believe it is self-created; however the applicant needs a bigger space to create more work space for his business, and the existing building is grandfathered in, so this is why he needs a 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 Ms. Elizabeth Grant and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

February 5, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>absent</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Win Harper</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alternate)</u>	<u>absent</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 7, 2015

Applicant: Mr. Donald Bowerman
Address: 195 Barehill Rd., Middlesex NY 14507
Telephone: (585) 554-3992
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #032515-Z
Zoning District: AG
Published Notice on May 5, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant requests permit to build a garage/pole barn on property in the AG District. This districts' area requirements require a 100 foot setback from the center of the road per Section 3403, Schedule II. Applicant requests to place structure 77 feet from the center of the road. The Area Variance request is 23 feet.

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: It would not be out of character to the existing neighborhood as all the neighboring parcels on Barehill Road are diverse and this project would right in.

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 could reposition the building to achieve the same benefit; however the location where he is requesting it to be placed is only 23 feet out of a total of 100 feet required.

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

Reasons: The amount of the Area Variance is approximately 23%; however this measurement (77 feet) is still a far distance from the centerline of the road.

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, the variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood as the determination of the SEQR proves.

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

Reasons: The requested variance should be granted. The parcel has a large amount of acreage, is set apart from other

parcels. It will not change the visual impact of the environment. I don't think there is any problem with granting 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 Mr. Richard DeMallie and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

May 7, 2015
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 (absent)</u>	___	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alternate)</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 7, 2015

Applicant: Mr. and Mrs. Terry Herzberg

Variance No: #040815-Z

Address: P.O.Box 248, Canandaigua, NY 14424

Zoning District: AG

Telephone: (585) 770-3395

Published Notice on May 5, 2015

Property Location: 1730 West Avenue, Middlesex NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance to place a shed in a location that does not meet the district's setbacks. AG District requires 100 feet from the centerline of the road. Applicant wishes to locate the storage shed 45 feet from the centerline of the road. Applicant is requesting a 55 foot front yard setback.

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: No, as there are no structures nearby in neighboring parcels. There will not be an undesirable change as it will flow with what is currently existing on the parcel and in 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 ___ No X

Reasons: Upon looking at the layout of the land on a site visit, I think this is the only feasible place on the property. The back lot is steep and would entail a large disruption of the ground, whereas the driveway is gravel and flat.

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

Reasons: Although the variance request is substantial, it is the only feasible place to locate it because to place it elsewhere on the property would entail cutting back into the embankment which slopes upward.

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: The placement of a small storage shed is not substantial. The location where it is to be placed is less of a

physical impact than it would take to dig into the slope which would definitely be an adverse impact to the environment.

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

Reasons: I believe this variance request is not self-created. They want a shed for storage. There is no where else feasible for them to locate the shed without a lot of environmental impact.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant, and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Chairperson, Zoning Board of Appeals

May 7, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman (absent)</u>	___	___
Member	<u>Mr. Win Harper</u>	<u>X</u>	___
Member	<u>Mr. Rebecca Parshall (alternate)</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 7, 2015

Applicant: Mr. Mike Smith, agent Mr. Chris Bretz
Address: 6355 Glenn Avenue
Telephone: (585) 986-9734
Location: same address Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #041315-Z
Zoning District: LR
Published Notice on May 5, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting area variances to construct a proposed deck to a pre-existing and non-conforming structure in the Lake Residential District. This request was denied because it does not meet the required 15 ft. side setback for this district. The existing home sits 5 ft. 8 in. off the east property line. The applicant requests the location of the proposed deck to be 15 ft. in length and to remain 5 ft. 8 in. off the property line to become in line with the house. This makes the variance request - 9 ft. 4 in.

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 proposed deck will add to the aesthetic value of the house and though not within required side setback area requirement, it will match the side setback of the pre-existing house. No comments for or against were received from neighboring parcels.

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: It is not feasible to locate the proposed deck in a different location than what is proposed as the existing house is non-conforming and was built to be in compliance to the old setback of 10 feet. It cannot be located in the back or on the other side as the house is currently within the required setbacks without any room to add on to.

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

Reasons: The proposed variance requests is not substantial. The proposed deck takes up a good part of the parcel, but is actually not even 10% of the existing structure.

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: All the houses on Glenn Avenue have a deck and this one will add to the property, blending in with

the lines of the existing house and it's addition will become much the same as the neighboring parcels.

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

Reasons: The owners want a deck and purchased the property with the property boundaries as they are; however adding the proposed deck as planned is ok as they are keeping it's western measurement in line with the existing 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 Mr. Win Harper and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairman, Zoning Board of Appeals

May 7, 2015
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 (absent)</u>	<u> </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 (alternate)</u>	<u>X</u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 07, 2016

Applicant/Owner: Mr. Jeremy Fields/Mr. Michael Mullaly
Address: 5020 Wyffels Road, Canandaigua NY 14424
Telephone: Agent's # 315-0015
Location: 1265 South Lake Road, Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Sched II
Tax ID # 21.71-1-2

Variance No: #060116-Z (Side Setback)
Zoning District: LR
Published Notice on July 01, 2016 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for the purpose of installing a retaining wall intending to provide off road parking.
Property is located in the lake Residential District which requires a 15 foot Side Setback from center of the road. Applicant proposes to located retaining wall directly on the property line. Based on Section #303, Schedule II a variance is required.

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 proposed retaining wall is designed to be installed as a continuous retaining wall with the neighbor to the north's existing wall. The neighbor is in approval with this project and the wall visually has the same dimensions and style so there will not be an undesirable change or detriment to nearby properties.

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: Yes, parking is currently available at the side of the road; however it is a narrow road and cutting back into the embankment is a safer alternative in my opinion.

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

Reasons: it is substantial because the variance request is 15 feet which is required here; however due to the factors we have considered with safety of the traffic flow on the road, it doesn't affect my motion 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: This variance request improves both the drainage to the road and the safety of the traffic flow with clear line of sight on this narrow road.

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

Reasons: Yes it was self- created but in my opinion the relevance whether to grant the variance or not lays greater with the improvements it will make both for the applicant and those traveling on the road.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Win Harper and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community: NOTE: Granting a variance for the side setback on this property is directly contingent on the front setback granted as well.

Arthur Radin
Chairman, Zoning Board of Appeals

July 07, 2016
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) absent</u>	___	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 6, 2015

Applicant: Mr. Thomas Drennen
Address: 28 Scotland Road, Canandaigua NY 14424
Telephone: (585) 393-0221
Location: 1081 South Lake Rd., Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #072015-Z
Zoning District: LR
Published Notice on August 4, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an area variance to install a hot tub on a proposed deck, measuring 10 ft. x 10 ft., to be built 56 feet from the centerline of the road. Mr. Drennen's property is located in the Lake Residential Zoning District. This request was denied because the project does not meet the required 60 ft. front setback for zoning requirements in this district.

The applicant is requesting a 4 feet 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: The proposed deck measurements are designed to fit the hot tub which is to be installed. It is a minor variance request of only 4 feet. There were not any comments for or against this project.

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: It was stated by the owner that to relocate the deck was not feasible as it would then be backed right into the house itself.

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

Reasons: The proposed variance request is not substantial. It is only four feet that the owner is asking for.

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: Most of the homes on the lake have decks and this would be the same as most neighboring parcels.

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

Reasons: Yes I think most of the variance requests are self-created, but this will be a nice addition to the home, and will be an aesthetic improvement that the owner will definitely enjoy when at the lake.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairman, Zoning Board of Appeals

August 6, 2015
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 (absent)</u>	___	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (absent)</u>	___	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 3, 2015

Applicant: Mr. Donald Miller
Address: 464 Bare Hill Road, Rushville, NY 14544
Telephone: (585) 454-6134
Location: same as above
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #081515-Z
Zoning District: LDR
Published Notice on September 2, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a change to an area variance granted by the ZBA in February 5, 2015. Applicant would like to add one foot less in a variance request from 43 feet to 44 feet. This request for a 16 ft. extension to the original variance but 44 feet from the road centerline would create 57 feet further back from the road centerline. This project is located in the Low Density Residential District which requires a 100 ft. setback for a minimum front setback.

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 proposed project is located at property which is isolated from neighboring parcels and low density. It will not create an undesirable change in the character of the neighborhood but will add to it.

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 barn is pre-existing and is in a steep slope area so the applicant cannot feasibly move the barn back due to a steep embankment which is there without greater disturbance to the environment. The proposed height is in compliance with current code requirements.

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

Reasons: The proposed variance request is not substantial. It is only one foot variance difference that the owner is asking for from what was granted back in the February hearing.

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: There will not be any adverse impact on the environment nor physical effect that is not consistent with the character of the district it is located in. It is in an isolated area of the Town's Zoning District.

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

Reasons: Yes I think most of the variance requests are self-created as property is purchased with the lay of the land included, however this does not preclude granting of this variance request.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Win Harper and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairman, Zoning Board of Appeals

September 3, 2015
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 (alternate)</u>	<u> </u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

Front Yard Setback

MIDDLESEX ZONING BOARD OF APPEALS on September 17, 2015

Applicant/Owner: Mr. Robert Stewart
Address: 36 Barkwood Lane, Spencerport, NY 14559
Telephone: _____
Location: 332 East Lake Road, Rushville NY 14544
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #072915-Z
Zoning District: LR
Published Notice on September 11, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a front yard setback variance of 40 feet from the High Mean Water Line at shoreline for the purpose of installing a replacement tram to an existing tram in the Lakeside Residential Zoning District. In this District, any structure located within 40 feet from the HMWL requires a variance. Since "tram systems" are designated as "structures in Sect. 200.101 of current zoning, it must by law comply with zoning requirements, and therefore this request was denied.

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 proposed project is located at shoreline of the property and the tram brings the applicant to the shoreline as other neighboring properties have either a tram or a stairway as well. This tram is a replacement to an outdated existing tram.

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: There is not another method feasible to get to the shoreline than replacing what was already existing. The tram rests on a landing by the shoreline for safe access to the shoreline.

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

Reasons: The proposed variance request is substantial as the request is for the full 40 feet required, but it is the intent of the tram system to transport the property owner to their shoreline, hence there is a need to correct the Zoning Law to exempt them from this front yard setback.

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: I don't believe there will be any adverse impact on the environment as the lower end at shoreline rests on steel pilings that support the tram with no physical effect to neighboring properties at the shoreline.

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

Reasons: It was created by the town with the Zoning Law that allows trams in Lakeside Residential; however not allowing it to get to the shoreline for which it was intended. It was an error in the Law that did not provide an exemption.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairman, Zoning Board of Appeals

September 17, 2015
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 (alternate-absent)</u>	___	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

Side Setback

MIDDLESEX ZONING BOARD OF APPEALS on September 17, 2015

Applicant/Owner: Mr. Robert Stewart
Address: 36 Barkwood Lane, Spencerport, NY 14559
Telephone: _____
Location: 332 East Lake Road, Rushville NY 14544
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #072915-Z
Zoning District: LR
Published Notice on September 11, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a side setback variance of 6.5 feet from the southern property line for the purpose of installing a replacement tram to an existing tram in the Lakeside Residential Zoning District. An existing structure is at 8.2 feet and the proposed setback after installation will be 6.5 feet after demolition of an existing maintenance shed. Current Zoning in this District requires a 15 foot side setback.

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 location of the new tram replaces an existing tram that was already there, providing a functional safer use for the property owner.

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: There is not another method feasible for the applicant to achieve the function of getting to their property at the shoreline and it is a replacement with all structures located in the existing track lane.

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

Reasons: The proposed variance request is not substantial and what is proposed is actually less than the original tram location.

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: I don't believe there will be any adverse impact on the environment as it is essentially a replacement of what was there and will if the installation is engineered correctly will have no impact on the condition of the environment.

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

Reasons: Properties with shoreline frontage need to have a way to access the lake. This is a replacement to what was currently there to provide access to the shoreline.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairman, Zoning Board of Appeals

September 17, 2015
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 (alternate-absent)</u>	_____	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 15 & 29, 2015

Applicant/Owner: Mr. Terry Elliott
Address: 266 East Lake Road, Rushville NY 14544
Telephone: (585) 202-9036
Location: 266 East Lake Road, Rushville NY 14544
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #092315-Z (Side Setback)
Zoning District: LR
Published Notice on October 9, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a side setback area variance of 13 feet from northern property line where 15 feet is required in Lakeside Residential for the purpose of an already constructed shed that was built without a permit in November 2014 for the purpose of insulating a water filtration system.

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: Upon viewing the water system shed at a point of view both standing next to the house and from the shoreline, I believe it fits into the existing character of the neighborhood landscape. In my opinion, the structure itself is built well and looks nice painted and trimmed to match the character of the house. It does not "stand out" as anything detrimental to nearby properties.

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: There is not another method feasible for the applicant to pursue as this structure has already been built where the water line comes up from the lake and to demolish the structure, and move the water line with pump would be costly

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

Reasons: I don't think so. It appears to be nothing excessive when viewing other existing outbuildings that are present on neighboring parcels. Lake properties tend to be built close to each other.

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: I don't believe there will be any adverse impact on the environment as it is built into the existing hillside and trees were not removed when it was built.

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

Reasons: I think most variance appeals are self-created but clean water is crucial to living on the hillside properties.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Rebecca Parshall, 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 with conditions.**

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 in order to minimize adverse impacts upon the neighborhood or community:

The applicant shall be granted the variance with the following conditions to mitigate neighboring concerns:

1. **Plant a buffer of fast growing trees or bushes that would obscure the existing shed from neighboring parcels.**
2. **Submit a letter of agreement to the code office from the two contiguous owners that this condition would be an acceptable resolution between contiguous parcel owners.**

Arthur Radin
Chairman, Zoning Board of Appeals

October 29, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Win Harper (absent)</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 (alternate)</u>	<u>X</u>	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 15 & 29, 2015

Applicant/Owner: Mr. Terry Elliott
Address: 266 East Lake Road, Rushville NY 14544
Telephone: (585) 202-9036
Location: 266 East Lake Road, Rushville NY 14544
Applicable Section of Town Zoning Code: Section #403, Sched II

Variance No: #101415-Z (Front Setback)
Zoning District: LR
Published Notice on October 25, 2015 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for an existing structure built 28 feet from the High Mean Water Mark.

Applicant requests a 12 foot setback for an existing pavilion built in 2011 at shoreline. Town zoning requires the front yard setback to be 40 feet from the High Mean Water Mark for Lakeside Residential Zoning District.

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: Other than our local zoning setbacks, shoreline structures are governed as well by the Uniform Docking and Moorings Law (UDML). The applicant's structure is in non-compliance with both governing bodies and is built as well, without a permit, which literally fly's in the face of the intent of both of these laws. We must be careful not to set a precedent for such action as this, by granting a variance which is in direct violation with our local code.

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: There is not another method feasible for the applicant to pursue unless the other remaining structures, which were permitted, could be repurposed for entertainment; however this is the owner's choice.

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

Reasons: I believe it is. Our zoning code and the UDML both specify that only one Boat Accessory Structure can be built at the shoreline and its dimensions shall be no larger than 120 square feet. This structure is 176 square feet and was built without a permit, when the applicant already had two other structures at his shoreline.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No __

Reasons: Mr. Kevin Olvany, Watershed Program Manager of the Canandaigua Lake Watershed Council states clearly in

his letter, that it is the intent of the UDML to limit structures at shoreline to maintain the natural shoreline while trying to balance that with the applicant's wished to gain access to the lake by using their shoreline frontage.

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

Reasons: It definitely was as it was built without a permit, and constructed to benefit the owners' use, without regard for the zoning process and the Uniform Docking and Mooring Law.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairman, Zoning Board of Appeals

November 19, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Win Harper (absent)</u>	_____	_____
Member	<u>Mr. Ted Carman</u>	<u>X</u>	_____
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	_____
Member	<u>Mr. Richard DeMallie (absent)</u>	_____	_____
Member	<u>Ms. Rebecca Parshall (alternate)</u>	_____	<u>X</u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 5, 2015

Applicant: Mr. Steven J. Chatterton

Variance No: #100415-Z (side setback)

Address: 171 Timmarron Trail, Rochester NY 14612

Zoning District: LR

Telephone: (585) 831-0802

Published Notice on 10/25/15 DM

Property Location: 789 Newago Cove, Middlesex NY

Notice to County sent N/A

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

County Hearing held on _____

NATURE OF REQUEST

Applicant requests an appeal from current Zoning Law for an existing side setback of 7.1 feet from the existing property line for the purpose of constructing a new front deck to his cottage. This cottage is located in Lakeside Residential Zoning District which requires a 15 foot side setback. Variance request is 8 ft.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties be created because it this proposed action is an improvement to what is currently there and is in keeping with what is currently in the neighborhood. It is a common practice today for houses to have decks.

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 cannot achieve the benefit by another method, as the lot is set up this way and had a pre-existing deck when they purchased the property. The old deck had the same side setback and they are only expanding to the west which is the length of the existing house.

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

Reasons: The proposed area variance is substantial, but most houses by the lake have decks for a view if you live near the lake and it is consistent with what is currently in the neighborhood.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as evidenced by our SEQR determination completed by the board for this parcel.

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

Reasons: The alleged difficulty is self-created to a degree because the applicant wants to rebuild a smaller deck needing repair which is smaller than the one that is proposed, but the request is not big in my opinion relative to what is in the neighborhood and the design of the rebuild follows the existing front house line.

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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

November 5, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	<u> </u>
Member	<u>Mrs. Rebecca Parshall (alt)</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. Win Harper & Richard DeMallie (absent)</u>	<u> </u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 5, 2015

Applicant: Mr. Steven J. Chatterton

Variance No: #100415-Z (front yard setback)

Address: 171 Timmarron Trail, Rochester NY 14612

Zoning District: LR

Telephone: (585) 831-0802

Published Notice on 10/25/15 DM

Property Location: 789 Newago Cove, Middlesex NY

Notice to County sent N/A

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

County Hearing held on _____

NATURE OF REQUEST

Applicant requests appeal from current Zoning Law for a 16.6 foot front yard setback in Lake Residential

Zoning District where 60 feet are required for the purpose of building a front deck to his cottage.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties be created because it is in keeping with what is currently in the neighborhood and the current architecture of the house. The proposed deck will remain within the available space which is in line with the existing front of the house.

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 cannot achieve the benefit by another method, as this is the space currently used by the existing deck and the applicant is only wishing to rebuild the current deck by expanding the footprint to keep in line with the house and to be able to comfortably use it to set out on or to entertain guests.

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

Reasons: The proposed area variance is substantial, but the request keeps the proposed expansion of the current deck in line with the house and is also consistent with other parcels in this neighborhood.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as

evidenced by our SEQR determination completed by the board for this parcel. It will only improve the use of the property and is in keeping with the architecture of the house and other neighboring parcel decks.

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

Reasons: The alleged difficulty is self-created as the owner of property could keep the original deck the same size as what is currently there, yet the proposed expansion is in line with the house and the existing grandfathered deck for its' front yard setback.

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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

November 5, 2015
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	<u> </u>
Member	<u>Mrs. Rebecca Parshall (alt)</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. Win Harper & Richard DeMallie (absent)</u>	<u> </u>	<u> </u>

2014

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on January 21, 2014

Applicant: Mr. Chris W. Shortz

Variance No: #121113-ZBA

Address: 7165 Herlford Shire Way, Victor NY 14564

Zoning District: LR

Telephone: (585) 755-5925

Published Notice on January 16, 2014

Property Location: 5650 Widmer Road, Middlesex, NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant requests an area variance to build a 14 ft. x 26.3 ft. addition to an existing structure that does not meet the current Zoning Law minimum area requirement for lakefront property which requires forty feet from the High Mean Water Mark. The request is denied due to the proposed addition measuring 27.83 feet from the HMWM. The variance request is for 12 feet and 17 inches.

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 proposed modifications will enhance the property as it presently exists and the nearby neighbors have stated they are in favor of the proposed addition.

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 could not feasibly achieve the same benefit to the existing structure without placing it where it currently is proposed.

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

Reasons: The front porch variance request does increase the overall square footage; however I do not believe that a four foot variance request is a substantial one.

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: The addition of gutters will be a positive addition to improve the structure and control storm water runoff.

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

Reasons: All modifications to existing structures are self-created, but this is a reasonable solution and the benefit to the applicant outweighs any detriment created by the variance request.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

February 2, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</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. Win Harper</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 6, 2014

Applicant: Mr. & Mrs. William & Jan Scott
Address: 867 South Lake Road, Middlesex NY 14607
Telephone: (585) 554-3093
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #041614-Z
Zoning District: LR
Published Notice on April 29, 2014
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an area variance to construct an addition to a pre-existing and non-conforming structure within approximately 45.73 feet from the centerline of the road. Zoning in Lake Residential requires 60 feet from the centerline of the road, therefore this request was denied. Applicant will be changing the building footprint to .60 feet when setting a new foundation wall at 45.73 feet (original location of 45.13 feet) from road centerline, therefore making the variance request less non-conforming by .60 feet.

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 single story design of this single family residence will remain the same. The addition will make the structure wider in appearance from the road, however the same design will make the structure less non-conforming.

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: It is not feasible for the applicant to make modifications to the proposed addition to the single family residence without increasing more land disturbance.

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

Reasons: The proposed modifications are not substantial and the proposed change in the footprint of the single family residence will make the dwelling more conforming to current zoning required front yard setback.

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: The modifications are minimal, and have no significant adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It is pre-existing and non-conforming not unlike others in the surrounding area.

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

Reasons: These difficulties was not self-created as many of the dwellings in this zoning district are constructed prior to current zoning and so are non-conforming and therefore does not preclude granting of the area 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 Mr. Richard DeMallie and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

May 06, 2014
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	_____	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 6, 2014

Applicant: Ms. Susan Carman & Mr. Thomas Masachi

Variance No: #041714--Z

Address: 638 & 640 Fisher Road, Middlesex NY 14507

Zoning District: LR

Telephone: (585) 554-6659

Published Notice on April 29, 2013

Property Location: same as address above

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant(s) request an Area Variance for a 0 side setback pertaining to a pre-existing and non-conforming 204sq. ft. concrete crib pier. Current code for Lake Residential requires a 15 ft. setback between boundaries of a structure. Applicant(s) have requested the 15 foot variance in order to locate the permanent pier within one boundary (Carman's) rather than leaving it split between both boundaries lines (Carman's and Masachi's).

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected as the permanent concrete crib pier has not moved, only ownership and boundary line reconfigured to keep it within the Carman's property in order to make it less non-conforming than when it was split between the contiguous property lines of applicants Masachi and Carman.

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: It is not feasible for the applicant to pursue any other modifications as to move this permanent crib pier would be to expose the shoreline to erosion and water disturbance.

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

Reasons: The proposed modifications are substantial; however there is no change from the original as the only change is one of ownership. Applicant Carman is requesting to change the boundary line to encompass the entire permanent concrete pier dock within his boundary lines and request of a 15 ft. 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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as only the contiguous boundary lines have changed, not the position of the concrete crib pier dock. Its current position creates a shoreline environmental buffer from erosion.

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

Reasons: I believe the difficulty was not self-created as the owner at 638 Fisher Rd. is relocating his property line to include a pre-existing and non-conforming concrete pier dock that is permanent and pre-existing and non-conforming

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

May 6, 2014
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 (recused)</u>	___	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 8, 2014

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist Variance No: #060114--Z (Rear Setback)
Address: C/O Document Reprocessors, 34 Railroad Avenue, Rushville NY 14544 Zoning District: HR
Telephone: (585) 554-4500 (work) Published Notice on 6/20/14 DM
Property Location: 5611 Water Street, Middlesex NY Notice to County sent _____
Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on _____

NATURE OF REQUEST

Applicant requests appeal from current Zoning Law for: for a rear setback of 16.6 ft. on Lot 2, which faces West Avenue, where current zoning requires 30 ft. Both the minimum area requirements and land use are considered pre-existing and non-conforming and so are "grand-fathered" in when the property was zoned Hamlet Residential.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because the rear setback on Lot #2 is pre-existing, incurring no additional negative impact to 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 benefits requested cannot be achieved by any other method feasible for the applicant to pursue except to move the building. The setback was pre-existing prior to current zoning.

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

Reasons: The proposed area variance of 16.6 ft. when 30 ft. is required in Hamlet Residential is substantial.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as the variance requested is pre-existing and will remain the same except by variance appeal. They will not affect the environmental or physical conditions in the neighborhood or district.

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

Reasons: The alleged difficulty is self-created because the existing setback creates the alleged difficulty for the owner's proposed intent to subdivide and sell as two parcels.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Win Harper and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community:

May it be noted that the pre-existing use of the property at 5611 Water Street was and will remain grand-fathered and designated as a "Commercial" not an "Industrial" use in Hamlet Residential under current zoning until such time as that use is changed by a Use Permit granted by the Zoning Board of Appeals.

Arthur Radin
Chairperson, Zoning Board of Appeals

July 8, 2014
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> </u>	<u>X</u>
Member	<u>Ms. Rebecca Parshall</u>	<u>X</u>	<u> </u>

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 8, 2014

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist

Variance No: #060114--Z (Side Setback)

Address: C/O Document Reprocessors, 34 Railroad Avenue, Rushville NY 14544 Zoning District: HR

Telephone: (585) 554-4500 (work)

Published Notice on _____

Property Location: 5611 Water Street, Middlesex NY

Notice to County sent _____

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

County Hearing held on _____

NATURE OF REQUEST

Applicant requests appeal from current Zoning Law for: (2) two side setbacks in order to subdivide property into two lots: Lot #1 facing Water Street – the variance request is for 1.6 ft. on both lots when 15 ft. is required for side setback on the boundary shared between the buildings located on Lot #1 & #2. The minimum area requirements and land use are considered pre-existing and non-conforming and so were “grand-fathered” when the property was zoned Hamlet Residential.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because both of the side setbacks are back to back. Lot #1 and Lot #2 are both zoned the same and any future use would be designated the same, incurring no additional negative impact to 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 benefits requested cannot be achieved by an alternative method feasible for the applicant to pursue because the applicant has stated efforts to market them as one lot were unsuccessful and the intent now is to subdivide and sell as two separate parcels.

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

Reasons: The proposed area variances are substantial, due to its close proximity to the abutting neighbors in the Hamlet Residential District.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as

the variances requested will remain the same. They will not affect the future use on either lot, and we are not aware of any outstanding concerns in either written or verbal commentary that were presented tonight.

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

Reasons: The alleged difficulty is self-created as the owner of property at 5611 Water Street is selling the property, subdividing it into two lots for financial gain.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

The pre-existing use of the property at 5611 Water Street was and will remain grand-fathered and designated as a "Commercial" not a "Industrial" use in Hamlet Residential under current zoning until such time as that use is changed by a Use Permit granted by the Zoning Board of Appeals.

Arthur Radin
Chairperson, Zoning Board of Appeals

July 8, 2014
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>Ms. Rebecca Parshall</u>	<u>X</u>	___

(Version update: May, 2011)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 7/1, 7/8 and 7/15/2014

Applicant: Mr. Jeremy Fields

Variance No: #060914-Z_SUP

Address: 4608 County Road #1, Canandaigua, NY 14424

Zoning District: LR

Telephone: (585) 315-0015

Published Notice on 6/24/14 DM

Property Location: 1433 South Lake Road, Middlesex, NY 14507

County Planning Approval N/A

Applicable Section of Town Zoning Code: Sect. #402, Schedule I

Hearing held on _____

Planning Board Site Plan Date: TBA

NATURE OF REQUEST

Requested Action: Applicant requests permit to convert a pre-existing and non-conforming barn into a single family residence.

Requested action is not listed in current zoning (Sec. #402, Sched. #1) and therefore requires application for a Special Use Permit (Sec. 501.0) by the Zoning Board of Appeals.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No ___ Reasons: It conforms to the character of the neighborhood where it is located. The barn has been there for a long time and is pre-existing to current zoning. Everyone drives slowly on this narrow road which is also a dead end road.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes X No ___ Reasons: This barn has been there for a long time and possibly long before neighboring dwellings and so will not have a negative impact on surrounding properties. Mr. Fields has done a lot of work on the property and so has made it more valuable. It was also learned in public discussion, that prior to the purchase of this property by the owner, the barn was in need of repair – and it's foundation of it was falling down.

502.1.3 That adequate landscaping and screening is provided.

Yes X No ___ Reasons: I would like to see the existing embankment lining the current driveway to be shored up.

All original landscaping shall remain the same. The current embankment that lines the driveway is eroding away and it should be fixed by grading it some to create a better looking entrance to the site. It would be better for erosion purposes as well.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: There is off road parking in the existing driveway. The owner obviously will not have parking on the road and should use common sense to use the driveway with caution for the line of sight to South Lake Road.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No ___ Reasons: There is not an erosion issue or concern for surface-water runoff onto abutting properties because the barn has been there and it has its own gully for the water to travel to the lake which is located right across the road.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: The utilities have been approved and the septic system is newly installed within the last 18 months.

502.2. SPECIFIC REQUIREMENTS (when applicable)

The variance is granted contingent that this application is reviewed for a determination by the Planning Board for Site Plan Review, prior to permitting development of the property.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Elizabeth Grant, and seconded by Ted Carman, finds that:

- ✓ 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 in order to minimize adverse impacts upon the neighborhood or community:

1. The applicant agrees that he will not anytime in the future, increase the existing footprint of the structure so it impacts into the front yard setback as in so doing it creates more non-conformity.
2. Contingent on permitting the Special Use Permit, the application must go to the Planning Board for Site Plan Review and in particular have them address any traffic safety concerns created with line of sight on South Lake Road in direct correlation to the grade of the existing embankment that lines the driveway.

Arthur Radin

Chairperson, Zoning Board of Appeals

July 15, 2014

Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</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>Rebecca Parshall (alternate)</u>	<u>X</u>	___
Member	<u>Win Harper (absent)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 8, 2014

Applicant: Mr. Ron Davis, agent for owner Mr. Eric Lundquist

Variance No: #060114--Z (Side Setback)

Address: C/O Document Reprocessors, 34 Railroad Avenue, Rushville NY 14544 Zoning District: HR

Telephone: (585) 554-4500 (work)

Published Notice on _____

Property Location: 5611 Water Street, Middlesex NY

Notice to County sent _____

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

County Hearing held on _____

NATURE OF REQUEST

Applicant requests appeal from current Zoning Law for: (2) two side setbacks in order to subdivide property into two lots: Lot #1 facing Water Street – the variance request is for 1.6 ft. on both lots when 15 ft. is required for side setback on the boundary shared between the buildings located on Lot #1 & #2. The minimum area requirements and land use are considered pre-existing and non-conforming and so were “grand-fathered” when the property was zoned Hamlet Residential.

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 character of the neighborhood will not be changed, nor a detriment to nearby properties affected because both of the side setbacks are back to back. Lot #1 and Lot #2 are both zoned the same and any future use would be designated the same, incurring no additional negative impact to 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 benefits requested cannot be achieved by an alternative method feasible for the applicant to pursue because the applicant has stated efforts to market them as one lot were unsuccessful and the intent now is to subdivide and sell as two separate parcels.

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

Reasons: The proposed area variances are substantial, due to its close proximity to the abutting neighbors in the Hamlet Residential District.

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: There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood as

the variances requested will remain the same. They will not affect the future use on either lot, and we are not aware of any outstanding concerns in either written or verbal commentary that were presented tonight.

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

Reasons: The alleged difficulty is self-created as the owner of property at 5611 Water Street is selling the property, subdividing it into two lots for financial gain.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

The pre-existing use of the property at 5611 Water Street was and will remain grand-fathered and designated as a "Commercial" not a "Industrial" use in Hamlet Residential under current zoning until such time as that use is changed by a Use Permit granted by the Zoning Board of Appeals.

Arthur Radin
Chairperson, Zoning Board of Appeals

July 8, 2014
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>Ms. Rebecca Parshall</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 5, 2014

Applicant: Ms. Geraldine Biddle
Address: 19 Oakfield Way, Pittsford, NY 145534
Telephone: (518) 505-1922
Location: 6060 Widmer Rd., Middlesex NY 14507
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #072814-Z
Zoning District: LR
Published Notice on July 25, 2014 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting area variances to construct a proposed addition to a pre-existing and non-conforming structure within 11 feet from the property line where 15 feet is required by current zoning and also a 6.1 foot side setback for a proposed timber retaining wall to replace an existing retaining wall where 15 feet is required in the Lake Residential Zoning District.

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: This property is not close to abutting neighbors and there is neither a view restriction nor impact to be concerned with.

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: It is not feasible because due to the topography of the land, this parcel is locked as such referencing traffic flow, in my estimation.

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

Reasons: The proposed variance requests are substantial; however there is a pre-existing deck on this side that is currently nearer the property line than the proposed addition will be. The side setback at the time the house was built was 10 feet. The new retaining wall will have the same setback as the existing retaining wall and helps hold back the embankment. Also, this application will be reviewed by the Planning Board for Site Plan Review.

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: Due to the lay of the land, all proposed modifications are minimal as located.

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

Reasons: These alleged difficulties were self-created; however I believe we should grant the variances as the impact is minimal. The retaining wall will be within the same setback as the one being replaced.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

August 5, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Win Harper (absent)</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 (alternate)</u>	<u>X</u>	_____

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 5, 2014

Applicant: Mr. Josh Burnett
Address: 1175 Lincoln Avenue, Middlesex NY 14507
Telephone: (585) 755-3314
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #071914-Z
Zoning District: HR
Published Notice on July 25, 2014
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is seeking area variances to place a 30 x 40 x 10 pole barn on property 50 feet at front corner and 45 feet at back corner from centerline of road. Current zoning in Hamlet Residential requires 60 feet front setback from center line of road; therefore making the requested variances 10 feet at front corner and 15 feet at back corner.

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 location of the pole barn on this property will be sitting with open land surrounding it, with the only neighbor kiddy corner across the street. The pole barn, as located, will hardly be noticed and there is not a height or view concern 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 X No ___

Reasons: Applicant could construct a smaller pole barn, but this defeats the purpose of using it for storage, and if the barn is located on property positioned differently, it would make it impossible to back a vehicle out, so it is land-locked as such.

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

Reasons: The requested variances are 10 feet and 15 feet respectively, where 60 feet is required. The pole barn's location as it sits on the property is the only reasonable place close to the house. The surrounding property is open land.

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: Absolutely not. Everyone has a garage or barn for storage, which will clean up the property.

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

Reasons: Of course it is self-created, however the applicant is not asking for anything that others don't have. Also, the angle of the driveway creates the difference between the front and back corners of the structure.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Richard DeMallie, finds that for the 10 ft. variance (front corner); and in a motion made by Mr. Richard DeMallie and seconded by Ms. Elizabeth Grant, finds that for the 15 ft. variance (back corner);

X The benefit to the Applicant DOES outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance requests 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

August 5, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Win Harper (absent)</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 (alternate)</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 2, 2014

Applicant: Mr. & Mrs. Ronald & Diana Papa

Variance No: #090114-Z

Address: 1081 South Lake Road, Middlesex NY 14507

Zoning District: L/R

Telephone: N/A

Published Notice on August 28, 2014 DM

Property Location: same as address

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a front setback variance for the purpose of expanding an existing front porch. The request is for a setback from the roadway centerline of 55.1 feet to the front edge of the porch and 50.1 feet to the front edge of the existing porch steps. Lake Residential Zoning requires a 60 foot setback from centerline of road.

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 proposed action will maintain the character of the neighborhood and will uphold the integrity of the Victorian farmhouse, not dissimilar to the rest 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: Based on plans from the Builder, Mr. Paul Van Scott, the proposed action will increase the square footage to make a more useful porch whose design will fit into the architectural standard of the pre-existing dwelling.

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

Reasons: Because of its' location on South Lake Road, I would say it is more substantial, however it does not have a material impact, because it is situated uphill from the road, - a natural boundary which separates it from any safety or line of sight issues at roadside.

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: I don't believe so. Visually, the architectural plans enhance the look of the structure. It is not anywhere close to cutting into 20% of the lot coverage. The proposed plans have adequate drainage in lieu of a flooding issue.

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

Reasons: Anytime there is a variance request that increases non-conformity, it is self-created., however this fact does not impact my decision, or supporting the motion I gave to grant the variance request.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and seconded by Mr. Win Harper, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 02, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	<u> </u>
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	<u> </u>
Member	<u>Mr. Win Harper</u>	<u>X</u>	<u> </u>
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	<u> </u>
Member	<u>Mr. Ted Carman</u>	<u>X</u>	<u> </u>
Member	<u>Ms. Rebecca Parshall (alternate)</u>	<u> </u>	<u> </u>

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 2, 2014

Applicant: Mr. Timothy Soles
Address: 1799 West Avenue, Middlesex NY 14507
Telephone: (585) 472-3500
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #082014-Z
Zoning District: AG
Published Notice on August 28, 2014 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a front setback area variance for the purpose of locating a Pole Barn on his property. The request is 85 feet setback from the centerline of the roadway. Agricultural Zoning requires 100 foot setback from road centerline.

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 are no other properties nearby. The location of the structure will be downhill. The old garage has been demolished and I believe this change will greatly improve the character of the neighborhood and the owner's situation.

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: If it is feasible, I don't see it. Where the applicant is locating the barn is the only open spot where he can egress uphill, though unusual, is the only way to get out, due to the lay of the land.

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

Reasons: The proposed variance request might be considered substantial I guess, however the proposed action makes the location of the barn a better situation than it previously was.

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: The land has already been filled in where the garage was demolished, and any run-off from the roof of the new pole barn will be managed through a gutter system and then will drain downhill into the existing gully.

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

Reasons: In this particular request, I do not believe the alleged difficulty was self-created due to the topography of the land and where the house sits on the property, this was the only area to locate the proposed structure.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 2, 2014
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 (alternate)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 2, 2014

Applicant: Mr. Terry Stenzel
Address: 969 Rte. #245, Middlesex NY 14507
Telephone: (585) 406-7139
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #080714-Z
Zoning District: AG
Published Notice on August 28, 2014 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a front setback area variance for the purpose of constructing an addition to an existing home.

The request is a setback from the centerline of the roadway of 35 feet. Agricultural Zoning requires 100 foot setback from the centerline of the road.

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 are no abutting neighbors as it is vacant land and the addition is in the back of the house.

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: This is the best location due to the existing location of the septic tank, the barn and the driveway in between and makes any other location mildly inconvenient.

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

Reasons: The location of the addition is located behind the pre-existing house. It will be located further back from the road than the existing porch, which was granted a previous variance, so I don't think the variance request is substantial.

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: I can't see how this could be considered an adverse effect on the neighborhood as it is an addition to a house and adds a room for convenience.

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

Reasons: The house is pre-existing and non-conforming to begin with, so therefore the proposed action makes it self-created, however it does not affect, in my opinion, my belief that we should grant 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 Mr. Win Harper and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 2, 2014
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 (alternate)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 7, 2014

Applicant: Mr. Thomas & Mrs. JoAnn Clutz
Address: 1385 South Lake Rd., Middlesex NY 14507
Telephone: (585) 354-6769
Location: same as address
Applicable Section of Town Zoning Code: Section #403, Schedule II

Variance No: #091214-Z
Zoning District: LR
Published Notice on October 2, 2014 DM
Notice to County sent N/A
County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 29 ft. setback at the North West Corner (31 ft. variance) and a 36 ft. setback at the South West Corner (24 ft. variance) for the purposes of an addition to an existing home. Lake Residential District requires a front setback of 60 feet.

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: All the neighboring parcels are far away without any issues. I don't believe it is a detriment as they are adding on to make it more convenient for themselves without making it more non-conforming.

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: Based on discussion during the review process, it was obvious that both exterior (stone patio) and interior structures (existing chimney) impacted the outside design measurements of the addition. The water run-off on this parcel does not create a negative impact to the property, neighboring parcels or the road and so the addition is better located where proposed.

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

Reasons: I don't believe so. They are adding room to the house to improve the safety and convenience.

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: Run-off from the property flows well through a conduit pipe currently existing and keeps the water self-contained within the property. The addition will add convenience and create some important lifestyle improvements.

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

Reasons: The house is pre-existing and non-conforming to begin with, so therefore the proposed action makes it self-

created, however it does not affect, in my opinion, my belief that we should grant the variance as it makes it more desirable.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

October 7, 2014
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 (absent)</u>	___	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alternate)</u>	<u>X</u>	___

(Version update: May, 2011)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 7, 2014

Applicant: Mr. Stephen & Mrs. Shelly Fiumano

Variance No: #080714 Z-SUP

Address: 8467 Garlinghouse Road, Naples NY 14512

Zoning District: Highway Business

Telephone: (585) 455-8947

Published Notice on 10-02-14 DM

Property Location: 800 Rte. #245, Middlesex, NY 14507

County Planning Approval #2014-45 Oct. 23rd

Applicable Section of Town Zoning Code: Sec. #402, Schedule II

Hearing held on 10-23-14

Tax Map ID # 13.03-1-18

NATURE OF REQUEST

Applicant requests to operate a Health Club/Fitness Center in Highway Business Zoning District. This use is not specifically listed in Sect. #403, Schedule I of the Middlesex zoning. Request to operate this business requires a Special Use Permit.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes No Reasons: The building has been there for many years. All of the proposed business use will be contained inside with appropriate supervision. All current and proposed outside lighting will be built to keep light glare contained within property lines. Because the property is set back from the road and has a long driveway, all snowplowing debris will be contained within boundary lines and will not affect neighboring parcels.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes No Reasons: I agree that the proposed land use will not cause substantial injury to the value of neighboring parcels, because the building has been there for several generations with no proposed changes to the outside.

502.1.3 That adequate landscaping and screening is provided.

Yes No Reasons: Yes, what is currently there is quite adequate. No further screening is needed as the building sits quite a distance from the road.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes No Reasons: There is plenty of off street parking. There will not be heavy influx of traffic egressing the building, so there no significant impact to Route #245

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes No Reasons: There will not be any change in the footprint of the building nor additional parking area which would cause impervious surfaces that could create erosion or storm water runoff to neighboring properties.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes No Reasons: All existing roads and utilities serving the proposed project were adequate and approved in the past and currently approved. More electric service to the building is not needed as they already have adequate voltage for the proposed business needs.

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Mr. Richard DeMallie, and seconded by Elizabeth Grant, finds that

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 (NOT) 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 in order to minimize adverse impacts upon the neighborhood or community:

*Prior to permitting, the Zoning Board of Appeals must determine qualification of this application for review by the Yates County Planning Board; therefore the final determination by the Zoning Board of Appeals for this Special Use Permit is contingent on the Yates County Planning Board Review for county recommendation on October 23, 2014. #2014-45/recommendation: approve

<u>Mr. Arthur Radin</u>	<u>October 7, 2014</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE*

**Final Determination is contingent on recommendation by the Yates County Planning Board Review*

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Win Harper</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (alt.)</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman (absent)</u>	___	___

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 13, 2014

Applicant: Ms. Kimberly Newell

Variance No: #101114 Z-SUP

Address: 6182 South Vine Valley Road, Middlesex NY 14507

Zoning District: Low Density Residential

Telephone: (585) 967-1714

Published Notice on 10-31-14 DM

Property Location: 6187 South Vine Valley Road, Middlesex, NY 14507

County Planning Approval N/A

Applicable Section of Town Zoning Code: Sec. #402, Schedule I

Hearing held on N/A

Tax Map ID # 21.28-1-5

NATURE OF REQUEST

Applicant requests to operate a business in Low Density Residential Zoning District. This use is not listed in Sect. #402, Schedule I, and because the business is not specifically listed, it requires a Special Use Permit as referenced in Section 401.0. of the Zoning Law.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No Reasons: The proposed business is self-contained within the house, is web-based, is not to be nor become a retail operation in the future and requires annual renewal of certification by NYS Ag and Market.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes X No Reasons: I agree that the proposed land use will not cause substantial injury to the value of neighboring parcels, because there will be no change to the outside of the building. All deliveries will be by rural transport as is usual in this neighborhood.

502.1.3 That adequate landscaping and screening is provided.

Yes X No Reasons: Yes, what is currently there is quite adequate as nothing will physically change on this property once the business is established.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes No Reasons: Off-street parking is not necessary nor will there be a change in the traffic. There are no employees and the only traffic will be local deliveries, such as FedX, which now makes regular rural deliveries in the area.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes No Reasons: There will not be any change in the present land use or activity to the outside of the house as the business will be on the inside only, and will not impact abutting properties in any way.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes No Reasons: All existing roads and utilities serving the proposed project were adequate and approved in the past and will not change.

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Mr. Richard DeMallie, and seconded by Elizabeth Grant, finds that

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 (NOT) 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 in order to minimize adverse impacts upon the neighborhood or community:

<u>Mr. Arthur Radin</u>	<u>November 13, 2014</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</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. Rebecca Parshall (absent)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November, 13, 2014

Applicant: Mr. Paul Dreher, agent for owner Mr. Nathan Sirvent

Variance No: #103014--Z (rear setback)

Address: 330 Rock Beach Road, Rochester NY 14617

Zoning District: LR

Telephone: (585) 770-8501

Published Notice on October 31, 2014

Property Location: 614 East Lake Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting variance relief from a 60 ft. rear setback for the purpose of constructing a garage locating the structure 43.3 feet from the center of the road.

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: I believe the location of the garage is less detrimental than having to dig out many cubic yards of ground dirt if located elsewhere.

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: It is not feasible to consider an alternative method due to the need to minimize disruption to the land.

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

Reasons: No, I don't believe it is substantial in this particular case.

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, locating the garage as proposed will minimize the impact.

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

Reasons: I believe the variance is self-created because what is proposed is based on want not need.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. Win Harper, 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) 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

November 13, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</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. Win Harper</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall, alt. (absent)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on November 13, 2014

Applicant: Mr. Jeff Smith

Variance No: #101514-Z

Address: 1751 Shay Road, Naples NY 14512

Zoning District: A/R

Telephone: (585) 414-5613

Published Notice on October 31, 2014

Property Location: same as address

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant requests a privacy fence to be located 42 feet from the centerline of the road. Zoning

in the Agricultural/Residential Zoning District requires 100 foot setback from the center of road.

The variance request is 58 feet.

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 proposed fence will not change the character of the neighborhood or be a detriment to nearby properties because there are not any nearby properties and Mr. Smith's dwelling sits 100 feet back from the road.

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 could plant a natural buffer fence, but to wait until it is at mature height takes too long.

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

Reasons: In my opinion a 58 foot variance for a fence is not substantial and he is entitled to his privacy.

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: This is a fence in a low density area along a country road. There are no environmental conditions that would be impacted here, nor neighboring views that would be obstructed.

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

Reasons: Yes, because this gentleman would like a privacy fence rather than plant a natural buffer along the road, but his choice for a fence is acceptable in my opinion.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Arthur Radin, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

November 13, 2014
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</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. Win Harper</u>	<u>X</u>	___
Member	<u>Ms. Rebecca Parshall (absent)</u>	___	___

2013

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on January 15, 2013

Applicant: Mr. William E. Allison

Variance No: #10413--Z (North Side Setback)

Address: 3277 Rush Mendon Rd., Honeoye Falls, NY 14472

Zoning District: LR

Telephone: (585) 624-3233

Published Notice on January 8, 2013

Property Location: 702 East Lake Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 4.5 ft. variance relief from a 15ft. side setback, placing the proposed structure at 10.5 feet from the North boundary line per Art. IV, Sec. 403, Sched. II of Town Zoning Law. Current zoning requires 15 ft. for side setbacks in the Lake Residential District.

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 seasonal dwelling is appropriate to the small lot size.

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: It is not feasible due to the presence of the High Mean Water Mark and where the power lines are positioned on the property.

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

Reasons: I believe the variance request is substantial for the size of the lot.

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: The site will be engineered for proper drainage and siting as is evident by submission of stamped drawings.

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

Reasons: I believe the variance is self-created because the lot itself is a pre-existing and non-conforming lot as well as being undersized. Applicant purchased the lot as it currently exists currently.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Donald Burkard and seconded by Mr. Arthur Radin, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

January 15, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton, alternate</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on January 15, 2013

Applicant: Mr. William E. Allison

Variance No: #10313--Z (South Side Setback)

Address: 3277 Rush Mendon Rd., Honeoye Falls, NY 14472

Zoning District: LR

Telephone: (585) 624-3233

Published Notice on January 8, 2013

Property Location: 702 East Lake Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 4.5 ft. variance relief from a 15ft. side setback, placing the proposed structure at 10.5 feet from the South boundary line per Art. IV, Sec. 403, Sched. II of Town Zoning Law. Current zoning requires 15 ft. for side setbacks in the Lake Residential District.

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: This lot is extremely tight and undersized creating a siting issue with the development of any structure. I believe the proposed structure is appropriate to the lot size.

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: It is not feasible due to the presence of the High Mean Water Mark and where the power lines are positioned on the property.

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

Reasons: I believe the variance request of 4.5 feet when 15 feet is required is substantial based on the size of the pre-existing and non-conforming lot.

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: This site is pending further review for environmental and site plan process by the Planning Board as a next step.

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

Reasons: I believe the variance is self-created because the lot itself is a pre-existing and non-conforming lot which is

undersized. Applicant purchased the lot as it currently exists.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Donald Burkard and seconded by Mr. Arthur Radin, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

January 15, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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	_____	___	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 2, 2013

Applicant: The Finger Lakes Land Trust (Ms. Elizabeth Newbold, agent)

Variance No: #031013-A-Z (Parcel B)

Address: 202 East Court St., Ithaca New York 14850

Zoning District: LDR

Telephone: (602) 275-9487

Published Notice on March 27, 2013

Property Location: 559 East Lake Rd, Middlesex NY 14507

Notice to County sent 3-19-13

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

County Hearing held on 3-28-13

Owner(s) of Property: Mr. Charles & Ms. Beverly Reed

NATURE OF REQUEST

The Applicant requests a 1.554 acre lot (Parcel B). Current Zoning Requirements in the Low Density Residential Zoning District requires a five acre minimum lot area; therefore an area variance is requested.

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: Definitely not. This parcel though undersized will be enhanced by the protection of green space all around it.

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: This method will enhance and benefit all surrounding parcels both immediate and throughout the local community. It will also aid in resort and tourism in the Middlesex area.

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

Reasons: The variance request is substantial; but its benefits far outweigh the detriments if there are any. It is a worthwhile request and will be beneficial to our community.

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: On the contrary. This request fits within the Town's Master Plan, the Town's intent to protect steep slopes, and will protect the Canandaigua Lake Watershed by providing green space and a forested buffer from the slopes of Bare Hill to the shoreline.

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

Reasons: The variance request is self-created, however allowing a greater portion of the Reed property to become part of

the "Unique Area" surrounding Bare Hill provides a higher purpose which in turn benefits the health, safety and welfare of the Town of Middlesex's residents, protects the Lake Watershed, fits in with our Master Plan and allows protection of the steep slopes in the area.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Arthur Radin and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

April 2, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 2, 2013

Applicant: The Finger Lakes Land Trust (Ms. Elizabeth Newbold, agent) Variance No: #031013-B-Z (Parcel A)
Address: 202 East Court St., Ithaca New York 14850 Zoning District: LDR
Telephone: (602) 275-9487 Published Notice on March 27, 2013
Property Location: 559 East Lake Rd, Middlesex NY 14507 Notice to County sent 3-19-13
Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on 3-28-13
Owner(s) of Property: Mr. Charles & Ms. Beverly Reed

NATURE OF REQUEST

The Applicant requests a 1.793 acre lot (Parcel A). Current Zoning Requirements in the Low Density Residential Zoning District requires a five acre minimum lot area; therefore an area variance is requested.

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: Definitely not. This parcel though undersized will be enhanced by the green space bordering all around it.

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: This method will enhance and benefit all surrounding parcels both immediate and throughout the local community. It will also aid in resort and tourism in the Middlesex area.

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

Reasons: The variance request is substantial; but it's benefits far outweigh the detriments if any. It is a worthwhile request and will be beneficial to our community.

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: On the contrary. This request fits within the Town's Master Plan, the Town's intent to protect steep slopes, and it will protect the Canandaigua Lake Watershed by providing green space and a forested buffer from the slopes of Bare Hill to the shoreline.

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

Reasons: The variance request is self-created, however allowing a greater portion of the Reed property to become part of

the "Unique Area" surrounding Bare Hill provides a higher purpose which in turn benefits health, safety and welfare of the Town of Middlesex' residents, protects the Lake Watershed, fits in with our Master Plan and allows protection of the steep slopes in the area.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Arthur Radin and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

April 2, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 2, 2013

Applicant: Dr. Eberhard Muechler

Variance No: #030713--Z (overhangs)

Address: 92 Tudor Rd., Pittsford, NY 14534

Zoning District: LR

Telephone: (585) 755-5925

Published Notice on March 27, 2013

Property Location: 6351 Glenn Avenue, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant requests an area variance to build a second story addition. The roofline overhangs on the proposed structure do not meet the required 15 ft. side setback for the LR Zoning District. Therefore a variance from zoning is sought. There are four different setbacks that apply at each of the corners of the structure. The northwest corner requires the largest variance of 7 feet 5 inches.

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 proposed modification to the pre-existing dwelling will provide an upgrade to the property and it will look more desirable.

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 upgrading with the proposed modifications which will give the dwelling a facelift while keeping the expansion of the modifications to a minimum.

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

Reasons: The applicant is adding a new second story and new roof to his pre-existing seasonal dwelling. He is also adding to the square footage of the dwelling; however the final product will be substantially an improvement and only enlarges the footprint a small portion.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No ___

Reasons: Rainwater run-off from the expanded roofline may have an environmental impact with poor drainage already

existing in the neighborhood, but this may be mitigated with erosion control practices and be mitigated through proper site work.

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

Reasons: I believe the difficulty was not self-created, because the owner purchased the property before zoning.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant and seconded by Mr. Donald Burkard, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

April 2, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 2, 2013

Applicant: Dr. Eberhard Muechler

Variance No: #030813--Z (front porch)

Address: 92 Tudor Rd., Pittsford, NY 14534

Zoning District: LR

Telephone: (585) 755-5925

Published Notice on March 27, 2013

Property Location: 6351 Glenn Avenue, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant requests an area variance to build a second story addition with a front porch. The request is denied because the front setback is forty feet. The required setback in Zoning District (LR) is sixty feet from the centerline of the road. The applicant is seeking a twenty feet 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: The proposed modifications will enhance the character of the neighborhood while giving the old structure a face lift.

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 could eliminate the front porch from the plans, but this part of the modification adds character to the A-Frame style modification and so is not desirable to leave it off.

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

Reasons: The front porch variance request is 20 feet out of a 60 feet minimum front yard setback. It is substantial as it is one-third of the setback.

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: Water drainage could have an adverse effect unless it is mitigated when construction commences; however it is the same amount of water that would fall on the same amount of roof square footage though mitigated.

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

Reasons: I believe it is self-created, because if the house were not modified, it would not need a 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 Mr. Donald Burkard and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

April 2, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 2, 2013

Applicant: Mr. Thomas V. Northrop

Variance No: #032113--Z

Address: 10665 East Ironwood Dr., Scottsdale, AZ. 85258

Zoning District: LR

Telephone: (602) 738-3027

Published Notice on March 27, 2013

Property Location: 5450 Sunnyside Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant requests area variances pertaining to the rear setbacks from a rear ROW, for the construction of an accessory structure located in the LR Zoning District at 5450 Sunnyside Road, Town of Middlesex. This modification does not meet a 60 ft. Zoning Law setback requirement and so this request is denied.

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

Reasons: The properties in this neighborhood are closely cobbled together. The new construction will upgrade the Existing structure and produce a more desirable change when completed.

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

Reasons: It is not feasible for the applicant to make modifications to his pre-existing structure any other way than as requested, because the structure is very close to the lake on one side and very close to the road ROW and cliffs on the other side. The road in this vicinity is also narrow and curves.

3. Whether the requested variance is substantial: Yes No

Reasons: The proposed modifications are not substantial as the enlargement of the existing footprint is minimal and the pre-existing structure is already non-conforming.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes No

Reasons: The modifications will be minimal and will not affect the traffic flow on the road ROW. A utility pole will be removed which will improve the physical closeness of the environment.

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

Reasons: I believe the difficulty was not self-created as the owner in purchasing the property is now improving it, and did not create it.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

Mr. Brian Dooley, neighbor to the north of Mr. Northrop, requests that the 12 foot ROW is maintained clear for traffic when construction for the proposed modifications commences, and that the utility pole removal is at owner's cost.

Arthur Radin
Chairperson, Zoning Board of Appeals

April 2, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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>Mr. Benjamin Dunton</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on May 7, 2013

Applicant: Mr. John Mulligan

Agent: Mr. Jim Ghostlaw of Brooks Construction

Address: 296 Flower City Park, Rochester NY 14615

Agent's Address: 696 Mendon Ionia Rd., Honeoye Falls, NY 14472

Telephone: (Agent:) 585 704-0401

Property Location: 1129 Sunnyside Road, Middlesex, NY 14507

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

Variance No: #041613-Z

Zoning District: LR

Published Notice on May 01, 2013

Notice to County sent N/A

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an area variance to construct an addition to a pre-existing structure within approximately 58 feet from the centerline of the road. Zoning in Lake Residential requires 60 feet from the centerline of the road, therefore this request was denied and applicant is requesting a two feet 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: The variance request is minimal, is pre-existing to current zoning and will hardly be noticed by nearby properties, once completed.

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: It is not feasible for the applicant to make modifications of this kind to the side or back of his structure without a greater cost to the applicant and to the property.

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

Reasons: The proposed modifications are not substantial and the measurement of the actual conformity will be 8 – 10 inches into the front yard setback.

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: The modifications are minimal, quite close to being conforming and not unlike others in the surrounding area.

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

Reasons: This difficulty was self-created as many of the dwellings in this zoning district are constructed prior to current

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

May 07, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Don Burkard</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>Mr. Benjamin Dunton (alt.)</u>	___	___

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 4, 2013

Applicant: Mr. James Spelman (Spelman Family Limited Partnership) Variance No: #051613 - Z
Address: 6600 Rice Rd., Victor, NY 14564 Zoning District: Lake Residential
Telephone: (585) 703-4527 Published Notice on 5/31/13
Property Location: 5618 Water Street, Middlesex, NY 14507 County Planning Approval N/A
Applicable Section of Town Zoning Code: Sec. #402, Schedule II Hearing held on N/A
PB Approval: Application #070113-SPR (PB Agenda - 7/3/13 for 6366 Glenn Avenue)

NATURE OF REQUEST

Request for Special Use Permit is denied based on Section 402, Schedule II and 401.0 of current zoning because there are two dwellings on one parcel which is an unlisted action; therefore a Special Use Permit has been applied for by applicant.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes No Reasons: The Code Enforcement Officer will ensure that the construction portion is inspected regularly and is in compliance with Town Code. The land use is no greater or different than it was prior to the proposed construction. The quantity of people using the proposed dwelling once constructed will not be increased by building the structure.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes No Reasons: Based on the condition of the existing carport, the proposed renovation will be aesthetically more pleasing to the eye of neighboring parcels. Though somewhat unrelated, Mr. Spelman has demolished the other dwelling on 771 Newago Avenue, which backs up to this property in order to reduce density in an already dense neighborhood.

502.1.3 That adequate landscaping and screening is provided.

Yes No Reasons: The existing landscape and neighborhood trees that currently exist will suffice . Some landscaping will be added around the dwelling perimeter, however no large buffer screening is necessary.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: Adequate off-street parking and loading has already been provided at this address, as is the egress and ingress which is adequate to current standards for a private road. Additional vehicular loading onto the Town Road will not be impacted by the proposed dwelling.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes ___ No X Reasons: The proposed dwelling will be constructed within the same footprint, so therefore will not create additional water run-off from roof. This proposed construction will have additional Site Plan Review on July 3rd, by the Planning Board to address erosion control.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: Glenn Avenue is a Private Road maintained adequately by those who reside by it. If there is vehicular damage to the road caused during the construction process, Mr. Spelman will be responsible for the repair.

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Mr. Donald Burkard, and seconded by Ms. Elizabeth Grant, finds that

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.

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**.

CONDITIONS:

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

Mr. Arthur Radin
Chairperson, Zoning Board of Appeals

June 4, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin</u>	<u>abstain</u>	<u> </u>
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	<u> </u>
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	<u> </u>
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	<u> </u>
Member	<u>Mr. Ted Carman</u>	<u> </u>	<u>X</u>
Member	<u>Mr. Benjamin Dunton (alt.)</u>	<u> </u>	<u> </u>

USE VARIANCE FINDINGS & DECISION
MIDDLESEX ZONING BOARD OF APPEALS on July 2, August 6, August 21, 2013*

Applicant: Mr. Peter & Mrs. Rebecca Parshall

Variance No: #050113-U-ZBA

Address: 1283 Rte. #245, Naples NY 14512 (Tax ID #22.04-1-19)

Zoning District: LDR/HR split

Telephone: (585) 943-1218

Published Notice on: June 21, 2013

Property Location: same

Notice to County sent: July 16, 2013

Applicable Section of Town Zoning Code: Sec. #402, Schedule #1, 1A

Hearing held on: July 25 – approved

Permitted Uses of Property: Low Density Residential and Hamlet Residential Zoning Districts permit the following land uses or activities: One Family Residence, Factory Manufactured Dwelling, and Private Garage.

Use for which variance is requested: Applicants request a Use Variance for a denied Land Use to utilize 16 acres of their land, zoned HR, for the keeping of livestock for personal use. Their intent is to benefit from a educational and a medical component for the keeping of a combination of (4) small livestock animals consisting of a combination of sheep and/or goats for homeschooling their (5) children; and for providing goats' milk to (3) of their (5) children who have a medical necessity/life threatening allergy to dairy products.

No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following 4 tests must be met for each and every use allowed by zoning on the property, including uses allowed by a special use permit.

1. The Applicant cannot realize a reasonable return or benefit from the property in question, which must be established by competent financial evidence. The lack of return must be substantial.: Yes ___ No, it is not substantial X

Proof: The applicant is required to prove financial evidence that they cannot receive a reasonable return on any of the uses permitted on this land as currently zoned. The applicant worked very hard at proving financial evidence, but they are currently living on the land, which is certainly a return although not the return that they are requesting.

SUGGESTED EXAMPLES OF FINANCIAL EVIDENCE
• Bill of sale for the property, present value of property, expenses for maintenance
• Leases, rental agreements
• Tax bills
• Conversion costs (for a permitted use)
• Realtor's statement of inability to rent or sell.
1

2. The alleged hardship relating to the property is unique and does not apply to a substantial portion of the zoning district or neighborhood.): Yes X No ___

Proofs: The hardship reasoning could go either way. I don't see the requested use applying to the remainder of the Hamlet Residential Zoning District and the uses which are allowed or currently used in this District today. The requested use is unique to that Zoning District and is outside of all the approved uses. The parcel in discussion, is now used for gardening purposes which is a permitted use, just not the requested use.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood.: Yes, it will X No, it won't ___

Proof: I believe the requested use, if granted will alter the essential character of the neighborhood. The Town created the zoning with the intent of potential expansion. Because the expansion hasn't happened as yet, if that end of town is the logical direction that residential expansion was planned, then if and when it comes, I think altering that and putting farm animals in there (which we cannot restrict the number of, though we can restrict the amount of area of that 17 acre parcel that could be used to house farm animals) and also if the neighbors or abutters change or things start to push out and we've a farm-type situation with a rooster for example waking up the town, we have created a problem for the Town and also the Parshall's looking down the road and that's just one example.

4. The alleged hardship has been self-created. : Yes X No ___

Proof: I think one could work both sides of this statement and it could go either way; however 2 of the 4 criteria are absolutely a situation that is not supported and the criteria is a situation of all or nothing. With a lot of discussion, I recommend we do not approve the request. Specifically, Criteria #1 or A: The portion with respect to competent financial evidence and that one can't yield a reasonable return based on approved uses as outlined....I stated the residential benefit, that they were actually receiving a benefit by living on the land. And, Criteria # 2 or b: I don't see the requested use applying to the remainder of the Hamlet Residential Zoning District and the uses which are allowed or currently used for today. The requested use is unique and outside of all the currently approved uses. The parcel in discussion, is now used for gardening purposes which is a permitted use, just not the requested use. The applicant purchased the property in compliance with current zoning. They have made a lifestyle decision to change its use which is not in compliance with current code as it is currently zoned.

SUGGESTED EXAMPLES OF UNIQUENESS

- *Topographic or physical features preventing the development of a permitted use.
- *Why would it be possible to construct the applicant's proposal and not any of the other permitted uses?
- *Board Members' observation of the property and the surrounding area.

SUGGESTED EXAMPLES OF NEIGHBORHOOD CHARACTER FACTORS

- Board members' observations of neighborhood.
- Expected effect of proposal on neighborhood, for example, change in parking patterns, noise levels, lighting, and traffic.

IS IT SELF-CREATED ?

- What were the permitted uses at the time the property was purchased by the applicant?
- Were substantial sums spent on remodeling for a use not permitted by zoning?
- Was the property received through inheritance, court order, or divorce?

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 3, 2013

Applicant: Mr. Frank Kelly

Variance No: #082113-Z (side setback)

Address: 1080 Route #364, Middlesex NY 14507

Zoning District: AG/R

Telephone: (585) 554-4043

Published Notice on Aug 21, 29, 2013

Property Location: 204 Bare Hill Road, Middlesex NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a side setback of 10 ft. variance relief when a 20 ft. variance is required in order to construct a garage.

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: It was determined that this request would not produce an undesirable change or a detriment to nearby properties because the requested 10 ft. variance is 50% of the side setback and even though substantial, the structure will still be set back from the road and abutting properties. It is not an undesirable addition to the property.

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 could build a smaller garage in another location on the property; however the applicant reasonably states that this is the only level buildable part on the property and it is also close to the house which conveniently allows ease when hauling food and/or supplies from the car into the house.

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

Reasons: The variance is substantial; however where the proposed garage is not an issue to abutting properties where it is to be located.

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: There is no adverse effect or impact on the environment due to physical water run-off from the garage. The applicant stated there will be downspouts on the roofline of the garage and due to the lay of the land, any run-off would be

directed to the rear of the lot and piped to feed an existing pond that is not spring fed.

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

Reasons: I believe the variance is self-created because of the size, design and placement of the barn; however the applicant's parcel is not large and the proposed location is the only level place to build.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 03, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	_____
Member	<u>Mr. Ted Carman</u>	<u>X</u>	_____
Member	<u>Mr. Benjamin Dunton (alt.)</u>	<u>sustained</u>	_____
Member	<u>Mr. Donald Burkard (absent)</u>	_____	_____
Member	<u>Mrs. Elizabeth Grant (absent)</u>	_____	_____

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 3, 2013

Applicant: Mr. Frank Kelly

Variance No: #082113-Z (rear setback)

Address: 1080 Route #364, Middlesex NY 14507

Zoning District: AG/R

Telephone: (585) 554-4043

Published Notice on Aug 21, 29, 2013

Property Location: 204 Bare Hill Road, Middlesex NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

AG/Residential Zoning District requires a 30 foot rear setback. The Applicant is requesting a 5 feet rear setback variance relief to construct a proposed garage on his property when current zoning requires 30 feet.

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: It was determined that this request would not produce an undesirable change or a detriment to nearby properties because the requested 5 foot variance though substantial, the structure will still be set back from the road and abutting properties. It is not an undesirable addition to the property.

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 could build a smaller garage or move it 5 feet to the east on the property; however the applicant has reasonably stated that this location is level and convenient to the house so I would not change my motion to grant the variance as proposed.

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

Reasons: The rear setback variance request is not substantial. It is one-sixth or 16% of the whole and the proposed location of the garage is not an issue to abutting properties as proposed.

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: There is no adverse effect or impact on the environment as Mr. Kelly's parcel is abutted by vacant land. The abutting neighbors have written letters stating they are in favor of the proposed garage as proposed

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on December 3, 2013

Applicant: Mr. Thomas V. Northrop

Variance No: #112013--Z

Address: 10665 East Ironwood Drive, Scottsdale, AZ. 85258

Zoning District: LR

Telephone: (602) 738-3027

Published Notice on November 26, 2013

Property Location: 5450 Sunnyside Road, Middlesex, NY 14507

Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

Applicant requests (2) two area variance: 1) Front Yard Setback. Current zoning requires 40 ft. from the High Mean Water Mark. Applicant requests 19 ft. in order to locate a screened porch addition at 21 feet from the High Mean Water Mark. (2) Side Yard Setback. Current zoning requires 15 ft. in this district. Applicant is requesting an 11ft. variance locating the proposed structure to be 4 ft. from the property line. These proposed modifications do not meet current Zoning Code Area Requirements in the Lake Residential District, according to Sect. #403, Schedule II, and are therefore denied without a 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: Variance #1 Front Yard Set Back & Var. #2 Side Set Back: Yes ___ No X

Reasons: Var. #1) Even though this request makes the Front Yard Setback more non-conforming at 21ft. instead of 40ft. there is still 33 ft. remaining and due to eclectic style neighborhood, it doesn't detract or affect the neighborhood a bit.

Var. #2) The proposed project only extends the screened-in porch to be in alignment with the pre-existing dwelling which is also pre-existing and non-conforming, so it is not visibly more.

2. Whether the benefit requested by the applicant could be achieved by some method, feasible for the applicant to pursue, other than a variance: Variance #1 Front Yard Set Back & Var. #2 Side Set Back: Yes X No ___

Reasons: Var. #1) The applicant could locate the project facing the north side of the dwelling, but it still would not alleviate the pre-existing side setback which is the south side of the dwelling. Var. #2) The applicant could move it over 11 ft., however it visibly would look patched on. The proposed extension to the dwelling is the appropriate place visually.

3. Whether the requested variance is substantial: Variance #1 Front Yard Set Back: Yes X Var. #2 Side Set Back: No X

Reasons: Var. #1): Yes, the Front Yard Set Back is substantial considering currently is pre-existing. Var. #2: No, the Side Set Back request is not substantial because it is in alignment with the southern side Set Back of the dwelling which is the same Set Back and is pre-existing and non-conforming.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood

or district: Variance #1 Front Yard Set Back & Var. #2 Side Set Back: Yes ___ No X

Reasons: The proposed modifications are minimal and certainly will not have an adverse environmental impact on the conditions of the neighborhood; however will make a positive physical improvement to the dwelling and will be in keeping with the character of the neighborhood .

5. Whether the alleged difficulty was self-created: Variance #1 Front Yard Set Back & Var. #2 Side Set Back: Yes X No ___

Reasons: I believe the difficulty is definitely self-created, as the owner could make the proposed improvements to meet the Front and Side setbacks; however it visibly would not be as appealing and would not improve the pre-existing current Side Setback

Comments: In determining both of these variance requests, it was noted by Chairman Radin, that the proposed addition to the primary dwelling conforms to the rest of the neighborhood architectural design and does not depart from the character of Sunnyside Road, but will be an improvement to the property.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Arthur Radin and seconded by Ms. Elizabeth Grant, finds that:

X The benefit to the Applicant DOES outweigh the detriment to the character, health, safety, and welfare of the neighborhood in both instances and therefore the (2) 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 in order to minimize adverse impacts upon the neighborhood or community: _____

Arthur Radin
Chairperson, Zoning Board of Appeals

December 3, 2013
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u><i>Mr. Arthur Radin, Chair</i></u>	<u><i>X</i></u>	<u> </u>
Member	<u><i>Mr. Donald Burkard</i></u>	<u><i>X</i></u>	<u> </u>
Member	<u><i>Mr. Ted Carman</i></u>	<u> </u>	<u><i>X</i></u>
Member	<u><i>Ms. Elizabeth Grant</i></u>	<u><i>X</i></u>	<u> </u>
Member	<u><i>Mr. Richard DeMallie</i></u>	<u><i>X</i></u>	<u> </u>
Member	<u><i>Mr. Benjamin Dunton (absent)</i></u>	<u> </u>	<u> </u>

(Version update: May, 2011)

2012

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 2, 2012

Applicant: Mr. Daniel R. Monagle

Variance No: #082012-Z

Address: 1080 Route #364, Middlesex NY 14507

Zoning District: AG/R corrected to H/R

Telephone: (585) 943-6775

Published Notice on September 26, 2012

Property Location: 1080 Route #364, Middlesex NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 10 ft. variance relief from a 100 ft. front yard setback from the center of the road in Agricultural Zoning requirement, for the purpose of constructing a 24 ft. by 24 ft. detached garage next to his house. This garage's proposed placement is 100 ft. from the road centerline and therefore needs a 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: It was determined that this request would not produce an undesirable change or a detriment to nearby properties because it's placement was way back as far to the hill as it could go without digging into the hill.

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: Not easily achieved by another method because if they dug back into the existing hill, it would cause disturbance to the existing hillside. In my opinion it is better to leave it as it is and build the garage in front of it as proposed.

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

Reasons: I do not believe the variance to be substantial since the applicant is only requesting 10 ft. out of 100 ft. required.

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: After conversing with the owner, it is apparent that all watershed runoff is managed with the lay of the land and existing drainage to the road in front. This proposed garage would not pose a physical or adverse environmental impact.

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

Reasons: I believe the variance is self-created because the applicant could build his garage into the hillside but would

need to mitigate all erosion control impacts and would be a detriment to the existing lay of the land to disturb the hillside.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie and seconded by Mr. 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

October 17, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Mr. Benjamin Dunton</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 3, Aug. 7, Aug. 16, & Sept. 4, 2012

Applicant: Mr. Steven & Mrs. Margaret Ball

Variance No: #03812-Z

Address: 1213 Main St., Rte. #245, Middlesex NY 14507

Zoning District: HB

Telephone: (585) 554-5273

Published Notice on June 27, 2012

Property Location: same as address above

Notice to County sent July 27, 2012

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

County Hearing held on July 26, 2012

NATURE OF REQUEST

Applicant requests relief from current zoning in order to construct an outside entrance (stairs and landing) on the north and south side of Margaret's Market building to access the building to expand second story to include (2) apartments and retail area space. Present Zoning Law requires 20 ft. side setback from property line.

Applicant requests 20 ft. each side for variance (s).

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 are other buildings in close vicinity with stairs attached to the outside, so this would not be detrimental to the character of the neighborhood or to nearby properties.

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 has investigated other options using the interior stairways on each side, but it is not feasible with the need for space with the downstairs store storage space. In my opinion, building the stairs on the outside would also provide an efficient fire safety egress.

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

Reasons: Yes, the two variance requests for the north and south side of the building are substantial.

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: There are no environmental conditions such as erosion control or septic design that would adversely affect the neighborhood and installing (2) sets of stairs and landings will not physically impact the neighborhood.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created when the store was first purchased, knowing the non-conforming and pre-existing compliance issues which will not be mitigated with the proposed request for area variances.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie, and seconded by Ms. 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(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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 11, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Benjamin Dunton (alternate)</u>	<u>X</u>	___

(Version update: May, 2011)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on Sept. 4, 11, 25, 2012

Applicant: Mr. Terry DeKouski

Variance No: #080712-Z

Address: 125 N. Bloomfield Rd., Canandaigua, NY 14424

Zoning District: AG

Telephone: (585) 576-8558

Published Notice on 8/29/12

Property Location: (1) 843 Elwell Rd., (2) So. Vine Valley Rd., /Rte. #364

County Planning Approval exempt

Applicable Section of Town Zoning Code: Art. II, Sect. #402-Sched #1-#11

Hearing held on N/A

PB Site Plan Approval Date: 10-03-12

NATURE OF REQUEST

Applicant requests approval for outside storage of commercial boats & trailers sited originally at (1) 843 Elwell Rd., (Tax Map ID #12.04-1-10.1) and resubmitted a new site map, after a 9/15 board site visit, locating a new site, (2) at the south end of a proposed 94 ft. x 108 ft. pole barn, to be constructed at the corner of South Vine Valley Road and State Route #364. (Tax Map ID # 12.03-1-1.9. THIS IS NOT A LISTED ACTION UNDER CURRENT ZONING REQUIREMENTS; THEREFORE A SPECIAL USE PERMIT IS REQUIRED (Article IV, Sect. #401.0- Excluded Uses or Activities).

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes No Reasons: The new site for outside commercial boat storage sited to the south of the proposed pole barn which will store inside, approximately fifty commercial boats, plus a garlic drying farm process, with its access from S. Vine Valley Road. The access is sufficient with two driveways as well as adequate acreage of farmland on all abutting sides currently owned by the applicant.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes No Reasons: This proposed land use will not cause any injury to the value of surrounding properties. All surrounding properties are currently owned by applicant and consists of vacant farmland with crops. All boat storage on this land will be sufficiently buffered from view on three sides and will not be seen from South Vine Valley Road, Rte. #364, Elwell Rd., or from abutting property to the south.

502.1.3 That adequate landscaping and screening is provided.

Yes No Reasons: All berms created for a buffer screening will be planted immediately with clover, alfalfa, and

oats for stabilization of disturbed soil. In the Spring 2013, (2) year old evergreen seedlings, a minimum of 18" tall, will be planted on six-foot centers to be inspected and reviewed for compliance in a two year period of time, monitored by the Code Enforcement/Zoning Officer. Planted berms, swales, appropriate grading and a retention pond have been constructed to mitigate erosion control of the sloped land. If needed, a temporary silt fence will be installed until plantings are established.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes No Reasons: Yes, I believe it to be adequate. The site plans two driveways to access the site shown as "Exhibit A" Site Map. One driveway accesses the outside storage and one accesses the inside storage of commercial boats. This will ensure the traffic pattern and the site's vehicular traffic impact to abutting South Vine Valley Road.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes No Reasons: The surrounding farmland is property currently owned by the applicant. He has appropriately mitigated all erosion-control concerns that might result in excessive erosion by using appropriate grading, swales, berms and a retention pond. The abutting property is vacant farmland with established crops.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes No Reasons: This project does not require additional utilities. Applicant has an electric pole within (30 ft.) of pole barn site selection. South Vine Valley Rd. is adequately sited as ingress to entrance of pole barn and outside boat storage site as it is less traveled than State Rte. #364.

502.2. SPECIFIC REQUIREMENTS (when applicable)

The ZBA would like to note that: Sect. #501.14 of the current Zoning Ordinance shall also apply in order to have additional oversight of this project. These requirements have been addressed as follows: A. There are no abutting neighboring parcels within 100 ft. from proposed outside boat storage site. B. "Exhibit A" Site Map clearly shows that an appropriate buffer strip has been constructed as a natural berm, to be planted with vegetation to stabilize disturbed soil immediately. In the Spring of 2013 additional planting of two year old evergreen seedlings will be completed. This is to be monitored by the Code Enforcement/Zoning Officer and inspected for full compliance in Spring 2015. Exhibit "A" clearly shows that all abutting roads, and neighboring parcels within 100 ft. are protected from viewing the land use activity as proposed. C. Lighting requirements pertain. In the event of a need for additional lighting all outside lighting shall include dark sky friendly night shields to protect against light glare on abutting roads and neighboring properties. D. Signage for the site shall be required to be in compliance with the current zoning requirements and shall not exceed 32 sq. feet in size.

(Version update May, 2011)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on Sept. 4, 11, 2012

Applicant: Mr. Terry DeKouski

Variance No: #090612-Z

Address: 125 N. Bloomfield Rd., Canandaigua, NY 14424

Zoning District: AG

Telephone: (585) 576-8558

Published Notice on 8/29/12

Property Location: So. Vine Valley Rd., /Rte. #364, Middlesex NY

County Planning Approval exempt

Applicable Section of Town Zoning Code: Art. II, Sect. #402-Sched #1-#11

Hearing held on N/A

PB Site Plan Approval Date: _____

NATURE OF REQUEST

Applicant requests approval for indoor storage of commercial boats & trailers at a proposed 94 x 108 ft. pole barn to be constructed (Tax Map ID # _____). This is not a listed action under current zoning requirements; therefore a Special Use Permit is required.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No _____ Reasons: The placement of the proposed barn and it's egress/ingress from S. Vine Valley Road is sufficient and more than adequate space with farmland on all abutting sides owned by the applicant.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes _____ No X Reasons: This land is zoned Agricultural. The proposed structure to be constructed is a pole barn. Boats will be stored inside along with some farm equipment. Boat Storage will be concentrated between late Fall to early Spring months and surrounding neighborhood and land parcels are vacant farmland currently owned by applicant.

502.1.3 That adequate landscaping and screening is provided.

Yes X No _____ Reasons: Berms, swales and erosion control grading of the sloped land has been started to prevent erosion and a retention pond has been installed. Additional screening is not applicable in this situation.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes No ___ Reasons: Yes, I believe it to be adequate. Selection of site minimizes impact to traffic. The quantity of boats stored inside have been stated to be less than (50). Boat storage will be seasonal from late Fall to early Spring.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes ___ No ___ Reasons: The surrounding property is owned by the applicant. He has mitigated all erosion-control with appropriate swale, berms and retention ponds. The abutting property is vacant farmland.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes No ___ Reasons: This project does not require additional utilities. Applicant has an electric pole within (30 ft.) of barn site selection.

502.2. SPECIFIC REQUIREMENTS (when applicable)

The board would like to note that: Sect. #501.14 of the current Zoning Ordinance shall also apply and have been addressed as follows: A. Entrance to proposed pole barn is set back 100 ft. without any other abutting neighbors. B. A buffer strip is not applicable as a berm has been constructed and the land is vacant farmland without abutting properties. C. Lighting requirements are applicable and the Board has addressed with the applicant with advisement to check with his insurance agency to obtain their security requirements and if lights are needed, obtain specific design and location requirements. All outside lighting shall be night-sky friendly without light glare hitting outside of property lines. D. If a sign is applied for in the future, it shall be compliant with local zoning requirements.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Mr. Ted Carman, and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

_____ Arthur Radin, Chair _____ September 11, 2012
Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	_____	___	___
Member	_____	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on September 4, 2012

Applicant: Ms. Debra Wood

Variance No: #080112-Z

Address: 736 East Lake Road, Middlesex NY 14507

Zoning District: L/R

Telephone: (585) 329-2660

Published Notice on August 29, 2012

Property Location: 718 Robeson Tract, Middlesex NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting 6 ft. for variance relief of a 15 ft. side setback zoning requirement for the Lake Residential District for the purpose of replacing the existing outhouse/shed which currently sits on top of a holding tank that is (6) feet from the property line. We would like to place the new outhouse over the pre-existing holding tank for our septic and this is currently where the old outhouse now stands.

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: It was determined that this request would not produce an undesirable change or a detriment to nearby properties because it was pre-existing. The applicant could keep it the same size or make it smaller with extra storage space, however the applicant prefers Option #1 of the two options submitted because it would cover the holding tank completely.

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 achieved by another method because they cannot move it closer to the property line, and the structure must cover the holding tank on the cement pad provided.

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

Reasons: The variance is not substantial from viewing the site. The outhouse/shed is small in overall size in relation to the site selected. It also has a unique outhouse component to it, and so is not just a storage shed. The applicant's proposed project will not make the side setback more non-conforming.

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: There will be no change and so will not adversely affect any physical or environmental conditions in the neighborhood.

The primary use will stay the same and the outhouse can be accessed easily to pump it out.

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

Reasons: I believe the variance is not self-created as it is basically a continuation of a pre-existing and non-conforming structure in relation to the current zoning requirements.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and seconded by Mr. Benjamin Dunton, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

September 11, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Mr. Benjamin Dunton (alternate)</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 7, 2012

Applicant: Mr. Phil and Virginia Guarino

Variance No: #071712-Z

Address: 1205 Upper Hill Road, Middlesex NY 14507

Zoning District: A/R

Telephone: (585) 355-3588

Published Notice on August 3, 2012

Property Location: same as address above

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance to obtain relief from current A/R Zoning District, with a requirement of 20 ft. for the side setback, for the purpose of constructing a garage which measures 5 ft. from ROW line.

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: It was determined that this request would aesthetically be an improvement to the property because it would be improving the drainage of the grade of the land by redirecting watershed with a retaining wall utilizing perforated pipes to divert it around the foundation of the garage and the abutting property is void of any structures.

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 garage could be placed in another location without an area variance, however to do so would need more disruption to existing land grade, and would interfere with view from the house, or the distance from the house would greatly impact the physical health of the applicant due to the slope of the land.

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

Reasons: The area variance is substantial as it is 15'. The applicant's proposed project is 5' from the ROW line.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No ___

Reasons: It is my opinion that the biggest concern is erosion control, specifically the change of flow of watershed on the slope of the land, but appears to be mitigated by the design of the retaining wall and foundation of the garage which would greatly improve drainage.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created. There is room on the lot for the garage to be placed in another location, however it does not meet the needs of the owner, or disrupts pre-existing physical land features.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Donald Burkard, and seconded by Ms. 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 in order to minimize adverse impacts upon the neighborhood or community:

May it be noted that location of the garage was noted as an important consideration in determining this Area Variance request due to the physical needs of the owner for the garage to be positioned close to the house.

Arthur Radin
Chairperson, Zoning Board of Appeals

August 19, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 7, 2012

Applicant: Mr. Alan & Mrs. Grace Bates

Variance No: #062812-Z

Address: 238 Bagley Road, Middlesex NY 14507

Zoning District: A/R

Telephone: (585) 554-6095, cell # (585) 233-3403

Published Notice on August 3, 2012

Property Location: same as address above

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting an Area Variance for relief from current zoning which requires a 20 ft. side setback, for the purpose of constructing a garage with a side setback of 5 ft. from property line.

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: It was determined that this request would aesthetically be an improvement to the property, using it to enclose and store necessary equipment, vehicles etc. The area proposed is still far enough away from the abutting neighbor's parcel which is vacant land. There is a heavy buffer of trees right up to the property line which would not be removed and would serve as a natural cover between properties.

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 garage could be placed in another location, however either the septic or the driveway would have to be moved and this would be expensive. The proposed plan for the garage is in my opinion very well thought out.

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

Reasons: The variance is not substantial. The applicant's proposed project is a necessary component to their house and in my opinion will be a minor change and will be an improvement.

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 will add to the value of the property. All abutting property is vacant land so there is not any adverse effect or impact physically or environmentally.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created; however the proposed project and variance request will insure improvement of the existing property.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant, and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

August 15, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 7, 2012

Applicant: Mr. David & Ms. Lori-Farr Rusin

Variance No: #052312-Z

Address: 22 Harwood Lane, East Rochester, NY 14445

Zoning District: L/R

Telephone: (585) 748-9309

Published Notice on August 3, 2012

Property Location: 1217 S. Lake Road, Middlesex NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a 10' front yard setback area variance from the ROW along South Lake Road to allow the construction of a new retaining wall which will replace one which is pre-existing and non-conforming to current Zoning requirements. Front yard setback requires 40 ft. from road centerline. Applicant will move new retaining wall from 10ft. to 15ft. from property line to create a side setback per 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: It was determined that this request would aesthetically be an improvement as seen from the road and would was a beautiful addition to the neighborhood. A letter from the abutting neighbor states there is no objection to the project after a review of submitted applicant's materials.

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 achieved by another method due to the slope of the land wherein a retaining wall is necessary. This project will also provide additional parking and a turning radius at the top for safer egress or ingress. Moving the septic tanks to another approved location is an additional improvement to the property.

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

Reasons: The variance is not substantial. The applicant's proposed project will make the side setback more compliant with current zoning and the variance request will include septic improvement and safe egress and turnaround to the property.

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 will add to the value and aesthetic beauty of the property. Project improves drainage to the south side of the proposed retaining wall reduces impact to foundation wall with appropriate erosion control.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created by the previous owner; however the proposed project and variance request will insure improvement of drainage and erosion control is aesthetically pleasing from the road and improves septic system placement on property. Improvements will provide an all-around better and safer option for applicant.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Richard DeMallie, and seconded by Mr. Donald Burkard, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

August 13, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___

(Version update: May, 2011)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on June 19, 2012

Applicant: Mr. and Mrs. Terry Herzberg

Variance No: #053012-Z

Address: P.O.Box 248, Canandaigua, NY 14424

Zoning District: A/G

Telephone: (585) 770-3395

Published Notice on June 15, 2012

Property Location: 1730 West Avenue, Middlesex NY 14507

Notice to County sent N/A

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

County Hearing held on N/A

NATURE OF REQUEST

Applicant is requesting a front setback area variance to allow the construction of a 30 ft. x 12 ft. deck on the front of their cabin facing West Avenue. Current zoning, in the Agriculture/Residential District, requires 100 ft. measured from road centerline. The deck is 37 ft. from road centerline as proposed. An area variance is therefore requested.

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: It was determined that there was no immediate abutting properties and most of the neighborhood is thickly wooded and open fields, so it would not produce an undesirable change or detriment.

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 achieved by another method without drastically changing the layout of the floor plan of the existing dwelling which was built in the 1920's and would be at a considerable cost to applicant. This is the best alternative to achieve the desired wish for an outside place for visiting grandchildren and family gatherings.

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

Reasons: The variance is substantial because applicant is taking a pre-existing and non-conforming seasonal cottage and making it more non-conforming, bringing the deck quite close to the road, however it will improve the use and quality of the dwelling and there are no other dwellings close to the Herzberg's.

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 will add to the value and aesthetic beauty of the property. Trees have been removed, property landscaped and a deck would provide a flat area to provide leisure time for the owners, guests and extended family members.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created by the previous owner, and the current owners purchased the property knowing what the setbacks are.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Ms. Elizabeth Grant, and seconded by Mr. 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 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

June 19, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	___	<u>X</u>

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 3, 2012

Applicant: Ms. Shanna Williams, agent for Dr. Timothy O'Connor, Ms. Avice O'Connell Variance No: #032112-Z

Address: 3390 Elmwood Avenue, Rochester NY 14610 Zoning District: L/R

Telephone: (585) 387-9404 Published Notice on March 23, 2012

Property Location: 1492 South Lake Road, Middlesex NY 14507 Notice to County sent N/A

Applicable Section of Town Zoning Code: Section #403, Schedule II County Hearing held on N/A

NATURE OF REQUEST

The owner is requesting a variance to allow a side setback to be reduced from 9.1ft. to 8.9ft (1 foot) as shown on the submitted site plan. The lot line is angled reducing the impact of the 1 foot, 2 inch cantilevered addition beyond the new foundation (all footers to be hand-dug) to be built in the pre-existing location. This seasonal cottage is a pre-existing and non-conforming residence and so its location to setbacks are grand-fathered in to current zoning requirements. Lake Residential side setbacks are currently 15 feet.

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: It was determined that there was no immediate abutting property line. The surrounding landscape includes a significant gully and is moderately wooded. The nearest house (Robinson's) is approximately 50 feet to the north with the gully between and they are in agreement of the project.

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 achieved by another method without drastically changing the position of the foundation and at a considerable cost to applicant. This is the best alternative to maintaining the original integrity of the cottage.

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

Reasons: The variance is substantial because applicant is taking a pre-existing and non-conforming seasonal cottage and making it more non-conforming.

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: With the alteration of the cottage within the current side setback requirements, it won't have any significant

impact on abutters or the design of the house itself. It is necessary in maintaining the structural foundation of the cottage.

5. Whether the alleged difficulty was self-created: Yes X No__

Reasons: I believe the variance to be self-created as the applicant is expanding the footprint of the existing structure

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and seconded by Ms. Elizabeth 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

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**.

CONDITIONS:

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

Arthur Radin
Chairperson, Zoning Board of Appeals

April 3, 2012
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on March 6, 2012

Applicant: the Highlands Group of Canandaigua Lake LLC

Variance No: #22412-Z

Address: 4 Autumn View Estates, Rochester, NY 14622

Zoning District: L/R

Telephone: 482-4394

Published Notice on _____

Property Location: 556 East Lake Road, Middlesex NY

County Planning Approval _____

Applicable Section of Town Zoning Code: Local Law #1 of the Yr. 2011

Hearing held on March 22, 2012

Site Plan Approval Date: _____

NATURE OF REQUEST

The Highlands Group of Canandaigua Lake LLC requests a Special Use Permit to construct a common driveway/private road to service a (3) lot minor subdivision on property located on 556 East Lake Road, Tax Map ID# 11.350-1-3.000, per Zoning Law amendment, Local Law #1 of the Year 2011 which permits the development of private roads in the Lake Residential District of the Town requiring Zoning Board approval upon the recommendation of the Planning Board.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No _____ Reasons: The Highlands Group of Canandaigua Lake LLC has demonstrated that they have taken the public's health, safety and welfare into consideration. The use of the common driveway which will service (3) lots is carefully laid out with fire and emergency vehicle access addressed.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes _____ No X Reasons: the impact to the value of property in the neighborhood surrounding this minor subdivision is insignificant and the ingress/egress off of the county road will not change anything referencing aesthetic or safety concerns.

502.1.3 That adequate landscaping and screening is provided.

Yes X No _____ Reasons: The applicant has demonstrated a desire to limit tree removal and a detailed erosion control plan accompanying the application shows they have specifically included swales and appropriate protection from storm water runoff, adding that this continues to be addressed as the development of the subdivision proceeds.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No___ Reasons: the applicant has demonstrated careful planning and consideration to ingress/egress to the subdivision, emergency vehicle access, and the driveway design has been approved by both Town and County Highway Department Superintendents.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No___ Reasons: Based on our review of the submitted plans, the proposed land use will not result in excessive erosion, nor will it increase surface-water runoff onto abutting properties if the submitted erosion control plans are strictly adhered to when development commences.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No___ Reasons: The existing county road that the development egresses onto is adequate to handle the increased traffic to serve these (3) parcels. The utilities will be overseen by NYSEG, so therefore I cannot answer to this as I am not qualified to address it. I assume they will be adequate.

502.2. SPECIFIC REQUIREMENTS (when applicable)

Mr. Ted Carman stated that it would be appropriate to ask that erosion control measures be strictly adhered to in the development process in consideration of the impervious material that will be introduced with this project within the area of steep slopes and its fragile topography.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Mr. Ted Carman, and seconded by Mr. Donald Burkard, 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 in order to minimize adverse impacts upon the neighborhood or community:

_____ Arthur Radin, Chair _____ March 6, 2012
Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkard</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>(alternate)</u>	___	___

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on February 7, 2012

Applicant: Mr. Bradley A. Quayle

Variance No: #030611-Z

Address: 681 Route #364, Middlesex, NY 14507

Zoning District: Hamlet Residential

Telephone: (585) 781-0413

Published Notice on 3/25/11

Property Location: 5618 Water Street, Middlesex, NY 14507

County Planning Approval 3/28/2011

Applicable Section of Town Zoning Code: Article V, Section #401.0

County Hearing held on 3/24/2011

PB Approval: 11/09/11 # App. #091411-SPR

NATURE OF REQUEST

Request for appeal of conditions placed on the Special Use Permit by the Zoning Board of Appeals on April 5, 2011. The condition being appealed, limits and monitor's the membership to (35) and restricts the age range from 18yrs. of age and older. At the "Middlesex Pumpatorium Fitness Center", owned and operated by the applicant.

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No Reasons: the applicant has already addressed all concerns and will implement them as discussed at ZBA Hearing on 4/05/11. Furthermore, it was also stated at that time that he will take responsibility of instruction for the physical limitations required for each cardiovascular and other specific work-out machines, will change the security access code on locks routinely, will light the parking lot by replacing floodlights from what is currently there, will investigate and report to the sheriff's office any complaints of noise or disturbance in its parking lot which is adequately sized for this business, will provide landscaping to make the building more visually appealing, and will provide the ZBA /CEO with appropriate documentation for file of the past owner's septic upgrade when last inspected.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes X No Reasons: It was stated on 4/05/11, the proposed business will not cause substantial injury to the value of neighboring properties because it was used as a business in the past, and there is not a change in the building itself except for a

proposed upgrade with landscaping and also due its' physical use from its' previous vacant state for many years.

502.1.3 That adequate landscaping and screening is provided.

Yes X No ___ Reasons: It was stated in April that shrubs, and trees will be added as aesthetic upgrades to the building which sits back from the road.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: The building currently sits back from the road with adequate parking lot provisions to accommodate the proposed traffic at any given time due to the assumption that each individual would be using the building to work-out at their own individual time rather than at the same time.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No ___ Reasons: There will not be any significant change even if the parking lot was paved in the future, because the parcel is located on flat terrain.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: All utilities are more than adequately provided as the property had a pre-existing business before and is nicely set up to be such again

502.2. SPECIFIC REQUIREMENTS (when applicable)

The board dedacted the applicant's statement of addressing the board's concerns placed in the above Section(s) 502.1.1 "by limiting and monitoring the club's membership to (35), restricting the age range from 18 yrs. and older" and 502.1.4 "that a limited membership would require" as it is out of the ZBA's jurisdiction to require any limits on the business itself, such as limiting membership even though it was offered by the applicant.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Arthur Radin, Chair, and seconded by Mr. Donald Burkard, finds that

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 in order to minimize adverse impacts upon the neighborhood or community:

The Zoning Board of Appeals proposed no conditions to minimize adverse impacts upon the neighborhood or community when approving this Special Use Permit; however felt it should be noted that they would like to retain the original statement of concerns voiced by both board and neighbors during the original hearing in April 5, 2011. They include the following:

- Possible restriction of business hours from 24/7 to 5am – 11pm if there arises complaints to the Office of Code Enforcement of possible noise and light annoyance due to the ingress and egress of client traffic using the facility.
- Measures to implement police intervention by owner if parking lot becomes a gathering spot for nuisance type behavior.
- Concern for current inspection of septic from past business and the length of time it had been left vacant.

Arthur Radin, Chair

February 7, 2012

Chairperson, Zoning Board of Appeals

Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	<u> </u>
Member	<u>Ted Carman</u>	<u>X</u>	<u> </u>
Member	<u>Elizabeth Grant</u>	<u>X</u>	<u> </u>
Member	<u>Don Burkard</u>	<u>X</u>	<u> </u>
Member	<u>Benjamin Dunton</u>	<u>X</u>	<u> </u>

(Version update May, 2011)

2011

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on February 1, 2011

Applicant: Middlesex First Baptist Church

Variance No: #10511 - Z

Address: 1168 West Avenue, Middlesex NY 14507

Zoning District: HR

Telephone: (585) 738-3725

Published Notice on 1/14/11

Property Location: same as above

Notice to County sent N/A

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

County Hearing held on N/A

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: I believe that the proposed building will be an advantage to the character of the neighborhood . The building that they are proposing will be much nicer and will be available for general use to the public as a venue for public gatherings.

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 has stated that the proposed building will be no less compliant than the current building is. They request the extra two feet to be able to simply maintain the existing concrete pad from the old building in order to save funding, and will only use what is needed to do this.

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

Reasons: I don't believe so, based on the fact that we granted a variance in Sept. of '07 for the existing building. They need enough room onsite to set the poles for the new building using the existing concrete pad that is already in place.

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: Water runoff will be improved because they will use roof gutters to drain the run-off water from the building to the creek instead of into the road or running down the shoulder to the north.

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

Reasons: No, because the existing building is not adequate for their needs. They will also be utilizing as much of the existing concrete pad as they can in order keep development at a minimum.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Donald Burkard, and

seconded by Mr. Benjamin Dunton, 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 in order to minimize adverse impacts upon the neighborhood or community:

-

_____ Arthur Radin, Chair _____
Chairperson, Zoning Board of Appeals

2/01/2011
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Donald Burkard</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. Mr. Benjamin Dunton</u>	<u>X</u>	_____

(Version update: February, 2009)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 5, 2011

Applicant: Mr. Bradley A. Quayle

Variance No: # 030611-Z

Address: 681 Route #364, Middlesex, NY 14507

Zoning District: HR

Telephone: (585)781-0413

Published Notice on 3/25/2011

Property Location: 5628 Water Street, Middlesex, NY 14507

County Planning Approval 3/28/2011

Applicable Section of Town Zoning Code: Article V, Section # 401.0

County Hearing held 3/24/2011

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes X No ___ Reasons: the owner has addressed all concerns discussed to the board's satisfaction and will implement them by limiting and monitoring the club's membership to 35 restricting the age range from 18 yrs. and older with owner's responsibility to instruction of the physical limitations required for each cardiovascular and other specific work-out machine, owner changing the security access code on locks routinely, lighting the parking lot by replacement floodlights from what is currently there, follow-up of any complaints of noise or gathering in the parking lot which exceeds the normal ingress and egress of traffic flow with police intervention, provide landscaping to make the building more visually appealing, and will provide the ZBA with documentation for file of the past owner (Document Reprocessor's) septic upgrade when last inspected.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes X No ___ Reasons: The proposed business will not cause substantial injury to the value of other property in the surrounding neighborhood because it was used as a business in the past, and there is not a change in the building itself except for an upgrade it by use and future plans for landscaping.

502.1.3 That adequate landscaping and screening is provided.

Yes X No ___ Reasons: Shrubs, trees will be added as aesthetic upgrades to the building which sits back from the road.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: The building currently sits back from the road with adequate parking lot provisions to accommodate the proposed traffic that a limited membership would require at any given time due to the established pre-sumption that each individual would be using the building to work-out at their own individual time rather than gathering at the same time.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No ___ Reasons: There will not be any significant change even if the parking lot was paved in the future, because the parcel is located on flat terrain.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: All utilities are more than adequately provided as the property had a pre-existing business before and is nicely set up to be such again. .

502.2. SPECIFIC REQUIREMENTS (when applicable)

The board placed no restrictions on this business but felt it should be noted that there was much discussion about the following concerns from both board and neighbors which included the following:

- possible restriction of business hours from 24/7 to 5am -11pm due to concerns of possible noise and light annoyance with the ingress and egress of client traffic
- parking lot becoming a community gathering spot for nuisance type behavior.
- Concern for current inspection of septic from old business.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Ted Carman , and seconded by Don Burkard , 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 in order to minimize adverse impacts upon the neighborhood or community:

The Zoning Board of Appeals proposed no conditions to minimize adverse impacts upon the neighborhood or community when approving this Special Use Permit.

Richard DeMallie , Acting Chair
Acting Chairperson, Zoning Board of Appeals

4/05/2011
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Richard DeMallie, Acting Chair</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Don Burkard</u>	<u>X</u>	___
Member	<u>Benjamin Dunton (alternate)</u>	<u>X</u>	___

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 10/21, 11/18/10 & 1/04/11

Applicant: Mr. & Mrs. Philip Edgerton (agent: Rocco Venezia & Associates) Variance No: #072110-Z

1814 Sun Mountain Drive, Santa Fe, NM 87505 (owner's address) Zoning District: Lake Residential

Address: 2800 Butternut Lane, Canandaigua, NY 14424 (agent's address) Published Notice on 10/08/10

Telephone: (585) 396 - 3267 Notice to County sent N/A

Property Location: 1519 South Lake Road, Middlesex, NY County Hearing held on N/A

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

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: It is not uncommon for lots of unique situations, grandfathered properties and variances granted because of the neighborhood. eclectic flavor. This variance does not stand out as unique to the area. The use is never going to change and I don't believe there is any large impact to consider.

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: Because access to the property is necessary, this engineered proposal by Venezia & Associates is the best and safest way to achieve driveway access. This was also confirmed by advisement from the Town Engineer and Yates County.

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

Reasons: The requested variance is substantial because it is directly on the property line; however referencing the current grade of the lot, the requested variance seems necessary in terms of accessing the house safely.

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: On advisement from Lu Engineers and Yates Co. Soil & Water District, the water run-off on the property will be maintained adequately. Also, the turning radius of the proposed driveway is safely proposed with new revisions to Site Maps.

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

Reasons: the difficulty was created by a ROW that was never legally deeded and remained in effect over an extended course of time and created a civil dispute between neighbors who could not come to terms.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and seconded by Mr. Richard DeMallie, 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

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**.

CONDITIONS:

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

The Variance is granted based on approval of all revised Site Maps as currently presented at this hearing referencing advisements by Lu Engineers and Yates County Soil & Water District in letters dated: Town Engineer - 11/15/10; Rick Ayers - 11/17/10. The ZBA will make a recommendation on advisement to the Planning Board as a resource in determining Site Plan Approval.

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

1/07/2011
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___

(Version update: February, 2009)

2010

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 3/18/2010

Applicant: Mr. Thomas Fusco

Variance No: # 12710-Z

Address: 28 Blandford Lane, Fairport, NY 14450

Zoning District: AG/Residential

Telephone: (585) 857-3823

Published Notice on 3/5/2010

Property Location: Mertz Road, Middlesex Tax Map ID # 22.01-1-13

Notice to County sent N/A

Applicable Section of Town Zoning Code: #501.4 & 604.2

Hearing held on N/A

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: This is not a typical mobile home. It is attractive and well-kept. There is only a 6-7% difference in the current square footage of this mobile home (784 Sq. ft.) and the Zoning Code Minimum Square Footage Requirement which is 850sq. ft. It was determined that this difference is minimal and would not be an undesirable change if a variance is granted.

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: Applicant could purchase a larger mobile home to meet zoning requirements and then would not have to apply for a variance in front of this board, however applicant already owns this home and prefers it to newer, bigger models.

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

Reasons: A 6-7% difference is only 4 feet and therefore is not determined to be substantial.

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: This mobile home structure is still required to meet all of the building and septic requirements to meet our Town Law and NYS codes as any other style home would also have to.

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

Reasons: One could say that it was self-created, however the applicant has owned this home for six years and they would prefer to move it to property they own rather than sell it and buy another.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Don Burkard, and seconded by Mrs. Elizabeth 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 in order to minimize adverse impacts upon the neighborhood or community:

Mr. Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

3/18/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Don Burkard</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	_____	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 15, 2010

Applicant: Mr. Jon Schick, agent for Mr. Dan & Kirsten Mahar

Variance No: #032310-Z

Address: 248 East Avenue, Rochester, NY 14604

Zoning District: L/R

Telephone: agent:: Mobile cell #330-1820

Published Notice on April 4, 2010

Property Location: 968 South Lake Road, Middlesex, NY 14507

Notice to County sent N/A

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

Hearing held on N/A

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 would not be an undesirable direction to granting this 48 foot variance because the original cottage was grandfathered in with this non-conforming measurement from the road. Applicant would only like to maintain the same setback distance from the road.as before.

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 house could be moved closer to the lake, however it would then block the lake view from the neighboring parcel to the south. Also,if moved, it would shorten the lawn distance from the house to the lake.

3. Whether the requested variance is substantial: Yes___ No X

Reasons: The variance is only 12/60ths of the whole and so I believe it is not substantial.. It does not deter me from my opinion togrant this 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: I do not think the area setback requirement from road centerline will cause an adverse effect or impact in the neighborhood or with environmental conditions in the neighborhood. It will be the same setback requirement if granted.

5. Whether the alleged difficulty was self-created: Yes X No___

Reasons: I believe it to be self-created because it is designed to be 48 feet from the road. This was chosen to provide parking areas for large family access and still to have a large side and front yard. I also refer to Reason #2 above which states other considerations taken into account when deciding to grant this 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 Richard DeMallie, and seconded by Mr. Donald Burkard, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

4/15/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	___	<u>X</u>
Member	_____	___	___

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on April 15 , 2010

Applicant: Mr. Leon Button

Variance No: #032510-Z

Address: 5768 North Vine Valley Road, Rushville NY 14450

Zoning District: A/R

Telephone: (585) 554-5389

Published Notice on April 4, 2010

Property Location: same as above

Notice to County sent 5/18/10

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

County Hearing held on 5/27/10

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: It was determined that there would be no undesirable change as this building would provide adequate storage for many farm equipment now housed outside; hence making the building more desirable from the road.

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: It was determined that constructing a building to store farm equipment is the most feasible solution.

3. Whether the requested variance is substantial: Yes X No___

Reasons: The variance is substantial as the setback request is 60' from Co. Rte. #10 instead of 100' as zoning requires

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: I do not think the variance from road centerline will cause an adverse effect or impact in the neighborhood or with environmental conditions in the neighborhood, as all neighboring parcels are owned by the applicant.

5. Whether the alleged difficulty was self-created: Yes X No___

Reasons: I believe the variance to be self-created as the size of the structure was determined by the size of the farm equipment to be stored, ; however this provides ample future growth for the farm, which is important to the district and to the community of MiddMiddlesex.

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 Mr. Donald Burkard, 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

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**.

CONDITIONS:

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

This Zoning Board of Appeals has moved to grant area variance from Zoning Code Section #403, Schedule II contingent on Yates County Planning Board Review and forthcoming determination of approval

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

6 / 2 / 2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	_____	___	___

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 5/20/10

Applicant: Ms. Margaret Randolph Variance No. # 041810-Z

Address: PO Box 112, Rushville, New York 14544 Zoning District: AG/R

Telephone: (585) 554-5235 Published Notice on: 5/9/10

Property Location: 923 Route # 245, Rushville, N Y 14450 Notice to County sent: N/A

Applicable Section of Town Zoning Code: Article V, Sec. 501.2 Hearing held on: N/A

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 will be no undesirable change in the neighborhood as only two animals as livestock will be Allowed and she has 1,033 acres in which to provide a habitat.

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: It was determined that there was no other means as it is not possible to feed the animals in a neighbor's field

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

Reasons: It is substantial as it deviates from the code for this district.

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 would not have any adverse environmental effect as all by products from keeping livestock are environmentally friendly and much of the surrounding area also services livestock for gain or personal use.

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

Reasons: Yes the proposed project is self-created and that of a personal wish to keep livestock for enjoyment, Not for gainful means.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Arthur Radin and seconded by Benjamin Dunton, 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.
- 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 in order to minimize adverse impacts upon the neighborhood or community:

Chairman Radin made the motion to grant the requested Area Variance with conditional approval. These Conditions are: Not more than (2) two animals/livestock will be allowed to be kept on parcel # 23.01-1-12 as defined in Zoning Code 200.65

<u>Mr. Arthur Radin</u>	<u>5/20/10</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	<u> </u>
Member	<u>Benjamin Dunton</u>	<u>X</u>	<u> </u>
Member	<u>Elizabeth Grant</u>	<u>X</u>	<u> </u>
Member	<u>Richard DeMallie</u>	<u>X</u>	<u> </u>
Member	<u>Don Burkard</u>	<u>X</u>	<u> </u>
Member	<u>Ted Carman (alternate)</u>	<u> </u>	<u> </u>

(Version update: January, 2007)

SPECIAL USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 6/17 & 7/1/2010

Applicant: Mr. Justin DeMity

Variance No: # 060310-Z

Address: 1181 Upper Hill Road, Middlesex, NY 14507

Zoning District: HB

Telephone: (585)507-9092

Published Notice on 6/09/2010

Property Location: 877 Route #364, Middlesex, NY 14507

County Planning Approval 6/28/2010

Applicable Section of Town Zoning Code: Article V, Section # 502.2.7

County Hearing held 6/24/2010

PB Site Plan Approval Date: 6/02/2010

502.1. GENERAL REQUIREMENTS

502.1.1 That the proposed land use or activity is to be located, constructed and operated so that the public health, safety and welfare will be protected

Yes No Reasons: It has been determined that all requirements have been met within the scope of the proposed project as presented and because the existing property was previously operated as a business and current business plans conform to existing zoning codes.

502.1.2 That existence of the proposed land use or activity will not cause substantial injury to the value of other property in the surrounding neighborhood.

Yes No Reasons: The proposed land use will not cause substantial injury to the property value of neighboring land parcels because of the specific conditions placed on the application during Site Plan Approval and because the land was previously used as a business prior to this application.

502.1.3 That adequate landscaping and screening is provided.

Yes No Reasons: As part of the conditional Site Plan Approval set forth by the Planning Board on June 2, 2010, this project will be required to create a landscape screening of substantial size trees to cover the dumpster placement and business entrance on the southeast corner of the business entrance. A tree-line buffer currently exists between the closest neighboring parcel and the business.

502.1.4 That adequate off-street parking and loading are provided and that ingress and egress are so designed as to cause minimum interference with traffic on abutting roads.

Yes X No ___ Reasons: The property is designed with (2 entrances). One is a half-circle driveway leading in and out of Route #364 with parking alongside it in front of the building and the other driveway entrance leads to the '364 Power Sports' business entrance.

502.1.5 That the proposed land use or activity will not result in excessive erosion and will not increase surface-water runoff onto abutting properties.

Yes X No ___ Reasons: The parcel the business will be on is flat and no additional site work is planned.

502.1.6 That existing roads and utilities serving the proposed project are determined to be adequate.

Yes X No ___ Reasons: All utilities and inspections show that these requirements have been met as this property was a pre-existing business before and is nicely set up to be such again. .

502.2. SPECIFIC REQUIREMENTS (when applicable)

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above factors, in a motion made by Arthur Radin, and seconded by Don Burkard, 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 in order to minimize adverse impacts upon the neighborhood or community:

The ZBA requested that the proposed "Test Rides" would not be applicable in performing on Sundays. The following Site Plan Conditions were placed by the Planning Board on June 2, 2010:

- 1 Test ride hours will not commence before 9 am nor continue after 5pm Monday through Saturday.
- 2 Firewall to be installed and rated between the repair and retail portions of the building
- 3 Adequate ventilation provided within all areas of enclosed business.
- 4 Landscaping providing a buffer noted on Site Map must be large enough to provide visual cover to dumpster and business entrance .
5. Property must continue to aesthetically uphold the Town's Code requirements, remain visually clear of debris, and all lighting must be contained within the site with noise & odor kept to a minimum.

Arthur Radin
Chairperson, Zoning Board of Appeals

7/01/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Don Burkard</u>	<u>X</u>	___
Member	<u>Ted Carman (alternate)</u>	<u>X</u>	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 22, 2010

Applicant: Mr. and Mrs. Thomas D. Clutz

Variance No: #032510-Z

Address: 1385 South Lake Road, Middlesex NY 14507

Zoning District: LR

Telephone: (585) 554-3522

Published Notice on July 9, 2010

Property Location: same as above

Notice to County sent N/A

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

County Hearing held on _____

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: This was determined through statements written by current neighbors and read at the hearing. Also, the proposed addition is compatible with the present design of the house and only squares off the southeastern corner.

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: It was determined that this was the most feasible method for the applicant to pursue. The proposed design squares off the current design of the house and completes it.

3. Whether the requested variance is substantial: Yes___ No X

Reasons: The variance is not substantial. It will only be a small sitting room and completes the existing design where there is an open corner now.

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: There are no gutters on the front of the house nor where the addition will be placed, however water runoff is controlled by an area of gravel that will absorb any roof water runoff during storm events.

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

Reasons: The present owners inherited the current configuration when they purchased the house which was built in 1948.

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 Mr. Richard DeMallie, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

8/3/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	_____
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	_____
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	_____
Member	<u>Mr. Benjamin Dunton</u>	<u>X</u>	_____
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	_____
Member	<u>Mr. Ted Carman (alternate)</u>	_____	_____

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 22 , 2010

Applicant: Mr. and Mrs. John & Tina Hullings

Variance No: #63010-Z

Address: 5144 Sunflower Road, Middlesex NY 14507

Zoning District: A/R

Telephone: (585) 554-4149

Published Notice on July 9 , 2010

Property Location: same as above

Notice to County sent N/A

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

County Hearing held on _____

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: Neighbors' statements read at the hearing attest to the support and acceptance of this proposed garage in the neighborhood and the positioning of the garage will not have a negative impact to road or neighboring parcels.

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: It was determined that it could go elsewhere, but would be costly and inconvenient because of the land terrain behind and the septic/leach field that exists underground.

3. Whether the requested variance is substantial: Yes___ No X

Reasons: The variance request is not substantial due to the location that it is in.

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 was determined that there would not be a negative impact to the drainage in this location, nor would it interfere with the road or abutting property.

5. Whether the alleged difficulty was self-created: Yes X No___

Reasons: It was determined to be self-created due to the owners' desire to have additional storage space, however in this case it would not be a negative concern and it was determined to be a positive addition to the parcel.

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 Mr. Benjamin Dunton, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

6 / 2 / 2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Mr. Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman (alternate)</u>	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on August 19, 2010

Applicant: Mr. and Mrs. Andy and Sharon Paterson

Variance No: #072810-Z

Address: 6354 Glenn Avenue, Middlesex NY 14507

Zoning District: LR

Telephone: (804) 202-0852

Published Notice on August 8, 2010

Property Location: same as above

Notice to County sent N/A

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

County Hearing held on _____

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: It was determined that the proposed project will be an improvement to the house. The original house is pre-existing and non-conforming so to enclose the existing structure within the same footprint is a desirable option and similar to structures like this on neighboring parcels.

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: Absolutely, there are other options, but with a metal structure already in place, it would be expensive.

3. Whether the requested variance is substantial: Yes X No___

Reasons: The variance request is substantial, and yet at the same time, I believe it to be a positive move in the right direction for the project as proposed.

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: Water runoff is not a problem as it has been stated that Glenn Avenue drains towards the lake and water never collects in this area due to grade level. There will not be any adverse impact to the neighborhood as they are only enclosing a pre-existing structure.

5. Whether the alleged difficulty was self-created: Yes X No___

Reasons: It is self-created because they desire to build it, however it will increase the quality of the structure.

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 Mr. Richard DeMallie, 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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

8/19/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</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. Mr. Benjamin Dunton (alternate)</u>	___	___

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 21, 2010

Applicant: Ms. Sarah Prince Variance No: #081810-Z
Address: 1183 Church Street, Middlesex, NY 14507 Zoning District: H/R
Telephone: (585) 705-6600 Published Notice on September 24, 2010
Property Location: same as above Notice to County sent N/A
Applicable Section of Town Zoning Code: Art. VI, Sect. 700.12, 703.0 County Hearing held on
N/A

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: It was determined the placement of house on the lot delineated the location of the driveway. A driveway would provide safe access to the house where now there is none. The neighbor's driveway would be parallel to this one.

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 house should have reasonable and safe access. It will make the house look nicer and the neighbor is in favor or the project as proposed.

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

Reasons: The variance request is substantial . Properties are tightly placed in this location.of the Hamlet/Res. District.

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: Because of the lay of the neighboring land and lot locations in this District.

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

Reasons: The alleged difficulty was created when the property was subdivided. It pre-existed before present owner purchased property.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Donald Burkard, and seconded by Mrs. 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

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**.

CONDITIONS:

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

The Zoning Board of Appeals has moved to grant area variance from Zoning Code Section(s) #700.12 ,703 contingent that the new driveway is constructed with a standard 9 foot width instead of the proposed 8 feet.

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

10/21/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Mrs. Elizabeth Grant</u>	<u>X</u>	___

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 12/16/2010

Applicant: Mr. Jay Yates (agent: Rocco Venezia & Associates)

Variance No: #071410-Z

Address: 2800 Butternut Lane, Canandaigua, NY 14424

Zoning District: L/R

Telephone: (585) 396 - 3267

Published Notice on 9/24/10

Property Location: 708 East Lake Road (Cry. Rte. 505), Middlesex, NY

Notice to County sent 11/09/10

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

County Hearing held on 11/18/10

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: It was determined that there would be no undesirable change or detriment to nearby properties as the drainage concerns have been resolved as presented to the Board's satisfaction.

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 house could be redesigned smaller to fit the lot without a variance because one corner of the house is now short of the setback requirement.

3. Whether the requested variance is substantial: Yes X No___

Reasons: The front yard setback variance request is 13' from the High Mean Water mark instead of 40 ft. as current zoning requires in lakefront properties.

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: I do not think the variance from road centerline will cause an adverse effect or impact in the neighborhood or with environmental conditions in the neighborhood since a swale on the east and north side will slow down water run-off.

5. Whether the alleged difficulty was self-created: Yes X No___

Reasons: I believe the variance to be self-created because the property was purchased as it is.

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 Mr. Benjamin Dunton, 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

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**.

CONDITIONS:

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

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

12/16/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	_____	<u> X </u>
Member	<u>Mr. Richard DeMallie</u>	<u> X </u>	_____
Member	<u>Mr. Donald Burkard</u>	<u> X </u>	_____
Member	<u>Mr. Ted Carman</u>	_____	<u> X </u>
Member	<u>Ms. Elizabeth Grant</u>	<u> X </u>	_____

(Version update: February, 2009)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 12/16/2010

Applicant: Mr. Jay Yates (agent: Rocco Venezia & Associates)

Variance No: #071510-Z

Address: 2800 Butternut Lane, Canandaigua, NY 14424

Zoning District: L/R

Telephone: (585) 396 - 3267

Published Notice on 9/25/10

Property Location: 708 East Lake Road (Cty. Rte. 505), Middlesex, NY

Notice to County sent 11/09/00

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

County Hearing held on 11/18/10

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: I believe that the existing driveway is immaterial to the variance request. Currently in this neighborhood, there are many driveways that weave in and out with unique configurations.

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 configuration of the property is such that there is no other feasible method for the applicant to pursue except to reduce the driveway's width from 10 to 9 ft. which is the Town's standard (ref. NY Standards of Rural Roads - Sect. #7.1.2 which applies to driveway widths) which creates a 3 ft. instead of a 2 ft. setback .

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

Reasons: The requested variance was 2 ft. with a 10 ft. driveway width. Current zoning requires 15 ft. setback in the LR District. This request is for a 13 ft. side setback which I feel is substantial.

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: I do not believe an adverse environmental or physical effect would be made in granting the variance because there is no elevation there such as if there were a structure there.

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

Reasons: I believe the variance to be self-created because the property was purchased as it is in its' configuration.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Mr. Ted Carman, and

seconded by Ms. Elizabeth 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

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**.

CONDITIONS:

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

The driveway, by reference to NY Standards for Rural Roads, Sect. 7.1.2, shall be reduced from 10 ft. width to 9 feet. making the setback request 3 ft. The material used to construct the driveway shall remain gravel instead of blacktop which is an impervious surface and may affect storm water runoff in close proximity to the lake.

Arthur Radin, Chair
Chairperson, Zoning Board of Appeals

12/16/2010
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	___
Member	<u>Mr. Donald Burkard</u>	<u>X</u>	___
Member	<u>Mr. Ted Carman</u>	<u>X</u>	___
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	___

(Version update: February, 2009)

2009

AREA VARIANCE FINDINGS & DECISION
MIDDLESEX ZONING BOARD OF APPEALS hearing on 1/15 & 1/29/09 *

Applicant: Mr. Dan O'Brien Variance No. # 10409-Z
Address: 4591 Misty Hill Drive, Canandaigua, NY 14424 Zoning District: LR
Telephone: Home: # (585) 394-6351 Work: 987-2810 Published Notice on: 1/15 & 20/09*
Property Location: 1163 South Lake Road, Middlesex, NY 14507 Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: Jan. 15 & 29, 2009

*NOTE: Hearing continued due to legal notification was published beyond legal minimum required.

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: It was determined that the dimensions of the proposed design for retaining walls around the perimeter of the DOH approved septic was in keeping with the aesthetic value, welfare and environmental impact of the area as proposed.

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: It was determined that a redesign of the perimeter boundaries of the septic could be considered, however such a redesign might create financial, safety and aesthetic concerns and approval by the Dept. of Health.

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

Reasons: A determination was made that the request is substantial as it is a request for 10' on each side which is 2/3 of the required 15' setback in the Lake Residential Zoning District of the Town.

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: A determination was made that the retaining wall/approved aerated septic system design as proposed is the best solution on this non-conforming 50' lot and the variance request provides the least adverse impact physically or environmentally.

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

Reasons: It was determined that there seemed to be a series of reasons why this variance request was necessary due to Problems that were self-created. Most of these were created by the previous owner and not as inherited by the applicant.

AREA VARIANCE FINDINGS & DECISION
MIDDLESEX ZONING BOARD OF APPEALS hearing on 1/15 & 1/29/09*

Applicant: Mr. Steven M. Cunningham

Variance No. # 111208-Z

Address: 96 Park Place, Canandaigua, NY 14424

Zoning District: LR

Telephone: 469-8360

Published Notice on: 1/12 & 1/20/09 *

Property Location: 1265 South Lake Road, Middlesex, NY 14507

Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II

Hearing held on: Jan. 15 & 29, '09

FACTORS CONSIDERED: * (NOTE: Hearing cont...due to legal notification not published within legal time minimum.)

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 proposed design is more desirable than the existing property to the south, and with the proposed redesign to square off the angle of the curve design of the driveway at the road will be more desirable and fit better within the designated area requirements of the LR District.

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: It was determined that the proposed design was the only method feasible for the applicant to gain access to the upper lot, given the incline of the natural terrain on the property.

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

Reasons: It was determined that the variance requested is not substantial for constructing a driveway on the property. Applicant is requesting 3' on each side out of the required 15' for a 10' wide driveway on road frontage of 120'.

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: The proposed design with alteration to the access curve and catch basin was designed to alleviate erosion possibilities and is a better design for storm water run-off and erosion concerns than the neighboring parcel to the south.

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

Reasons: The alleged difficulty resulting in a variance request resulted from the natural terrain of the property applicant is desiring access to. The proposed design is of reasonable incline and is proposed to access the flattest part of the property.

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 Charles Green, 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.
- 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.

CONDITIONS:

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

Arthur Radin
Chairperson, Zoning Board of Appeals

1/29/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Charles Green</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	_____	___	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 2/19 & 2/26/09 *

Applicant: Mr. Kenneth Estes Jr. representing agent for Dr. Maurice Vaughan Variance No. # 012009-Z

Address: (agent's address) 8000 Victor-Mendon Rd, Victor, NY 14564 Zoning District: LR

Telephone: agent: (585) 381-9000, Ext. 20 Published Notice on: 02/04/09

Property Location: 626 East Lake Road, Middlesex, NY 14507 Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: _____

* NOTE: Hearing continued due to missing documentation legally required.

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 applicant has gone through considerable steps to address the run-off concerns to his and neighboring properties as well as aesthetic plantings to enhance and soften the transitional grading needed.

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: It was determined the location of house, walkway and current driveway position gives the applicant limited options without the placement of the proposed retaining wall as designed to minimize the migration of water runoff.

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

Reasons: A variance request of 6' was not determined to be substantial as it is less than half of the required 15' setback in the Lake Residential Zoning District of the Town.

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: A determination was made that the retaining wall would not have any adverse effect but was a benefit to the existing slope and placement of the driveway on this property and to the neighboring parcels within this zoning district.

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

Reasons: It was determined that the location of the walkway, house and driveway were pre-existing and the variance requested would improve the erosion and stormwater runoff conditions existing on this lakeside property.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Arthur Radin and seconded by Benjamin Dunton, 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.

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.

CONDITIONS:

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

Arthur Radin
Chairperson, Zoning Board of Appeals

2/26/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Charles Green</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	_____	___	___

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 4/16 & 4/23/09

Applicant: Mr. Philip & Gayle Edgerton represented by Don Miller, contractor Variance No. # 031109-Z
Address: (agent's address): 464 Bare Hill Rd., Rushville NY 14544 Zoning District: LR
Telephone: agent's # (585) 455-6134 Published Notice on: 4/ 08/ 09
Property Location: 1519 South Lake Road, Middlesex, NY 14507 Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: _____

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: This requested 3' variance will not obstruct lake views or impinge on adjacent road in a substantial way, and with agreed upon reconfiguration of building plans the aesthetics, neighboring lake views and storm water runoff has been greatly reduced and actually beneficial to all parties involved.

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 porch could be eliminated or moved to another location, but a design plan reconfiguration has been agreed upon that will alleviate storm water runoff concerns with gutter placement and side ditches along the driveway.

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

Reasons: The requested variance of 3' is only 10% of the existing non-conforming footprint.

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: The proposed reconfiguration of design plan will include porch roof gutters to distribute rainwater runoff
Will provide optimum storm water relief whether porch is placed 3' closer to the road or not.

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

Reasons: A determination was made that this was self-created by institution of old zoning laws and as amended in current zoning to make the footprint non-conforming. The layout of the house on the lot prohibits other options in porch placement without considerable excavation and increased drainage control concerns.

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 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.

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.

CONDITIONS:

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

Arthur Radin
Chairperson, Zoning Board of Appeals

4/23/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u> </u>	<u> X </u>
Member	<u>Benjamin Dunton (not present)</u>	<u> </u>	<u> </u>
Member	<u>Elizabeth Grant</u>	<u> X </u>	<u> </u>
Member	<u>Don Burkhard</u>	<u> X </u>	<u> </u>
Member	<u>Richard DeMallie</u>	<u> X </u>	<u> </u>
Member	<u>Ted Carmen (alternate)</u>	<u> </u>	<u> X </u>

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 7/16/09

Applicant: Mr. Terrence Klee (representing agent, Paul Zachman) Variance No. # 061109-Z

Address: 31 Wexford Glenn, Pittsford, NY 14534 Zoning District: LR

Telephone: 554 – 6896 (agent's # 248-8128) Published Notice on: 7/12/09

Property Location: 344 East Lake Road, Middlesex, NY 14507 Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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: It was determined that this project would not create an undesirable change in the character of the neighborhood or cause a detriment to nearby properties due to its proximity to the road and boundary lines as noted.

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: It was determined that this project could be achieved by other methods such as laying down stone or some other product and so would not necessarily need a variance.

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

Reasons: It was determined that the requested variance is minimal.

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 was determined that at this time we cannot for see any adverse effect or impact on the physical or environmental conditions in the neighborhood or district as a direct cause of the scope of this project.

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

Reasons: No, as it is not affecting any other neighboring parcel.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by **Benjamin Dunton** and seconded by **Elizabeth 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.
- 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 in order to minimize adverse impacts upon the neighborhood or community:

<u>Arthur Radin</u>	<u>7/16/09</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	___	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 7/16/09

Applicant: Mr. Donald Sheive Variance No. # 061709-Z
Address: 1159 South Lake Road, Middlesex, NY 14507 Zoning District: LR
Telephone: (585) 554-6525 Published notice: 7/12/09
Property Location: 1159 South Lake Road, Middlesex, NY 14507 Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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: It was determined that building a canopied roof over his retaining wall would not be a detriment to the neighborhood or create an undesirable change except to the applicant as it was to be built directly in front of his house.

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: It was determined that because of the topography of the property, the applicant had no other feasible method of achieving the desired effect because his current driveway to the house was too steep to access reasonably.

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

Reasons: It was determined because the proposed project was within the same footprint of the retaining wall currently there, that this request was minimal.

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: The only deterrent to the environment due to this project would be possible storm water runoff, however, this is minimal due to the way this project will be built with north and south facing eaves and the neighbor to the south has written a letter stating he approves of the variance request.

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

Reasons: It was determined that this alleged difficulty was not self-created due to the topography of the property and the size of it.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Don Burkard and seconded by Benjamin Dunton, 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.
- 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 in order to minimize adverse impacts upon the neighborhood or community:

<u>Arthur Radin</u>	<u>7/16/09</u>
Chairperson, Zoning Board of Appeals	Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	___	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 7/16/09

Applicant: Mr. Robert Palmateer Variance No. # 051508-Z

Address: 480 East Lake Road, Rushville, NY 14544 Zoning District: LR

Telephone: (315) 879-8467 Published Notice on: 7/12/09

Property Location: 480 East Lake Road, Rushville, NY 14544 Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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: It is determined that the variance requested would not create an undesirable change to the character of the neighborhood or a detriment to nearby properties even though this proposed building site may be too close to the neighboring parcel to the south.

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: It is determined that because of the large amount of land available to build this project , another placement of the proposed garage away from neighboring property lines would be a better choice for all parties affected.

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

Reasons: It is determined that the variance request is asking 2/3 of the variance restrictions and so is very substantial. The applicant wants to build a garage within 5' of the boundary line when 15' is the required distance.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No ___

Reasons: It definitely could adversely affect physical land or environmental conditions due to the steep slope of the terrain it is on and the proposed project to be built so close to a gully which produces active runoff.

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

Reasons: The alleged difficulty was determined to be self-created because there are other locations whereby a building project of this scope could be placed that is more conceivable to all parties involved and to the topography of the land where a variance is not needed.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Don Burkard and seconded by Benjamin Dunton, 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.

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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin 7/16/09
Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	___	<u>X</u>
Member	<u>Benjamin Dunton</u>	___	<u>X</u>
Member	<u>Elizabeth Grant</u>	___	<u>X</u>
Member	<u>Don Burkhard</u>	___	<u>X</u>
Member	<u>Richard DeMallie</u>	___	<u>X</u>
Member	<u>Ted Carmen (alternate)</u>	___	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 8/20/09

Applicant: Mr. Donald & Marcella Burkard Variance No. # 070809--Z
Address: 697 East Lake Road, Rushville, NY 14450 Zoning District: LR
Telephone: (585) 554-4372 Published Notice on: 8/14/09
Property Location: same Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: _____

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: This requested 6' variance can not be seen from the road. The proposed project seems to fit into the character of the neighborhood in its placement and materials used. It's height is 18" high as planned and not obtrusive.

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 could make it smaller in size and/or height.

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

Reasons: The requested variance is not substantial as the applicant is only asking for 6' out of 60' required by the District's zoning requirements for front yard setback.

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 adverse effects or impacts to the physical or environmental conditions are foreseen. The proposed patio design will be raised up and shall impede erosion from runoff from the roof pitch. The slope of the land will move all runoff appropriately off of the land involved in the project.

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

Reasons: A determination was made that this was self-created as the applicant is desiring a patio design of his choosing. Applicant would not have needed a variance from code if the patio design had been built within the old footprint of the existing porch foundation.

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 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.

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.

CONDITIONS:

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

Arthur Radin
Chairperson, Zoning Board of Appeals

8/20/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	<u> </u>
Member	<u>Benjamin Dunton</u>	<u>X</u>	<u> </u>
Member	<u>Elizabeth Grant</u>	<u>X</u>	<u> </u>
Member	<u>Don Burkhard</u>	<u>X</u>	<u> </u>
Member	<u>Richard DeMallie</u>	<u>X</u>	<u> </u>
Member	<u>Ted Carmen (alternate & not present)</u>	<u> </u>	<u> </u>

(Version update: January, 2007)

Administrative Review Findings & Decision

ZONING BOARD OF APPEALS, MIDDLESEX, NY

Hearing Date: 8/20 and 8/27/09 **File #:** #071509-AR

Applicant: Mr. Dan O'Brien, 1163 South Lake Road, Middlesex, New York 14507

Order/Requirement/Interpretation/Decision/Determination appealed: It was to be determined by vote of the Zoning Board of Appeals of the Town of Middlesex that the side yard required minimum setback should be measured from the outermost point of a structure for determining what is allowed within the 15 ft. side yard setback in the Lake Residential District of the Town of Middlesex. Applicant appealed the Zoning Officer's interpretation that "eaves and chimneys are an extension of the structure wall and attached to the structure", so the measurement should commence with this outermost point of reference and not at the foundation wall at ground level.

FACTORS CONSIDERED

Evidence considered by the ZBA in making its determination (such as testimony, written documentation, review of file): The following evidence was heard by the Zoning Board of Appeals:

A review of the original file; The Town of Middlesex Zoning Law; testimonies from the following people:

Dawn Kane, Zoning Officer; Mr. And Mrs. Donald O'Brien; Mr. Alan Knauf as representing lawyer for Mr. O'Brien; Architect, Mr. Tim Tyskiewicz; Town Attorney, Elaine Espenscheid; and members of the Town of Middlesex Planning Board, Mr. Marty DeVinney and Mr. Bruce St. Lawrence who were involved in the process of the Site Plan Review of Mr. O'Brien's property in which the reference was raised.

Whether the evidence presented supports the Zoning Officer's decision: Yes X No ___

Reasons: A motion to uphold the Zoning Officer's determination was made by Zoning Board Member, Mr. Richard DeMallie and seconded by Arthur Radin. The following reasons given: 1. Art. II, Sect. 200.101 defines specifically what a "structure" is and includes in its' definition anything "attached" to the main structure as included in the definition. 2. Art. II, Sect. 200.117 defines "Front Yard as an "open space" within

which there will be no extensions of building parts except certain examples of which “eaves” was included.

3. Art. II, Sect. 200.119 defines “Side Yard” as specifically an “open unobstructed space between the principle building and the side lot line, extending from the front yard line to the rear yard line. Determination included logic that the Town Board adopted the Town’s Zoning Law to specifically allow us to build into the Front Yard Setback, but not into the Side or Rear Yard Setbacks. The motion made by Mr. DeMallie is based on these definitions and the paragraphs mentioned above.

Whether the Zoning Law supports the decision of the Zoning Officer : Yes No

Zoning Law provisions relied on: Zoning Law of the Town of Middlesex: Art. IV, Sect. #403, Schedule II for Lake Residential (LR) Minimum Side Yard Area Coverage Requirements; and the following definitions: Art. II, Sect. 200.101. Structure; Art. II, Sect. 200.117.Yard, Front; Art. II, Sect. 200.119. Yard, Side.

Other relevant land use law or regulations relied on: N/A **Reasons:** N/A

Whether the decision of the Zoning Officer was correct: Yes No

Reasons: A correct interpretation of the Town’s Zoning Law as specifically written was delivered .

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The Order/Requirement/Interpretation/Decision/ Determination of the Zoning Officer is:

Affirmed Reversed Modified

RECORD OF VOTE

	MEMBER NAMES	AYE	NAY
Chair	<u>Arthur Radin, chair</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	<u>Don Burkard</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	<u>Elizabeth Grant</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	<u>Richard DeMallie</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	<u>Benjamin Dunton</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	<u>Edward Carman (alternate)</u>	<input type="checkbox"/>	<input type="checkbox"/>

Arthur Radin, 8/30/2009
Chairperson, Zoning Board of Appeals Date

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 9/17/09

Applicant: Mr. Gregory Pankratz, represented by agent - Fred Taylor Variance No. # 080509-Z
Address: 1173 South Lake Road, Middlesex NY 14507 Zoning District: LR
Telephone: (585) 738-0186 Published Notice on: 9/08/09
Property Location: same as above address Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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. An onsite visit determined that what is proposed is not visible from the road.

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: It is determined that there was no other method feasible for the applicant. They plan to take out The shrubbery and build a small deck in that area.

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

Reasons: It is determined that the variance request of 5' to meet the minimum front yard setback of 60' from road centerline in the LR District is not substantial.

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 would not have an adverse effect of impact on the environmental conditions surrounding the site, Because whether the deck is built or not, the rain run-off will still be absorbed by the ground which is sloped away from The house presently and will be absorbed further by the lawn between the house and the road.

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

Reasons: The proposed project is desired by the owner, yet is not considered self-created because the house they purchased already encroached on the front setbacks some and this proposed lower deck addition is less non-conforming than what already existed upon purchase.

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 Ted Carmen, 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.

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 in order to minimize adverse impacts upon the neighborhood or community:

Chairperson, Zoning Board of Appeals

9/17/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	_____	___	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	<u>X</u>	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 9/17/09

Applicant: Mr. Phil Edgerton, representing agent – Don Miller Variance No. # 081209-Z
Address: 1814 Sun Mountain Dr., Santa Fe, NM 87505 Zoning District: LR
Telephone: (585) 554-5562 or (505) 988-5103 Published Notice on: 9/08/09
Property Location: 1519 So. Lake Rd., Middlesex, NY 14507 Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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: It was determined that it would be a desirable change for the applicant , and the placement of the stairs is a direct access to the lakeshore property across the road.

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: It is determined that there was no other method feasible for the applicant. The driveway is inconvenient for using to access lakeshore property and stairs leading to the road for lake access is the norm on South Lake Road.

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

Reasons: It is considered not substantial because the stairs will be going back only a foot and will be less non-conforming than the existing set of stairs. They will not need a retaining wall. It will be an improvement to what is currently there.

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: Providing the applicant pays attention to careful construction and attention to the steep and exposed terrain, there will be no adverse effects or impacts on the physical or environmental conditions in the neighborhood.

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

Reasons: The applicant purchased the property with the existing set of stairs already built as currently positioned and the proposed project will be less non-conforming than the original set of stairs as planned.

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 9/17/09

Applicant: Ms. Frances V. Tesdeschi and Ms. Marilyn Fumia Variance No. #081309-Z
Address: 991 Old Vineyard Road, Middlesex, NY 14507 Zoning District: LDR
Telephone: _____ Published Notice on: 9/08/09
Property Location: 991 Old Vineyard Rd., Middlesex, NY 14507 Notice to County sent: N/A
Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

FACTORS CONSIDERED:

The Zoning Board of Appeals determined the following special conditions: 1. Section # 304.0 of our Town's Zoning States that "Undersized Lots are to be deemed buildable and since the setbacks for this district were not an issue, the Board determined based on this section the variance was not necessary. Dawn Kane, Code Enforcement Officer Decided in lieu of the nature of the determination to withdraw the variance request , stating that she had made a mistake and the application by the owners would be determined null and void, their application fee returned and the project Could be built without a variance. The board's vote* reflects agreement with the Code Enforcement Officer's statement. The variance application was officially withdrawn at 8:35pm.

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 ___

Reason: _____

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 ___

Reasons: _____

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

Reasons: _____

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes ___ No ___

Reasons: _____

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

Reasons: _____

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 Ted Carmen, finds that: * **the application is to be withdrawn**

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.

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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin
Chairperson, Zoning Board of Appeals

9/17/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	_____	___	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	<u>X</u>	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 9/17/09

Applicant: Mr. & Mrs. Curt & Diane Nehring Bliss Variance No. # 082609-Z

Address: 96 Chapin Street, Canandaigua, NY 14424 Zoning District: LR

Telephone: (518) 396-8917 Published Notice on: 9/08/09

Property Location: 1308 Upper Hill Rd., Middlesex, NY 14507 Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II Hearing held on: N/A

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: It was viewed onsite and the proposed addition is not visible from the road, or from the neighboring parcels, hence there is no undesirable change produced by this project.

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: It is determined that because of the topography of the land and how it slopes down dramatically in several directions from the existing barn/garage, there is no other feasible way to add on to the present structure.

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

Reasons: It is substantial, however the existing structure is already non-conforming to the setbacks and the proposed addition would not make it more non-conforming and would be an improvement.

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: Any storm water run-off would definitely run downhill to wooded land and not adversely effect or impact any neighboring parcels.

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

Reasons: The applicant purchased the property with the existing barn/garage. The existing topography of the land is also pre-existing. The addition is proposed to be built on the only level part of the property that exists.

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 Ted Carmen, 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.

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 in order to minimize adverse impacts upon the neighborhood or community:

Chairperson, Zoning Board of Appeals 9/17/09
Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Benjamin Dunton</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	_____	___	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Ted Carmen (alternate)</u>	<u>X</u>	___

(Version update: January, 2007)

USE VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on 10/15/09

Applicant: Mr. Jon Schick, representing agent for Mr. Ray Mahar, owner

Variance No: # 081409-Z

Address: 53 Aberthaw Road, Rochester, NY 14610

Zoning District: Lake Residential

Telephone: (585) 330-1820

Published Notice on: 10/11/09

Property Location: 968 South Lake Road, Middlesex, NY 14507

Notice to County sent: _____

Applicable Section of Town Zoning Code: Section #402, Schedule II, #7

Hearing held on: _____

Permitted Uses of Property: Single – family residence permitted only in this Zoning District. This property is pre-existing and Non-conforming . It is “grand-fathered” as one parcel with principle dwelling and a guest-house.

Use for which variance is requested: A “Use Variance” is requested to allow the owner provision for a renovation upgrade to current structures “grand-fathered” in on a pre-existing and non-conforming parcel of land. The proposed renovations will increase the footprints to both the “guest house” and the main dwelling to accommodate their family’s’ growing needs. The request asks for relief from being penalized for continuing to use the property in the same manner it has been used and is currently being used. Because the property is pre-existing and non-conforming, Section 302.0 of the Zoning Law does not permit this, however the existing “use” will not be changed. It will have the same number of bedrooms; it will continue to be a single property, not able to be subdivided. The new construction on property would include new docks, new septic design to replace and upgrade current one. It is the intent of this request to define the guest house as an “accessory building” using current zoning definition because it does not meet minimum square footage requirements for living space even with proposed renovations. An accessory building is allowed as a permitted “use” in the Lake Residential Zoning District.

No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following 4 tests must be met for each and every use allowed by zoning on the property, including uses allowed by a special use permit.

1. The Applicant cannot realize a reasonable return or benefit from the property in question, which must be established by competent financial evidence. The lack of return must be substantial. Yes___ No X

Proof: There is no proof that the applicant could ever realize a reasonable return or benefit from the property in question. There is no derived income coming from the property as it is proposed to be used, nor has there been while the present owner has owned and used it.

- ILLUSTRATIONS OF FINANCIAL EVIDENCE**
- Bill of sale for the property, present value of property, expenses for maintenance
 - Leases, rental agreements
 - Tax bills
 - Conversion costs (for a permitted use)
 - Realtor’s statement of inability to rent or sell

2. The alleged hardship relating to the property is unique and does not apply to a substantial portion of the zoning district or neighborhood.): Yes X No___

Proof: Yes, it does apply to the South Lake Road LR Zoning District as it apparent when looking to the southern neighboring properties, which also have “guest houses” per se next to the primary dwelling. The hardship is a self-created one by owner-ship. It was purchased as such.

- ILLUSTRATIONS OF UNIQUENESS**
- Topographic or physical features preventing the development of a permitted use
 - Why would it be possible to construct the applicant’s proposal and not any of the permitted uses?
 - Board member observation of the property and the surrounding area.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood: Yes X No___

Proof: If this Use Variance was granted it would alter the use of the Zoning District making a huge impact as it would

allow the parcel to be used for multiple dwellings. The character of the neighborhood would become denser in a District that is already very dense. Others would want approval for the same use, which is not permitted.

ILLUSTRATIVE NEIGHBORHOOD CHARACTER FACTORS

- Board members' observations of neighborhood.
- Expected effect of proposal on neighborhood, for example, change in parking patterns, noise levels, lighting, and traffic.

4. The alleged hardship has been self-created. : Yes X No

Proof: I believe the alleged hardship was definitely self-created. The property is pre-existing and non-conforming in its present use. It was purchased this way and to increase the footprint of both structures would only make it more non-conforming. Renovations can be made within the existing footprint. As it is, the current properties "use" is not permitted in this Zoning District.

SELF-CREATED

- What were the permitted uses at the time the property was purchased by the applicant?
- Were substantial sums spent on remodeling for a use not permitted by zoning?
- Was the property received through inheritance, court order, or divorce?

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after reviewing and considering all four proofs, in a motion made by Ted Carman, and seconded by Donald Burkard, finds that:

The applicant has failed to prove unnecessary hardship through the application of the four tests required by the state statutes and therefore the variance is denied.

the applicant has proven unnecessary hardship through the application of the four tests required by the state statutes. In finding such hardship, the ZBA grants a variance to allow use of the property in the manner detailed below, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community:

CONDITIONS:

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

Arthur Radin 10/15/09
Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

MEMBER NAME:		VOTE:	
		AYE	NAY
<u>Arthur Radin</u>	Chair	<u>X</u>	<u> </u>
<u>Richard DeMallie</u>	Member	<u>X</u>	<u> </u>
<u>Donald Burkard</u>	Member	<u>X</u>	<u> </u>
<u>Elizabeth Grant</u>	Member	<u>X</u>	<u> </u>
<u>Ted Carman</u>	Member	<u>X</u>	<u> </u>

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 10/15/09

Applicant: Ms. Linda Sheive

Variance No. # 073009--Z

Address: 1193 South Lake Road, Middlesex, NY 14507

Zoning District: LR

Telephone: (585) 554-3802

Published Notice on: 10/12/09

Property Location: same

Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II

Hearing held on: _____

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: This requested 30' variance from front yard setbacks would not negatively impact or produce an undesirable change in the character of the neighborhood. The erosion runoff would remain the same. It is not visible from the road. Low railings will be used.

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: No they are replacing the current walkway.

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

Reasons: The requested variance is not substantial as the applicant is only asking for 30' out of 60' required by the district's zoning requirements for front yard setback and there are no stairs to the road. Applicant is using the road centerline setbacks that existed before the Town changed the road. Applicant released a portion of roadside property to allow a safety upgrade recommended by the Town's Engineering firm, Lu Engineers in a study already completed of South Lake Road.

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 adverse effects or impacts to the physical or environmental conditions are foreseen. The proposed deck design will not impact erosion and the walkway will be safer to traverse.

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

Reasons: Proposed project creates a safer and more aesthetic improvement to what is currently existing.

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, in a motion made by Don Burkard and seconded by Elizabeth 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.

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.

CONDITIONS:

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

Arthur Radin 10/15/09
 Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Benjamin Dunton (not present)</u>	___	___

(Version update: January, 2007)

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS hearing on 10/15/09

Applicant: Mr. Thomas V. Northrop

Variance No. # 091009-Z

Address: 10665 E. Ironwood Drive, Scottsdale, AZ 85258

Zoning District: LR

Telephone: (602) 738-3027 cell (585) 554-6326

Published Notice on: 10/11/09

Property Location: 54 50 Sunnyside Road Ext., Middlesex, NY

Notice to County sent: N/A

Applicable Section of Town Zoning Code: Section # 4 03, Schedule II

Hearing held on: _____

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: This variance would make a more undesirable situation if the applicant expands this structure. If he increases to the proposed height of 21', there is a conflict with the Canandaigua Lake Uniform Dock and Mooring Law, pg. 5, "item J" : Boat accessory structures are instructed to not exceed 15' in height.

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: Yes, it is possible for the applicant to make renovations to the structure and stay within the footprint and the 15' height requirement.

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

Reasons: The variance is believed to be substantial. This structure's height is significant when you build closer to the lake, the views both lake to land and land to lake are to be protected.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes X No _____

Reasons: The variance would have an adverse effect and would impact the physical condition of the neighborhood because of the height restrictions in the area. This section of the Zoning District is densely populated and tight right now.

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

Reasons: The proposed renovation to the structure would expand it and make it more non-conforming than it currently is right now.

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 Donald Burkard, 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.

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 in order to minimize adverse impacts upon the neighborhood or community:

Arthur Radin 10/15/09
 Chairperson, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	<u>Arthur Radin, Chair</u>	<u>X</u>	___
Member	<u>Ted Carman</u>	<u>X</u>	___
Member	<u>Elizabeth Grant</u>	<u>X</u>	___
Member	<u>Don Burkhard</u>	<u>X</u>	___
Member	<u>Richard DeMallie</u>	<u>X</u>	___
Member	<u>Benjamin Dunton (not present)</u>	___	___

(Version update: January, 2007)