

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

ZONING BOARD OF APPEALS

Thursday, October 6, 2022 • 7:00 p.m.

MINUTES

The following minutes are the official and permanent record of the actions taken by the Town of Middlesex Zoning Board of Appeals. Remarks delivered during discussions are summarized and are not intended to be verbatim transcriptions.

The meeting was conducted at the Middlesex Town Hall.

Meeting called by: Rebecca Parshall, *Chairperson*

Board members present: Edward Carman
Richard DeMallie
Win Harper

Board members excused:

Alternate: Win Harper

Staff present: Dawn Kane, Code Enforcement Officer
Robert Brenner, Esq., Zoning Board of Appeals Attorney

Attending:
Lynn Lersch, 890 South Lake Road, Middlesex, N.Y. 14507
Burnell Reiff

1. **AREA VARIANCE**
APP. #030222-ZBA Lynn Lersch, owner of property at 890 South Lake Road, Middlesex, N.Y. 14507, requesting one (1) area variance for the purpose of installing a driveway. The following variance is requested: 14 foot variance of setback, driveway placed 1 foot from the south property line.

Ms. Parshall reconvened the public hearing on this application.

Ms. Kane summarized the application for the board. She explained that the neighbors to the south, the Wolks, withdrew their application for a variance. Ms. Lersch is presenting her application which has Site Plan Approval from the Planning Board pending the one-foot variance for setback that she is requesting from the Zoning Board of Appeals.

Ms. Lersch provided a letter of support from the Wolks dated August 2, 2022.

Mr. Harper said that it looks like the work has already been done on the property. Ms. Kane said that the excavator from the neighboring property had overextended his reach and was stopped.

Mr. Carman stated that he was concerned about the precedent that is set by approving such a substantial variance. Mr. Brenner responded that precedent is not a legal issue; he is comfortable defending the board against public comments caused by the approval of Ms. Lersch's application.

Ms. Parshall asked for public comment. There was no public comment.

A motion was made by MR. DEMALLIE, seconded by MS. PARSHALL, that the application of Lynn Lersch, owner of property at 890 South Lake Road, Middlesex, N.Y. 14507, requesting one (1) area variance for the purpose of installing a driveway, be approved.

The variance criteria are as follows:

1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties would be created: No

Reason(s): The public will not know where the exact property line is. The character of the neighborhood will not be changed and the variance is not detrimental to the neighboring 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: No

Reason(s): It is not feasible for the applicant to lessen the variance due to the change in slope that would occur if the driveway is moved further off the property line.

3. Whether the requested variance is substantial: Yes

Reason(s): Yes; Ms. Lersch is requesting a 14 foot variance from the setback requirement of 15 feet.

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

Reason(s): The Planning Board approved the plan for erosion control.

5. Whether the alleged difficulty was self-created: Yes

Reason(s): Yes, but the difficulty is related to the original placement of the building and garage.

Roll Call Vote:

- Rebecca Parshall, Chair - Aye
- Edward Carman - Nay
- Win Harper - Nay
- Richard DeMallie - Aye

The motion failed.

Mr. Carman stated he does not think that the board has looked at the full impact of the variance request. He would be in favor of seeing the applicant either amend the plan to decrease the variance request or go to the Planning Board for permission to build the driveway on a steeper slope. Mr. Carman stated that he thinks there is an alternative approach that will lessen the variance. He asked if there is a letter from the Planning Board engineer, Tom Palumbo, stating that there is no alternative approach, as Mr. Palumbo reviewed the application at the Planning Board meeting in July. Ms. Kane responded that she does not have a letter.

It was decided that the application would be sent to Mr. Palumbo for review and he would provide feedback to the Zoning Board of Appeals.

3. BOARD DISCUSSION

A. Approval of minutes of August 4, 2022:

Draft minutes from August 4, 2022 were reviewed. A motion was made by MR. CARMEN, seconded by MR. HARPER, that the draft minutes be approved as submitted.

Motion carried by voice vote.

5. ADJOURNMENT AND NEXT MEETING

The next regular meeting of the Zoning Board of Appeals will be held on Thursday, November 3, 2022, at the Middlesex Town Hall. In addition, the Zoning Board of Appeals will meet on Wednesday, October 19, 2022, at the Middlesex Town Hall.

A motion was made by MR. HARPER, seconded by MR. CARMEN, that the meeting be adjourned.

Motion carried by voice vote.

The meeting was adjourned at 8:08 p.m.

Respectfully submitted,
S. G. Parshall, Planning Board/Zoning Board of Appeals Clerk
Minutes approved on 11/03/2022