

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

ZONING BOARD OF APPEALS

Thursday, June 2, 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 and via video conference.

R = Attended via remote video conference.

Meeting called by: Rebecca Parshall, *Chairperson*

Board members present: Edward Carman
Richard DeMallie
Win Harper

Board members excused: Elizabeth Grant

Alternate: Win Harper

Staff present: Dawn Kane, Code Enforcement Officer
Robert Brenner, Esq., Planning Board Attorney

Attending:
Jeff and Nancy Wolk
Devin Colbert
Lynn Lersch
Richard Lersch-*R*

1. AREA VARIANCE**APP. #030222-ZBA Richard and 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. Lersch presented aerial maps of the amended and previously approved plans for the Lersch's driveway. Ms. Lersch noted line-of-sight issues with the previous plan caused by her garage and bushes on the embankment. The 30 foot swale between the properties is difficult to maintain and a safety concern. There is a retaining wall on the Lersch's property, but not on the Wolks', so a vehicle could slide off into the swale. The previous plan would require a ramp of 37.5 feet in length from parking to the entrance of the house. The amended plan has a two foot drainage swale between the driveways, which will be graveled. The amended plan reduces the impervious surface area from 1,903 to 1,883 square feet.

Mr. Harper asked if the amended plan would change the lot coverage. Ms. Lersch responded that lot coverage is not a concern, as the vacant lot next to the Lersch's property has been annexed and the prior variance for lot coverage is no longer applicable. Ms. Lersch stated that the vacant lot will remain a green space.

Mr. Harper questioned the long-term ramifications of sharing a driveway between neighbors, saying the variance would impose upon future residents for the convenience of the current residents. Ms. Lersch responded that both the Lersch's and the Wolks have individual separate driveways without shared maintenance between properties, including a self-maintained drainage ditch.

Mr. DeMallie asked what would happen to the plowed snow. Ms. Lersch said that the swale between the driveway can be plowed, so the snow would not build up between the driveways.

Mr. Harper inquired about the Planning Board's response to the application. Ms. Kane stated that she brought the case to the Planning Board for informal input. Since shared driveways are not allowed in Middlesex, the Planning Board is concerned that adjacent driveways separated by only two feet would run contrary to the spirit of the private driveway law.

Mr. Carman expressed concern about the municipal-wide impact of reducing setbacks on the Lersch's property. The Lersch's property already has significant variances. Mr. and Ms. Lersch responded that the number of variances was reduced from six to three when the adjoining lot was annexed.

Mr. Lersch asked how far apart the driveways would have to be to be considered two separate driveways. Mr. Brenner said that if there is significant landscaping in the two foot drivable strip to make them feel like separate driveways, "this feels like a different application."

Mr. DeMallie asked how close the driveway could be pushed north towards the Lerschs' house. Ms. Lersch responded the proposed driveway placement would reduce the grade from 15% to 14%. The curve would be gentler and there would be less disturbance to the embankment.

Ms. Kane asked if the approach taken still works if the driveways are visually separated by trees and shrubbery. Ms. Lersch responded in the affirmative.

The hearing was opened for public comment by Ms. Parshall.

Mr. Wolk feels the plan for the Lerschs' driveway would be beneficial because it eliminates the elevation difference between driveways and increases green space. Ms. Wolk said that she considers the dropoff between driveways to be a safety issue and difficult to maintain. The proposed driveways could be graded uniformly.

Mr. Brenner said that the applicants could apply for a private road. Ms. Wolk and Ms. Kane then had a brief discussion about the design standards of a private road, which would be cost prohibitive for both families.

Mr. DeMallie asked if the definition of a private road in Middlesex could be changed. Ms. Kane said that it could be done, but it would take time.

Ms. Lersch requested that the determination be tabled until the Planning Board sees it.

The hearing was closed to public comment by Ms. Parshall.

A motion was made by MR. HARPER, seconded by MR. CARMAN, that the application of Richard and Lynn Lersch, owner of property at 890 South Lake Road, Middlesex, N.Y. 14507, requesting a 14 foot variance 1 foot from the south property line for the purpose of installing a driveway, be continued to **JULY 7, 2022**, at which point the application will have been reviewed by the Planning Board.

Motion carried by voice vote.

2. AREA VARIANCE

APP. #050522-ZBA Devin Colbert, owner of property at 5549 Water Street, Middlesex, N.Y. 14507.

Requesting three (3) area variances for the purpose of installing a perimeter fence. The following variances are requested: East side requesting zero feet setback; south side requesting 20 feet setback; north side requesting 20 feet setback.

Mr. Colbert stated that he is requesting setback variances for a perimeter fence, which will be built using 6 inch posts pounded 3 feet into the ground, spaced apart by 10 feet, and a see-through orchard-style fence 5 feet in height. A photo of the proposed fence was provided to the ZBA members for review.

Mr. Carman inquired about the maximum height of the fence. Mr. Colbert stated that the maximum height of the fence will be 5 feet off the ground.

The public hearing was opened by Ms. Parshall, and, without public comment, was closed.

Ms. Kane said that all neighbors are in support of the fence.

MR. CARMAN recommended that the stated variance requests 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 fence is see-through.

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): The fence is the best way to keep the dogs on the property. Also, the fence demarcates the south and east property lines.

3. Whether the requested variance is substantial: No

Reason(s): A property owner should be able to protect his property with a fence and confine his livestock to his property.

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 fence is see-through and will not impede line-of-sight.

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

Reason(s): The Applicant wants to cordon off land to contain his dogs, but this should not prevent approval of the request.

The recommendation was seconded by MR. DEMALLIE.

After careful review of the findings for criteria of an Area Variance, the board members stated that the benefit of the variances to the Applicant DOES outweigh the detriment to the character, health, safety, and welfare of the neighborhood and therefore the variance request is granted.

Motion carried by voice vote.

- 3. AREA VARIANCE**
APP. #051822-ZBA Nancy and Jeff Wolk, 3830 Canal Road, Spencerport, N.Y.

14559; owners of property at 894 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 north property line.

The Wolks would like to amend the original variance granted by the ZBA and are now requesting a 14 foot variance to locate their driveway 1 foot from their north property line. The driveway will be shorter and the lot coverage will be reduced. The driveway will be reduced to a 14% slope instead of 15%.

The public hearing was opened by Ms. Parshall, and without comment from the public, was closed.

Mr. DeMallie asked if a calculation was done on the reduction in lot coverage. Mr. Wolk responded that it is “a percent.”

A motion was made by MR. CARMEN, seconded by MR. DEMALLIE, that the application of Nancy and Jeff Wolk, 3830 Canal Road, Spencerport, N.Y. 14559; owners of property at 894 South Lake Road, Middlesex, N.Y. 14507, requesting a 14 foot variance 1 foot from the north property line for the purpose of installing a driveway, be continued to **JULY 7, 2022**, at which point the application will have been reviewed by the Planning Board.

Motion carried by voice vote.

4. BOARD DISCUSSION

A. Approval of minutes of May 4, 2022:

Ms. Kane stated that the minutes from the Planning Board meeting on May 5, 2022 would be reviewed and approved at the regularly scheduled meeting in July.

5. ADJOURNMENT AND NEXT MEETING

The next regular meeting of the Planning Board will be held on Thursday, July 7, 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 8:31 p.m.

Respectfully submitted,

S. G. Parshall, ZBA Clerk
Minutes approved 07/07/2022