

Town of Middlesex

1216 Route 245
Middlesex, New York 14507

ZONING BOARD OF APPEALS Thursday, March 6, 2025 • 7:00 p.m.

The following minutes are the official and permanent record of the actions taken by the Town of Middlesex Zoning Board of Appeals, as recorded by the Zoning Board Clerk.

Meeting called by: Rebecca Parshall, *Chairperson*

Board members present: Win Harper
Richard DeMallie

Alternate: Position vacant

Staff present: Dawn Kane, *Code Enforcement Officer*
Beth Altemus, *Zoning Board of Appeals Clerk*

Ms. Parshall called the meeting to order at 6:55 p.m.

NEW BUSINESS:

1. App. # 010625 - ZBA

Pat Lindner, owner of property at 1315 South Lake Road, Middlesex, NY, 14507 (Tax Map ID# 21.79-1-3), is requesting an area variance for a retaining wall replacement.

Burnell Reif of Bare Hill Landscaping was representing Mr. Lindner. Mr. Reif explained that the owner would like to rebuild the retaining wall near the existing parking area using Redi Rock, and to change the layout of the parking area.

Mr. Harper asked if they would be fixing up the old retaining wall in front, and Mr. Reif indicated they would. CEO Kane asked if they would be expanding that wall, and Mr. Reif indicated that they would repair it and maintain its current size, however they will excavate an additional two feet because the new wall blocks will be wider.

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Mr. DeMallie asked if the highway department needed to comment on the project, and CEO Kane indicated that the wall to be repaired will not require their comment. She asked how far the parking area will go out, and Mr. Reif commented that they don't have to come all the way out, and it will be approximately ten feet from the centerline of the road and approximately nineteen feet from the gully.

Mr. DeMallie commented that snow plowing should be considered, and Mr. Reif indicated that the south side will go into the ditch and the north side to the bank, and the fence is not coming out beyond that.

Mr. Harper asked if there were any comments from neighbors, and CEO Kane indicated that there have been no comments in regards to the walls.

Mr. DeMallie commented that the drainage plan looks good. He also asked if the variance applies only to the wall at the parking area, and Mr. Reif indicated that is correct.

Mr. Harper made a motion to approve the design as presented, with the condition that the Highway Department ensures it won't be a problem for snowplows. Mr. DeMallie seconded.

Per the criteria (see attached documentation), Mr. Harper answered the following:

- 1) No, retaining walls and parking areas are common features in the neighborhood, and having parking off the road is safer.
- 2) No, there is no other place to put the parking lot.
- 3) No, it's a preexisting parking area and it won't go any closer to the road than it is now.

CEO Kane asked what the wall height will be, and Mr. Reif indicated that it will be between seven and nine feet with a fence along the top.

Ms. Parshall commented that the map says it will be a maximum of seven feet.

There was discussion that no variance is needed for the wall height, and the requested variance is not substantial.

- 4) No, parking lots are common, and this would have no adverse effect.

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- 5) Yes, every difficulty is self-created, but that doesn't preclude the Board from granting the variance.

There was no further discussion.

All Board members voted in favor, none opposed, and the motion carried.

2. App. # 010525 - ZBA

Pat Lindner, owner of property at 1315 South Lake Road, Middlesex, NY, 14507 (Tax Map ID# 21.79-1-3), is requesting an area variance for the setback of a fence.

Mr. Reif continued to represent Mr. Lindner. He explained that he would like to repair and extend the existing fence by sixty feet in the uphill direction and not closer to the road.

Mr. DeMallie indicated that Section 605 of the zoning law doesn't allow for privacy fences, but this is obviously a privacy fence and is requested on the property line, so this is possibly two variances.

CEO Kane asked what the fence material will be, and Mr. Reif indicated that it will be made of pressure treated posts with two by four purlins, and staggered one by six boards on each side for visual consistency.

Mr. DeMallie asked if the house to the north is close to the fence, and CEO Kane commented that there is already a picket fence heading uphill from the road on the parcel to the north, and the proposed fence will be to the south of the property.

Ms. Parshall asked if there was any input from neighbors, and CEO Kane indicated that Dawn Aprile, the neighbor to the south, has no issue with the fence.

There was discussion that the old fence is being repaired and extended, so the older portion will also have repairs made.

Mr. DeMallie asked if the wall to the north was erected prior to the zoning law, and CEO Kane said it was done prior to her role as CEO. There was discussion that neighbors to the north will not be able to see the fence, which currently is forty feet long and will be extended by sixty feet, for a finished total length of one hundred feet.

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Mr. DeMallie made a motion to grant the variance for a one hundred feet long fence on the lot line.

CEO Kane asked who would be maintaining the fence if it's on the property line; she asked Mr. Reif if it would be possible to bring the fence in from the property line. Mr. Reif indicated it would be. CEO Kane commented that there will need to be enough room to maintain the fence without trespassing, so 1.5 to two feet would be needed.

Mr. Reif commented that the other side of the fence is not mowed and has six feet high brush and mature trees, which he will not be cutting down. He indicated that he could move the fence 1.5 feet.

There was discussion that if the fence were to be moved in the owner would be responsible for its maintenance, and if it were to stay on the property line conflict over maintenance could arise.

Mr. DeMallie made a motion to grant the variance as described for height and materials design, with the condition that it be moved 1.5 feet from the lot line towards the property owner's home, starting at the current position of the old fence. Mr. Harper seconded.

Per the criteria (see attached documentation) Mr. DeMallie answered the following:

- 1) No, it will be longer but head east up the hill, and will not be visible by anyone driving by. The neighbor already commented that it's not a problem, so there will be no undesirable change or detriment.
- 2) No, because having a fence so close to the property line requires an area variance.
- 3) Yes, the request is substantial as it was for a full fifteen feet of variance, and now is for 13.5 feet.
- 4) No, because it will go off to the east.
- 5) The request is self-created, but that won't preclude the granting of the variance.

There was no further discussion. All Board members voted in favor, none opposed, and the motion carried.

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CEO Kane and Mr. Reif discussed the height differential of the wall between its north and south ends and the possibility of stepping it down to go with the contour of the land for a more aesthetically pleasing look.

OTHER BUSINESS:

Mr. DeMallie made a motion to approve the January meeting minutes. Mr. Harper seconded, all Board members voted in favor, none opposed, and the motion passed.

Mr. Harper made a motion to adjourn the meeting at 7:48. Mr. DeMallie seconded, all Board members voted in favor and the meeting was adjourned.

Attached Documentation:

Criteria for Zoning Board of Appeals Variance Findings and Decision

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: _____

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: _____

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5. Whether the alleged difficulty was self-created:

Yes _____ No _____