

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>	_____	_____