

# 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)	