

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 20, 2017

Applicant: Mr. Benjamin Dunton

Variance No: #061617-Z

Agent's Address: 1032 State Rte. #364, Middlesex, NY 14507

Zoning District: (AG)

Telephone: (585) 554-5134

Published Notice on DM (7-07-17)

Property Location: same as above

Notice to County sent on 7-18

Applicable Section of Town Zoning Code: Sec. #403, Schedule II

County Hearing held on 7-27

YCPB recommendation: \_\_\_\_\_

## NATURE OF REQUEST

Applicant is requesting a variance for a front setback from the centerline of the road for the purpose of constructing a proposed 20 x 28 foot two story addition to a pre-existing and non-conforming single family residence. The required front setback for the Agricultural Zoning District is 100 feet. Applicant requests a 44-foot variance in order to locate the addition in line with the current front line of the house which is 56.4 feet from the centerline of the road.

## 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 \_\_\_ No X

Reasons: The nearby residential properties are in line with the same non-conforming distance to the road, and the abutting parcel is the Town of Middlesex Water Tower so there would not be an undesirable change produced in the neighborhood nor detriment created by the proposed action.

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 he had looked into other options and due to the topography of the land, this was the only feasible option.

3. Whether the requested variance is substantial: Yes \_\_\_ No X

Reasons: I don't believe it is as all residences in the direct neighborhood are visually constructed the same distance from the centerline of the road as they are all pre-existing and therefore substantial only because of it's non-conformance to current code requirements.

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: The proposed action will not have an adverse effect or impact as physically it is in character with the rest of the

neighborhood in its location and environmentally it is the least invasive option available.

5. Whether the alleged difficulty was self-created: Yes X No \_\_\_

Reasons: The proposed action is self-created as the applicant's extended family has expanded creating the need for increasing the square footage of the existing house. I believe it to be the best possible way after weighing all alternatives.

### **DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS:**

The ZBA, after taking into consideration the above five factors, in a motion made by Elizabeth Grant and seconded by Mr. Win Harper, 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 to minimize adverse impacts upon the neighborhood or community:

\* pending Yates County Planning Board review on July 27<sup>th</sup>.

Arthur Radin  
Chairperson, Zoning Board of Appeals

July 20, 2017  
Date

### **RECORD OF VOTE**

	MEMBER NAME	AYE	NAY
Chair	<u>Mr. Arthur Radin, Chair</u>	<u>X</u>	<u>___</u>
Member	<u>Mr. Win Harper</u>	<u>X</u>	<u>___</u>
Member	<u>Mr. Ted Carman</u>	<u>X</u>	<u>___</u>
Member	<u>Ms. Elizabeth Grant</u>	<u>X</u>	<u>___</u>
Member	<u>Mr. Richard DeMallie</u>	<u>X</u>	<u>___</u>
Member	<u>Ms. Rebecca Parshall (alt.)</u>	<u>___</u>	<u>___</u>

(Version update: May, 2011)