

AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on October 5, 2017 (rescheduled for 10-19-17)

Applicant: Michael H. Messina > agent Peter Gorman (Marathon Engineers) Variance No: #092017-Z

Applicant's Address: 34 Meadow Cove Rd. Pittsford NY 14534

Agent's Address: 39 Cascade Drive, Rochester NY 14614

Agent's Telephone: (585) 458-7770

Zoning District: (LR)

Published Notice on DM (10-08-17)

Property Location: 344 East Lake Road, Tax ID #001.076-1-1.1

Notice to County sent on 10/13/17

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

County Hearing held on 10/26/17

County Determination: no significant county impact

NATURE OF REQUEST

Applicant is requesting an Area Variance to locate a Tram Hoist Station 16-feet from the rear setback on County Road #39, East Lake Rd. Per Section #403, Schedule II of the Town of Middlesex Zoning Code, the Lakeside Residential Zoning District requires a rear setback of 60 feet from the center line 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: There will be absolutely no change to the character of the neighborhood as the tram and the Tram Hoist Station will be a positive improvement to the property, providing a safer access from the house to the shoreline in a steep slope area.

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: This new tram replacement of an existing tram is using the same path as the old tram and its Tram Hoist Station is using the same footprint, and though it will be wide, it will be the same distance from the road.

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

Reasons: Because the new replacement tram will be essentially in the same location as the old one, I believe this situation is a common occurrence in steep slope areas. The tram provides the owner with access to his shoreline property at lakeside which is his right.

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: It is in the existing footprint of the old tram and so environmentally and physically, it will not have an adverse impact on the land or neighborhood.

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

Reasons: I believe the difficulty was self-created. The owner purchased the property knowing that the replacement would need to be done sometime in the future.

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 Richard DeMallie, 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 Oct. 26, 2017. Determination: no significant county-wide impact.

Arthur Radin
Chairperson, Zoning Board of Appeals

October 19, 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>(absent)</u>	<u> </u>

(Version update: May, 2011)