

# AREA VARIANCE FINDINGS & DECISION

MIDDLESEX ZONING BOARD OF APPEALS on July 20, 2017

Applicant: Mr. Case Smeenk

Variance No: #061517-Z

Agent's Address: 5790 Widmer Road, Middlesex, NY 14507

Zoning District: (LR)

Telephone: (585) 943-8745

Published Notice on DM (7-07-17)

Property Location: same as above

Notice to County sent on N/A

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

County Hearing held on N/A

## NATURE OF REQUEST

Applicant is requesting two front setback variances that do not comply with current Lakeside Residential code requiring a setback of 40 feet from the Mean High Water Line: (1) Area Variance request of 32 feet, 6.5 inches for the purpose of constructing an addition to a pre-existing home and non-conforming residence. (2) Area Variance request for 17 feet, 6 inches to construct a stair system to an existing deck at shoreline.

## 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: (1) & (2) Yes \_\_\_ No X

Reasons: (1) Because the property has an extensive frontage on the lake without any immediate abutters, I believe this variance request is reasonable and without any undesirable changes to the character of the neighborhood. (2) There is no material change here with 600 feet of lake frontage, there is no view to neighboring parcels impacted and if site development is managed properly, there will not be any drainage or water run-off problems to the neighbors.

2. Whether the benefit requested by the applicant could be achieved by some method, feasible for the applicant to pursue, other than a variance: (1) & (2) Yes \_\_\_ No X

Reasons: (1) With the topography of the property with its' steep rise to the east, there is no other feasible option to achieve. (2) The existing structure is positioned close to the water's High Mean Water Line. There seems to be no other options to minimize the lack of compliance for the applicant than the one chosen.

3. Whether the requested variance is substantial: (1) Yes X (2) No X

Reasons: (1) I believe it is substantial as the variance request is to locate the structure closer to the water. (2) The bottom of the proposed stairs will rest upon the existing deck, so there will not be any excavation at the shoreline.

4. Whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: (1) & (2) Yes \_\_\_ No X

Reasons: (1)& (2) No I don't believe so, and with proper site planning, the watershed will be closely managed and controlled and the proposed stairs will rest upon the existing deck, so the shoreline will not be excavated.

5. Whether the alleged difficulty was self-created: (1) & (2) Yes X No \_\_\_

Reasons: I believe the difficulty was self-created as the owner has chosen to create an addition with current code requiring it to be in compliance. (2) the applicant's request to modify a pre-existing and non-conforming structure is self-created; however his family is growing and needs proposed changes that will add to the value of his home and lifestyle.

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

The ZBA, after taking into consideration the above five factors, in a motion made by (1)Ted Carman (2)Elizabeth Grant and seconded by (1) Mr. Richard DeMallie and (2) 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:

None were applied to this application.

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>	___
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>	___	___