

# AREA VARIANCE FINDINGS & DECISION

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

## NATURE OF REQUEST

Applicant: Valley View Family Practice

Variance No: #092117-Z

Address: 213 Route #245, Rushville, NY 14544

Zoning District: (HR)

Telephone: (585) 554-3119 or (585) 554-6069

Published Notice on DM (10-08-17)

Property Location: Tax ID #3.04-1-1

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

Determination: no significant countywide impact

Applicant is requesting an Area Variance to locate a 30" x 48" rectangular business sign 34-ft. from the center line of the road. Applicant is requesting a 26-ft. variance from the Hamlet Residential Zoning District in which it is located which requires a front setback of 60 ft. 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: There will be absolutely no change to the character of the neighborhood as the business had a sign which is being replaced, and the new sign meets town code requirements and will be placed to provide a better line of sight and visibility for identification of the business from the road. Neighboring parcels are rural and most are still vacant land.

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: Because of the topography of the property and its' proximity to the road and the building setting far back from the road, there really seems to be no other method feasible for the applicant to pursue.

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

Reasons: I believe it is substantial in terms of the setback as the variance request is 40% of the total setback. That being stated, I feel it is no major significance when reviewing all of the criteria components to the variance request.

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: No I don't believe so, it is a rural road without any development and so much of the parcels on this road are farmed or vacant. I do not see any negative effect. I also feel after review of the criteria, that the variance request if granted will increase visibility to identify the business from the road.

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

Reasons: I believe the difficulty was self-created and is significant. That is the nature of a variance request. In this case, I believe the positive outcomes in granting this variance request outweigh the fact that it is self-created and significant. The new location of this sign will improve the business identification from the road and the safety aspect creating a better view for ease in finding the business for potential patients traveling on the road.

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

The ZBA, after taking into consideration the above five factors, in a motion made by Ted Carman and seconded by 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 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> | ___ |
| 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) | ___ |