

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

Phone: (585) 394-1120 / Fax: (585) 394-9476

ZONING BOARD OF APPEALS

AREA VARIANCE APPLICATION

NOTICE TO ALL APPLICANTS:

The ZONING BOARD OF APPEALS reviews submitted applications on a first-come-first-served basis. The number of applications scheduled for review will vary depending upon the number and complexity of the applications received. The goal of the ZBA is to process all applications in a timely and efficient manner.

Applicant must see that all forms are filled out completely and accurately before the application can be processed. All completed applications are subject to the rules and regulations as established by the Town of Canandaigua and the State of NY. This department does not guarantee any board approvals for completed applications.

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2020 Board Calendar

Meeting dates are subject to change Revised 3/3/2020

APPLICATION DEADLINE 12:00 pm	PRC MEETING To review applications 9:00AM	ZONING BOARD OF APPEALS Public Hearings 6:00 PM	PLANNING BOARD Public Meetings and Hearings 6:00 PM		ENVIRONMENTAL CONSERVATION BOARD Public Meetings 4:30 pm
<u>WEDNESDAY</u> <u>AS OF APRIL 8</u>	<u>MEETING</u> <u>DATE</u>	<u>MEETING</u> <u>DATE</u>	<u>MEETING DATES</u>		<u>MEETING</u> <u>DATES</u>
December 13, 2019	December 16, 2019	January 21, 2020	January 14, 2020	January 28, 2020	January 2, 2020
January 10	January 13	February 18	February 11	February 25	February 6
February 14	February 18*	March 17	March 10	March 24	March 5
March 13	March 16	April 21	April 14	April 29***	April 2
April 8	April 13	May 19	May 12	May 26	May 7
May 6	May 11	June 16	June 9	June 23**	June 4
June 10	June 15	July 21	July 14	July 28	July 2
July 8	July 13	August 18	August 11	August 25	August 6
August 12	August 17	September 15	September 8	September 22	September 3
September 9	September 14	October 20	October 13	October 27	October 1
October 7	October 13****	November 17	November 10	November 24	November 5
November 11	November 16	December 15	December 8	-----	December 3
December 9	December 14	January 19, 2021	January 12, 2021	January 26, 2021	January 7, 2021

*February 18 is a Tuesday (11:00am)**Subject to change- Primary Election ***April 29 is a Wednesday ****October 13 is a Tuesday

** All Applications are due by 12:00pm on deadline day**

The applicant will receive written notification of their scheduled meeting. If your application is deemed incomplete, it will not be placed on an agenda until the requested information has been submitted to the Town Development Office. All new Planning Board applications submitted on/before the application deadline will be first heard at 2nd meeting of the following month. Continued applications will be reviewed at the 1st meeting of the following month.

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ZONING BOARD OF APPEALS REQUIRED PAPERWORK FOR APPLICATION SUBMITTAL

Area Variance Application

- _____ Variance Application (Zoning Board of Appeals)
- _____ Description of documents which would support a determination that it is practically difficult for you to conform to the dimensional requirements of the zoning law (Tests for Granting Area Variances).
- _____ Map showing size and location of all existing and proposed structures, including lot width, lot area, setback dimensions and computations of percentage of lot coverage. (See attached Sketch Plan Checklist) Projects over 1,000 square feet will require a professionally prepared site plan.
- _____ Front elevation or view of proposed structure showing the height measured from the average finished grade.
- _____ Property owner signatures on all application forms and checklists

**You must submit the original application and attachments / survey map / site plan.
Contact the Zoning Officer to determine which additional building/sign permit application is
required to be submitted with this application.
Additional copies of the site plan, etc. will be requested after the Planning Review Committee
(PRC) has reviewed your application.**

FEES:

1. The \$100 application fee is required upon submission of the application. This fee is non-refundable. A separate, additional fee will be rendered for the building permit.
2. Building permit fees vary – the fee will be determined by the Town Code Enforcement Officer.
3. The property owner is responsible for reimbursement of any Town Engineer and/or Town Attorney fees incurred during application review.

WHY YOUR VARIANCE MIGHT BE DENIED

You have been told that something which you want to do on your land is prohibited. You have also learned that the ZBA has the power to authorize you to proceed despite the Zoning Law prohibition.

Hopefully, you have also learned from the materials you received from the Planning & Zoning Office that we may only approve your variance if you can show some practical difficulty in your particular situation. We seek, wherever possible, to help resolve your individual conflict with the zoning law in a manner which addresses your needs as well as the needs of the Town as a whole.

Unfortunately, because these needs are sometimes in conflict, we often find such an ideal solution impossible.

In our experience variances are most frequently denied for one of three reasons:

First, practical difficulty was not shown, even though it was shown, there is some means other than a variance available to the applicant to address the problem. These variances are denied because they are not considered to be necessary.

Second, even though practical difficulty was shown, a variance will be denied if the impact of the requested variance upon the neighborhood or surrounding properties would be too great. This board is required to take into account the good of the Town as a whole and not grant an individual relief if the common good would be too severely impacted.

Finally, variances are generally denied if the practical difficulty shown was not unique. We are required to determine whether the difficulty is unique to a given property or to circumstances peculiar to that property. State law prohibits us from approving a variance if an applicant establishes a difficulty which is not unique. The rationale for this limitation is that the granting of variances to address difficulties which are common to a given region or type of use amounts to actually changing the zoning law, one variance at a time. The proper legal procedure in such a case is not a variance, but a request to change the law. This board cannot act on such a request as the Town Board, which enacts all the laws of the town, is the only board which can make such a change. Regrettably, the Zoning Board of Appeals sometimes finds an applicant to have a legitimate concern, but is nonetheless compelled to deny the requested variance because the described difficulty is not sufficiently unique. In that instance the board will advise the Town Board of its finding both to assist the applicant and in the hope that the Town Board will take appropriate action to improve the zoning law itself.

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ZONING BOARD OF APPEALS APPLICATION

Permission for on-site inspection for those reviewing application: x Yes No

- **If you provide your e-mail address, this will be the primary way we contact you****

- **If you provide your e-mail address, this will be the primary way we contact you ****

- 4/5/16

6. What is your proposed new project and the variance(s) or interpretation requested?
We would like to add an ~~800~~⁹⁰⁰ sq ft addition off the back of our house, to provide an area for our children to run, play, do school work
-
7. Have the necessary building permit applications been included with this form? If not, please verify with the Development Office which forms are required to be submitted. Yes
8. With your completed application for an Area Variance, attach a tape map/survey/site plan, elevation of the proposed structure, and other documentation necessary describing the requested variance(s) illustrating why it is practically difficult for you to conform to the Zoning Law.
- All maps, surveys, or site plans shall accurately depict the property including all existing and proposed structures, setbacks, and dimensions. *All dimensions must be precise.*
9. With your completed application for a Use Variance, attach a current survey map/site plan of the subject parcel with a detailed description of the proposed use, a statement as to why you feel this use variance is necessary, and a completed Environmental Assessment Form.
10. With your completed application for an Interpretation, attach a current survey map/site plan of the subject parcel with a detailed description of the proposed use, a statement as to why you are appealing the zoning law determination, and a copy of the zoning law determination of which said appeal is requested.
11. If the variance requested is related to signs, attach a Sign Detail Sheet, a site plan, and colored renderings of the proposed signage, and any other documentation required in Article IX (Sign Regulations) of the Town of Canandaigua Zoning Law.

I have examined this application and declare that it is true, correct, and complete. I understand that my application and all supporting documentation will be examined by the Zoning Board of Appeals as an integral component of deliberations.

I hereby grant my designee permission to represent me during the application process.

Matthew Schwalb
(Signature of Property Owner)

12/3/2020
(Date)

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***Property Owner is responsible for any consultant fees
(Town Engineer, Town Attorney, etc.) incurred during the application process.***

Please note that the **Property Owner** is responsible for all consultant fees during the review of this application including legal, engineering, or other outside consultants. Applications submitted to the Town of Canandaigua Planning Board will normally receive chargeback fees of at least five hours to ten hours for planning services including intake, project review, resolution preparation, SEQR, and findings of fact. PLEASE NOTE that the number of hours will be SIGNIFICANTLY INCREASED due to incomplete applications, plans lacking detail, or repeated continuations. Subdivision applications and larger commercial or industrial projects traditionally require more hours of engineering, legal, and other consultant review and preparation and will incur higher costs. Applications for new construction may be referred to the Town Engineer for engineering review which may include at least an additional eight to twelve hours of review time. The **Property Owner** will also be responsible for legal fees for applications submitted to the Town of Canandaigua Planning Board, Zoning Board of Appeals, or the Town of Canandaigua Development Office. Fees for engineering and legal expenses traditionally range between one hundred and one hundred fifty dollars per hour. A copy of the Town's annual fee schedule is available upon request from the Development Office or the Town Clerk's Office. The **Property Owner's** signature below indicates that the **Property Owner** understands that the **Property Owner** will be responsible for all outside consultant fees incurred as a result of the submitted application, and consents to these charges. Additionally projects approved by the Town of Canandaigua Planning Board may be required to pay a parks and recreation fee as established by the Town Board (currently \$ 1,000 per unit) if required as part of the conditions of approval.

Matt Schwalm

(property owner)

Kylie Dunster

(property owner)

TESTS FOR GRANTING AREA VARIANCES

BE VERY SPECIFIC WHEN ANSWERING THESE QUESTIONS

"Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
(Town Law Section 267, subsection 1.(b)).

In deciding whether to grant an area variance, the Zoning Board of Appeals takes into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. (Town Law Section 267-b, subsection 3.(b)).

To enable the Zoning Board of Appeals to grant an area variance, the applicant must present substantial evidence concerning the following topics by providing supporting evidence for each. Attach additional sheets if necessary.

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

No, we are asking to go to the 15' distance from the lot line, like a detached garage would be
This is to keep an area between the pool fence and the requested addition, for our kids to play in the lawn
during the summer months, while this addition gives them a place to play during the winter

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

No, the width of the pool limits the usable space on the require setbacks , which would limit the
building width to 10ft

- (3) Whether the requested area variance is substantial.

No, it is only a request of an additional 5-10 feet, while maintaining the respect of our neighbors
and the town's requirement for 15ft set back for accessory buildings or detached garages

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

No, it will be a positive affect, as we can add proper drainage to the sewer to the east
of our property and will also help keep the run off from properties west of ours.

- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

No, we did not build the pool, and we are requesting to stay within the setbacks of accessory buildings
and detached garages

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CPN #: _____

Sketch Plan Checklist

Applicant: Matt Schwalm and Kylie Dunster

Project Address: 4864 Bedford Dr , Canandaigua NY 14424

Tax Map #: 97.04-1-35.000

Zoning District: R-1-20

Project Description Narrative: adding 800sq ft addition to the back of the house

Sketch Plan Checklist – Chapter 220 §220-66 (Not required for any property in a major subdivision)	Shown on Plan by Applicant	Initial PRC Review	PRC Follow Up Review
A. The sketch plan shall be clearly designated as such and shall identify all existing and proposed:			
1) Zoning classification and required setbacks.			
2) Lot lines.			
3) Land features including environmentally sensitive features identified on the NRI. (woods, streams, steep slopes, wetlands)			
4) Land use(s). (residential, agricultural, commercial, or industrial)			
5) Utilities. (i.e. location of electric, gas, well, septic, sewer, cable)*			
6) Development including buildings, pavement and other improvements including setbacks.			
7) Location and nature of all existing easements, deed restrictions and other encumbrances.			
B. Sketch plans shall be drawn to scale.			
C. It is the responsibility of the applicant to provide a sketch plan that depicts a reasoned and viable proposal for development of the lot.			

I have reviewed my submitted application and drawings against the above noted criteria and hereby certify that the submitted application matches this check list.

Matthew Schwalm

Signature of Applicant / Representative

12/3/2020

Date

*May be obtained from UFPO – dial 811 for assistance.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: <div style="text-align: center;">addition to 4864 Bedford House</div>			
Project Location (describe, and attach a location map): <div style="text-align: center;">4864 Bedford Dr , Canandaigua NY 14424</div>			
Brief Description of Proposed Action: adding 800sq ft addition to the back of the house			
Name of Applicant or Sponsor: Matt Schwalm and Kylie Dunster		Telephone: 585-469-2729	
		E-Mail: MSchwalm11@gmail.com	
Address: <div style="text-align: center;">4864 Bedford Dr</div>			
City/PO: <div style="text-align: center;">Canandaigua</div>		State: <div style="text-align: center;">NY</div>	Zip Code: <div style="text-align: center;">14424</div>
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?		NO	YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency?		NO	YES
If Yes, list agency(s) name and permit or approval:		<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		0	acres
b. Total acreage to be physically disturbed?		0	acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		0	acres
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies: _____ _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____ _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, <div style="margin-left: 40px;"> a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? </div> If Yes, briefly describe: Yes, we have a plan to create drainage that will go directly to the storm Drain - with helpful direction from Chris Jensen	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Matthew Schwalm</u> Date: <u>12/3/2020</u> Signature: <u>Matthew Schwalm</u> Title: <u>Owner</u>		

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AGRICULTURAL DATA STATEMENT

CPN #: _____

In accordance with NYS Town Law § 283-a, the Town of Canandaigua will use the following information to evaluate possible impacts that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation.

- A. Name and Address of Property Owner: Matthew Schwalm and Kylie Dunster
4864 Bedford Dr , Canandaigua NY 14424
- B. Name and Address of Applicant: Matt Schwalm and Kylie Dunster
4864 Bedford Dr , Canandaigua NY 14424
- C. Description of the proposed project: adding 800sq ft addition to the back of the house

- D. Project Location: 4864 Bedford Dr , Canandaigua NY 14424
- E. Tax Map #: 97.04-1-35.000
- F. Is any portion of the subject property currently being farmed? Yes X No
- G. List the name and address of any land owner within the agricultural district that the land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed.
- Name / Address
1. _____
2. _____
3. _____
- H. Attach a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in this Agricultural Data Statement.

FOR TOWN USE ONLY

Circle Type of Application:

Special Use Permit

Site Plan Approval

Subdivision

Use Variance

Circle Review Authority:

Zoning Board of Appeals

Planning Board

Town Board

Notice Provision:

Date when written notice of the application described in Part I was provided to the land owners identified in the Agricultural Data Statement.

Date referral sent to the Ontario County Planning Department:

Name of Official Completing Form

Date