

Town of Canandaigua
Zoning Board of Appeals
5440 Routes 5&20
Canandaigua, NY 14424

Attn: Mr. Doug Finch, Director of Development
Re: 3796 County Rd. 16, TM#113.09-2-3.000, CPN-065-15, Variance Request to Install an
Inground Swimming Pool with Nonconforming Lot Coverage (the "Proposed Project")

Dear Doug and Zoning Board of Appeals Members,

At the Zoning Board of Appeals (ZBA) meeting of January 16, 2016, we were granted a continuance on the above referenced variance request. Unfortunately, we will be out of town and not able to present at the February meeting. We respectfully request that our variance request be continued so that we may present our updated plan at the March meeting.

In preparation for our presentation at the March meeting we submit this information for the ZBA's consideration:

Pursuant to New York State Town Law Section 267-b, when considering an application for an area variance, the ZBA "shall take 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 by such grant. In making such determination the Board shall consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance; (3) whether the area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance."

The Proposed Project will not produce an undesirable change in the character of the neighborhood and will not be a detriment to nearby properties.

The Proposed Project was specifically designed to be consistent with the character of the neighborhood, to avoid detrimental impact to nearby properties, and in keeping with the purpose of the Residential Lake District, which is to protect the quality of Canandaigua Lake and surrounding topography including scenic views. Moreover, the requested variance is consistent with lot coverage area variances previously approved by the ZBA.

The Proposed Project complies with all applicable setback requirements and includes a landscaping component to ensure privacy along the north and south property lines. Additionally, the Proposed Project will not be visible from the road or the lake. There are no homes behind our property; there are approximately 60 acres of City-owned undeveloped land. Our four adjoining neighbors are the only property owners in the vicinity of the Proposed Project who will see it from their properties. As evidenced by the written and/or in-person support received by the ZBA, all four property owners are in support of the Proposed Project.

The Benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than an area variance.

The benefit to be achieved through the Proposed Project are benefits to my health as a paraplegic through doctor-recommended pool therapy. I have previously provided a letter from my doctor confirming that such pool therapy will benefit my health. I have made several modifications to the Proposed Project to address concerns raised by the ZBA. Such modifications include: 1) eliminating the original proposed modifications to our existing shed; 2) reducing the size of the original proposed pool from 20' X 40' to 18' x 40'; and 3) relocating the pool 3 feet closer to the house, reducing the size of the existing patio. We have researched the possibility of further reducing the size of the pool with my doctor, physical therapist, and pool contractor. The pool has been reduced to the smallest size possible that will allow for: a deep end that is sufficient for me to undertake the recommended therapy; a shallow end that is large enough to allow space for the pool chair and a helper to assist me in safely entering and exiting the pool; and sufficient length to allow me to swim laps. The patio has been reduced to the smallest size possible that will provide sufficient space for a wheelchair accessible ramp for ingress/egress from our home and access to the back yard. The currently proposed size of the ramp and patio are required to maintain handicap accessibility. For these reasons, there is no other feasible method to achieve the desired health benefits other than through the requested area variance.

The variance is not substantial.

The current lot coverage on our property is 35.4%, which is permitted as a pre-existing non-conforming condition. Upon completion of the Proposed Project, the lot coverage will increase to 39.8%. The increased lot coverage of 4.4% is not substantial.

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The Proposed Project contains a number of features that will prevent adverse impacts to the physical and environmental conditions in the neighborhood and district. We are well aware of the Town of Canandaigua's overall concern with watershed management and the threats that increased impermeable surfaces represent. We have concluded there is a way for us to do our part to eliminate adverse environmental impacts and achieve the Town's desire for permeable surfaces while still achieving the health benefits that approval of the Proposed Project will provide. Accordingly, as part of the Proposed Project, we propose to replace, at our expense, ALL of the nonpermeable pavers on our existing patio with permeable pavers. In addition, all walkways around the pool will be constructed with permeable pavers. Such permeable pavers mimic the way natural land absorbs water, and rain that falls on the patio will seep back into the ground. Further, as an added benefit, the proposed nonpermeable lot coverage will be reduced from 35.4% to 34.6%. Additionally, a rain garden will be installed to offset the loss of permeable space created by the pool.

The property contains existing environmentally conscious features that were installed during the original construction of the home. We backfilled the entire foundation with stone to filter rain and snow runoff prior to it reentering the underground aquifers. The entire gutter

system of the home is tied into this stone filter system. There is a foundation under the drain which carries this filtered runoff water to an existing creek at the north property line.

For all of the above-referenced reasons, the Proposed Project will not have an adverse impact on the physical or environmental conditions in the neighborhood or district.

The alleged difficulty is not self-created.

The difficulty intended to be addressed through this variance application is caused by a serious health condition which was not self-created.

In addition to the above, we have enclosed the following information in the same numerical sequence as the provided supporting documents for the ZBA's consideration as further support of our area variance application:

- 1) Literature from Belgard Company on their permeable paver product.
- 2) AquaRoc II permeable paver meets ADA requirements for an accessible surface.
- 3) At the Town of Canandaigua Joint Meeting of the Boards held on September 30, 2014, Kevin Olvany of the Canandaigua Lake Watershed Council made a presentation.
- 4) At that presentation he shared that the ZBA is the frontline in terms of watershed management and that the threats to it are increased "impermeable surfaces."
- 5) Local law 1 of 2015 paragraph 220-21.A, page 1 of 3 stating that the purpose of the RLD Residential Lake District is to protect the quality of Canandaigua Lake and surrounding topography including scenic views.
- 6) Local law 1 of 2015 paragraph 220-21.C.5(c), page 2 of 3 stating that the inground swimming pool lot coverage is measured by the water surface and all adjoining impervious surfaces.
- 7) Town of Canandaigua, NY, Definitions and Word Usage dated January 21, 2016, page 41 of 47 stating that the word "structure" includes patios which are impervious or substantially impervious surfaces.
- 8) Environmental Conservation Board Meeting Minutes dated November 5, 2015, page 4 of 7 regarding TM#154.06-1-7.100, referencing that the use of permeable pavers as a way to protect the environment is encouraged.
- 9) ZBA meeting minutes of February 17, 2015, TM#113.05-1-18.000, page 4 of 5- an increase of building coverage was approved and in part a reason/consideration for reaching that decision was that the amount of pervious surface was not increased and the project had the support of the neighbors.
- 10) ZBA meeting minutes dated January 21, 2014, TM#98.15-1-51.000, page 13 of 18, an area variance to increase building coverage was approved.

If Proposed Project, with the proposed modifications, meets with the ZBA's approval we will prepare a detailed set of architectural drawings with dimensions for the Planning Board's review and approval.

It is our sincerest hope that the ZBA will recognize the importance of this request to me and my family's health and wellbeing, and determine that the benefit to us if the variance is granted outweighs the detriment, if any, to the health, safety and welfare of the neighborhood or community. We have done everything in our power to reasonably address the ZBA's concerns and hope the Board votes affirmatively and unanimously to approve our variance request.

Sincerely,

John Casey
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