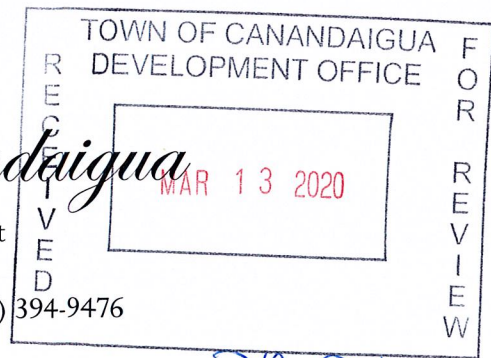


# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424

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



CPN #: 20-016

## ZONING BOARD OF APPEALS APPLICATION

FOR: ☒ AREA VARIANCE ☐ USE VARIANCE ☐ INTERPRETATION

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

1. Name and address of the property owner: CGA CR10 LLC

1950 Brighton Henrietta Town Line Road, Rochester, NY 14623

Telephone Number of property owner: (585) 292-0480

Fax # N/A E-Mail Address: gfirster@dimarcogroup.com

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

2. Name and Address of Applicant *if not the property owner*: The DiMarco Group

1950 Brighton Henrietta Town Line Road, Rochester, NY 14623

Telephone Number of Applicant: (585) 292-0480

Fax # N/A E-Mail Address: gfirster@dimarcogroup.com

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

3. Subject Property Address: County Road 10

Nearest Road Intersection: Woodland Park Circle and County Road 10

Tax Map Number: 84.00-1-44.2 Zoning District: CC & MUO

4. Is the subject property within 500' of a State or County Road or Town Boundary? (If yes, the Town may be required to refer your application to the Ontario County Planning Board.)

Please circle one: YES NO

5. Is the subject property within 500' of an Agricultural District? (If yes, an Agricultural Data Statement must be completed and submitted with this application – for use variance applications only.)

Please circle one: YES NO

(Continued on back)

6. What is your proposed new project and the variance(s) or interpretation requested?

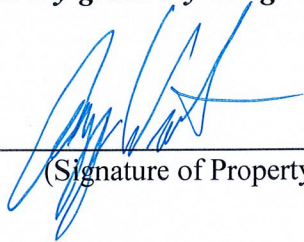
Phase 2 of the Creekview Apartments at Woodland Park development.

Variances are requested to reduce the internal setback from roadways, parking, and driveways from the required 15' (per Local Law #15 of 2017).

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.
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.***



(Signature of Property Owner)

3/13/20

(Date)



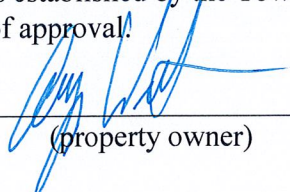
# *Town of Canandaigua*

5440 Routes 5 & 20 West  
Canandaigua, NY 14424  
Phone: (585) 394-1120 / Fax: (585) 394-9476

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

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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.

  
\_\_\_\_\_  
(property owner)

3/13/20  
\_\_\_\_\_  
(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.

See Letter of Intent

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- (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.

See Letter of Intent

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

See Letter of Intent

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

See Letter of Intent

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- (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.

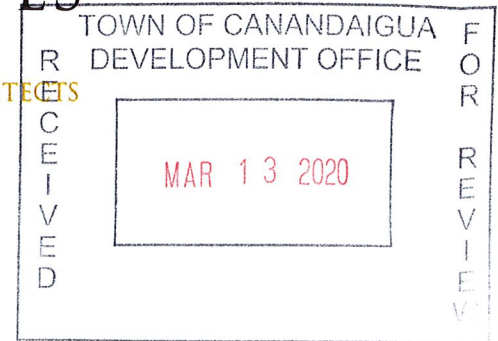
See Letter of Intent

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March 13, 2020

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

**Re: Creekview Apartments at Woodland Park, Section 2  
Area Variance Application**

**2490B**

Dear Board Members:

On behalf of the applicant, The DiMarco Group, and the property owner, CGA CR10 LLC, we submit the enclosed area variance application for your consideration. We request to appear at your April 21, 2020 meeting and we enclose the following application materials for your review:

- Letter of Intent
- Site Plan (BME dwg. #2490B-02)
- ZBA Application Form
- Variance Chart & Exhibit
- Consultant Fee Agreement Form
- Sketch Plan Checklist
- EAF Short Form Part I
- \$1,000 Application Fee (\$100 x 10 variances)

The area variance application is to request relief from the internal setback from roadways, parking, and driveways established for the Creekview project by Local Law #15 of 2017. The variance being requested is to reduce the minimum internal setback to 6' in lieu of 15'.

The setback relief is being requested for ten (10) of the twelve (12) apartment buildings proposed for Section 2. A table identifying the building numbers and the internal setback being sought is enclosed with this letter of intent.

The need for the variance is the result of a building design change for the Section 2 buildings that was not contemplated when the overall site plan was developed in 2017, and Local Law #15 was adopted. The change is that the developer is now proposing the units to be equipped with solar panels, and as such the buildings had to be rotated to provide a north-south orientation for the solar panels on the buildings. This rotation, combined with a slight increase in the footprint size created the need for the variance. The rotated footprints will now have an internal setback to the roadways, parking and driveways of distances ranging from 6.5' to 15'.

The granting of the variance is for the internal setback only. All required building separations will be maintained, and all setbacks to the outside perimeter of the property will be maintained.

We acknowledge that in deciding whether to grant the variance request, the ZBA per Town Law 267-b.3(b), will 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. To assist the ZBA in that assessment, we provide the following information in response to the five (5) factors of consideration for an area variance:

- (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.*

Given that the variance request is for an internal setback, there will be no detriment to nearby properties. Also, it does not represent an undesirable change to the character of the neighborhood as all perimeter setbacks are being met and building separation standards are met. This is a nominal variance for certain buildings adjoining internal parking areas.

- (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.*

There is no other feasible method that would not result in the need for other variances or property re-subdivision. To accommodate the required internal setback for the new building footprints, the parking and road layout would need to be revised, which would push development towards the Section 2 perimeter property lines. This would then require setback relief for the perimeter setbacks or a property re-subdivision to relocate the property line. The variance request is the result of a change in the building design to accommodate solar panel installation. It is not feasible to go back to the original design as the add of solar panels would be ineffective, and the developer would not be able to achieve their net zero energy sustainable goal for Section 2.

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

Though the setback relief being sought is as much as 9' for some buildings, we do not consider it significant given that it is an internal setback to parking and roadways. The relief being sought will not affect the public at large.

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

The setback variance should not adversely effect conditions in the neighborhood as it does not alter the overall site design concepts of Section 2. Vehicular and pedestrian circulation patterns remain unchanged, the amount and location of parking remains unchanged, and all utility services to the buildings are the same. The granting of the variance will allow the buildings to be rotated and to accommodate solar panels for a sustainable renewable energy source. This can be a positive effect on the environment.

- (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.*

The request for the variance is self-created as it is the applicant's decision to modify the building layout within Section 2. This revised layout results in the need for the internal setback relief. However, as previously mentioned, this decision by the applicant was made to achieve a larger goal for the project; that being to provide a sustainable renewable energy source for the Section 2 buildings.

We believe the above information supports that the benefit being sought by the applicant is not to the detriment to the health, safety, and welfare of the community. The setback relief requested is for an internal setback only and all other lot standards are met, including setbacks to the property lines of Section 2. The granting of the variance will be a benefit to the applicant, but also to the neighborhood. The granting of the variance allows for a building design that can support a sustainable renewable energy source for the proposed apartment buildings.

We request the ZBA to review this information, including the Short Form EAF Part I. If you require any additional information prior to your April 21, 2020 meeting, please contact our office.

Thank you.

Sincerely,  
BME ASSOCIATES

A handwritten signature in blue ink, appearing to read "Michael Bogojewski", with a stylized flourish at the end.

Michael Bogojewski, P.E.

MB:blr

Enclosure

c: Gregg Firster; The DiMarco Group  
Paul Colucci; The DiMarco Group