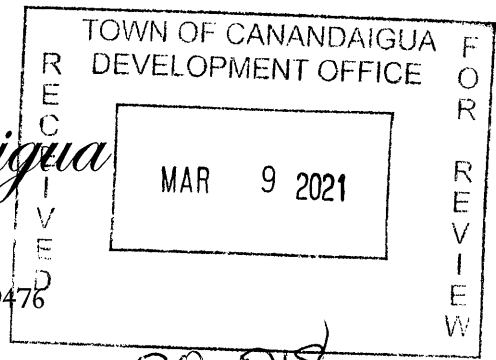


Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

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



CPN #: 20-018

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: Daigua, LLC, PO Box 784, Pittsford, NY 14534

Telephone Number of property owner: 585-260-8893

Fax # E-Mail Address: dleve@levelaw.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*:

Telephone Number of Applicant:
Fax # E-Mail Address: evangel@costich.com

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

3. Subject Property Address: 3844 West Lake Road, Canandaigua, NY 14424

Nearest Road Intersection: Wyffels Road

Tax Map Number: 113.09-3-10.11 Zoning District: RLD

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?
The project is focused around improving vehicular and pedestrian site access and safety, cleaning up and stabilizing the shoreline, as well as constructing an accessory building and additional dock at the waterfront.
-
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.

Daigua, LLC

By: 
(Signature of Property Owner)

03/09/2021

(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.***

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.

Daigua, LLC

By: 
(property owner)

(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 attached appendices.

- (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 attached appendices.

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

See attached appendices.

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

See attached appendices.

- (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 attached appendices.

APPENDIX TO ZBA AREA VARIANCE APPLICATION
(FRONT SETBACK FOR ACCESSORY STRUCTURE)

3844 WEST LAKE ROAD

53.9' Front Setback Variance for Accessory Structure

This appendix provides information supporting the requested 53.9' front setback variance to construct an accessory building 6.1' from the east boundary of West Lake Road where 60' is required in the RLD zoning district.

In making its determination, the zoning board of appeals 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.

The benefit to the applicant if the variance is granted is an attractive and convenient accessory structure providing certain essential facilities and services, without which frequent crossings of West Lake Road to go back to the house would continue to be necessary. Not having the proposed accessory structure is thus substantially less safe, especially for children, as well as inconvenient.

There is no detriment to the health, safety or welfare of the neighborhood or community to be weighed against the benefit to the applicant if the requested variance is granted.

As shown on the Waterfront Site Plan submitted herewith, the 60' front setback line from the east boundary of West Lake Road is well into the lake. Therefore, compliance with the required setback as applied to the subject parcel is impracticable.

In addition, the accessory structure will be placed next to and 1' below the existing concrete retaining wall height running along the length of the property. Placing the accessory structure where proposed is most reasonable for the applicant and produces no detriment to the health, safety or welfare of the neighborhood or community.

The accessory structure complies with all other area standards and is architecturally designed to gracefully harmonize with the applicant's house on the other side of West Lake Road. The accessory structure will thus be an enhancement to the property, not only as a practical matter, but also aesthetically.

In making such determination the board shall also 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 the granting of the area variance;

The location of the accessory structure as proposed is typical for the neighborhood. A list of nearby properties where existing accessory structures are located closer to the road than 60' are as follows:

1. 3814 W. Lake Road: 4.76' accessory structure setback from ROW
2. 3808 W. Lake Road: $\pm 5'$ accessory structure setback from ROW
3. 3796 W. Lake Road: $\pm 5'$ accessory structure setback from ROW
4. 3792 W. Lake Road: $\pm 5'$ accessory structure setback from ROW

The granting of the variance will not produce an undesirable change in the character of the neighborhood or any detriment to nearby properties.

(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;

Because the 60' front setback line is in the lake, there is no feasible method for the applicant to pursue, other than an area variance.

(3) whether the requested area variance is substantial;

As noted above, the requested area variance is typical for the neighborhood. For that reason, and also considering the natural and existing size, configuration and features of the property, the proposed location of the accessory structure is reasonably optimal and the requested variance is not 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

The proposed variance is typical for the neighborhood. As noted in item "(1)" above, several similar accessory structures in the neighborhood are located within the front 60' setback, and a similar front setback variance was recently granted (in February 2021) for 3814 West Lake Road, a few properties to the north. The requested variance is thus in keeping with the neighborhood and will also not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(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 impossibility of compliance with the 60' front setback is not self-created. Rather, it is simply a function of the natural size of the property.

APPENDIX TO ZBA AREA VARIANCE APPLICATION
(SECOND POINT OF ACCESS)

3844 WEST LAKE ROAD

Second Point of Access

This appendix provides information supporting the requested restoration of the original driveway in the existing curb cut location off of West Lake Road and thus a second point of access in the RLD zoning district.

In making its determination, the zoning board of appeals 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.

The applicant recently purchased the property in June 2020. The benefit to the applicant if the variance is granted is the restoration to the property of a safe, attractive and convenient driveway in its original location in the front yard of the property off of West Lake Road.

The front of the house faces West Lake Road and the property address is 3844 West Lake Road. When the house was originally constructed in 2007, it included, as is typical, a driveway off West Lake Road in the same location in which it is now sought to be restored. For reasons unknown and not understood by the applicant, a previous owner removed the driveway off West Lake Road and replaced it with a walkway. Restoring the driveway off West Lake Road in its original location will provide safer and more convenient vehicular access to the property. It will also allow the applicant to maintain the West Lake Road address for the property, which is significantly more preferable to the inconvenience and confusion that would come from changing the address to a Wyffels Road address.

The driveway off West Lake Road would provide safer and more convenient access for the applicant, the applicant's guests and delivery vehicles. The current lack of driveway access off of West Lake Road makes access and parking for delivery vehicles particularly problematic. Without a driveway in this location in the front of the house, delivery vehicles and visitors park on the shoulder of West Lake Road, which is not convenient, desirable or optimal from a safety standpoint. Also, snow clearing in the winter has been challenging given the current driveway configuration. The applicant also desires the driveway off West Lake Road to be restored so as to improve access to the property for fire and emergency vehicles should their access ever be needed. Finally, the restoration of the original driveway off West Lake Road will also improve the grade and width of the driveway for ingress and egress for small vehicles (golf carts, tractors) traversing West Lake Road to and from the waterfront sub-parcel to the east across West Lake Road.

There is no detriment to the health, safety or welfare of the neighborhood or community to be weighed against the benefit to the applicant if the requested variance is granted. Both entrances to the property are normal, well-located and safe, and neither presents any detriment to the neighborhood or community. The existing Wyffels Road entrance to the property is also within a

deeded access easement benefiting 3850 West Lake Road, which is the home immediately south of the applicant's property.

In making such determination the board shall also 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 the granting of the area variance;

The restoration of the driveway as proposed in the pre-existing curb cut location is typical for the neighborhood. The granting of the variance will not produce an undesirable change in the character of the neighborhood or any detriment to nearby properties. Both points of access are safe and normal for the neighborhood and present no traffic or other detriments to the neighborhood.

(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 feasible method for the applicant to pursue to restore the previously existing driveway in the pre-existing curb cut location off West Lake Road, other than an area variance. As noted above, the applicant's neighbor also has a deeded access easement where the existing Wyffels Road driveway entrance is located.

(3) whether the requested area variance is substantial;

As noted above, the requested driveway restoration at the pre-existing curb cut location would be typical for the neighborhood. Restoration of the original driveway would be a natural and normal improvement to the property, and no substantial changes will be caused thereby. The proposed driveway will replace an existing paver walkway in this location, and the driveway as proposed will not be placed closer to the north property line than the existing driveway located further west.

(4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed driveway is typical for the neighborhood and will not have any adverse effects or impacts on the physical or environmental conditions in the neighborhood or district. As explained above, traffic safety will be enhanced by the granting of the variance. The swale on the south side of the existing walkway will remain, therefore not significantly or adversely impacting the existing drainage patterns of the site. The proposed driveway is proposed to be narrow (10' in width) to mitigate the amount of impervious cover added. Also, the proposed configuration will utilize the existing 26.6' curb cut off of West Lake Road.

(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 original driveway in the applied-for location was removed by a prior owner, not by the applicant. Therefore, the difficulties presented by the removal of the original driveway in this applied-for location was not created by the applicant. The proposed driveway will improve the functionality and safety of the site relative to current conditions.