

# *Town of Canandaigua*

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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

## **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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CPN #: \_\_\_\_\_

## ZONING BOARD OF APPEALS APPLICATION

FOR:    ☒ AREA VARIANCE        ☐ USE VARIANCE        ☐ INTERPRETATION

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

1. Name and address of the property owner: Heather & Chelsey Madia-Tompkins,  
4764 County Road 16

Telephone Number of property owner: 315-577-2797

Fax # \_\_\_\_\_ E-Mail Address: opusfingerlakes@gmail.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*: Sue Steele

Telephone Number of Applicant: 585-747-9996

Fax # \_\_\_\_\_ E-Mail Address: sue@steele.la

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

3. Subject Property Address: 4764 County Road 16

Nearest Road Intersection: Deuel Road

Tax Map Number: # 140.14-1-1.000      Zoning District: RR-3

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?

Placement of two 96 sf sheds in the side yard. The applicant is seeking a variance for the placement of (2) accessory buildings within the 60' front yard setback.

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.*

N/A 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.~~

N/A 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.~~

N/A 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)

4-5-21

(Date)

# *Town of Canandaigua*

5440 Routes 5 & 20 West

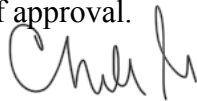
Canandaigua, NY 14424

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***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)

\_\_\_\_\_  
(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.

**We believe an undesirable change to the character of the neighborhood will not be produced. The sheds will be located uphill from County Road 16, set back the same distance or further than the existing home, and located behind existing evergreen trees.**

- (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.

**The benefit sought by this variance request cannot be achieved by other feasible methods. The variance is necessary to overcome the unique challenges of the property. The allowable location for an accessory building is comprised of steep slopes and located uphill from the existing home. The proposed location of the sheds represent the only feasible and environmentally sensitive locations to achieve the desired benefit.**

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

**We believe the requested area variance is not substantial. The two 80 square foot sheds are minor accessory buildings, will match the architectural character of the existing home, and will be set back equal or greater distance than the existing home.**

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

**The project will not have an adverse impact on the physical or environmental conditions in the neighborhood. The placement of the sheds within the front setback allows the owner to take advantage of the relatively level side yard and avoid the grading of steep slopes that would be required to locate the sheds in the allowable area of the site. Additionally, the sheds are proposed to be located behind a grouping of existing evergreen trees, which will further mitigate visual impacts of the sheds on the neighborhood.**

- (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 sheds are requested by the applicant to provide the desired outdoor storage. However, there is no existing garage associated with the property and the lands within the permitted location for a shed are comprised of steep slopes or drainage facilities. For this reason and the reasons noted in the above test questions, we believe granting the variance will have not adverse impacts on the character of the neighborhood.**

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CPN #: \_\_\_\_\_

## Sketch Plan Checklist

Applicant: Chelsey Madia-Tompkins

Project Address: 4764 County Road 16

Tax Map #: # 140.14-1-1.000 Zoning District: RR-3

Project Description Narrative: Placement of two accessory buildings (8x12 sheds) within the 60' front yard setback.

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.	X		
2) Lot lines.	X		
3) Land features including environmentally sensitive features identified on the NRI. (woods, streams, steep slopes, wetlands)	X		
4) Land use(s). (residential, agricultural, commercial, or industrial)	X		
5) Utilities. (i.e. location of electric, gas, well, septic, sewer, cable)*	X		
6) Development including buildings, pavement and other improvements including setbacks.	X		
7) Location and nature of all existing easements, deed restrictions and other encumbrances.	X		
B. Sketch plans shall be drawn to scale.	X		
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.	X		

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

Sue K. Steute  
Signature of Applicant / Representative

4-6-2021  
Date

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

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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: Heather & Chelsey Madia-Tompkins  
4764 county Road 16
- B. Name and Address of Applicant: \_\_\_\_\_  
\_\_\_\_\_
- C. Description of the proposed project: Placement of two 8'x12' prefabricated sheds in the side yard  
(192 SF Total, 96 SF Each Shed)  
\_\_\_\_\_
- D. Project Location: \_\_\_\_\_
- E. Tax Map #: 140.14-1-1.000
- 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. Hooker / 4758 County Road 16
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