

Town of Canandaigua

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

CPN #: 004-11

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: Daniel R. Wegman, C/O Karen Kosten

100 Wegmans Market Street PO Box 30844 Rochester, NY 14603-0844

Telephone Number of property owner: C/O Karen Kosten 783-4253 (Cell 698-3449)

Fax # E-Mail Address: Karen.Kosten@wegmans.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*: Jason Wehle and Nicole Wegman,

C/O Karen Kosten, 100 Wegmans Market Street PO Box 30844 Rochester, NY 14603-0844

Telephone Number of Applicant: C/O Karen Kosten 783-4253 (Cell 698-3449)

Fax # E-Mail Address: Karen.Kosten@wegmans.com

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

3. Subject Property Address: 4905, 4907 & 4911 Co. Rd. 16

Nearest Road Intersection: Deuel Road

Tax Map Number: 140.18-1-11, 12 & 15.1 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 includes the combining of three (3) parcels into a single 2.178 AC parcel, removal of (2) residential buildings, and construction of a new single-family residence with swimming pool and associated driveway and parking area. The applicant is seeking (4) variances, 1) Front Yard Setback, 2) Rear (lake) Yard Setback, 3) Stream Buffer Setback, and 4) Pool Length

X 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.

X 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.*

na 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.

na 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.

na 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.

Donald R Wegman
(Signature of Property Owner)

1/13/17

(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.

(property owner)


(property owner)

January 20, 2017

Bayer Landscape Architecture, PLLC
19 North Main Street
Honeoye Falls, NY 14472

Mr. Doug Finch, Director of Development
Town of Canandaigua
5440 Routes 5 & 20 West
Canandaigua New York. 14424

P: 585.582.2000
F: 585.582.2005
bayerla.com

Re: Daniel R. Wegman – 4905, 4907 & 4911 County Road 16
Zoning Board of Appeals - Area Variance Application
Tax Map No. 140.18-11,12 &15.1

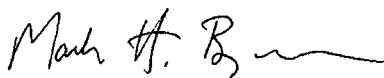
Dear Mr. Finch,

On behalf of our clients, Daniel Wegman, Nicole Wegman and Jason Wehle, Bayer Landscape Architecture is submitting the following information for receipt and record at the Town of Canandaigua Development Office. We are requesting (4) area variances associated with our client's desire to combine three parcels (referenced above) and construct their summer residence. The project includes the removal of two existing homes (including the associated accessory structures, a garage, and two curb cuts along County Road 16) to allow for the construction of a single-family residence and associated garage, driveway, autocourt, and pool area. As required by the Town, the following documents are included with this submission:

- (1) Area Variance Application Checklist
- (1) Zoning Board of Appeals Application, Signed by Property Owner
- (1) Consultant Fee Responsibility Form, Signed by Property Owner
- (1) Tests for Granting Area Variances (Supplemental narrative attached for each variance requested)
- (1) Required Permits
- (1) Sketch Plan Checklist, Signed by Applicant/Owner's Representative
- (13) Site Survey (Existing Conditions Plan)
- (13) Sketch Plan
- (13) Rendered Site Plan
- (13) Photo Simulations illustrating the existing condition and proposed improvements.
- (13) Figures (1-3)

We have addressed the Town Comments from the PRC meeting held on January 17 as they pertain to our submittal package. Please contact me at (585) 582-2000 or mhb@bayerla.com if there are any questions, comments or concerns with the enclosed application.

Sincerely,



Mark Bayer, RLA
Principal
Bayer Landscape Architecture, PLLC
4905, 4907 & 4911 CoRd16 ZBA Cover Letter
2017-01-1920

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

- (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

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

see attached

- (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

- (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

Project Summary

The applicant would like to construct a new residence which includes an in-ground pool. The proposed site development is illustrated on the sketch plan, site plan rendering, and photo simulations included in this application.

The applicant is seeking four variances:

- 1) Front Yard Setback,
- 2) Rear/Lakeside Yard Setback,
- 3) Stream Buffer Setback, and
- 4) Pool Size.

A description of each variance and associated test questions are included below.

Requested Variance | Front Yard Setback

The applicant is requesting a 23.50' front yard setback for the closest face of the new site retaining wall (attached to the principal structure). The Town of Canandaigua Zoning Schedule for the Residential Lake District requires a minimum front yard setback of 60' for the principal building (§220-Attachment 1:10).

1. **Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance:**

No, an undesirable change to the character of the neighborhood will not be produced by granting the requested variance. We have carefully considered the property and neighborhood characteristics and have been sensitive in the site planning to ensure that it will be integrated into the surrounding neighborhood and lakeside landscape harmoniously.

The existing garage at 4907 Co Rd 16 has a 24.80' front yard setback and has a negative visual impact on the West Lake Road corridor. The applicant is requesting a 23.50' front yard setback for the new retaining wall, which is attached to the principal structure. Although this is slightly closer to West Lake Road than the existing garage structure at 4907, the exposed face of the new wall will not be visible from the road. The closest visible structure to West Lake Road will be the attached garage, which will be set back 50.50' from the property line, which is 25.70' further than the existing garage. The proposed improvements will result in the removal of the existing 4907 house and garage structure located within the front setback, removal of two curb cuts along County Road 16 and removal of a second residence at 4905. Additionally, the disturbed areas along County Road 16 will be restored with very significant plantings to enhance the environmental and physical condition of the neighborhood. (See Figure 2)

The proposed residence will also be built into the existing topography of the site to dramatically reduce its visual impact from the road. This design approach will preserve much of the natural topography and mature vegetation on the property.

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 benefit sought by this variance request cannot be achieved by other feasible methods. The variance is necessary to overcome the unique challenges of this property. The property is over 2 acres, however it is irregularly shaped and adjacent to a natural stream. The area remaining within the setbacks and stream buffer is only 8.26% of the total property and is not sufficient for development of the proposed residential home. The site design for this property has been carefully considered and represents the only feasible and environmentally sensitive way to achieve the benefit.

The proposed project as it relates to the setbacks, stream buffer, and lakeshore is further illustrated in Figure 1 and Figure 2.

3. **Whether the requested area variance is substantial.**

No, we believe the requested area variance is not substantial for the reasons noted above.

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

No, the project will not have an adverse impact on the environmental conditions or neighboring properties. Actually, this variance will allow the applicant to dramatically improve the physical and environmental conditions in the neighborhood. The proposed improvements will result in the removal of the existing 4907 residence and garage located only $\pm 25'$ from the right of way, removal of two curb cuts along County Road 16, and removal of a second residence at 4905. Additionally, the disturbed areas along County Road 16 will be restored with very significant plantings to enhance the environmental and physical condition of the neighborhood. The visual character of this stretch of west lake road will be enhanced in a very substantial way.

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.**

Yes, the alleged difficulty is self-created; however, for all of the reasons noted in the above responses, we believe this variance request is not substantial and granting this variance will have no adverse impacts on character of the neighborhood. It will in fact dramatically improve the environmental and visual quality of the neighborhood, whether viewed from County Road 16 or Canandaigua Lake.

Requested Variance | Rear (lake) Yard Setback

The applicant is requesting a 26.00' rear (lake) yard setback for the retaining wall associated with the stairs on the lakeside of the residence (principal structure). The Town of Canandaigua Zoning Schedule for the Residential Lake District requires a minimum rear (lake) setback of 60' for the principal building (§220-Attachment 1:10).

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance:

No, an undesirable change to the character of the neighborhood will not be produced by granting the requested variance. We have carefully considered the property and neighborhood characteristics and have been sensitive in the site planning to ensure that it will be integrated into the surrounding neighborhood and lakeside landscape harmoniously.

The existing house at 4907 has a ±16' rear (lake) yard setback to the home's covered veranda. The applicant is requesting a 26.00' rear yard setback to the pool area stair system at the proposed residence, which is set back ±10' further than the existing covered veranda at 4907. In addition, the closest point on the proposed two-story home (its covered veranda) is set back 32.00' from the rear (lake) property line, approximately 16' behind the setback of the existing home at 4907 (See Figure 2). The proposed improvements include removal of two existing homes, a garage, and storage shed to allow for the construction of the proposed single residential home. The overall lakefront will be simplified, decluttered, and will have a dramatically improved visual character.

The proposed project as it relates to the lakeshore is further illustrated in the figures, site plans, and photo simulations included in this application.

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 benefit sought by this variance request cannot be achieved by other feasible methods. The variance is necessary to overcome the unique challenges of this property. The property is irregularly shaped and adjacent to a natural stream. The area remaining within the setbacks and stream buffer is only 8.26% of the total property and is not sufficient for development of the proposed residential home. The site design for this property has been carefully considered and represents the only feasible and environmentally sensitive way to achieve the benefit.

The proposed project as it relates to the setbacks, stream buffer and lakeshore is further illustrated in Figure 1 and Figure 2.

3. Whether the requested area variance is substantial.

No, we believe the requested area variance is not substantial for the reasons noted above.

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

No, the project will not have an adverse impact on the environmental conditions or neighboring properties. We believe this variance will allow the applicant to improve the physical and environmental conditions in the neighborhood. The proposed development will result in the removal of two existing homes, a storage shed, and consolidation and enhancement of waterfront structures and features. The ultimate vision for the shoreline is a much improved, less cluttered condition. The project will also include repairs to the existing retaining walls and substantial plantings throughout the site that will supplement the stream buffer, protect the steep slopes, and integrate the new building with the site. This 'greener' design approach will restore a much softer, more natural appearance to this property from the lake. The visual and environmental enhancements to this property when viewed from the lake will be dramatic.

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.

Yes, the alleged difficulty is self-created; however, for all of the reasons noted in the above responses, we believe this variance request is not substantial and granting this variance will have no adverse impacts on character of the neighborhood.

Requested Variance | Stream Buffer Setback

The proposed retaining wall (attached to the proposed building) is set back $\pm 46.00'$ from the mapped centerline of the existing stream on the property. The Town of Canandaigua code requires structures to be setback 100' from streams carrying water on an average of six months of the year. (§220-9 Applicable to All Districts).

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance:

No, an undesirable change to the character of the neighborhood will not be produced by granting the requested variance. We have carefully considered the property and neighborhood characteristics and have been sensitive in the site planning to ensure that the proposed home will be harmoniously integrated into the surrounding neighborhood and lakeside landscape, while still maintaining a substantial stream buffer.

The current 4905 residence falls within the stream buffer, with its closest corner at approximately 67' from the centerline of the stream. Although the proposed retaining wall (which will be attached to the new building) will be at $\pm 46'$ from the centerline of the stream, the actual building will be 68' from the centerline of the stream, which is an improvement over the existing building's position relative to the stream. In addition, the proposed improvements will reduce the area of impervious surface within the stream buffer, and the existing site septic field for 4905 (currently located in the stream buffer) will be removed to avoid any potential contamination.

The proposed project as it relates to the stream buffer is further illustrated in Figure 3.

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 benefit sought by this variance request cannot be achieved by other feasible methods. The variance is necessary to overcome the unique challenges of this property. The property is irregularly shaped and adjacent to a natural stream. The area remaining within the setbacks and stream buffer is only 8.26% of the total property and is not sufficient for development of the proposed residential home. The site design for this property has been carefully considered and represents the only feasible and environmentally sensitive way to achieve the benefit.

The proposed project as it relates to the stream buffer and setbacks is further illustrated in Figures 1 and 3.

3. Whether the requested area variance is substantial.

No, we believe the requested area variance is not substantial for the reasons noted above.

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

No, the project will not have an adverse impact on the environmental conditions or neighboring properties. We believe this variance will allow the applicant to improve the physical and environmental conditions in the neighborhood. Although the new retaining wall will be further into the stream buffer, the main structure's position relative to the stream is an improvement over the existing condition. The proposed plan also reduces the area of impervious surface within the stream buffer. The increased pervious surface will be a combination of lawn and plantings to allow for increased infiltration of stormwater runoff. Additional understory plantings will also help further stabilize the existing slopes and enhance the stream corridor. The increased pervious surface and new understory plantings, combined with the relocation of the septic field, will dramatically improve the physical and environmental conditions of this site.

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.

Yes, the alleged difficulty is self-created; however, for all of the reasons noted in the above responses, we believe this variance request is not substantial and granting this variance will visually and environmentally improve both the neighborhood and lakefront, while still fully protecting the stream.

Requested Variance | Swimming Pool Dimensions

The proposed length of the swimming pool is 45'. The Town of Canandaigua permits swimming pools with a 40' maximum length (§220-9 Applicable to All Districts).

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance:

No, an undesirable change to the character of the neighborhood will not be produced by granting this the variance. The swimming pool is appropriately sized for the scale of the home and exterior spaces, while also meeting the functional and aesthetic requirements of the applicant.

The proposed swimming pool is under the permitted dimensions for both swimming pool width and perimeter. The inside width of the proposed swimming pool is 16' (20' allowed by code) and has a perimeter of 122' (125' allowed by code). Because of this, we believe granting this variance will not produce any undesirable change in the character of the neighborhood or detriment to the nearby properties.

The proposed swimming pool is further illustrated in the site plans and photo simulations included in this application.

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 benefit sought by this variance request cannot be achieved by other feasible methods. The size and shape of the pool is required by the applicant to meet their needs and fit into the overall context of the new home appropriately. As noted in the response above, the swimming pool meets the code requirements for pool width and perimeter. The pool size will not produce any undesirable changes in the character of the neighborhood.

3. Whether the requested area variance is substantial.

No, we believe the requested area variance is not substantial. Although the proposed swimming pool exceeds the permitted length, it is below the maximum perimeter and maximum width permitted.

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

No, the requested variance will not have an adverse impact on the environmental conditions or neighboring properties for the reasons noted in the above responses.

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.

Yes, the alleged difficulty is self-created; however, for all of the reasons noted in the above responses, we believe this variance request is not substantial and granting this variance will have no adverse impacts on character of the neighborhood or the lakefront. The pool area has been designed to fit subtly and seamlessly into its context, and although the length exceeds what the code permits, the width and perimeter of the pool are all under what is allowed.

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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AGRICULTURAL DATA STATEMENT

CPN #: 00415-17

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: Daniel R. Wegman, C/O Karen Kosten
100 Wegmans Market Street PO Box 30844 Rochester, NY 14603-0844
- B. Name and Address of Applicant: Jason Wehle and Nicole Wegman, C/O Karen Kosten
100 Wegmans Market Street PO Box 30844 Rochester, NY 14603-0844
- C. Description of the proposed project: The project includes the combining of three (3) parcels into a single 2.178 AC parcel, removal of (2) residential buildings, and construction of a new single-family residence with swimming pool and associated driveway and parking area.
- D. Project Location: 4905 Co. Rd 16
- E. Tax Map #: 140.18-1-11, 12 & 15.1
- 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. | <u>NA</u> |
| 2. | <u>NA</u> |
| 3. | <u>NA</u> |
- 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

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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

CPN #: 004/5-17

Sketch Plan Checklist

Applicant: Jason Wehle and Nicole Wegman C/O Karen Kosten

Project Address: 4905, 4907 & 4911 County Road 16

Tax Map #: 140.18-1-11, 12 & 15.1

Zoning District: RLD

Project Description Narrative: Project included the combining of three (3) parcels into a single 2.178 AC parcel for the construction of a new single family residence with swimming pool and associated driveway and parking area. Project includes the removal of (2) existing homes and associated parking areas.

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.

Donna R Wegman

Signature of Applicant / Representative

1/13/17

Date

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