

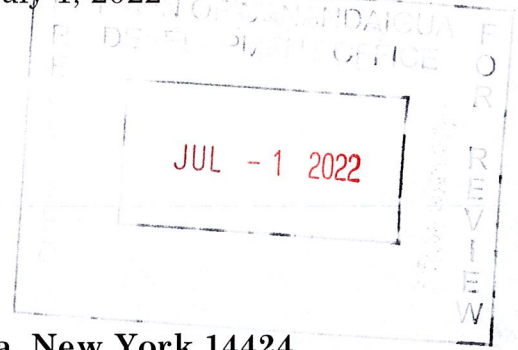


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VIA HAND DELIVERY

Town of Canandaigua Zoning Board of Appeals
c/o Carl Sahler, Chair
4214 County Road 16
Canandaigua, New York 14424



RE: 5007 & 5009 County Road 16, Canandaigua, New York 14424

Dear Members of the Town of Canandaigua Zoning Board of Appeals:

We represent Theodore L. Shepard and Lauren A. Burke (the “Applicants”), owners of real property located at 5007 and 5009 County Road 16 in the Town of Canandaigua (the “Property”). This letter is submitted in support of their application for three (3) area variances needed to construct a new home on the Property.

Project Summary

Collectively, the Applicants own three adjoining parcels on County Road 16 in the Town of Canandaigua: (1) 5005 County Road 16, which is owned by Mr. Shepard, (2) 5007 County Road 16, which is owned jointly by Mr. Shepard and Ms. Burke, and (3) 5009 County Road 16, which is owned by Ms. Burke. Each property has a single-family residence on it. The property at 5005 Country Road 16 has a year-around home that the Applicants currently live in, while the properties located at 5007 and 5009 County Road 16 each have a seasonal cottage.

The Applicants hope to reduce their real estate holdings by combining the properties at 5007 and 5009 County Road 16, demolishing the two seasonal cottages on them, and then building a new year-around home on the combined lot. When construction is complete, the Applicants intend to sell their current home at 5005 County Road 16. As will be shown below, this project will be an improvement for the character of the neighborhood and the quality of Canandaigua Lake because it will reduce the number of buildable lots from two to one, will replace two aging seasonal cottages with a new year-around home that will enhance the character of the neighborhood, and will reduce runoff into Canandaigua Lake by introducing new

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rainwater treatment areas.

Necessary Area Variances

The proposed project, as shown on the accompanying Site Plan prepared by Marathon Engineering, will require three area variances: front setback, rear (lake) setback, and lot coverage. The following table compares the required, existing, and proposed figures for each of the three area variances.

	Required	Existing	Proposed
Front Setback	60.0 ft.	25.2 ft.	40.0 ft.
Rear (Lake) Setback	60.0 ft.	36.9 ft.	37.0 ft.
Lot Coverage	25.0%	14.3%	26.9%

The front setback represents a significant improvement on the existing conditions. The proposed project will pull the home back from County Road 16 by an additional 14.8 feet, which will improve sightlines along County Road 16 and towards Canandaigua Lake since the new home will sit at a lower elevation than the closer of the two existing cottages. The home cannot be pulled back any further from County Road 16 without negatively impacting the rear (lake) setback.

While the rear (lake) setback is only marginally improved (0.1 feet), it is significant that the new home will not come any closer to the lake than the existing cottages. The Applicants want to preserve the lake views of their neighbors and have accomplished that goal by preparing a home design and site plan that preserve the existing rear (lake) setback.

Finally, the proposed lot coverage of 26.9% has been reduced to the minimum amount possible and the excess coverage will be compensated for with new rainwater treatment zones. It is important to note that the overage is not caused by the size of the home, but rather by other site improvements. The building coverage is 15.0%, which complies with the town code. At 3,667 square feet, the proposed

home is not excessive in size, and will match nicely with other year-around homes in the neighborhood.

Once the building coverage is removed, the additional 11.9% coverage arises from the three different improvements: (1) driveway (6.7%), (2) swimming pool (3.3%), and (3) walks/patios (1.9%).

The driveway is the most significant factor in lot coverage. The Property slopes steeply towards County Road 16, as is common in that area. The Applicants initially hoped for a driveway with an 8% grade, but the driveway would have been even longer. To reduce the variance request to the absolute minimum, the Applicants repositioned the driveway in a more direct approach to County Road 16, which increased the grade to 12%. The Applicants also hoped for a driveway width of 16 feet to accommodate safe travel down the steep driveway during winter, but elected to narrow the driveway to 14 feet to further reduce lot coverage. Finally, because of the steepness of the driveway, the Applicants were forced to include a turnout at the bottom of the driveway so they can safely exit. As a result, the 6.7% coverage attributable to the driveway is the minimum amount necessary for safe ingress and egress from the Property.

Recognizing the potential impact of the 1.9% overage, the Applicants have included rain gardens in the site plan that will treat 100% of the rainwater produced by the lot coverage overage. When combined with the fact that the pool, an additional 3.3% coverage, is another rainwater repository, any potential negative impact on the lake by the overage has been eliminated.

The swimming pool, which amounts to 3.3% lot coverage, is essential for the enjoyment of the home. The Applicants and their guests are avid swimmers. In particular, Ms. Burke swims daily. Due to recent trends in blue-green algae blooms, it is unsafe to swim in Canandaigua Lake at various times. As a result, the Applicants decided that a swimming pool was a necessity for their full enjoyment of the Property. Like the house, the proposed swimming pool is not excessive in size and complies with the zoning code.

Finally, the walks and patios have been reduced and modified to further reduce lot coverage. Materials that had been planned for the walks have been modified to consist of approximately 30% grass and 70% pavers/field stone. As a result, every effort has been made to reduce the lot coverage to the minimum amount needed for the completion of the Project.

Area Variance Factors

As discussed herein, an objective analysis of the five factors set out for consideration in N.Y. Town Law § 267-b(3) weighs in favor of the proposed project.

1. *Undesireable Change in the Neighborhood.* The proposed project will not produce an undesirable change in the character of the neighborhood. The proposed home will fit nicely with its surroundings. It will be of comparable size and scope to other homes along County Road 16. It will not come any closer to Canandaigua Lake than the existing structures and will significantly improve the front setback. While there will be a modest (1.9%) increase in lot coverage over what is allowed, the increase is driven primarily by the impact that the topography of the parcel has on the location of the driveway, namely the requirement for a turnout so the Applicants can safely exit the property. Overall, the neighborhood will be improved by reducing the number of structures and buildable lots from two to one.
2. *Feasible Alternative to Variance:* There is no feasible alternative to the requested area variances. The Applicants have commissioned multiple proposed site plans from their engineers and made difficult revisions to the placement of the driveway, and the location and material of the walks and patios. This has been done to try and complete the project within code, but there is no feasible alternative to do so.
3. *Substantiality:* The requested area variances are not substantial. The existing setbacks are either maintained or improved, and the lot coverage has been reduced to the minimum amount possible. The modest 1.9% additional coverage is not substantial, particularly when most of the overage is caused by the driveway, which has been modified to the greatest extent possible to limit its size.
4. *Adverse Environmental Impact:* As mentioned above, the proposed project will not have an adverse environmental impact because 100% of the lot coverage overage will be treated by new rainwater treatment areas (i.e., rain gardens). The walks have also been modified to include 30% grass, which will further reduce any potential environmental impact.
5. *Self-created Difficulty:* This is perhaps the most challenging of the five factors due to its ambiguity. A difficulty is generally considered to be self-created when it arises because an applicant makes improvements without

necessary approvals or engages in conduct that is contrary to law. However, a difficulty is not self-created merely because an applicant proposes a plan that requires a variance. If that were the case, every zoning difficulty would be "self-created." Here, the difficulty is not self-created, but rather relates to the size, location, and topography of the proposed combined lot. The setback variances would be pre-existing non-conformities but for the fact that a new parcel is being created to reduce the number of building lots and structures from two to one. As a result, it loses the non-conforming status of the existing lots that will be terminated in favor of a new lot. The lot coverage is similarly not self-created, but rather is driven by the size of the driveway. As a result, the Applicants have satisfied each of the five factors.

Conclusion

We respectfully request that the Project be approved as presented because the benefit to the Applicants vastly outweighs any detriment to the community, for which there is none. The Applicants are improving conditions in the neighborhood by reducing the number of buildable lots. They are improving conditions in the neighborhood by removing two aging seasonal cottages in favor of a new, single-family residence that will more closely fit in with the homes around it. They are improving the front and rear setbacks, which will improve sightlines along County Road 16 and Canandaigua Lake. They are eliminating any potential environmental impact caused by the variances by providing rainwater treatment areas for 100% of the lot coverage overage. The Applicants have gone through multiple site plans to present a plan that seeks the minimum variances possible. As a result, we respectfully request that the Zoning Board of Appeals approve the requested variances. We look forward to discussing this matter in greater detail at the public hearing.

Sincerely,



Terence L. Robinson Jr.

TLR/sms

Encl.