# Town of Canandaigua

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

Planning Board Decision Notification									
Meeting Date: November 22, 2022				Project: CPN-22-051					
Applicant Marathon Engineering c/o Matt Tomlinson 39 Cascade Drive Rochester, NY 14614		Owners Theodore L. Shepard and Laureen A. Burke 5005 County Road 16 Canandaigua, NY 14424		Project Type Single-Stage Site Plan		Project Location 5007 and 5009 County Road 16	Tax Map # 154.09-1-21.000 154.09-1-22.000		
TYPE OF APPLICATION:					STATE ENVIRONMENTAL QUALITY REVIEW (SEQR):				
☐ Preliminary	☐ Fi	nal Phased	☑ One/Sin	gle Stage	🗖 Type I 🛛		ĭ Type II	☐ Unlisted	
☐ Subdivision	on 🗵 Site Plan 🗖 Special Use Per				X	☑ See Attached resolution(s):			
Applicant Request:					Ne	Negative Declaration Date:			
☑ Granted ☐ Denied ☐ Tabled					Pos	Positive Declaration Date:			
☐ Continued to:									
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Recommendation To:						RECEIVED			
☐ Town Board ☐ ZBA ☐ No				N/A	_	☐ See attached resolution(s)			
Recommend		LJ ZDA	J	N/A	J	See alla	sched resolution(s)		
Surety Requirements:  Landscaping: \$ Other (specify): \$					Soil I	THIS APPROVAL SHALL EXPIRE IF YOU FAIL OBTAIN THE PLANNING BOARD CHAIR'S SIG Soil Erosi@N:TISE FINAL PLAN BY YOU ARE RESPONSIBLE FOR REQUESTING EXTENSION PRIOR TO THIS EXPIRATION DA THIS REQUIREMENT CANNOT BE MET.			
Surety Release:									
Certified By: Chairperson, Planning Board						Date:	11/23/	22	

# SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) is considering Single-Stage Site Plan Approval for the demolition of two existing small cottages, construction of a new single-family residence, on-site wastewater treatment system, and associated site improvements on an existing parcel within the RLD zoning district, as shown on the Single-Stage Site Plan prepared by Marathon Engineering, dated July 1, 2022, last revised July 27, 2022 and all other relevant information submitted as of November 22, 2022 (the current application); and

NOW, THEREFORE, BE IT RESOLVED THAT, the Planning Board does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Planning Board in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Scott Neal and seconded by Bob Lacourse at a meeting of the Planning Board held on Tuesday, November 22, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

AYE Mark Tolbert -AYE Scott Neal -AYE Bob Lacourse – AYE Amanda VanLaeken – Charles Oyler -AYE

I, John Robortella, Secretary of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the November 22, 2022 meeting.

John Robortella, Secretary of the Board

**CANANDAIGUA TOWN CLERK** 

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RECEIVED (1)

# SINGLE STAGE SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Canandaigua Planning Board (hereinafter referred to as Planning Board) is considering Single-Stage Site Plan Approval for the demolition of two existing small cottages, construction of a new single-family residence, on-site wastewater treatment system, and associated site improvements on an existing parcel within the RLD zoning district, as shown on the Single-Stage Site Plan prepared by Marathon Engineering, dated July 1, 2022, last revised July 27, 2022 and all other relevant information submitted as of November 22, 2022 (the current application); and

WHEREAS, the Planning Board completed a formal review of the proposed site plan in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQR); and

WHEREAS, the Planning Board classified the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

WHEREAS, the Zoning Board of Appeals granted the requested variances for front setback, rear setback, lot coverage, and driveway setback at their August 16, 2022 meeting.

WHEREAS, the Town of Canandaigua Town Planner and Code Enforcement Officer later determined that an additional variance from the ZBA would be required for setback from a stream; and

WHEREAS, the Zoning Board of Appeals at their November 15, 2022 meeting determined that a variance for a stream setback was not warranted; and

WHEREAS, the Planning Board has compiled the attached list of findings to be kept on file with the application in the Town Development Office; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Board hereby  $\square$  Approves without Conditions; X Approves with the following Conditions; or  $\square$  Denies the application for the following reasons:

- 1. Site Plan Approval with conditions specified herein is valid for a period of 180 days from today. Once all conditions of Site Plan Approval have been met and shown on revised drawings including the revision dates, the Planning Board Chairperson will then sign the Site Plans.
- 2. A Site Development Building Permit application is to be completed and provided to the Town of Canandaigua Development Office prior to the Planning Board Chairman's signature being affixed to the site plans.
- 3. A soil stabilization and erosion control surety estimate is to be prepared by the applicant and provided to the Town Development Office for review and processing in accordance with Local Law 19 of 2017 Amending Chapter 174, Section 174-32(F).

# SINGLE STAGE SITE PLAN APPROVAL RESOLUTION

- 4. Prior to the issuance of a building permit, an approval from the Canandaigua Lake Watershed Inspector regarding their review of the on-site wastewater treatment system design is to be provided to the Town of Canandaigua Town Development Office.
- 5. The comments within the Town Engineer's letter are to be addressed to the satisfaction of the Town Engineer prior to signing by the Planning Board Chairman.
- 6. The Town Code Enforcement Officer's comments are to be addressed to their satisfaction prior to signing by the Planning Board Chairman.
- 7. All variances as approved by the ZBA are to be detailed on the site plans.
- 8. A permit from Ontario County DPW regarding the driveway entrance and associated right of way improvements within the County Road 16 right of way is to be provided prior to issuance of permits.
- 9. A note is to be added to the plans stating that the property owner is aware and acknowledges that the property is located within a flood hazard area and is subject to frequent flooding.
- 10. The following notes regarding phosphorous use should be added to the plans:
  - No Phosphorous shall be used at planting time unless soil testing has been completed and tested by a Horticultural Testing Lab and the soil tests specifically indicate a phosphorous deficiency that is harmful, or will prevent new lawns and plantings from establishing properly.
  - If soil tests indicate a phosphorous deficiency that will impact plant and lawn establishment, phosphorous shall be applied at the minimum recommended level prescribed in the soil test following all NYS DEC regulations.
- 11. The lot line adjustment plan is to be signed and filed with the County Clerk's office and the Town Clerk prior to signatures being affixed to the site plans.

The above resolution was offered by <u>Scott Neal</u> and seconded by <u>Bob Lacourse</u> at a meeting of the Planning Board held on Tuesday, November 22, 2022. Following discussion thereon, the following roll call vote was taken and recorded:

CANANDAIGUA TOWN CLERK

Mark Tolbert - AYE
Scott Neal - AYE
Bob Lacourse - AYE
Amanda VanLaeken - AYE
Charles Oyler - AYE

I, John Robortella, Secretary of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Canandaigua Planning Board for the November 22, 2022 meeting.

John Rouette L. S. John Robortella, Secretary of the Board

### **FINDINGS**

- 1. The Town of Canandaigua Planning Board is considering Single-Stage Site Plan Approval for the demolition of two existing small cottages, construction of a new single-family residence, on-site wastewater treatment system, and associated site improvements on an existing parcel within the RLD zoning district.
- 2. The project is detailed on the Single-Stage Site Plan prepared by Marathon Engineering, dated July 1, 2022, last revised July 27, 2022 and all other relevant information submitted as of November 22, 2022.
- 3. The Planning Board has classified the project as a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations. Type II Actions are not subject to further review under Part 617 of the SEQR Regulations.
- 4. In making this classification the Planning Board has satisfied the procedural requirements under SEQR and directed the Resolution to be placed in the file on this project.
- 5. The Zoning Board of Appeals granted the requested area variances at their August 16, 2022 meeting.
- A determination was made that an additional variance (setback from stream) was required. An application was provided and scheduled for the September 20, 2022 ZBA meeting where the area variance was granted.
- 7. A Zoning Law Determination was prepared dated August 1, 2022:

# DETERMINATION:

The Planning Board must approve the new lot size associated with the proposed lot-line adjustment as it does not meet the one-acre Scenic Viewshed Overlay District lot size requirement.

The current configuration of the new dwelling does not meet all zoning schedule requirements:

- Applicant proposes a 40-foot front setback when 60 feet is required by code. A 20-foot front setback area variance is necessary.
- 2. Applicant proposes a 37-foot rear setback when 60 feet is required by code. A 23-foot rear setback area variance is necessary.
- 3. Applicant proposes 26.9 percent lot coverage when a 25 percent maximum is required by code. A 1.9% lot coverage variance is required.
- 4. Applicant proposes to expand a pre-existing, non-conforming driveway on the property line when code requires driveways are ten feet from the property line. The existing driveway shifts north with proposed changes at 3.8 linear feet from the property line. A 6.2-foot area variance for the driveway distance to property line is required.

# REFERRAL TO ONTARIO COUNTY PLANNING BOARD FOR:

This application is required to be reviewed by the Ontario County Planning Board due to its proximity to County Road 16.

### **FINDINGS**

# REFERRAL TO ZONING BOARDS OF APPEALS:

A 20-foot front setback area variance is necessary.

A 23-foot rear setback area variance is necessary.

A 1.9% lot coverage variance is required.

A 6.2 foot setback variance for the driveway is required.

# REFERRAL TO PLANNING BOARD FOR:

Site plan review is required for development within the Residential Lake District with disturbance which exceeds such thresholds as would require a Soil Erosion and Sedimentation Control Permit.

CODE SECTIONS: Chapter §1-17; §220; §220-21; §220-33,J §220-68

- 8. This application was referred to the following agencies for review and comment:
  - Chris Jensen, Town CEO
  - Town Environmental Conservation Board
  - James Fletcher, Town Highway & Water Superintendent
  - Ontario County Planning Board
  - MRB Group
  - Kevin Olvany. Watershed Manager, Canandaigua Lake Watershed Council
  - Cheshire Fire Department
  - Leif HerrGesell, Town of Canandaigua Historian
  - Sheryl Robbins, P.E., NYSDOH
- 9. Comments were received from Chris Jensen, Town CEO, in an email dated July 25, 2022:

#### 2022-051

Surveyor to stamp existing conditions plan – contains boundary

Actual site plans are limited to a small portion of the overall sheets - Details take up more area on sheets than the actual site.

Would request that the site plan(s) are the focus of the sheets and provided at a larger scale.

Pdf page size is 8.5x11 – provide actual full scale pdf

- 10. The Town ECB provided comments at their August 2, 2022 meeting:
  - Additional Comments from the ECB Meeting:
    - Ms. Bonshak gave an overview of the application.
    - Mr. Kochersberger gave an overview of the project. Oncor images reviewed. Demolition of two existing cottages. Installation of swimming pool. Several variances have been requested—40' front setback (60' minimum), 37' rear setback - lakeside (60' minimum), 26.9% lot coverage (25% maximum), and expansion of pre-existing, nonconforming driveway that almost hits the property line where they are proposing 3.8' from property line (10' minimum).

# **FINDINGS**

Mr. Kochersberger said that they are trying not to disturb the viewshed and vegetation on the lakeside. He notes the swimming pool will be installed close to one of the trees they intend to keep. He questions the impact grading will have on this tree as well as another that is intended to be kept.

There is an oak tree that will be removed, 11" in diameter, in the southwest corner

of the combined properties.

There was a note of using the pool as a potential collector of storm water. Ms. Burkard asked if it was a natural pool-no, it is just a regular swimming pool. Mr. Kochersberger noted that town code prohibits the draining of swimming pools into the lake.

Ms. Davey asked about slope across the road from this property. Mr.

Kochersberger said it was pretty flat.

Mr. Obenauer noted Chris Jensen's comments of retaining vegetation between the house and lake.

Mr. Kochersberger asked about driveway surface and Ms. Bonshak said it wasn't specifically noted—it says "paved." Mr. Kochersberger noted that the driveway has a bit of a slope and something should be used to absorb runoff.

Mr. Kochersberger said the Scenic Viewshed Overlay standard is 1-acre for a home and Ms. Bonshak said that this is less than half an acre with the combined

- Discussion about the justification for the pool—because of blue-green algae. The justification was read: "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
- Ms. Miller noted the safety notice is for small children and animals.
- There was discussion about the health of the lake and that this justification is

 Mr. Damann and Ms. Davey noted that advisories about algae blooms are very good—immediate notifications.

- Mr. Kochersberger asked if there are any other pool restrictions besides being behind the house in the RLD. Ms. Bonshak said no. Mr. Damann noted a clarification on pool sizes made.
- Ms. Davey questioned how the neighbor feels with the driveway on the lot line.
- Mr. Damann suggested a bioswale in the middle of the circular driveway area as an additional infiltration point. This may help them to reduce the lot coverage number down to 25%.

Discussion about having a smaller pool to stay within lot coverage limits.

Mr. Obenauer noted that a high water event (lake/stream) could bring water to the foundation of the in-ground pool. This would be a vulnerable point. Discussion of increasing storm events that drop excessive water.

### **FINDINGS**

 Mr. Damann suggested revising the landscaping plan to include natives rather the generic plant material included in current plan. He noted honeysuckle included in the species list.

Mr. Kochersberger noted Tree of Heaven in the south border. Ms. Davey suggested replacing those trees with native species. It is on a neighboring

property.

Ms. Davey noted that a dry-well could be installed in the circular center area of the driveway. She suggests that along with salt tolerant species.

This is a new construction and not a pre-existing nonconformity. Oncor reviewed for similar lake setbacks.

 Mr. Obenauer noted positively the silt fences and erosion control measures in the plan

Ms. Rudolph noted that many large trees had recently been cut down. Mr.

Kochersberger said the stumps look old.

# Recommendations:

Referencing the NRI checklist, there are no designated wetlands or endangered species impacted by this project.

Although not excessively large in comparison to some of the neighbors, the new home with a swimming pool will cover more area than the existing two cottages combined. The owners have put forth a plan which addresses the needed variances which individually are not great but collectively appear more significant.

The loss of another vintage summer cottage is regrettable, but the viewshed as far as landscaping vegetation appears mostly preserved. Efforts need to be made to protect the remaining mature trees between the house and the lake which may be vulnerable to grading for the

In addition to the rain garden, the swimming pool is listed as an additional potential collector of storm water. This would have to be done cautiously as code requires that swimming pool not drain directly to neighboring properties or

Canandaigua Lake.

To help mitigate the effect of over-coverage of the lot and help with storm water management, consideration should be given to the use of pervious or porous ground cover such as the Truegrid Grass Paver system for the driveway as well as walkways.

ECB recommends strongly against granting the lot coverage variance as there are multiple possible ways to mitigate and reduce lot coverage plus this is a self-

created problem.

 A Bioswale can be installed in the center of the circular driveway area to reduce lot coverage as well as adding an additional infiltration point. The addition of a dry well would be another possibility for this location.

The ECB strongly recommends that the Applicant consider a smaller pool to stay within lot coverage considerations and to minimize or climinate the lake setback variance being requested.

### **FINDINGS**

- The ECB recommends revising the landscaping plan to use native plants.
- 11. No comments were received from the Town Highway and Water Superintendent.
- 12. The Ontario County Planning Board provided comments at their August 10, 2022 meeting:

### **OCDPW** Comments

1. Applicant is required to obtain a highway work permit for any proposed work within a County highway right-of-way and shall pay all necessary fees & comply with all permit conditions and restrictions. Highway Work Permit forms can be found on Ontario County website at http://www.co.ontario.nv.us/1260/Highway-Work-Permits.

### **OCSWCD** Comments

- More detail needed regarding rain garden design and placement.
- 2. Current plans show portion of raingarden, including outlet structure, located within FEMA floodplain.
- 3. Information needed regarding depth to water table. Will infiltration be possible at 3 feet of depth in this
- Consider two rows of silt fence along east boundary near lake.
- 5. Soil borrow area and topsoil stockpile are indicated in the same area. Show sequence of events for clearing of site.
- 6. Concrete truck washout must be 100 feet from all stormwater inlets (drain in front of garage).
- 13. Comments were received from MRB Group in a letter dated August 18, 2022.
- 14. No comments were received Kevin Olvany, Watershed Manager.
- 15. No comments were received from the Cheshire Fire Department.
- 16. No comments were received from the Town Historian.
- 17. Comments were received from Sheryl Robbins, P.E., NYSDOH, in an email dated July 27, 2022:

This office has received the Memo regarding Plan Review for the above referenced project (Application No CPN-22-051).

This office must receive proper application, plan review fee, plans and specifications, and engineering report for the review and approval of the proposed onsite wastewater treatment system (OWWTS) prior to construction.

This office had contact with a previous engineering firm requiring the same information with new soil test data - no plans from that firm were received.

Building permits should not be issued until this office approves the proposed OWWTS, in conjunction with review by the Canandaigua Lake Watershed Inspector, Tyler Ohle.

We look forward to working with the new engineering firm on this project.

- 18. The Planning Board has considered all comments as part of their review of the application.
- 19. The Planning Board discussed the need for a soil stabilization and erosion control surety estimate to be provided prior to the issuance of building permits.
- 20. The Planning Board thoroughly discussed the Shoreline Development Guidelines with the applicant.