

# Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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

TOWN OF CANANDAIGUA DEVELOPMENT OFFICE		FOR REVIEW
RECEIVED	AUG 10 2018	

CPN #: 18-050

## 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: Creekview Apartments Housing Development

Fund Corp- 1950 Brighton Henrietta Town Line Road, Rochester, NY 14623

Telephone Number of property owner: 585-272-7760

Fax # \_\_\_\_\_ E-Mail Address: pcolucci@dimarcogroup.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*: Same as above

Telephone Number of Applicant: \_\_\_\_\_

Fax # \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

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

3. Subject Property Address: 3006 Creekview Drive

Nearest Road Intersection: Creekview Drive and Woodland Park Circle

Tax Map Number: 94.00-1-44.1 Zoning District: MUD

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

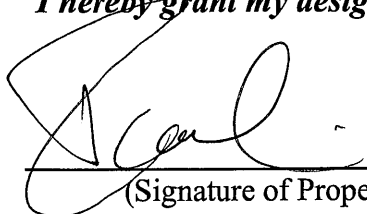
NO

(Continued on back)

6. What is your proposed new project and the variance(s) or interpretation requested?  
Request for area variance for relief from side yard setback for Building #12 in Phase 1 of CreekView Apartments at Woodland Park. During construction the foundation was constructed 6" (0.5') into the required setback errantly.
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.***

  
\_\_\_\_\_  
(Signature of Property Owner)

8/10/2018  
(Date)

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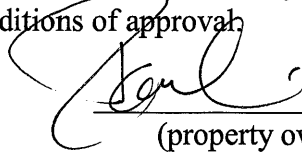
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***Property Owner is responsible for any consultant fees  
(Town Engineer, Town Attorney, etc.) incurred during the application process.***

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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)

Agent for Creek View  
Housing Development Fund Corp.

# 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.

No undesirable change will be created by granting the requested area variance. The applicant owns the adjacent property through affiliated ownership rights and has control of how future phases of the project will be developed.

- (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 could be achieved by filing a correction deed, however this would trigger title insurance issues and potentially effect construction loan financing and permanent financing as equity investors would be required to evaluate their position with acquisition of additional land.

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

The variance requested 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.

The variance will have no 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 ZBA, but shall not necessarily preclude the granting of the area variance.

The alleged difficulty was self created, however it was not known until an ALTA survey was prepared which identified said encroachment. During construction stakeout the project surveyor staked the building with 0.2' of additional setback to foundation. During construction the foundation contractor layout was likely the fault of the the encroachment. It was discovered too late to adjust the foundation as the cost to relocate the foundation was prohibitive.

# *Town of Canandaigua*

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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: CreekView Housing Development Fund Corp  
1950 Brighton Henrietta Town Line Road, Rochester NY 14623

B. Name and Address of Applicant: Same as above

C. Description of the proposed project: Request of Area Variance

D. Project Location: 3006 Creekview Drive

E. Tax Map #: 94.00-1-44.1

F. Is any portion of the subject property currently being farmed? ☐ Yes ☒ 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. \_\_\_\_\_
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.