



April 4, 2018

**Town of Canandaigua Development Office
5440 N.Y.S. Route 5&20 West
Canandaigua, New York 14424**

Re: Property at: **3280 Fallbrook Park- Canandaigua Country Club- Draft letter to ZBA**

Dear Members of the Canandaigua Zoning Board of Appeals:

I have reviewed the Canandaigua Country Club Dock application, reviewed Mr. Jensen's zoning determination, attended the February Planning Committee meeting, spoke with Mr. Lupton of the Canandaigua Country Club and have reviewed the project with Ms. Maria Rudzinski of the Ontario County Planning Department and offer the following comments for the Zoning Board of Appeals to consider.

The applicant has 506.5 lineal feet of shoreline. At the Tier One access level, the applicant would be allowed to have 5 separate docking systems; with each dock allowed to have a maximum of 720 square feet. The applicant is also allowed to have a maximum of 11 boat slips.

The applicant is requesting to consolidate the 5 docking systems into 1 dock with a total of 10 boat slips and 2,020 square feet of dock space. They are also requesting to extend the dock 195 feet into the lake. The law allows the applicant to go out further than 60 feet if the lake bottom is not at least three feet lower (683.6) than the mean low water level identified in the Dock Law of 686.6. Even at the 195 foot distance, the lake bottom elevation is approximately 684.5, which does not provide for the minimum 3 feet of water depth at mean low water level.

The single parcel dock consolidation section of the law states that the consolidation of two docks into one dock is permitted with a total square footage of 1,080 feet. Therefore, the applicant will need to request a variance to allow an increase in the consolidation to allow 5 docks to 1 dock.

The variance provisions provided for in NYS Town Law Sec. 267 b. are not applicable to the Docks and Mooring Law. The difference is predicated on the fact that the structures are being placed over New York State owned land and not private property. The law lays out six specific allocations and uses where under no circumstances the law be varied. Single parcel dock consolidation is not one of the six allocations and uses that are not allowed to be varied. Dock

configuration is specifically allowed to varied. The law also states that variances may only be granted in order to provide safe navigational access or to minimize adverse environmental impacts on Canandaigua Lake and its watershed.

If the applicant constructed the allowed 5 docks they would consume much more of the critical littoral zone near shoreline area and also have the potential to have 3,600 square feet of docking systems as opposed to the 2,020 square feet being proposed. Therefore, the consolidated docking system is 56% of what would otherwise be allowed if the docks were separate. The dock is 6 feet wide which is the minimum necessary to allow two people to safely walk past each other on the dock. A major item that also needs to be considered is that the length of the dock is necessary in order to get out to a depth that is still approximately 1 foot less depth than what the law allows. The navigational buoys letting boaters know to go 5 mph are at least 300 feet further out into the lake. The location of the docking system will not impact the navigational access of the neighbors. In addition, the docking system is seasonal and will be removed each fall. The Country Club is not trying to build a boardwalk parallel to the shoreline that would have a greater impact on the near shore littoral zone. Finally, the main use of the docking system will be for the transient access to the country club from boaters that are already on the lake. Therefore, the boat slips will not be adding boat traffic to the lake.

As I review the applicant's proposal and need for a variance to change the dock configuration by consolidating 5 docks to 1 dock, I think the variance request meets both tests of providing for safe navigational access and minimizing (actually reducing) adverse environmental impacts on Canandaigua Lake and its watershed as long as certain stipulations are met.

My suggestion to the ZBA is that if they grant the dock configuration and consolidation variance request, they should require The Country Club to waive any rights to additional docks or expanding the docking system or increasing the number of boat slips under the current Tier One allocation. This does not preclude a potential future request for a change in the Tier designation to the Town Board. However, the law does state that if the adjoining parcel is located within two or more adjoining zoning districts then the most restrictive Tier assignment shall apply. The adjoining zoning district definition does not require the zoning district be connected to the lake.

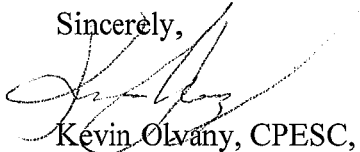
The second stipulation is that they work with the Ontario County Sheriff's Office Marine & Recreational Vehicle Division on any navigational lighting. They should also provide documentation from the NYS Office of General Services regarding whether any permits or licenses are required for use of land underwater, pursuant to Article 6 Section 75 7(b) of the Public Lands Law. Should a permit or license be required, the variance should be conditioned upon its receipt.

The third stipulation would be to not allow boat hoist structures, boat stations or seasonal covers above the boat slips in order to minimize any visual impacts. In addition, I would also suggest that if the Country Club wants to install a permanent docking system to replace the seasonal docking system that the variance would be considered null and void and that they would have to go through the approval process again.

The goal of the Docks and Moorings Law is to minimize impacts while providing for reasonable navigational access. I do not think this variance would set a precedent for other applicants with

large shoreline areas to request a similar variance. Most areas around the lake are able to get to the 683.60 lake bottom elevation within 60 feet of the lake. The shallow nature of this northeast section of the lake is a major rationale for allowing the consolidation and reconfiguration of the five separate docking systems into one system.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Olvany', written over a horizontal line.

Kevin Olvany, CPESC, CPSWQ
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