

Town of Canandaigua

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

Established 1789

PLANNING REVIEW COMMITTEE (PRC) Meeting Notes of February 17, 2016

TO: BAYER LANDSCAPE ARCHITECTURE FOR JOEL REISER & NANCY HYMAN
FROM: AMANDA CATALFAMO, DEVELOPMENT OFFICE
FAX #: VIA EMAIL – MHB@BAYERLA.COM
DATE: THURSDAY, FEBRUARY 18, 2016

All applicants are hereby given notice that the following report provides positive input to keep the application process moving forward.

Please be aware that failure to submit the requested information by the deadline listed below will likely result in your application being deemed incomplete. Incomplete applications are not placed on any agenda and will not be referred to outside agencies for review.

**Bayer Landscape Architecture for Joel Reiser and Nancy Hyman, 5265 Menteth Drive
(TM #140.11-1-25.000) (CPN-009-16)**

Application Information:

1. The applicant is seeking six (7) area variances for removal of an existing house and detached garage, and construction of a new house and new detached garage. Requested zoning variances are:
 - a. House setback, rear (60 feet required, 40.7 feet requested)
 - b. House setback, creek (100 feet required, 25 feet requested, existing 25 feet)
 - c. House height (25 feet maximum, 26.51 feet requested)
 - d. Garage setback, north property line/side (12 feet required, 5.2 feet requested, existing 0–4.7 feet)
 - e. Garage setback, west property line, front (60 feet required, 5.2 feet requested, existing 1.6 feet)
 - f. Garage setback, creek (100 feet required, 18.5 feet requested, existing 20.5 feet)
 - g. Garage height (16 feet maximum, 18.64 feet requested)
2. State Environmental Quality Review (SEQR) — Type II.
3. A referral to the Ontario County Planning Board is required.
4. The PRC will forward a copy of the application and supporting documentation to the following agencies for their review and recommendation:
 - George Barden, Watershed Inspector
 - Kevin Olvany, Cdga Lake Watershed Council
 - Town Environmental Conservation Board
 - James Fletcher, Town Highway Superintendent
 - Greg Hotaling, MRB Group

- Michael Miller, Chief, City Fire Dept.
- Army Corps. Of Engineers
- Benjamin Groth, Environmental Engineer, NYS DEC

The applicant shall submit the following requested information to the Town Development Office prior to 4:00 p.m. on **MONDAY, FEBRUARY 22, 2016**, to be considered for the **MARCH 15, 2016**, Zoning Board of Appeals agenda:

1. The applicant shall provide documentation as to their compliance with the Shoreline Development Guidelines adopted by the Town Board on March 28, 2005.
2. The applicant shall label the setbacks from any proposed impervious surface/retaining walls to the Lake.
3. The applicant shall submit 15 copies of the revised Sketch Site Plan, elevation drawings. The applicant shall also submit a PDF copy of the plans via email to Amanda Catalfamo at acatalfamo@townofcanandaigua.org.

Information for the Applicant:

1. The applicant will receive a copy of the Zoning Board of Appeals meeting agenda approximately 10 days prior to the meeting date. The applicant is required to be in attendance at the meeting. If the applicant cannot attend this meeting and wishes the Zoning Board of Appeals to act on the application in their absence, the applicant shall contact the Development Office prior to 12:00 p.m. the day of the meeting.
2. The property owner is on notice that no development shall commence until the proper permits have been obtained from the Town's Development Office.
3. Your application will be referred to an outside consultant hired by the Town of Canandaigua (Town Engineer, Watershed Inspector, Town Attorney, etc.). The property owner will be invoiced by the Town for the reimbursement of these expenses. The property owner is on notice that they are responsible for reimbursing the Town for any/all consultant fees accrued by the Town regarding this application. This includes resolutions written by the Town Engineer for each Planning Board meeting.

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TOWN OF CANANDAIGUA
DEVELOPMENT OFFICE

FEB 12 2016

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CPN #: 009-16

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: JOEL REISER & NANCY HYMAN

6 WINDHAM CIR. MENDON NY 14506

Telephone Number of property owner: 585-764-9911

Fax # _____ E-Mail Address: JOEL@REISER-TECHNIK.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: MARK H. BAYER

19 N. MAIN ST. HONEOYE FALLS NY 14472

Telephone Number of Applicant: 585-582-2000

Fax # 585-582-2005 E-Mail Address: MHB@BAYERLA.COM

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

3. Subject Property Address: 5265 MENTETH DR.

Nearest Road Intersection: WELLS CURTIS RD. / WEST LAKE RD.

Tax Map Number: #140.11-1-25 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?

REMOVAL OF EXISTING HOUSE & DETACHED GARAGE.

CONSTRUCTION OF NEW HOUSE & DETACHED GARAGE.

VARIANCES FOR SETBACKS & HEIGHT REQUESTED, SEE ATTACHED.

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.

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

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.

Mark H. Bayle

For Joel Rosen and Nancy Hyman

(Signature of Property Owner)

2-11-16

(Date)

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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

CPN #: _____

Sketch Plan Checklist

Applicant: MARK H. BAYER, BAYER LANDSCAPE ARCHITECTURE, PLLC

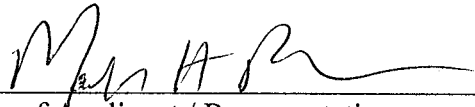
Project Address: 5265 MENTETH DR.

Tax Map #: #140.11-1-25 Zoning District: RLD

Project Description Narrative: REMOVAL OF EXISTING HOUSE & DETACHED GARAGE.
CONSTRUCTION OF NEW HOUSE & DETACHED GARAGE.

Sketch Plan Checklist – Chapter 220 §220-66***	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.	✓	✓	
2) Lot lines.	✓	✓	
3) Land features including environmentally sensitive features identified on the NRI. (woods, streams, steep slopes, wetlands)	✓	✓	
4) Land use(s). (residential, agricultural, commercial, or industrial)	✓	✓	
5) Utilities. (i.e. location of electric, gas, well, septic, sewer, cable)*	✓	✓	
6) Development including buildings, pavement and other improvements including setbacks.	✓	✓	
7) Location and nature of all existing easements, deed restrictions and other encumbrances.	✓	✓	
B. Sketch plans shall be drawn to scale.**	✓	✓	
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.	✓		

I have reviewed my submitted application and drawings against the above noted criteria and hereby certify that the submitted application matches this check list.


Signature of Applicant / Representative

2-11-16
Date

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

**Development that exceeds 1,000 square feet, requires the site plan to be completed by a NYS licensed professional engineer and/or surveyor. (§220-99-C-1-c)

***This form is not required for the construction of a new single-family dwelling within an approved subdivision.

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.

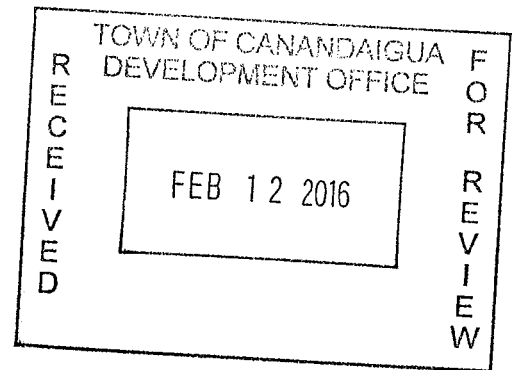
SEE ATTACHED.

- (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.

February 12, 2015

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



**Re: 5265 Menteth Drive
Hyman-Reiser Residence, Area Variance Application**

Mr. Finch,

Please find enclosed a ZBA Area Variance application for the property located at 5265 Menteth Drive. We are submitting this applications on behalf of the property owners (Nancy Hyman and Joel Reiser), whom previously faxed an authorization for us to act as agent.

Enclosed materials:

- a) ZBA Area Variance Application
- b) Supplemental Variance Test Narrative
- c) Sketch Plan (24x36)
- d) Sketch Plan, Color Rendering (24x36)
- e) House Elevations (24x36)
- f) Detached Garage Elevations (24x36)
- g) Existing Site Survey (24x36)
- h) Tear Down / Rebuild House Permit Application
- i) \$700 Area Variance Application Fee (\$100 per Variance)

If you have any questions please do not hesitate to contact me.

Mark H. Bayer, RLA, ASLA
Principal

Bayer Landscape Architecture, PLLC

19 North Main Street
Honeoye Falls, NY 14472

P: 585.582.2000

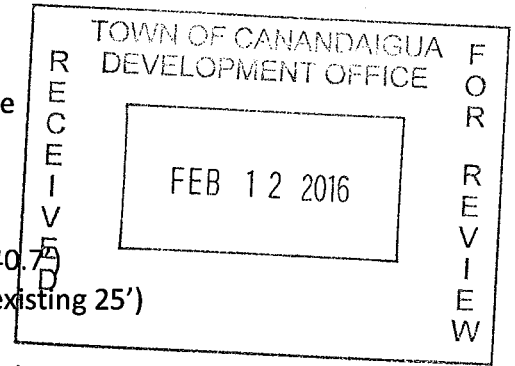
F: 585.582.2005

bayerla.com

TESTS FOR GRANTING VARIANCES: Supplemental Narrative Response

Requested Variances

- Variance A: House Setback, Rear / Lake (60' required, requesting 40.75')
- Variance B: House Setback, Creek (100' required, requesting 25', existing 25')
- Variance C: House Height (25' max., requesting 26.51')
- Variance D: Garage Setback, North Property Line / Side (12' required, requesting 5.2', existing 0-4.7')
- Variance E: Garage Setback, West Property Line / Front (60' required, requesting 5.2', existing 1.6')
- Variance F: Garage Setback, Creek (100' required, requesting 18.5', existing 20.5')
- Variance G: Garage Height (16' max., requesting 18.64')



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:*

An undesirable change to the character of the neighborhood will not be produced by the variance requests. We have given considerable attention to the property and neighborhood characteristics and have been sensitive in planning for a harmonious integration of the house into the surrounding neighborhood and lakeside landscape.

We have independently worked with the neighboring property owner to revise a prior design based (previously submitted to Town in Fall 2015) on their comments and desire to preserve existing southerly views from within their house. This revised design preserves the neighbor's views by increasing the proposed house setback an additional 11 to 15 feet from the lake, reduces the size of terrace, and eliminates decks and a handicapped (ADA) accessible ramp to the existing dock.

Naturalistic and rustic native Finger Lakes materials (stone, wood, gravel, earth-tones) have been selected in place of garish or unharmonious materials and colors. The scale and location of the house is consistent with context of the neighborhood. The overall house design and site amenities have been carefully integrated as a tasteful and subtle holistic proposal that minimizes negative visual disruption as seen by public users of the lake or by adjacent residents and the neighborhood. We feel these objectives have been achieved despite a multitude of constraints and difficulties that are unique to the property (as described below).

Overall the property as proposed will be visually enhanced over its current condition; which includes diseased and safety-risk trees, significant quantities of invasive species, and a house that is in disrepair and sitting below the lake floodplain elevation and noncompliant with NYS Building Code. We also believe that practical and beneficial efforts have been made to mitigate

flood risks to adjacent properties and minimize untreated storm water from entering the creek and lake ecosystem.

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 by these variance requests cannot be achieved by other feasible methods. It is believed that the variances are necessary to construct a house that is in character with the neighborhood and overcomes the significant and unique property encumbrances and difficulties (see #5 below). The house and site design approach on this property (including the requested variances) have been thoughtfully considered and represent the most feasible and sensitive methods to achieve the benefit.

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

We believe the requested area variances are not substantial. The setback and height variances being requested are not substantially different or inconsistent with the average conditions of the neighborhood or the existing property - particularly in the context of the property's unique hardships. The requested setback variances are consistent or in excess of nearby properties and allow us to overcome significant setback encumbrances. These setback encumbrances result in the land area for a building footprint to total an unreasonable 46 square feet.

Nearby properties include house setbacks from the Mean High Water Line (MHWL) that are less than the requested lake setback. The requested lake (rear) setback for our property is 40.7'. The building line resulting from this requested setback is also 10' less (further away from the lake) than the building line of the three neighboring properties to the north. Furthermore, the nature of the MHWL on our parcel is such that it changes on a daily basis due to shale drifts and deposits. See #5 below for a description of this unique hardship. The new house setback to Menteth Creek is proposed to remain consistent with the existing house setback at 25'.

The proposed setbacks for the accessory structure (detached garage) will increase over existing conditions. The front yard (west property line) setback is currently 1.6' and is proposed to increase to 5.2'. The side yard setback is currently 0 to 4.7' and is proposed to increase to a uniform and parallel 5.2'. The creek setback is currently 20.5 feet and is proposed to be 18.25'. All detached garage setbacks are fully consistent with setback variances previously approved by the Town in 2013. The proposed footprint for the garage remains the same as the 2013 garage. The lot does not have direct frontage on the nearest public R.O.W. (West Lake Road) and is setback approximately 435' away from the road through thick woods.

The requested height variances are not substantial. The proposed house is 25' in height from the finished floor elevation. However, the NYS Building Code requirement to establish the finished floor elevation 2' above the Lake's flood elevation results in an unusable "freeboard" height of 2' to 3.5' (no basement) below the finished floor to meet existing grade. We have minimized the visual disruption of the extra height and potentially excessive ramps and steps to get out of the house by subtly terracing down to existing grade with natural stone garden walls and screened the freeboard with landscape materials, yet the average finished grade around the house is still 1.51' below the first floor finished grade (694). This results in an overall height of 26.51' feet above average finished grade. We do not believe this is substantial and visual height impacts have been minimized to the greatest extent practical by treating this required "freeboard" area as a part of the house's overall patio and landscape design.

The height of the accessory (detached garage) is requested to be 17.89' above finished floor elevation to be comparable to the adjacent neighbor's 2-story detached garage, which is located approximately 37 feet to the east. With the average finished grade at 693.25' (to bring the finished floor above flood elevation), the resulting height above average finished grade is 18.64'. We do not believe the requested height variance is substantial in this context as the proposed detached garage and the adjacent owner detached garage are the only structures visible in the heavily wooded vicinity.

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

The project will not have an adverse impact on the environmental conditions or neighboring properties. The new home placement and accessory structure are generally located in the same footprints respectively. Aside from the inclusion of handicapped accessible walks and low garden wall terracing, there is relatively minimal site work that is being done to alter environmental conditions on or off property. As described in #1 above, we believe that the project enhances the current conditions of the neighborhood. Some of the physical / environmental characteristics of the proposed plans include:

- An existing berm along the creek is being retained and will be supplemented with additional understory native shrubs and other and riparian vegetation to provide enhanced buffering.
- Despite significant quantities of NYS-DEC regulated invasive species (Norway Maples) along the creek, no trees on the bermed soil embankment are being removed at this time to retain natural erosion control benefits. Long-term, a revegetation plan will include selective replacement of invasive trees with native species in managed phases in order to maintain the riparian and bermed embankment.

- Storm water drainage from the site is proposed to be directed towards and filtered through two separate bio-filtration rain garden areas as much as practically possible given the flat topographic character.
- Potential flood impacts within the neighborhood are known to intermittently be significant. The proposed grading and drainage plan reduces the chance of creek flood water running across the property to neighboring northern properties, as much as possible given the minimal topography, by directing natural flows back toward the creek rather than north of the house site. It is believed that blockages upstream are the primary culprit behind flood impacts and flood water is believed to flow from points east (not over our site).
- The existing sanitary leach field will remain in place and undisturbed. The existing sanitary pump and aerobic treatment unit are to be relocated approximately 30' to the northwest.
- All proposed tree removals resulting from this proposed house and garage are either regulated NYS-DEC invasive species (4 Norway Maples), building / safety hazards (3 Cottonwoods along northern property line), or trees that are damaged and in decline (1 spruce). The remaining +/- 25 trees are proposed to remain. Approximately 5 new trees are proposed to be planted (to replace screening effects of the cottonwoods and add lakefront vegetative screening).

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 difficulties and encumbrances that prevent typical development of our property are not self-created and are unique to this property. These hardships compound to prevent the development of the property in a manner that is characteristic to the neighborhood. The property is uniquely burdened by setback requirements from Menteth Creek, a Mean High Water Line that abnormally fluctuates, and a parcel shape that constrains buildable area to the parcel's wider lake frontage portion.

Menteth Creek is included in the parcel's land acreage and constitutes more than 20% of the total parcel area (23.8%), effectively reducing the 0.942 acre parcel to 0.717 acres. This remaining 0.717 acres is uniquely burdened by required setbacks to the point that the total land area remaining for a residence is reduced to 46 square feet.

The minimum lot width in the Town's RLD zone, for properties of all sizes, is 125 feet. While our lot width does meet this minimum size along the Lake frontage, it reduces below this minimum as it extends to the west. Furthermore, Menteth Creek takes up a portion of this width and thereby reduces the effective parcel land width below the conforming size for the RLD zone.

The width reduces to less than 80 feet for a majority of the lot's depth. When combined with setback requirements, including those required from the existing septic leach field (to remain undisturbed), this compels all practical development opportunities toward the lake.

Regarding building height, NYS Residential Building Code requires the finished floor elevation (FFE) of the house to be minimally set at 2' above flood elevation (Flood Elevation is 691.7, NGVD1929, Flood Insurance Study 360598V000). This requires the FFE to be set approximately 2' to 3.5' above existing grade. The proposed building height of the residence is limited to 25' as designed, however, due to the requirement for a raised FFE, 3.5' of unusable "freeboard" (no basement) is required to meet existing grade. Some of this freeboard has been visually reduced by garden terracing and landscape, but the resulting average finished grade is 692.49' and a total house height of 26.51'.

As owners who intend to use this house long-term we are also requiring that at least one handicapped accessible route conforming to Americans with Disabilities Act (ADA) requirements is available between the house, garage, dock, and a small portion of the outdoor gathering area. The route developed is not the most convenient route for us but we feel it is the most sensitively designed and also works to minimize any visual impacts of the house height and required flood elevation freeboard. The accessible route approach has been integrated into the house and site rather than an unsightly deck and ramp appendage or afterthought. The proposed solutions for achieving accessible routes are visually appealing, do not appear as handicapped ramps, are designed in conjunction with outdoor gardens, and reduce visual clutter as seen from the lake and adjacent properties. While the desire for handicapped accessibility may be considered self-created, the proposed solution works to minimize impacts of other hardships.

Overall, it is believed that no other properties in the neighborhood are encumbered to this degree by so many different hardships. Without the requested variances, the combined result of these hardships results in us being unable to find alternate practical solutions to constructing a residence that we believe is in character with, and benefits, the surrounding neighborhood.