

# Town of Canandaigua

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## ZONING BOARD OF APPEALS DECISION NOTIFICATION

**Public Hearing Opened:** June 21, 2022  
**Public Hearing Closed:** July 19, 2022

**Meeting Date:** July 19, 2022  
**Project:** CPN-22-018

<u><b>Applicant</b></u>	<u><b>Owner</b></u>	<u><b>Project Type</b></u>	<u><b>Project Location</b></u>	<u><b>Tax Map #</b></u>
Scott Harter Prof. Engineering Grp., 7171 Victor-Pittsford Rd, Victor	Schottland Chosen Spot 777 Driving Park Ave., Rochester	Stream setback	5272 Menteth Dr. Canandaigua	140.11-1-21.110

### **Type of Application**

☒ Area Variance    ☐ Use Variance  
☐ Interpretation    ☐ Rehearing

### **Variance/Interpretation Requested**

Applicant is requesting Area Variance stream setback of 35 feet when 100 feet is the minimum, *65-foot variance required.*

**Shall the applicant be granted a 65 ft. stream setback variance?**

### **Applicant Request**

☒ Granted  
☐ Denied  
☐ Continued to:  
☐ See attached resolution(s)

### **SEQR**

☐ Type I  
☒ Type II  
☐ Unlisted  
☐ See Attached Resolution(s)  
Neg Dec Date:  
Pos Dec Date:

### **Voting:**

John Casey	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
Bob Hilliard	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
David Emery	<input type="checkbox"/> AYE	<input checked="" type="checkbox"/> NAY	<input type="checkbox"/> Abstained
Kelly LaVoie	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
Chip Sahler (Chair)	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
Shannon Chevier (Alternate)	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained

## **Reasons**

The Board's decision is based on descriptions presented during the Public Hearing on July 19, 2022 as well as information received 2/1/2022, 3/1/2022, 3/22/2022, 3/7/2022, 5/5/2022, 5/23/2022, 7/8/2022, and 7/19/2022. The granting of variance is in keeping with the character of the neighborhood. The uniqueness of the parcel was a primary reason for granting variance of the house location. The applicants did their due diligence in checking with Kevin Olvaney and the neighbors of the property. The neighbors were mostly in favor of the project, except one or two. Kevin Olvaney helped to alleviate some of the concerns the Zoning Board had with water flow. Engineer modified plans to address concerns of water flow/runoff impacting neighbors. The variance is substantial but there are not many other options for the applicant. Applicant is putting in environmentally friendly grass to help filter the water flow and is replacing invasive species with native species.

## **Conditions**

1. The variance granted is specific to the plan presented to the Zoning Board of Appeals dated July 8, 2022. Any change in plans, shall invalidate the variance.
2. The variance is conditioned on a building permit being obtained within one (1) year of the date the variance is granted. Failure to obtain a building permit within one (1) year shall invalidate the variance.
3. The Town of Canandaigua Attorney and the applicant attorney will develop the exact language to be included in writing that will go with the property regarding owner accepting existing flooding conditions and that those conditions are not the responsibility of the Town of Canandaigua.

This language was suggested by the Town of Canandaigua Code Enforcement Officer:  
*The owner shall acknowledge on the plan that the proposed home is located adjacent to a creek, a special flood hazard area, and the delta of a stream; that the property has historically been inundated with ice and water from both the lake and stream; the owner is aware of the historical flooding and associated possibility of damage and holds harmless the town and engineer.*

4. The five trees identified during the meeting that would not be cut, ground stumps will remain even though the submitted plan does not indicate that.

Certified By: \_\_\_\_\_  
Chairperson of the Zoning Board of Appeals

Date: \_\_\_\_\_