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July 16, 2022

To: Town of Canandaigua Zoning Board of Appeals
From: Saralinda Hooker, Trustee for Quisisana Trust
Ref: Application CPN-22-018 for 5272 Menteth Drive, Schottland - Stream setback variance

Dear ZBA members,

I am writing as a member of the family group that owns the Quisisana property at 4760 South Menteth Drive, which abuts the Schottland property on the south side, across the creek. As a neighbor to the proposed new home development, I encourage the ZBA to deny the request for a setback variance and suggest that the Schottlands rework their plan in such a way that the required 100-foot stream setback is maintained and the existing dense riparian buffer of trees, shrubs and ground covers is protected.

I'll share up front a couple of good reasons why I considered remaining silent on this matter. First of all, opposing the well-developed plan of a neighbor is never something to undertake without a good reason. Second of all, our own property has several encroachments into the 100-foot stream buffer, including two cottages and a tennis court, so you could call me hypocritical. Nevertheless, even if I may not be the best messenger someone has to stick up for leaving this woods alone, and hope I can help persuade the applicants to reconsider their plan. I have shared my concerns with the Schottlands and am happy to say they have been very gracious and willing to talk about alternatives.

The renderings of the proposed house have the title "La Masion Des Bois" – a house in the woods. That sounds very appealing, but it's not accurate. If you want a house in the woods, you don't start by almost completely bulldozing a wooded site, and then planting new trees and shrubs. This is not a house in the woods – it's an elegant house in a beautifully landscaped lawn where a woods used to be. The woods are a casualty of this project.

I take exception to the applicant's responses to the five tests for the granting of area variances:

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.** The applicant indicates that the proposed use is consistent with the surrounding neighborhood. It is true that the surrounding uses are residential, but that does not ensure that the proposed development will not change the character of the neighborhood in a detrimental way. This parcel is a

rarity, one of a handful of undeveloped, mostly wooded parcels within 600 feet, and the only one on the lakefront side, within the creek's delta. The other large west side points, Tichenor and Rochester Points, also lack wooded areas of anything close to this size along the stream banks. This is a rare surviving couple of acres of wooded riparian buffer, whose benefits for water quality, wildlife habitat and flood mitigation are addressed in great detail in the Town's 2018 Open Space Plan, and in the comments of the Environmental Conservation Board on this application. The near-wholesale clearing of a rare stream-adjacent wooded area and destruction of an existing well-functioning riparian buffer is a very undesirable change of character and a detriment to nearby properties and to the Town as a whole, because it represents the loss of an important and dwindling natural resource.

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 applicant argues that the proposed site plan is the only solution to development of the site, given the required setbacks, utility locations, floodplain, and access. I respectfully disagree. If the applicant had approached the design problem considering the 100-foot stream setback as a firm constraint and designed the building and site improvements to fall entirely outside of the 100-foot stream setback, there are a number of possible layouts that would accommodate a house, garage, access, multiple patios, and a septic system. Some may require area variances on the side or rear setbacks, but under the circumstances I think this sort of variance could be quite justifiable. Revising the plan to comply with the stream setback would require compromises on the orientation, and possibly on the size, and the resulting house would not be surrounded by such generous landscaped lawns with a stream very close by, but the applicant presumably purchased this property with full knowledge of the Town's development standards. Rather than designing within the Town's legal guidelines the development team has proceeded on the assumption that a variance on the stream setback was not a big deal and easily achievable. I hope this assumption was wrong.

In addition to reconfiguring the development on this site, the applicant has another feasible option as well – to build on the vacant 1.3-acre lakefront lot which they own at 5273 Menteth Drive, immediately north of the wooded property. This parcel, former the Mees home, currently provides a generous grassy open space between two lakefront homes owned by the Schottland family, and offers plenty of room to accommodate the program for the proposed house proposed for the stream bank.

3. Whether the requested area variance is substantial. The applicant states that the variance is not substantial when compared with the immediate neighborhood, and cites evidence of other structures to the east and the south with setbacks ranging from 18' to 35' from the stream bank. I am not familiar with the last one mentioned, at 18' from the creek bank. However I am quite familiar with the

others, particularly with the Quisisana property of which I am a part owner. In the case of both the Brovitz property (5265 Menteth Drive) and the Quisisana property (4760 South Menteth Drive), site plan approval has been granted by the Town in recent years, or in our case recent months, for house reconstruction projects involving buildings with pre-existing non-conformities. In both of these cases the Town granted site plan approval for replacement buildings closer to the stream than the required setback as long as the extent of non-conformity did not increase. No variances were required; this is consistent with long-standing Town policy, the grandfather provision, on pre-existing non-conformities.

In my view it is not appropriate or convincing to cite these cases as evidence that the requested variance is not substantial. These adjacent lakefront properties were built out in the first half of the 20th century, and they conformed to the development practices of their time, relatively free of, or oblivious to, today's environmental issues such as loss of woodlands, shrinking wildlife habitat and degrading water quality. The grandfather provision is a fair one for dealing with long-standing conditions that predate current zoning standards. On the other hand, a variance that reduces a required 100' stream setback down to 35', and in the process allows the destruction of a mature and robust riparian buffer, an existing significant natural resource, is in my view very substantial.

4. **Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district.** The applicant argues that vegetation will be preserved along the streambed and in the buffer, and that the stream bank will be protected. The tree and planting plans of 7-8-22 and 7-9-22 fail to support this statement. Out of 55 inventoried trees, only 12 plus 6 stumps will be allowed to remain, and none of the understory, the diverse array of small trees, shrubs and ground covers, is called out for protection. I was happy to see that at least one of the two large American sycamores on the property, tree #30, will be allowed to remain, but the planting plan calls for a new Swamp White Oak within 20' of it, setting up a potential conflict. The planting plan calls for many admirable native tree and shrub selections to be surrounded by a grassy lawn, a treatment which is much less conducive to water infiltration than the existing woodland floor, whose diversity of plant materials provides beneficial habitat for birds, stream animals and other wildlife.

One major purpose and value of a good riparian buffer is to contain the stream with a minimum of erosion and to act as a sponge during high flow events – heavy storms and flooding. The buffer lets the flooding stream widen out, slow down, and deposit some of its sediment and debris on land, rather than sending it shooting out into the lake in a muddy plume. The existing woods along with the surrounding wooded lands to the east and south all fulfill this function reasonably well now; they don't completely mitigate the downstream mess and property damage during a major flood, but they help quite a lot. To destroy and replace a major section of this riparian buffer with construction of a house, garage, patio

and generously landscaped lawn is an unmistakable step in the wrong direction from an environmental perspective.

5. **Whether the alleged difficulty is 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 applicant acknowledges that the difficulty is self-created. This is a refreshing admission. They do argue once again that there is not a practical location for the residence without a stream setback variance. As noted above, I am skeptical of this statement. On a parcel of 1.9 acres, with something like half of it falling within the stream setback area, even with its irregular shape there is plenty of room for a reasonably sized house, septic system driveway and garage, if the applicant were to work within the environmental constraints.

As a past member of the Environmental Conservation Board and an observer of the development scene along the lake in recent years, I have found the whole business of area variance requests to be quite unsettling. In many cases variance requests seem to be made simply because the applicant wants a larger house than the lot can reasonably support (lot and building coverage variances) or because the applicant fails to take the Town's stated environmental priorities seriously. Past variance approvals are cited as precedents, and the result is ever-denser development of the lakefront district. This is a vicious cycle, and one that can only be stopped or slowed by a firm stand on this application and on similar variance requests on the part of the ZBA. There are cases where area variances are benign and appropriate, but this is not one of them. I urge the ZBA to hold firm on the Town's environmental standards and vote NO on this variance request.

A handwritten signature in dark ink, reading "Saralinda Hooker". The signature is written in a cursive, flowing style with a large initial 'S' and a distinct 'H'.

Saralinda Hooker