

# Town of Canandaigua

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

CPN #: \_\_\_\_\_

## ZONING BOARD OF APPEALS APPLICATION

FOR: ☒ AREA VARIANCE ☐ USE VARIANCE ☐ INTERPRETATION

Permission for on-site inspection for those reviewing application:   x   Yes        No

1. Name and address of the property owner: Richard Nelson  
5635 County Rd 30, Canandaigua, NY 14424

Telephone Number of property owner: \_\_\_\_\_

Fax # \_\_\_\_\_ E-Mail Address: rdqnelson@yahoo.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*: Marks Engineering, P.C.  
4303 Rt 5&20, Canandaigua, NY 14424

Telephone Number of Applicant: 585-905-0360

Fax # \_\_\_\_\_ E-Mail Address: bmarks@marksengineering.com

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

3. Subject Property Address: Middle Cheshire Rd

Nearest Road Intersection: Butler Rd

Tax Map Number: 97.04-1-58.200 Zoning District: R-1-30, R-1-20

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?  
The intent of this project is to build a new driveway that will start along Middle Cheshire Rd. and provide access to a new single family residence. The driveway will require an area variance for its proximity to the side lot line. The required setback for a driveway is 10' and the driveway will be located 3.08 and 2 feet, thus requiring a 6.92' and 8' variance for the proposed driveway.
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)

11/15/22  
\_\_\_\_\_  
(Date)

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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)

## 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. The variance will allow access to a parcel that would otherwise be landlocked based on current options for accessing the site.

- (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.

Based on the layout of the parcel this is the only access point to the site from Middle Cheshire Rd.

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

This variance is not substantial as it is for a driveway that has little impact on the site and adjacent properties

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

No adverse effect or impact will be created in regards to the physical or environmental conditions in the neighborhood. The retaining walls for the driveway will help stabilize a slope that is currently being eroded by the existing stream and will help prevent sedimentation further downstream.

- (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 difficulty was not self created. The parcel was purchased with limited access to the rear portion of the property. This is the only option to gain vehicular access to the rest of the property.

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CPN #: \_\_\_\_\_

## Sketch Plan Checklist

Applicant: Richard Nelson

Project Address: Middle Cheshire Rd

Tax Map #: 97.04-1-58.200 Zoning District: R-1-30, R-1-20

Project Description Narrative: \_\_\_\_\_

The intent of this project is to build a new driveway that will start along Middle Cheshire Rd. and provide access to a new single family residence. The driveway will require an area variance for its proximity to the side lot line. The required setback for a driveway is 10' and the driveway will be located 3.08 and 2 feet, thus requiring a 6.92' and 8' variance for the proposed driveway.

Sketch Plan Checklist – Chapter 220 §220-66 (Not required for any property in a major subdivision)	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.	x		
2) Lot lines.	x		
3) Land features including environmentally sensitive features identified on the NRI. (woods, streams, steep slopes, wetlands)	x		
4) Land use(s). (residential, agricultural, commercial, or industrial)	x		
5) Utilities. (i.e. location of electric, gas, well, septic, sewer, cable)*	x		
6) Development including buildings, pavement and other improvements including setbacks.	x		
7) Location and nature of all existing easements, deed restrictions and other encumbrances.	x		
B. Sketch plans shall be drawn to scale.	x		
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.	x		

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

11/15/22  
Date

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

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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: Richard Nelson  
5635 County Rd 30, Canandaigua, NY 14424

B. Name and Address of Applicant: Richard Nelson  
5635 County Rd 30, Canandaigua, NY 14424

C. Description of the proposed project: \_\_\_\_\_  
The intent of this project is to build a new driveway that will start along Middle Cheshire Rd. and provide access to a new single family residence. The driveway will require an area variance for its proximity to the side lot line. The required setback for a driveway is 10' and the driveway will be located 3.08 and 2 feet, thus requiring a 6.92' and 8' variance for the proposed driveway.

D. Project Location: Middle Cheshire Rd

E. Tax Map #: 97.04-1-58.200

F. Is any portion of the subject property currently being farmed?        Yes   x   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. Ronald & Amy Cecere - 5031 W. Ridge Run, Canandaigua, NY 14424
2. Triple T Ranch, LLC - 1953 Stablegate Dr., Canandaigua, NY 14424
3. RK Canandaigua Lake Farm, LLC - 189 Antlers Dr., Rochester, NY 14618

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.

\*\*\*\*\*

## FOR TOWN USE ONLY

**Circle Type of Application:**

Special Use Permit

Site Plan Approval

Subdivision

Use Variance

**Circle Review Authority:**

Zoning Board of Appeals

Planning Board

Town Board

**Notice Provision:**

Date when written notice of the application described in Part I was provided to the land owners identified in the Agricultural Data Statement.

\_\_\_\_\_

Date referral sent to the Ontario County Planning Department:

\_\_\_\_\_

\_\_\_\_\_  
Name of Official Completing Form

\_\_\_\_\_  
Date