

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

Zoning Board of Appeals

Wednesday, January 25, 2023, 6:00 p.m.

Rev. 2/26/2023

Notice of the format of the meeting, the agenda, and the video conference identification number were posted upon the Town website and in the Town's Newspaper of record.

MEETING MINUTES

MEETING CALLED BY: **Chip Sahler**

BOARD MEMBERS: **David Emery, Kelly LaVoie (R), Shannon Chevier**

ALTERNATE MEMBER:

SECRETARY: **Kimberly Burkard**

STAFF MEMBERS: **Shawna Bonshak, Town Planner Michael Warner, Zoning Officer**

Guests in attendance:

Catherine (R)	Erin Joyce (R)	Jamie Alexander (R)	Chuck Oyler (R)
Rick Nelson (R)	John Alvermann	Logan Rockcastle	

R=Remote Attendance

PLEDGE OF ALLEGIANCE

Mr. Sahler opened the meeting at 6:01pm.

MOMENT OF SILENCE

ZOOM MEETING PROCEDURE

CPN-22-093 Marks Engineering, c/o Jonathan Jones and Brennan Marks, P.E., 4303 Route 5&20, Canandaigua, N.Y. 14424; representing Richard Nelson, 5635 County Road 30, Canandaigua, N.Y. 14424; owner of property at 0000 Middle Cheshire Road. TM #97.04-1-58.200. Requesting two setback Area Variances from the parcel boundaries for a new driveway. A 6.92 foot setback variance (*3.08 feet when 10 feet is required*) and an 8 foot setback variance (*2 feet when 10 feet is required*).

Discussion:

Logan Rockcastle presented to the Board. The driveway itself needs a variance as this is a flag lot with a narrow area for the driveway. An easement with the neighbor for a driveway is not possible. Structures need to be built to cross the creek.

Ms. Bonshak said that there are numerous constraints on the property including wetlands. Mr. Rockcastle said that they are working with the DEC to get permitting to cross the creek and development in wetlands.

Neighboring parcel is also strangely shaped with a driveway running close to the area for the proposed driveway on the Kreiser parcel. A shared driveway/easement is not wanted by the neighboring property owner.

Mr. Sahler asked if they can approve with conditions to obtain proper permitting. Ms. Bonshak said they could.

Discussion about neighbor on the north side possibility offering a lot line adjustment. This will not help enough to avoid variances.

There is 20' of road frontage. Driveway is 12' wide. There is a 10' setback required for driveways from property lines. The proposed driveway positioning is the best possible. Parcel is unique shape.

A wetlands consulting firm has been consulted. Need variances to have Planning Board review.

Rick Nelson shared information about neighbor relations. He wants to add trees. House will not be visible. Parcel is 5.6 acres.

Neighbor to the south, Steven Hawryschuk at 3614 Middle Cheshire Road, shared additional information about his relations and legal actions with Mr. Nelson. Mr. Sahler said this discussion was not pertinent to the public hearing.

Mr. Sahler closed the public hearing.

Town of Canandaigua

5440 Routes 5 & 20 West
Phone (585) 394-1120

Canandaigua, NY 14424
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ZONING BOARD OF APPEALS DECISION NOTIFICATION

Public Hearing Opened: January 25, 2023
Public Hearing Closed: January 25, 2023

Meeting Date: January 25, 2023
Project: CPN-22-093

Applicant
Marks
Engineering, c/o
Jonathan Jones
and Brennan
Marks, P.E.,
4303 Route
5&20,

Owner
Richard Nelson,
5635 County
Road 30,
Canandaigua,
N.Y. 14424

Project Type
Driveway
Setback

**Project
Location**
0000 Middle
Cheshire Road,
Canandaigua,
NY 14424

Tax Map #
97.04-1-58.200

Type of Application

- ☒ Area Variance ☐ Use Variance
☐ Interpretation ☐ Rehearing

Variance/Interpretation Requested

Requesting two setback Area Variances from the parcel boundaries for a new driveway. A 6.92 foot set back variance (*3.08 feet when 10 feet is required*) and an 8 foot setback variance (*2 feet when 10 feet is required*).

A.) Shall the applicant be granted a 6.92' driveway setback variance?

B.) Shall the applicant be granted 8' driveway 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:

A. & B. Voting:

Shannon Chevier	<input checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
Bob Hilliard	<input type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained
David Emery	<input checked="" type="checkbox"/> AYE	<input 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 checked="" type="checkbox"/> AYE	<input type="checkbox"/> NAY	<input type="checkbox"/> Abstained

Deliberations:

Ms. LaVoie said that the Planning Board and other “hurdles” need to be crossed.

Mr. Sahler said that ZBA approval will be conditional on getting other permits.

Mr. Emery would like to hear Mr. Hilliard’s opinion. He said it was a substantial variance. The hearing would have to be continued if Mr. Hilliard (who is absent) is to comment on the application.

Ms. Chevier noted that there is limited ways to create a driveway on the property. Ms. Chevier asked if the driveway is 15’ at the road and not 12’. Mr. Rockcastle said that the apron within the right of way has to be 15’ but the rest of the driveway is 12’.

Reasons

- The benefit to the applicant does outweigh the detriment to the neighborhood and therefore the variance is granted. The decision is based upon the facts presented at the public hearing and the documents dated: 11/18/22, 12/2/22, 12/13/22, 1/5/23, 12/2/22.
- This is the only suitable location for the driveway because of the lot lines, topography, and narrow access to the lot. This is the only way to not make it land-locked.

- It is a considerable variance but it is necessitated by the size of the lot and road.

Conditions

1. The variance granted is specific to the plan presented to the Zoning Board of Appeals dated December 13, 2022. Any change in plans, shall invalidate the variance.
2. The variance is conditioned on the building permit being granted within one (1) year of the date the variance is granted. Failure to do so within one (1) year shall invalidate the variance.
3. The applicant will need to obtain a number of permits including from the DEC and Planning Board for this to be properly installed. The Environmental Conservation Board also noted that special driveway construction will be required for this site. The variance is contingent on meeting these requirements.

Certified By: _____ Date: _____