

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

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

TOWN OF CANANDAIGUA
DEVELOPMENT OFFICE

RECEIVED

APR 11 2019

REVIEW

CPN #:

19-027

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: JOHN AND JANICE SCHRIEFER
326 WEST BLOOMFIELD ROAD, PITTSFORD, NY 14534
Telephone Number of property owner: 585-690-1816
Fax # _____ E-Mail Address: JJ.SCHRIEFER@AOL.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: _____
THORNTON ENGINEERING, 30 ASSEMBLY DR., SUITE 106, MENDON, NY 14506
Telephone Number of Applicant: 585-624-4810
Fax # 585-624-8345 E-Mail Address: GLENN@THORNTONENG.COM

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

3. Subject Property Address: 4609 MISTY HILL DRIVE
Nearest Road Intersection: WEST LAKE ROAD
Tax Map Number: 140.07-1-41.100 Zoning District: R-1-30

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?
SINGLE FAMILY HOME CONSTRUCTION WITHIN A VACANT
1.376 ACRE PARCEL. AN AREA VARIANCE IS REQUESTED TO PERMIT
CONSTRUCTION OF THE HOUSE WITH A 33.0' FRONT SETBACK (60' REQUIRED)
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)

4/3/19

(Date)

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 "FACTORS TO BE CONSIDERED FOR
AREA VARIANCE EVALUATION"*

- (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.

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

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

- (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.

**Factors to be Considered for Area Variance Evaluation
Schriefer Area Variance Application
4609 Misty Hill Drive, Town of Canandaigua, NY**

TOWN OF CANANDAIGUA DEVELOPMENT OFFICE		
R E C E I V E D	<div style="border: 1px solid black; padding: 5px; text-align: center;">APR 11 2019</div>	F O R R E V I E W

- 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 requested area variance will allow placement of the Schriefer house with a front setback of 33 feet from the common driveway right of way in lieu of the 60 foot minimum front setback required by Town Zoning Code. The house is being constructed at the end of a private common driveway with only one other home using this portion of the common driveway. The Schriefer house which will be located several hundred feet from this neighboring house, will not cause an undesirable change in the character of the neighborhood since the spacing of homes will remain essentially unchanged. It is also noted that other houses in the neighborhood appear to be positioned as close as 40 feet to the common driveway right of way, apparently in conformance with prior zoning regulations for the subdivision.

- 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 site topography which includes a steep grade downward from the common driveway into the Schriefer parcel, requires placement of a significant volume of earth fill material to accommodate construction of a driveway with a negotiable grade. The requested placement of the house with a deficient front setback will allow construction of a shorter driveway with a satisfactory slope, constructed upon a significant amount of imported fill material. Moving the house further from the right of way will result in increased driveway grades, placement of a much greater volume of fill material, steeper slopes on graded areas, a significantly larger area of ground disturbance, and a higher risk of soil erosion, both during and after construction.

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

Although the applicant is requesting a 27 foot front setback relief, it is not believed that the requested variance is substantial since the setback requested asks for relief from setback requirements from a common driveway that is used by only one other residential property. Furthermore, since adjacent properties exhibit setbacks of about 40 feet along other portions of the common driveway, the requested variance only asks for 7 feet additional relief when compared to existing house placement.

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

The area variance will result in less ground disturbance, less imported fill placement, and flatter slopes within the parcel than would be created if development was to proceed without benefit of the variance. Therefore the variance is expected to benefit the neighborhood by lessening the temporary and permanent impacts expected from the proposed development. The single family residential home that is constructed within a 1.376 acre lot will be similar to

Factors to be Considered for Area Variance Evaluation
Schriefer Area Variance Application
4609 Misty Hill Drive, Town of Canandaigua, NY

other residential parcels in the neighborhood and will not cause any adverse impacts on the existing physical or environmental conditions.

5. *Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance*

The request for an area variance is due to the steep terrain and the elevation of the existing common driveway which renders zoning code compliant development very difficult to achieve and unnecessarily disruptive to the Canandaigua Lake watershed environment. The site topography, common driveway elevation, and Town driveway standards, which are key reasons why the variance is needed, are factors that are outside the control of the applicant. The variance request can therefore be argued as not being self created but simply needed to develop the property in the most environmentally conscientious manner.

Town of Canandaigua

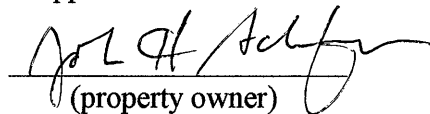
5440 Routes 5 & 20 West

Canandaigua, NY 14424

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

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

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)