

Town of Canandaigua

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

Canandaigua, NY 14424
Fax (585) 394-9476

TOWN OF CANANDAIGUA
DEVELOPMENT OFFICE

FOR
REVIEW

APR 12 2019

Zoning Board of Appeals Decision Notification

Public Hearing Opened: January 15, 2019

Meeting Date: February 27, 2019

Public Hearing Closed: February 27, 2019

Project: CPN-18-088

Applicant

Peter Sorgi

Owner

Summitt PPX2911,
LP

Project Type

Construction
of
stone/concrete
wall & stairs

Project Location

3400 Poplar Beach

Tax Map #

98.15-1-1.100

TYPE OF APPLICATION:

☒ Area Variance ☐ Use Variance ☐ Interpretation ☐ Rehearing ☐ Type I ☒ Type II

Variance/Interpretation Requested: Shall the applicant be granted an area variance to construct a stone/concrete wall and stairs within 0' of Mean High Water mark of Canandaigua Lake. Applicant has applied for a 15' MHW setback variance.

☐ Unlisted
☐ See Attached resolution(s)

Negative Declaration Date:

Positive Declaration Date:

APPLICANT REQUEST:

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

VOTING:

David Emery	<u> x </u> AYE	<u> </u> NAY	<u> </u> Abstained
Chip Sahler	<u> x </u> AYE	<u> </u> NAY	<u> </u> Abstained
Kelly LaVoie	<u> x </u> AYE	<u> </u> NAY	<u> </u> Abstained
Bob Hilliard	<u> x </u> AYE	<u> </u> NAY	<u> </u> Abstained
Terence Robinson	<u> x </u> AYE	<u> </u> NAY	<u> </u> Abstained

REASONS/CONDITIONS:

The Board's decision is based on facts presented during the Public Hearing at the January 15, 2019 and February 27, 2018 meeting as well as information received January 3, 2019 December 14, 2018. See attached findings.

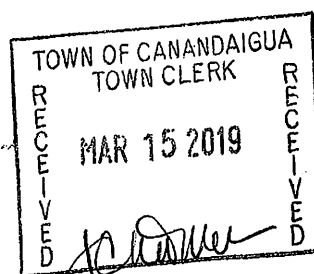
CONDITIONS:

1. The variance granted is specific to the plan presented to the Zoning Board of Appeals dated 04/09/2015, no revisions noted, and received by the Town on 12/14/2018. Any change in plans shall invalidate the variance.

2. The variance is conditioned on building permits being issued within one (1) year of the date the variance is granted. Failure to obtain building permits within one (1) year shall invalidate the variance.

Certified By: *Terence Palmer*
Chairperson, Zoning Board of Appeals

Date: *March 12, 2019*



TOWN OF CANANDAIGUA
ZONING BOARD OF APPEALS

Summit PPX 2911 LP
3400 Poplar Beach Road
Tax ID # 98.15-1-1.100

FINDINGS

1. Applicant is seeking an area variance to allow a retaining wall within 25 feet of the mean high water mark of Canandaigua Lake.
2. The subject property is located in the RLD-Residential Lake District.
3. The proposed retaining wall is approximately 76.4 linear feet of masonry, stone, and mortar.
4. Applicant received a permit from the NYS Department of Environmental Conservation to construct this retaining wall. The permit was issued by the DEC on December 31, 2014.
5. The NYS Department of Environmental Conservation has not found the retaining wall to be in violation of the permit it issued.
6. It is not the policy of the Town of Canandaigua or the Zoning Board of Appeals that retaining walls should be allowed within 25 feet of the Mean High Water Mark of the Town of Canandaigua. However, the subject retaining wall has been in place for three years and the Zoning Board of Appeals has not been made aware of any detriment to the environment or the neighborhood.
7. Protracted litigation related to the location of the retaining wall has taken place in New York State Supreme Court, Ontario County. The Town Attorney suggested that the applicant seek this variance as a means to resolve said litigation.
8. The Zoning Board of Appeals has previously heard testimony from Rocco Venezia, PLS, that the retaining wall is located below the Mean High Water Mark of Canandaigua Lake.
9. The Zoning Board of Appeals has received an email in support of granting this variance from Sal and Jackie Lecesse, owners of the adjacent property at 3410 Poplar Beach. This email states that "[w]e feel this stone wall is attractive and the wall and stairs will only add to property values and not provide any detrimental effect on the subject property, the neighbors, or the neighborhood."

- 10.** No party has opposed this application.
- 11.** The Zoning Board of Appeals took notice to the fact that the construction of the retaining wall did not extend the Applicant's property into Canandaigua Lake.
- 12.** There is no feasible method by which the applicant can achieve the desired result. The subject wall has been in place for over three years. Removing it would impose an enormous expense on applicant.
- 13.** The requested variance is not substantial. The proposed wall is essentially built at the Mean High Water Mark of Canandaigua Lake.
- 14.** The alleged difficulty was not self-created. The Zoning Board of Appeals has previously heard testimony that the difficulty was caused by erroneous advice from a contractor.