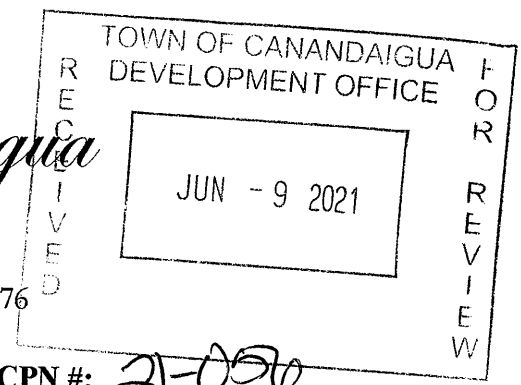


Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

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



CPN #: 21-050

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: Canandaigua Crossings, LLC
415 Park Avenue, Rochester, NY 14607

Telephone Number of property owner: _____

Fax # N/A E-Mail Address: _____

****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*: Bill Dowell
Apogee Development, LLC PO Box 810, Canandaigua, NY 14424

Telephone Number of Applicant: (516) 880-4502

Fax # _____ E-Mail Address: bill.dowell@gmail.com

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

3. Subject Property Address: 2536 Rochester Road

Nearest Road Intersection: Rochester Road & Parkside Drive

Tax Map Number: 70.11-01-7.110 Zoning District: CC

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?

See Letter of Intent

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)


(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 Letter of Intent

- (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.

See Letter of Intent

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

See Letter of Intent

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

See Letter of Intent

- (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.

See Letter of Intent

Town of Canandaigua

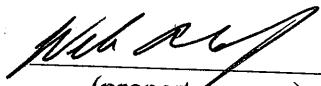
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***Property Owner is responsible for any consultant fees
(Town Engineer, Town Attorney, etc.) incurred during the application process.***

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)

(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.

Front & Rear Setback – The requested reduction in the front and rear setbacks will not produce an undesirable change in the neighborhood or impact nearby properties. Both the Tom Wahl's property to the north and the Monro Auto Service property to the south have buildings located with similar setbacks to that requested with this application from the right-of-way. The requested relief is also closer to the desired front setback proposed within the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor, which proposes a 10' minimum setback.

Open Space – The requested reduction in the open space requirement from 40% to 32.2% will not cause an undesirable change in the neighborhood or impact nearby properties. The Green Space of the property is 35.7%, however per the code stormwater facilities (bio-retention areas) are not allowed to be included in the calculation, reducing it to 32.2%. The project also proposes patio areas for outdoor seating, which was recommended as part of the sketch plan application and is consistent with the goals of the draft Form Based Code for this area.

(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.

Front & Rear Setback – No, the benefit sought by the applicant cannot be achieved by another method other than an area variance. The enclosed Zoning Setback Exhibit shows the developable area, which would be allowed under the existing zoning that is not adequate to support development on this property.

Open Space – This benefit could be achieved by reducing the proposed parking for the development to increase the open space; however, this would have negative impact on the parking provided for the proposed development. The code also does not allow for stormwater practices to be included in the open space calculation, and inclusion of those practices brings the open space at the project site to approximately 35.7%. The project includes patio areas, which were requested during sketch plan review that could have also been provided as open space. The proposed open space at the project site is greater than the 15% requirement currently indicated within the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor.

(3) Whether the requested area variance is substantial.

Front & Rear Setback – The requested front setback from 150' to 57' is substantial, however the requested reduction is still greater than the 10' minimum indicated within the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor.

Open Space – The requested open space reduction from 40% to 32.2% is not substantial and will not cause a noticeable difference to patrons visiting the property. The proposed open space at the project site is greater than the 15% requirement currently indicated within the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor.

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

Front & Rear Setback – The requested setback reductions will not have an adverse effect or impact on the physical or environment conditions in the neighborhood. As described previously, the requested relief is necessary for the development of the property and is consistent with the surrounding developed properties and is closer to the goals of the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor.

Open Space – The requested open space reduction will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. The site plan design includes necessary stormwater facilities to manage stormwater runoff from the development, and also includes a robust landscape plan for the site that will contain more plantings than the adjoining properties.

(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.

Front & Rear Setback – The difficulty of the request is not self-created, but is the result of the existing zoning requirements, which when applied, do not leave adequate developable space on the property due to its triangular shape.

Open Space – The requested open space reduction is self-created; however, it is necessary to be able to develop the project site and provide adequate parking areas and stormwater facilities. Also, the application chose to propose outdoor patio space in lieu of green space as a result of sketch plan review. Also, per sketch plan review, the building footprint was reduced by 25% and a second story element added which reduced building lot coverage to a value of 11%. The proposed 32.2% open space would satisfy the minimum 15% requirement within the Working Draft of the Uptown Canandaigua Form Based Code for the New York State 332 Corridor.

We believe the above information supports that the benefit being sought by the applicant is not to the detriment to the health, safety, and welfare of the community. Both the setback and open space relief requested are necessary to enable development on the property, while all other lot standards are met.

We request the ZBA to review this information, including the Short Form EAF Part I. If you require any additional information prior to your July 20, 2021 meeting, please contact our office.

Sincerely,
BME ASSOCIATES



James G. Cretekos, P.E.

/jgc

Enclosure

c: Bill Dowell; Apogee Development