David Kernan
1107 Sheldon Drive
Altamont NY, 12209

3063 Carleton Island Rd 1
Cape Vincent NY

February 5, 2024

Town of Cape Vincent Zoning Board of Appeals
c/o Cody Higgins
Email address: codyh32686@gmail.com

Re: Objection to Application for Special Use Permit with Revised Site-Plan and Area Zoning Variance To Enable Development of a Campground on Carleton Island

Dear Members of the Zoning Board of Appeals:

This letter is addressed to the Town of Cape Vincent Zoning Board from myself and my six siblings who are sole members of the William Kernan Carleton Island Club LLC (the "LLC").

It is submitted in opposition to the revised Special Use Permit and area zoning variance sought by Ronald Clapp to establish a campground on Carleton Island.

Objection To Special Use Permit

We submitted objections to Mr. Clapp's original Special Use Permit application by letter to the Zoning Board of Appeals dated November 30, 2023. In the original site plan for his Special Use Permit application, Mr. Clapp proposed a campground with 18 permanent cabins and 5 permanent "safari tents." Our understanding is that Mr. Clapp has now amended his application for a Special Use Permit by revising the site plan to include only 12 permanent cabins and no "safari tents." Our understanding is that Mr. Clapp has also submitted an application for an area zoning variance because even the campground shown in the revised site plan is not feasible unless the 200 foot required setbacks for buildings adjacent to North and South Bays are reduced to 100 feet. (While the Zoning Board could conceivable grant a variance reducing the setbacks to less than 100 feet, the building of structures less than 100 feet from the shore is prohibited by a deed restriction applicable to the proposed campground site.)

This letter is primarily to state our objection to granting the property an area zoning variance but, before addressing that matter, we wish to state that our objection to the issuance of a Special Use Permit remains unchanged notwithstanding the reduction of

proposed dwellings in the revised site plan from 18 cabins and 5 tents to 12 cabins and no tents. The essence of the arguments presented in our November 30, 2023 letter remain unchanged, to wit: permitting numerous campground customers to set up temporary housekeeping at the proposed campground site profoundly degrades the use and enjoyment of the Island by its permanent (summertime) residents and exposes the permanent residents, the campground customers and the Town of Cape Vincent to the risk or emergencies--be they medical, criminal, fire-based, nuisance or environmental--in a place that could be difficult or impossible to reach by first responders on a timely basis. Any claim by Mr. Clapp that these risks can be mitigated by supervisory personnel employed at the campground should be weighed against the likely cost of such personnel and likely revenue stream generated by the campground and a realistic assessment of whether any such claims could or would be honored over the long-term.

Objection to Area Zoning Variance

The balance of this letter addresses the five criteria that New York law requires the Zoning Board to take into account in determining whether to grant the property an area zoning variance.

Exhibit A attached to this letter shows a revised site plan submitted by Mr. Clapp with 8 cabins and a washroom/bathroom located on the neck of the Island and an additional 4 cabins located behind, i.e., northeast of, the Villa. It is clear from Exhibit A that few or none of these structures could be built in compliance with the 200 foot setback from the shore as required by the zoning law. An area zoning variance permitting a 100 foot setback would permit these structures.

New York Town Law § 267-b 3. states:

3. Area variances. (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(b) In making its determination, the zoning board of appeals shall take 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 by such grant. In making such determination the board shall also consider: (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; (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; and (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.

We will address the benefit to the applicant and each of the five criteria.

The benefit to the applicant if the variance is granted.

It is unclear what benefit Mr. Clapp will derive if the zoning variance is granted. In various postings in online social media and local print media, he has touted the benefits that the Town of Cape Vincent and the general public would derive if the Carleton Island Villa were restored. We agree that the restoration of the Carleton Island Villa would be highly beneficial to the town and the general public. However, the zoning variance sought be Mr. Clapp have nothing to do with the restoration of the Villa. He seeks the zoning variance to build a campground behind the Villa and on the Neck of Carleton Island. Presumably Mr. Clapp would have a benefit if he could generate income from operating or selling the campground but the short use season, substantial capital investment and ongoing costs of developing and operating the campground make it unlikely that Mr. Clapp or any subsequent owner of the campground would see positive income from its operation for many years, if ever. In his presentation to the Town of Cape Vincent Planning Board on October 11, 2023, Mr. Clapp suggested that the campground could provide lodging for contractors working on the Villa. Yet the necessity or even the appropriateness of the campground for the restoration of the Villa seems preposterous if one undertakes a sober analysis of the economics of the campground and Villa restoration projects. Accordingly, it is difficult to see what benefit Mr. Clapp will derive from the variance other than a potential increase in the resale value of his property on Carleton Island.

(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.

We have already stated in our November 30, 2023 letter that the establishment of a campground on the neck of Carleton Island will undermine the quiet and safety currently enjoyed by the permanent residents on the Head of Carleton Island. Exhibit A shows the eight dwellings currently extant on the Head of Carleton as little yellow squares with "Xs"--four lie west of the Villa property and four east of the Villa property. Three of the dwellings lying west of the Villa property belong to our LLC and function simply as guests houses for our main house lying east of the Villa. In effect there are at most five households currently on the Head of Carleton Island. Granting the area variance would permit the construction of 12 cabins adding potentially another 12 households to the head of Carleton. Not only would this more than triple the number of households on the Head of the Island, but the occupants of these additional 12 households would be renters without permanent investment in the peace, beauty and safety of the Head of the Island.

(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.

It appears highly unlikely or impossible for the campground to be constructed without the area variance. Nearly all of the land on the Neck of the Island, which is the primary site for the campground, is within 200 feet of the shore.

(3) Whether the requested area variance is substantial.

The requested variance is certainly substantial. It seeks the reduction of the required setback in an environmentally sensitive area by 50%. We note that a reduction of the setback by 25% or 50 feet would leave Mr. Clapp sufficient space to construct a single family dwelling on the Neck of the Island which is a use contemplated by the deed restrictions that cover most of the Island. In effect, Mr. Clapp is seeking a 50% reduction in the setback because that is essential to bringing a commercial enterprise to the Island which will itself require a Special Use Permit. This is substantially greater than the area variances granted by the Zoning Board, at least as reported in the Board's minutes since January 2022. One wonders, if the variance were granted, what would ever be denied.

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

Because the proposed variance would enable the construction of the campground, it would have a significant adverse impact on physical and environmental conditions in the neighborhood.

The adverse environmental impacts must be addressed eventually and may preclude the construction of the campground even if the area variance were granted. Clearing the woods on the Neck of Carleton Island will make it more difficult for native wildlife to move between the Head and the Body of the Island, will increase the risk of storm and possibly sewer run-off seeping into North and South Bay, and will increase the risk of shoreline erosion particularly given the variation in water levels over the past few years[1]; the construction of the campground will greatly increase boating activity in North and South Bay and make both bays less desirable for fishermen and weekend boaters who drop anchor in North Bay to swim and sunbathe. The campground will create issues of human waste and trash removal. The greatly increased use of North

[1] Exhibit B attached to this letter is a photograph showing the 2017 flooding of the Kernan and Millar boathouses on the western edge South Bay where Mr. Clapp proposes to build substantial docks.

Bay will likely force us (the Kernan LLC members) from pumping water from North Bay into the plumbing system for our cabins adjacent to North Bay.

(5) *Whether the alleged difficulty was self-created.*

Mr. Clapp is a developer who bought the Villa and the land on the Neck of Carleton Island in 2022 presumably with the intention of commercial development. It goes without saying that even rudimentary due diligence on his part would have revealed the obstacles presented by the Town of Cape Vincent Zoning Law. Either he failed in his rudimentary due diligence or he chose to ignore those obstacles with the expectation that he could persuade the Zoning Board to remove them.

Conclusion

We, the members of the William Kernan Carleton Island Club LLC, are all in favor of commercial development in the Town of Cape Vincent and we would love to see the Carleton Island Villa restored. But Mr. Clapp's proposed campground violates the guardrails placed commercial development in Cape Vincent by its Joint Comprehensive Plan and Zoning Law and, realistically, has nothing to do with the restoration of the Carleton Island Villa.

Sincerely,

David Kernan

cc: James Burrows, Esq. jburrows@kwbattorneys.com

COMFORT STATION

CABIN

Legend

- Site Boundary
- Major Contour
- Minor Contour
- Easement
- 100' Shoreline Buffer
- Fence
- Existing 50' R.O.W.
- Landscape Buffer
- Beach
- 6' wide Cobblestone paved path
- 6' wide mulch/gravel path
- 3' wide mulch/gravel path
- Private access path
- Low Landscape or Bush
- Existing Coniferous Trees to remain
- Existing Deciduous Trees to remain
- Point of Interest, Community Fire pit with benches

EXHIBIT A

SITE DATA:	
CABINS 14' wide x 34' long includes 6' front porch	11
ONSITE MANAGEMENT CABIN 14' wide x 34' long includes 6' front porch	1
TOTAL	12

Total Lot Area= 6.9 Ac.
Open/Green Space Area= 6.63 Ac.
Percentage of Open/Green Space= 96.08%

Total Gross Floor Area:
Comfort Station = 1,200 S.F.
Cabins (12) = 5,712 S.F.
Carleton Villa = 15,000 S.F.
Total = 21,912 S.F.

Note:
1.Each unit shall have a picnic table, fire pit, grill and solar panel.

Zoning Law: Town of Cape Vincent

Section 3.7 Islands District
1. Intent:
The Islands District consists of five islands within the boundaries of the Town of Cape Vincent. They include Grenadier, Little Grenadier, Fox, Carleton, and Linda Islands. Carleton and Grenadier Islands have historic areas of interest as confirmed by the New York State Office of Parks, Recreation, and Historic Preservation. As such, land use on or near any area of historic interest will be taken into consideration during the approval process. This district represents the most distinctive land-use zone within the Town. Residents of the Islands District have a unique property and living arrangement; one that is both unconventional and independent. Residents do not want or need elaborate infrastructure development. The land-use plan for this District is focused principally on encouraging quality residential development with some capacity for limited, controlled commercial development, for example, restaurant, hotel, bed and breakfast.

2. Lot Requirements:

Table 7	Area Minimum	Frontage Minimum	Setbacks Minimum			Height Maximum
USE			Front	Side	Rear	
Permitted	Five (5) Acres	300'	200'	50'	50'	35'
Special Use Permit	Five (5) Acres	300'	200'	50'	50'	35'

Section 7.12 Recreational Resorts:
1. Intent
In order to take maximum advantage of the unique characteristics of this area, a designation of Recreational Resorts is established for campgrounds and RV parks.

2. The term Recreational Resort shall be construed to include all related functions normally associated with transient resorts, such as, but not limited to:

a. Tent camping sites
b. RV camping sites
c. Seasonal motor home sites
d. Cabins, motel units
e. Bathhouse, restroom facilities
f. Marinas
g. On-site convenience stores
h. On-site laundromat
i. Swimming pools
j. Swimming beaches
k. On-site recreation such as golf
l. Restaurant

3. All applicable local, county, and state regulations shall be followed.

PRIME CONSULTANT

nadigroup

CANADA
295 Berry St, Suite 300
Winnipeg, MB R3C 1H9

USA
2100 Livernois Rd, Suite 130
Troy, Michigan, 48083

NOTES

Do not scale drawings. Request verification of dimensions as required.

Drawings represented in these documents are for information purposes only and shall not be used for construction.

Copyright reserved. All parts of this drawing are exclusive property of Nadi Design and Development Inc. and shall not be used or reproduced without their permission.

FOR INFORMATION ONLY.
NOT FOR CONSTRUCTION.

No.	Date	Issue Notes

No.	Date	Revisions Notes

PROJECT TITLE:
CARLETON VILLA

PROJECT ADDRESS:
Carleton Island Rd. 1
Tax Map Parcel No. 39.27-1-16 in Town of Cape Vincent

CLIENT:
Carleton Villa, LLC.
Applicant: Ron Clapp
Address: 146 Centre Street, Cape Vincent, NY 13618

SUB-CONSULTANT:

SHEET TITLE:
SITE PLAN

DRAWN BY: NS
REVIEWED BY: NS
DATE: 1/4/2024
PROJECT ID: 23-072

SCALE: AS NOTED
PAPER SIZE: 36"x24"
SHEET #:
L10

EXHIBIT B