

# *Town of Canandaigua*

5440 Routes 5 & 20 West  
Canandaigua, NY 14424

## **ORDINANCE COMMITTEE**

**Monday August 3<sup>rd</sup>, 2020, at 9:00 AM**

Rev. 8/6/2020

## **MEETING REPORT**

|                           |                             |                      |                     |
|---------------------------|-----------------------------|----------------------|---------------------|
| <b>MEETING CALLED BY:</b> | <b>GARY DAVIS</b>           |                      |                     |
| <b>COMMITTEE MEMBERS:</b> | <b>GARY DAVIS</b>           | <b>JOHN CASEY</b>    |                     |
|                           | <b>CHUCK OYLER</b>          | <b>TOM SCHWARTZ</b>  | <b>BOB HILLIARD</b> |
| <b>SECRETARY:</b>         | <b>ERIC COOPER (ABSENT)</b> |                      |                     |
| <b>GUESTS:</b>            | <b>TERRY FENNELLY</b>       | <b>JARED SIMPSON</b> |                     |
|                           | <b>DOUG FINCH</b>           | <b>BOB MINCER</b>    |                     |

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*This meeting was held via Zoom. A video recording of the meeting is available for review in the Development Office.*

### **PRIVILEGE OF THE FLOOR**

Chair Davis opened the meeting at 9am.

### **COMMITTEE BUSINESS**

#### **- Airport Disclosure Statement**

- Councilmember Davis introduced Bob Mincer, Manager of Strategic Assets and Airport Manager at Canandaigua Airport. Mr. Mincer had previously reached out to the Planning Board to request they investigate some solution to the potential conflict between proposed residential development and the airport. One solution discussed is a disclosure statement for new development.
- Councilmember Fennelly asked how the Town currently treats development and farmland disclosures. Mr. Finch noted how we put this on Site Plans, state required ag data statements.
- Councilmember Fennelly asked whether people would actually see those notes. Mr. Finch answered that they may initially but this becomes more difficult over time. Mr. Oyler asked whether these must be signed off on by the buyers. Mr. Finch noted that sometimes it may be depending on the rules.
- Councilmember Davis asked who would enforce this. Mr. Finch responded that the Town Board could prepare a local law similar to the On-Site Wastewater, but questioned whether the need to do so was apparent.
- Mr. Mincer briefly described the plans for expansion of the airport.
- Mr. Schwartz and Mr. Casey questioned the need for such an ordinance.
- Mr. Oyler requested that the Planning Board condition approval on the plans containing an appropriate note rather than requiring a deed disclosure statement. The Committee and guess agreed to this proposal.

#### **- Watercourse Setback**

- Mr. Oyler read an email from Eric Cooper, Town Planner, detailing the issue as it exists in Town Code today.

■ *"For background, we have been enforcing this 100 ft. setback faithfully for some time. In reviewing a recent permit, I originally denied it because it was within 100 ft. of the stream. The applicant discussed it further with me where he challenged my interpretation of Town Code, specifically that clause about "carrying water on an average of six months of the year". In my diligence, I considered his objection.*

*"While the Town does have a list of streams and watercourses, we do not keep track of how often each flows. Doing such a study would require continual monitoring of each stream for numerous year to find that average time carrying water. I contacted Kevin Olvany to see whether he had such information. He told me he did not, and that he has for some time objected to that clause which had now become an issue. I also reached out to NYS DEC to investigate whether they had that information and whether there was anything inherent in their definition of a Class C stream (as this stream and most are within the Town) that necessitates it carrying water for 6 months. As with Kevin, the DEC did not have that information and it is not inherent in their classification. Without that information, enforcement is an issue. As added context, this is a old section of code, dating back at least to 1985 in its current form so the intent and original use is unknown.*

*"To avoid future confusion, delay and objection to a section of Code that we do not have the information to enforce, I am suggesting that we define a "protected watercourse" that is essentially a copy of the DEC's stream definitions and maps and require 100 ft. from such watercourse. Chris Jensen reviewed the draft as well and is good with current language."*

- Mr. Schwartz asked whether the Drainage Ditches in Uptown are still considered "protected watercourse." Mr. Finch pulled up the map noting that they are considered a Class C stream. The question largely related to how the Town will enforce setback requirements on Watercourse that have been previously modified.
- The Committee agreed with moving the draft as prepared by Mr. Cooper and presented by Mr. Oyler forward.
- Councilman Davis asked how often DEC maps are updated. Mr. Oyler replied that they may be updated every few years. *Editor's Note: DEC stream maps have generally not been updated since the 1970's. GIS information was created in 2008.*

#### **Zombie Property**

- Mr. Finch introduced the idea of Zombie properties to the Committee and the history of the Committee's efforts on Property Maintenance. NYS provides a definition for zombie properties and has passed legislation in recent years in an effort to fight blight. He highlighted an example whereby a lender is required to establish a surety when entering the foreclosure process.
- Mr. Schwartz asked what the Town would do if the Bank does not communicate with the Town. Mr. Finch stated that if the Local Law is not complied with a lien would be placed on the property.
- Mr. Oyler requested information on fire and safety requirements for zombie properties. Mr. Finch responded that this could be a part of the Town's zombie property law if the Committee wished to go to that extent.
- In discussion of existing problem properties, Mr. Finch noted that owner occupied properties would not be covered by a zombie property law.

- The Committee felt comfortable with moving forward with a draft Zombie Property Law and a draft would be prepared.
  - Mr. Casey asked whether the Town was prepared to enforce this. Mr. Finch responded that with regards to lawn maintenance, the Town is. With regard to property improvements that is a question to be answered.
- **Permeable Pavers**
- Mr. Casey introduced this issue. He notes that the ZBA looks favorably on using permeable pavers and the existing zoning code looks unfavorably on these materials despite their beneficial use. Mr. Hilliard echoed this.
  - Councilmember Fennelly questioned how this might be implemented, whether using the manufacturers data on permeability to discount lot coverage.
  - Mr. Finch brought up the history of the Lot Coverage regulations approved in 2015, where similar details were discussed. At that time, the Board decided to limit the inclusion of permeability due to its administrative difficulty and enforcement after the fact.
  - Mr. Hilliard suggested bringing in developers who the Town hears from often to help draft such a code.
  - Mr. Schwartz suggested that any code limits its applicability to driveway areas and a certain percentage of lot coverage.
- As the meeting drew to a close, Mr. Schwartz asked for an update on Short Term Rentals. Mr. Finch replied that we need a registration system and the Town can work towards that.

**Upcoming Meetings:**

- **September 8<sup>th</sup>, 2020 @ 9:00 am**
  - **TBD**

**Adjournment @ 10:00 am**