

# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424

## ORDINANCE COMMITTEE – ENVIRONMENTAL CONSERVATION BOARD JOINT SPECIAL MEETING

Wednesday March 17th, 2021, at 10:00 AM

Rev. 4/14/2021

### MEETING REPORT

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MEETING CALLED BY: GARY DAVIS

ORDINANCE COMMITTEE MEMBERS: GARY DAVIS JOHN CASEY CHUCK OYLER  
BOB HILLIARD TOM SCHWARTZ

ENVIRONMENTAL CONSERVATION BOARD MEMBERS: JARED SIMPSON EDITH DAVEY  
PATRICIA VENEZIA GARY KOCHERSBERGER

SECRETARY: KIMBERLY BURKARD

GUESTS: TERRY FENNELLY SARAH REYNOLDS SUSAN SHAW  
CHRISTOPHER JENSEN KEVIN OLVANEY CATHERINE MENIKOTZ  
SAL PIETROPAULO ADELINE RUDOLPH JENNIE HEDWORTH  
MIKE GREENE JIM NEWTON BILL GRUSCHOW

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#### PRIVILEGE OF THE FLOOR

Chair Davis opened the meeting at 10:05 am and welcomed Environmental Conservation Board (ECB), Ordinance Committee members, and guests to this special joint meeting. The purpose of the special meeting was to gather data from all parties including the ECB so the Ordinance Committee can discuss and make determinations on these issues at their April 5, 2021 meeting.

#### COMMITTEE BUSINESS

- **Permeable/Pervious Pavers**

- Mr. Davis invited Mr. Jensen to share information on the permeable pavers with the audience.
- Mr. Jensen explained that in the existing code that pervious pavement, pavers, and related materials are considered lot coverage and in his opinion that should stay that way. He continued:
  - It is only in the residential lake-district that this has a significant impact and that a vegetative buffer between developments and the lake is necessary.
  - Maintenance, such as vacuuming or cleaning, is required for proper functioning of permeable surfaces and that there is no enforcement of that maintenance on private property.

- He showed examples of permeable surfaces such as grass/paver combinations that don't require the same maintenance and can have a lower lot coverage percentage as only the paver portion counts towards the lot coverage.
  - He cited examples of car dealerships that installed permeable pavement surfaces but the surfaces have not been maintained and/or since have been seal coated over that surface. He explained that equipment like a vacuum truck are required to properly maintain these surfaces.
- Mr. Casey disagreed with needing a vacuum truck to maintain the surfaces and suggests that simpler methods such as sweeping or washing may be sufficient if there is special attention to any mold or dirt buildup. He believes that we should, as a community, encourage the use of permeable systems for lake health but that there are currently no benefits for residents to install them. He also noted that in recent Zoning Board meetings that a number of written recommendations from the ECB on variance requests have recommended permeable pavers and so a precedent has been set. Mr. Hilliard agreed that this precedent has been set.
- Mr. Olvaney agreed with Mr. Jensen's point that maintenance of the permeable systems is a critical piece to address. He further noted
  - That the DEC addresses this in their Stormwater manual with standards that must be met for such surfaces that could be leveraged in crafting Town codes. (DEC Maintenance Guidance for Stormwater Management Practices, [https://www.dec.ny.gov/docs/water\\_pdf/smpmaintguidance.pdf](https://www.dec.ny.gov/docs/water_pdf/smpmaintguidance.pdf))
  - He believes that permeable pavers should be part of the techniques used and that when they are installed and maintained properly, that they can do a very good job of infiltration. But if they are not maintained, their infiltration rates are dramatically reduced.
  - Mr. Olvaney also noted that there were changes made in the code a few years ago to better reflect lot coverage for smaller lots and pre-existing conditions in order to reduce the number of variances by allowing up to 40% lot coverage. He is concerned about any potential changes to code that would allow "bonus" lot coverage if permeable pavers are used on these smaller lots.
  - Mr. Olvaney is going to review and report back on the South Bristol lot coverage allowance requirements which he believes are much stricter at 25% with a 50% discount on permeable pavers going in—ex. 1000 sq. feet considered as 500 sq. feet. He noted that this may have negative impact of allowing more structure to be put in place.
- Mr. Simpson shared that Ms. Hooker, who could not attend the meeting, was in support of the permeable surfaces depending upon the infiltration levels.
- Ms. Davey noted that the language being used should be changed to "infiltrative surfaces" as that covers various technologies beyond just "pervious pavers." She also believes that we must assume the good will of the homeowners that install these surfaces to keep them maintained.
- Mr. Jensen agreed that maintenance is unenforceable on private property and relatively so on commercial properties as any enforcement would require legal action. He also noted that surfaces that are a combination of grass and stone/paver are easy to see if they are working—if the grass is growing, they are working as

designed—and that calculating lot coverage for these surfaces is easy as it is only the percentage of the stone/paver surface used and not the grass portions. He also noted that there are few installations of the permeable asphalt in our town and that some have paved it over because the owners did not like the “gritty” feel of it.

- Mr. Simpson added to this conservation that it is key to not create a situation that is unenforceable. He also brought up the point that while the original homeowner may have been committed to maintaining this surface, subsequent owners may not be and could pave over it or take other such actions to which there is no recourse. He further noted that care should be taken not to focus on only one technology type (ex. permeable pavers) as there are multiple infiltrative surface technologies. He also agreed that the ECB should remain a key stakeholder going forward in decisions about this technology and its use.
- Mr. Jensen suggested revising the lot coverage chart set a few years ago:
  - 40% < 10,000 sq. ft.
  - 35% 10,000 – 20,000 sq. ft.
  - 25% > 25,000 sq. ft.

to drop the percentages and allow homeowners to increase those percentages, not going over the 40% - 35% - 25% amounts, by using permeable surfaces. This would be an incentive to use those surfaces.

- Ms. Davey added that a realtor, in the sale of homes with permeable surfaces would be key in communicating maintenance needs, requirements, and benefits of these surfaces to potential homebuyers. This would be a disclosure requirement.
- Mr. Jensen noted some other water mitigation technologies such as rain gardens have an esthetic appeal in landscaping. He also feels that the set back on structures requirements must remain as is to keep the green buffer between structures/pavement and the lake. He will also work with Mr. Olvaney to see what South Bristol has documented on this issue for the April 5<sup>th</sup> meeting.

- **Billboard Signage**

- Per Mr. Davis there are:
  - RTE 332, one billboard (near the driving range)
  - RTE 21, one billboard
  - RTE 5&20, two billboards (near Big Lots)

All four of these billboards are being removed by company and the 332 and Big Lots ones are being replaced by digital signage.

- Mr. Jensen noted that town code does not allow signs that are flashing, have changeable content, intense lighting, or changeable copy other than gas station prices.
- Ms. Menikotz explained the legal issues/litigation concerning removing the signage and that as a settlement with Lamar, these two new signs would be put in—with no code being changed to allow other billboards and with the settlement agreement coming before parties yet to be determined for approval. There was a presentation by Lamar, with graphics, that may help the settlement approval process. Ms. Menikotz also explained that if portions of a law are unenforceable, it does not prevent other portions of the law from being enforced and the portion

that was found unconstitutional (the amortization section) can be removed or rewritten to plainly state no billboards allowed.

- Mr. Jensen suggests that we use the standard process to approve this signage—that the company make an application to the Planning Board and then file a variance with the Zoning Board. Most specifically, the company could make an application for the two new billboards proposing removing of the four billboards with Zoning Board making findings on that. This suggestion will be passed by Mr. Davis to the Town Attorney for comment.

**Upcoming Meetings:**

- **April 5<sup>th</sup>, 2021 @ 9:00 am** <https://us02web.zoom.us/j/85864213663>
  - **Permeable Pavers**

**Adjournment @ 10:55 am**