

# Town of Canandaigua

5440 Routes 5 & 20 West  
Canandaigua, NY 14424

## ORDINANCE COMMITTEE

Monday August 9, 2021, at 9:00 AM

Rev. 9/7/2021

## MEETING REPORT

---

MEETING CALLED BY:	GARY DAVIS		
COMMITTEE MEMBERS:	GARY DAVIS	JOHN CASEY	CHUCK OYLER
	BOB HILLIARD		
SECRETARY:	KIMBERLY BURKARD		
GUESTS:	TERRY FENNELLY	ROBIN EVANS	JARED SIMPSON
TOWN STAFF:	SHAWNA BONSHAK		

---

### PRIVILEGE OF THE FLOOR

Mr. Davis opened the meeting at 9:03 am.

### PRIVILEGE OF THE FLOOR

None.

### COMMITTEE BUSINESS

#### Ridgeline/Scenic Viewshed Protection Discussion

- Mr. Davis called the meeting to order and welcomed guest Robin Evans. He also said that Tom Schwartz was unable to attend and would like to present his comments at the next meeting.
- Mr. Oyler asked if the plan was to go over the draft law line by line and Mr. Davis agreed that was the intended plan. He also asked if this law was only for the Lake viewshed and there was agreement from the Committee.
- **Section H: Subsections a–c:** Mr. Oyler said that “Common Public Viewing Area” and other definitions should move to the start rather than being in the last paragraph of the Viewshed document. Ms. Bonshak said that the definitions would be added to the Town Code definitions and that any definitions added here would mean that the definitions have been added into Code twice, this law and the definitions section, section 1.17. She noted that if it is helpful, the definition can be in both places. Mr. Oyler said that if it is in this document too, it should be moved to the beginning.
- **Section A, Number 1:** Mr. Hilliard noted that he was confused by some of the wording in this section and suggested it be reworded: “*The principle of visually subordinate recognizes that development might be visible if sought out by the viewer, but that the development is not a defining feature of the visible landscape.*” Ms. Bonshak said she thought it was redundant and could be removed. Ms. Evans also took issue with this section. She felt it would be better placed in A-2-b thereby making A-2 into a new A-1.

- Mr. Davis asked Mr. Fennelly for clarification that this document was originally drafted by Saratoga Associates. Mr. Fennelly agreed it was.
- **Section B, Number 2:** Mr. Oyler said that there is a notation of Section 8.2 but everywhere else it is noted as 220.8.2 and so this should be corrected.
- **Section A, Number 2, subsection b:** Ms. Evans questioned what “*restoring the scenic qualities*” means. She continued with the question, that once something has happened in the viewshed, how can you restore the viewshed? Mr. Fennelly commented that elsewhere in the document it talks of back-filling with trees to restore the view. He also acknowledged that once the viewshed is built upon, it cannot be restored completely. Mr. Hilliard asked if the word “supporting” would be better than “restoring.” Mr. Davis asked Mr. Oyler how that language would help the Planning Board. Mr. Oyler said that they focus on preserving and questioned if these regulations actually get into the work of restoration—returning it to a previous state. Mr. Davis suggested getting rid of that word. Mr. Oyler said as part of a new application, you could see an effort to restore a previously made negative view quality and soften the look from the Lake. Mr. Oyler noted that clear-cutting violations are noted under Section F, Number 2: “*If a clear-cutting violation is discovered after a building permit is issued, the building permit will be suspended and/or the Certificate of Occupancy will be denied or revoked.*” He continued that those individuals would come before the Planning Board and some how restore through the planting of trees. S. Evans asked if forestry/logging efforts could be controlled on a piece of property. Mr. Oyler noted an example of someone who had taken a lot of trees out on a hill on West Lake Road. The property owner had the choice of being cited or coming to the Planning Board with a plan and he chose coming to the Board. The Planning Board required tree plantings to restore what was taken out. Mr. Casey noted that there is a penalty for people who clear land without Planning Board approval. Mr. Oyler agreed. Mr. Casey continued that it says that such a property cannot be developed on for a period of time, possibly years.
- Mr. Casey questioned the level of review being done in the meeting—if it was word smithing individual words. Mr. Davis commented that he did not want to see this effort get bogged down to that degree as this activity won’t more along or help the Planning Board. Mr. Hilliard questioned this as he understood “line-by-line” to include word smithing. Mr. Davis answered that at the rate the Committee is moving, that it will be several meetings before this can be moved along.
- Mr. Davis said that this law is intended to work together with the Conservation Subdivision Law and Mr. Casey questions if that is true. He reads the Conservation Subdivision Law as changing the calculation for how many structures a developer can build on a parcel of land. He continued with an example, of a 100-acre development with 50 acres being developable, he sees the calculation as being based on 50 acres and without the law, the developer would use 100 acres in the density calculations. Mr. Fennelly added that the percentage is 40% and also said that you would take out a portion of the land and then calculate 40% after that with the remainder as being what can be developed. He also added that the underlying code also dictates what can be developed, ex. SER1.
- Mr. Casey did not see the proposed Ridgeline Law and the Conservation Subdivision Law intertwining and saw it taking precedent over any area in the viewshed.
- Mr. Oyler noted that it was agreed to take “restoration” out of 2-c.
- **Section B, Number 2:** Ms. Evans commented that if the developer contests the Town’s determination that the land is in the viewshed, that the burden of proof should be on the developer to prove otherwise. Mr. Davis said that the map is pretty definitive and Mr. Oyler agreed and referenced the purple area on the map Town of Canandaigua NRI Land Visible From Canandaigua Lake. Mr. Casey added that the Planning Board has the final determination on this matter. Mr. Oyler noted it is better to have it clearly defined than just up to the discretion of the Planning Board. Mr. Casey said it was then up to the Planning Board to see if the Developer has something to substantiate their claim.

- **Section B, Number 3:** Mr. Oyler noted that this section says that the developer must document how the impact to the viewshed is minimized. It is at the discretion and expense of the developer to document that. Mr. Oyler further commented that this section is fine as is.
- **Section C, Number 1:** Agreement that this section is fine.
- **Section C, Number 2, subsection a:** Mr. Oyler said that the RLD has 1000 square feet [structures over this size need approval in the RLD]. Mr. Casey questioned which law would take precedent: the RLD code or the Viewshed Law. Mr. Simpson commented that the Viewshed Law would be the ultimate ruling document for the viewshed areas. Mr. Casey agreed and continued by noting that this would take precedence over RLD and other code for viewshed areas. He continued that all of the RLD falls within the viewshed. Mr. Oyler added that there are other requirements in the RLD that would still apply. Mr. Oyler said that the Viewshed Law would help the Planning Board enforce shoreline guidelines. Mr. Casey posed an example, if he wanted to build a shed (under 1000 square feet) on this lake front property, would he need to go before the Planning Board? Mr. Oyler said that the Viewshed Law would not apply unless there was another condition that applied to it and said that the RLD would be the only applicable regulation. Mr. Casey urged thinking through examples to make sure there is complete coverage. Mr. Casey noted that his 100 square foot shed (from the example) would not go to the Planning Board but it would be the Code Enforcement Officer to determine if it had to go to the Planning Board.
- Mr. Casey continued with another example of a 900 square foot garage. Mr. Oyler said the Viewshed wouldn't apply but the RLD might to the structure.
- Mr. Casey also asked if there is a conflict between the Viewshed Law and the RLD, which would take precedence. Ms. Bonshak said it would be the most restrictive would take precedence.
- Mr. Fennelly noted that there is no ridgeline on the shoreline. Mr. Oyler said it is purple and part of the viewshed.
- **Section C, Number 2, subsection c:** Mr. Casey went back to his example and asked if 1000 square feet the appropriate amount. Mr. Oyler noted that there was metrics noted for other subsections under C-2. Mr. Casey said that ¼ acre clear cutting does not work. Mr. Casey had an example with illustration he made.
- **Section C, Number 2, subsection d:** Mr. Hilliard said section d looks ok.
- **Section C, Number 2, subsection c:** Mr. Oyler asked Mr. Casey what size would be appropriate for clear-cutting and said that ¼ acre is approximately 100'x120'. Mr. Casey noted that Section D, Number 4, subsection e, part v also references the ¼ acre limit. Mr. Casey said that ¼ acre is too small. He handed out an example he worked up for space needed to install a pool. (See scanned image of the handout below.) His example is for a 20'x40' pool with 10' patio on three sides and a 25' patio at on end. He added 40' of green space around the patio as per allowed in the Ridgeline Law. The total area laid out is 120'x155' which equates to 18,600 square feet. He added that this is before a house or garage is even added to the property. He continued that if they wanted to put up a 40'x50' house, which is 2000 square foot before a garage, 15,600 square foot of space would need to be cleared—add another 1000 square feet for a garage and the total would be 16,600. Adding an accessory structure would expand it more. Mr. Casey said that the example shows that ¼ acre of clearing is not sufficient.
- Mr. Oyler noted that if the pool was being added to an existing property, they would need to clear-cut (if wooded) and come before the Planning Board. Mr. Casey said that elsewhere in this Law it says that you are allowed up to 40' of green space outside of the structure. Mr. Casey noted that a house would need more space and that it would be well above a ¼ acre. Mr. Oyler asked that if someone wants to install a pool within the viewshed and needs to clear more than ¼ acre, is that something that the town can live with? Mr. Casey noted that not even a house can be done in ¼ acre if there would be 40' of lawn around the structure. Mr. Oyler said that when you are talking about houses and garages that is where you want to

control building as there is height and other considerations. He also said that is where these regulations would apply. Mr. Casey clarified by saying that you could not build a 2000 square foot home with 40' of lawn with this regulation. Mr. Oyler agreed that was not possible without coming before the Planning Board. Mr. Casey disagreed as the language in the law says, "*Clearing shall in no case create a total cleared area of ¼ acre or more in size on any one lot/site, excluding driveways, on site wastewater treatment, and utility corridors.*" Mr. Simpson added that if someone buys a 5-acre lot in the viewshed and wants to put a home on it, they can only clear ¼ acre. Mr. Casey agreed. Mr. Simpson said that would discourage the development of single family homes. Mr. Oyler suggested that the ¼ acre limit be used for a building envelope for a house. Mr. Oyler also said that perhaps that ¼ acre was not the right number to use. Mr. Casey said that is what he found to be true.

- Mr. Fennelly said that this activity started 20 years ago as not building on the ridgeline. Mr. Casey said he agreed with not having a house on top of a hill but this law takes it to a completely different level. Mr. Hilliard said it is easier talking about a ridge or topography than vegetation as there is a lack of permanence with living trees that may die. He continued with that replanting trees is not the same and it may not be the same within a lifetime. He also noted that trees can have exposed roots or otherwise be damaged during the building process.
- Mr. Fennelly noted the 2003 Comprehensive Plan that included guidelines for building off of a ridgeline and replanting trees. He also questioned where Saratoga Associates got the numbers (like ¼ acre) that they included when they drafted this law.
- Mr. Hilliard said that if you remove that many trees, the runoff may effect people at a lower elevation.
- Mr. Oyler noted that the Planning Board prefers the objectivity of defined amounts but said that there are things, like the Shoreline Guidelines, that are subjective and to the discretion of the Planning Board. He also noted getting some nice landscaping plans as part of the Shoreline Guidelines. He said that maybe what this law boils down to is demonstrating that the proposed work doesn't impact the view to or from the Lake. He made the suggestion that perhaps the metrics need to come out of the law.
- Mr. Casey suggested that development should be restricted to an acre or more in the purple area unless it is an existing lot. He suggested that it would address some of the issues in building the viewsheds by minimizing the places for development and that will in turn prevent dense development.
- Mr. Hilliard noted that if the Committee has a shared vision, the words need only follow that vision but he does not think there is a consensus. He doesn't know if the Committee all agrees on the "character of the neighborhood/Town."
- Ms. Evans questioned the Planning Board having subjective guidelines as implementation will vary with the different individuals who sit on that Board. She continued that she thought the law should be more vision rather than metrics with the metrics/details moved to the application. Mr. Fennelly said that the details need to be written into the law otherwise you can't enforce it. Mr. Hilliard added that precedence, in how you have applied the law, will also be a factor in future determinations.
- Mr. Casey asked, as a starting point, does anyone believe there should be multi-family housing in the viewshed or should it all be single family. Ms. Bonshak commented that a quad-dwelling can be more ascetically pleasing than a single family home and have the same footprint. Mr. Casey replied that a significant portion of the purple area is the RLD and there are no rental properties or multi-family homes in the RLD. He then asked what if someone put a multi-family building in the portion of the purple area that is not in RLD, even though he thinks the likelihood of that is slim. Mr. Casey thinks that should be disallowed. Mr. Oyler commented that is getting to usage which off-track in his mind as the discussion should be focused on the ascetic from the Lake.

- Mr. Casey suggested allowing only single-family homes in the purple area. Mr. Oyler said that is being too restrictive. Mr. Casey said he felt it was more environmentally conscious to only allow single-family dwellings in the purple area instead of high-density areas. Mr. Simpson noted that the complaints coming to him are not regarding single dwellings but housing developments going into hill-top areas. Mr. Hilliard commented that someone could make the case for a multi-family structure as being more environmentally friendly so he cautions citing environmental concerns in disallowing such structures.
- Mr. Casey re-iterated that he believes only 1-acre+ lots should be available for building on with the exception of pre-existing lots. He noted that much of the areas being discussed is in the RLD or SER1.
- Ms. Bonshak commented that with Shoreline Guidelines and Form Based Code, it is coming down to “visuals” of what the Town wants and doesn’t want. She suggested coming up with what the Town would like to be see on the impacted parcels—something that could be shown to the applicant as the intent of what the Town is looking for. She commented that she understood it had to be documented but the visuals help greatly.
- Mr. Oyler responded to Ms. Evans about boards changing and interpretations changing. He explained the type of negotiations the Planning Board does with the applicant and he gave an example of removing and replanting trees.
- Mr. Hilliard commented that the Committee needs to create a tool that would be useful for the Planning Board to use and that he feels there has been progress in bringing the issues up for discussion. He also noted that precedence was important as comparables are always considered and that if the Committee can make the Viewshed Law work, it may be a way to put “a wrap” on some of the precedence that has been set.
- Mr. Oyler noted that the Planning Board is considering the Canandaigua Shores project which is in the viewshed and they do not currently have any regulations for viewsheds but the MEUO is “pretty tight” and they can take out constrained lands.

Mr. Casey's Example Handout:

Summary

$$\begin{array}{r} 155' \\ \times 120' \\ \hline 18,600 \text{ \#} \end{array}$$

one acre = 43,560 #

1/4 acre = 10,890 #

allowed to be cleared 1/4 acre

Balance available for the house (7710 #)

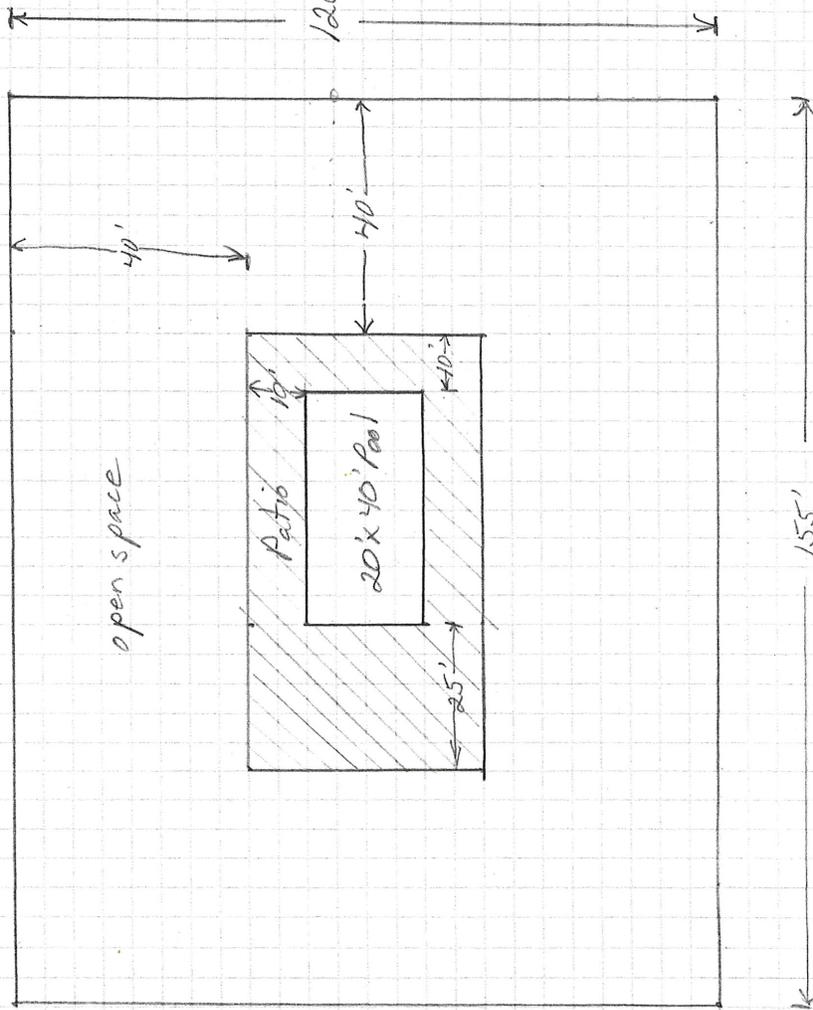
A 40x50' house with 40' of extra cut all around perimeter is as follows:

$$L = 40 + 50 + 40 = 130'$$

$$W = 40 + 40 + 40 = 120'$$

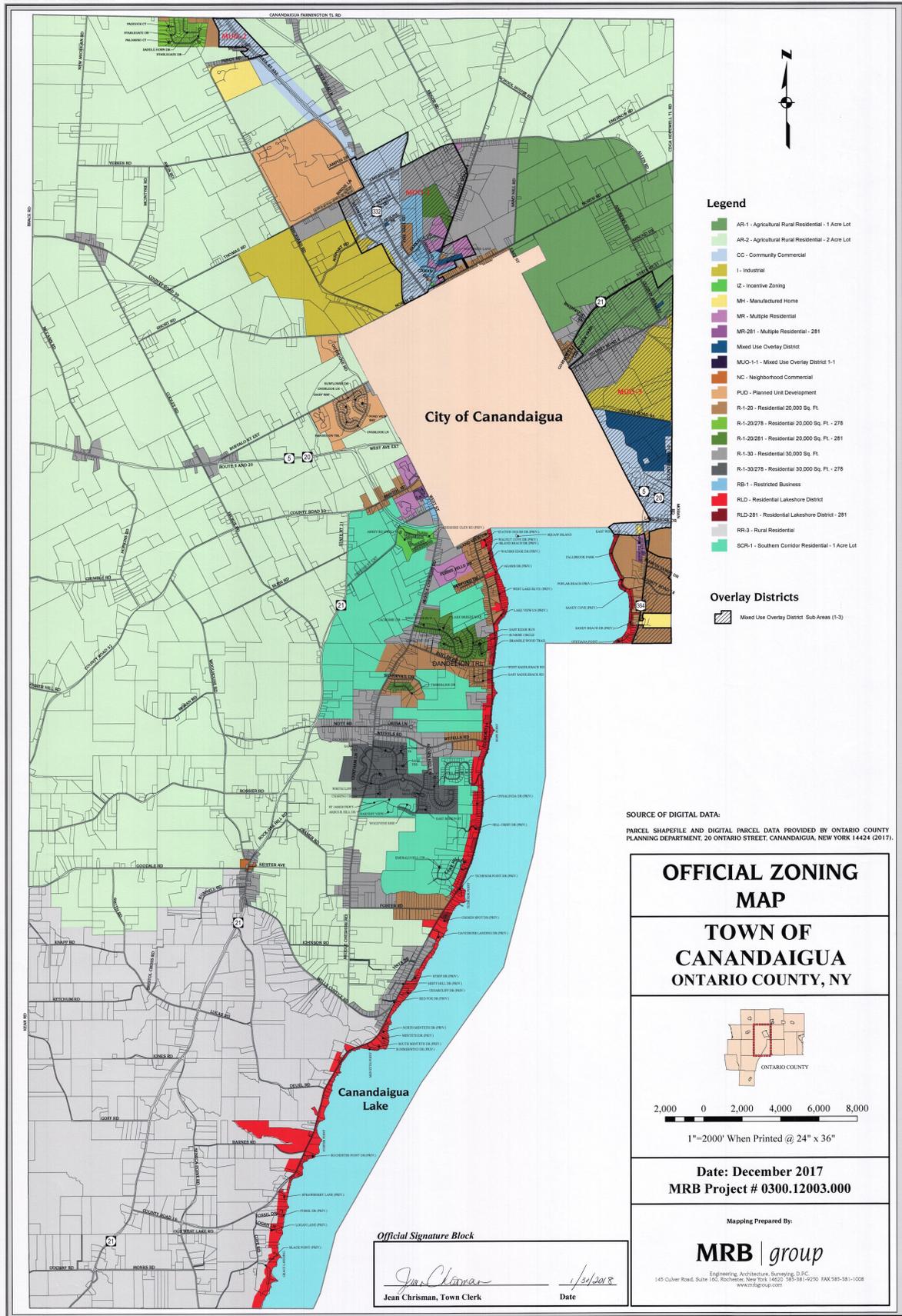
$$15600 \text{ \#}$$

Sq. ft is in excess of what will be allowed.



Town of Canandaigua Zoning District Map:

<http://www.townofcanandaigua.org/Documents/files/Town%20of%20Canandaigua%20Official%20Zoning%20District%20Map%202018-01-30.pdf>



SOURCE OF DIGITAL DATA:  
 PARCEL SHAPEFILE AND DIGITAL PARCEL DATA PROVIDED BY ONTARIO COUNTY  
 PLANNING DEPARTMENT, 20 ONTARIO STREET, CANANDAIGUA, NEW YORK 14424 (2017).

**OFFICIAL ZONING  
 MAP**

**TOWN OF  
 CANANDAIGUA  
 ONTARIO COUNTY, NY**

ONTARIO COUNTY

2,000 0 2,000 4,000 6,000 8,000

1"=2000' When Printed @ 24" x 36"

Date: December 2017  
 MRB Project # 0300.12003.000

Mapping Prepared By:

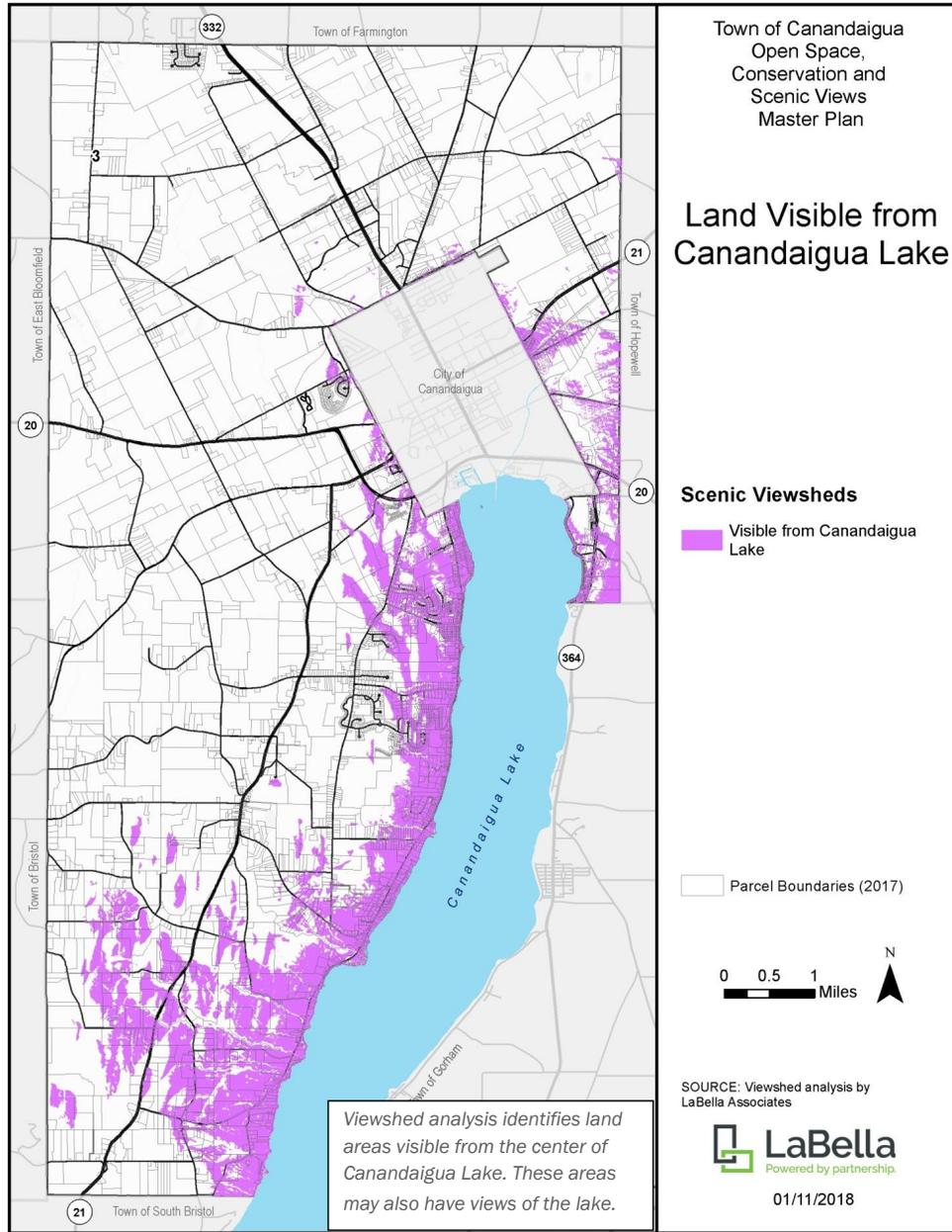
**MRB | group**

Engineering, Architecture, Surveying, D.P.C.  
 145 Culver Road, Suite 100, Rochester, New York 14620 585-581-9290 FAX 585-581-1008  
 www.mrbgroup.com

*Official Signature Block*

*Jean Chrisman* \_\_\_\_\_ *1/31/2018*  
 Jean Chrisman, Town Clerk Date

MAP 11: LAND VISIBLE FROM CANANDAIGUA LAKE



Doug Finch 7/14/2021 12:04 PM

Deleted: 01.09.18

**§ 220-8.2 VIEWSHED AND RIDGELINE PROTECTION LAW**

**A. INTENT AND PURPOSE:** The intent of the Viewshed and Ridgeline Protection Law is to promote new development that blends harmoniously with the natural terrain and vegetation in order to preserve and protect the scenic character and the environmental quality of the Canandaigua Lake viewshed.

- (1) Development within the Viewshed and Ridgeline Protection Areas shall be "Visually Subordinate". The intent of this standard is not to require the complete screening of all new development. The principle of visually subordinate recognizes that development might be visible if sought out by the viewer, but that the development is not a defining feature of the visible landscape. Visually subordinate development shall preserve unique visual resources and the natural harmony of the landscape patterns formed by uninterrupted forests, ridgelines and hillsides.
- (2) The purpose of the Viewshed and Ridgeline Protection Law is to:
  - (a) Protect important scenic views and vistas for the general welfare of the residents and businesses of the Town of Canandaigua, for visitors to the Town of Canandaigua, for those traveling on or otherwise enjoying Canandaigua Lake, and for those residents and businesses across Canandaigua Lake whose own scenic views and vistas include those portions of the Town of Canandaigua;
  - (b) Ensure that new development within defined Viewshed and Ridgeline Protection Areas does not negatively impact the scenic qualities of the area;
  - (c) Ensure that tourism and commerce enjoy long-term viability by preserving, protecting, enhancing, and restoring the scenic qualities of the Canandaigua Lake viewshed; and
  - (d) Promote planting and maintenance of trees and shrubs across the viewshed, which stabilizes slopes, protects water quality and improves habitat value.

**B. VIEWSHED AND RIDGELINE PROTECTION AREAS**

- (1) The Town of Canandaigua Viewshed and Ridgeline Protection Areas has been determined to be those areas of land visible from Canandaigua Lake as identified on the Town of Canandaigua Open Space, Conservation and Scenic Views Master Plan Scenic Viewsheds map in the Town of Canandaigua Open Space Plan created by LaBella dated June 2018.

Doug Finch 7/14/2021 12:06 PM

Deleted: shall publish a map of the Viewshed and Ridgeline Protection Areas ("

Doug Finch 7/14/2021 12:08 PM

Deleted: Map").

- (2) New development on land that has been determined by the Zoning Officer to be partially or wholly within the Viewshed or Ridgeline Protection Areas shall meet the requirements of this Section, 8.2, together with such other requirements imposed by the Town of Canandaigua Town Code. The Town of Canandaigua Planning Board shall make the final determination on whether a new development site is included in a Viewshed Protection and Ridgeline Protection Area based on the Viewshed and Ridgeline Protection Areas Map, the application, site analysis and site visit.
- (3) Applicants shall submit plans that document how the project layout and design minimizes visual impact from Common Public Viewing Areas to the maximum extent practicable for all site development and subdivisions in a Viewshed and Ridgeline Protection Area.

#### C. VIEWSHED AND RIDGELINE PROTECTION AREA REVIEW PROCESS

- (1) Authority. The Planning Board shall have authority to require that all provisions of this § 220-8.2 shall be complied with, but where it is deemed appropriate by the Planning Board, any of the provisions contained in this § 220-8.2, may be waived by the Planning Board based upon findings as set forth in the Public Record.

The Planning Board shall review the application and the site plan and make its determination thereon in accordance with the site plan review procedures set forth in Article VII of the Zoning Law and, in addition to the requirements established in this Section 220-8.2.

- (2) Site plan review and approval by the Planning Board shall be required within the Viewshed and Ridgeline Protection Areas for the following activities and uses:
  - (a) Construction of any structure greater than 1,000 square feet in footprint area, including residential and residential accessory structures;
  - (b) Filling, excavation, grading or other alteration of the natural landscape in excess of 5,000 square feet, including the construction of private driveways
  - (c) Clear-cutting or tree -topping that impacts more than ¼ acre.
  - (d) Timber harvesting or selective removal of trees designed as pre-development site preparation, including road and driveway construction, clearing and/or grading for house-sites and septic

systems or related work, shall be reviewed by the planning board under these regulations.

- (3)** Requirements for site plan review and approval by the Planning Board within Viewshed and Ridgeline Protection Areas shall not apply to the following:
- (a)** Agricultural uses
  - (b)** Repair and maintenance of existing structures
  - (c)** Tree removal, thinning of vegetation, and grading associated with construction of unpaved hiking trails, not exceeding 4 feet in width.
- (4)** Viewshed and Ridgeline Protection Area Application: The Viewshed and Ridgeline Protection Area Review Process shall follow the Town of Canandaigua Site Plan Regulations (Chapter 220 Article VII), in addition to the following criteria:
- (a)** The Preliminary Site Plan and Final Site Plan shall include the following:
    - (i)** Grading Plan: Existing and proposed contours at a maximum of 2' intervals for the area surrounding the proposed development, such area to be of sufficient size to show the relationship of the development to the surrounding terrain.
    - (ii)** Proposed Tree Cutting Plan: Location of all trees within the Viewshed and Ridgeline Protection Area six (6) or more inches DBH that are proposed to be removed as part of this project. Include a description of view creation plans and maintenance protocols.
    - (iii)** Visibility Studies: Viewshed analysis, line-of-sight profiles, site photography and other means to assess the visual impact and relationship of the proposed development to Ridgeline Areas as viewed from locations within any Common Public Viewing Area.
    - (iv)** Architectural Plans and Renderings: Building design drawings clearly depicting all, elevation plans, proposed structures to scale and their location on the site in relation to the physical and natural features of the parcel, including the proposed grade of the building area and finished floor elevations. Drawings should clearly display building elevation and architectural design; building materials and exterior colors.

- (v) Landscape/Revegetation Plan: Existing vegetation and proposed landscaping and clearing plans showing the proposed type, size and location of all vegetation to be preserved and/or installed. Special attention should be given to existing/proposed vegetation adjacent to buildings for visibility and screening purposes. A species list of existing and proposed landscape should be included. Such a plan shall address specific measures to be taken to ensure the protection and survival, and if necessary, replacement of designated trees during and after construction and/or installation of all site improvements. The plan should have the intention of interrupting building facades, providing additional trees as backdrop to buildings and/or soften the visual impact of new development from common public viewing areas.
- (vi) A narrative statement demonstrating that the improvements were designed to minimize visual impacts to the greatest extent possible.
- (vii) Projects with four or more dwellings or the disturbance of one acre or more shall complete the Town of Canandaigua Visual Impact Assessment Questionnaire

**D. GENERAL REQUIREMENTS FOR VIEWSHED AND RIDGELINE PROTECTION AREAS.** Any development in a Viewshed and Ridgeline Protection Area shall conform to the following:

**(1) Building Site and Envelope**

- (a) Development atop ridgelines should be avoided. Where possible, buildings shall be sited downgrade a distance sufficient to ensure that the roofline does not break the visible horizon as seen from any Common Public Viewing Area.

Building sites shall be selected to utilize natural topography and vegetation to minimize visual impacts.

- (b) The vegetative clearing, site grading or placement of buildings and structures shall not detract from the sense of order or harmony of the landscape patterns formed by the natural topography, forests, agricultural fields and open meadows.

If site development will result in a structure becoming visible above a horizon along a Ridgeline, documentation must be provided to demonstrate that alternatives have been duly considered and (a) are not practicable, (b) would result in greater visibility from Common Public Viewing Areas, or (c) would result in more significant impacts to

vegetative cover, more significant alterations to existing topography, and/or more significant impacts to stormwater runoff and water quality.

**(2) Grading**

- (a)** Disturbance to or alteration of existing contours, slopes, and natural drainage areas shall be kept to a minimum.
- (b)** As practicable, all grading or earth moving operations shall be planned and executed to assure that final grade is contoured to resemble the existing terrain, both on and adjacent to the site.
- (c)** Site grading shall be conducted to minimize removal of existing vegetation and with emphasis on preserving mature trees.

**(3) Architectural Design**

- (a)** If the roofline will become visible above the horizon along a Ridgeline as viewed from a Common Public View Area the maximum building height shall be 25 feet as measured from the average finished grade. If the site contains mature vegetation that can screen the roof line of the building, the maximum building height can be increased to the maximum allowable building height for the underlying zoning district.
- (b)** The applicant shall strive to use materials and colors that minimize the visual impact, including reflectivity, of any structure.

**(4) Vegetative Clearing**

- (a)** Vegetative clearing atop ridgelines should be minimized. Tree removal should not alter the natural form of the upslope treeline where such forms the visible Ridgeline.
- (b)** Existing vegetation shall be preserved to screen buildings and reduce the visual impact of development.
- (c)** At no time shall the vegetation clearing restrictions set forth in this ordinance prohibit the removal of invasive species, diseased vegetation or of rotten or damaged trees or other vegetation that presents safety or health hazards.
- (d)** This section is not intended to limit permitted timber harvesting when practiced in accordance with environmentally sound and sustainable silvicultural principals. Timber harvesting should be conducted to maintain the appearance of an unbroken forested canopy as viewed from a Common Public Viewing Area.

- (e)** Site Clearing for Construction – The Building Envelope
- (i)** Land disturbance and/or tree removal for the construction of the proposed principle building shall be limited to a distance of forty (40) feet beyond the proposed building foundation/footprint.
  - (ii)** Land disturbance and/or tree removal for accessory structures shall be limited to 20 feet beyond the foundation/footprint.
  - (iii)** Land disturbance and/or tree removal for driveways shall be limited to the minimum necessary for driveway construction and associated grading.
  - (iv)** Absorption area for onsite wastewater treatment systems should be located on previously cleared land where practicable. When necessary clearing for construction of septic fields shall be limited to the amount and location necessary for safe function and maintenance.
  - (v)** Clearing shall in no case create a total cleared area of  $\frac{1}{4}$  acre or more in size on any one lot/site, excluding driveways, on site wastewater treatment, and utility corridors.
  - (vi)** Additional clearing can be permitted if required for fire safety or to safely construct the proposed structure.
- (f)** Additional Site Clearing – View Creation on Treed Lots
- (i)** Where practicable a moderate forest density shall remain in place sufficient to ensure that any new proposed structure shall be substantially screened and visually subordinate as viewed from Common Public Viewing Areas. Clearing and trimming practices must minimize visibility of the façade and roof area of any structure(s) as viewed from a Common Public Viewing Area.
  - (ii)** Clearing for views should be limited, with narrow view openings between trees and beneath tree canopies being a desirable alternative to clearing large openings adjacent to building facades. Methods to achieve this standard include, but are not limited to:



Doug Finch 7/14/2021 12:04 PM

Deleted: 01.09.18

**F. REMOVAL OF TREES PRIOR TO SITE PLAN APPROVAL**

- (1) Where an applicant removes trees in order to enhance views prior to site plan review and/or fails to submit a predevelopment site preparation plan to the planning board for review, the planning board may limit development to the non-impacted portion of the property, require the site to be restored or revegetated to the satisfaction of the Planning Board prior to development, and/or withhold building permits for construction of any structure property for a minimum of 5 years after the clear-cutting violation is discovered to have occurred in the area of the site plan application.
- (2) If a clear-cutting violation is discovered after a building permit is issued, the building permit will be suspended and/or the Certificate of Occupancy will be denied or revoked.

**G. SEVERABILITY.** If any clause, sentence, paragraph, section or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law or in its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**H. DEFINITIONS.** The following definitions shall be added to the Town of Canandaigua Town Code Section 1-17.

- (a) Common Public Viewing Area – shall include any portion land visible from Canandaigua Lake or as identified being a portion or all of a parcel on the Land Visible from Canandaigua Lake Scenic Viewsheds Map, created by LaBella June 2018 and found in the Town of Canandaigua Open Space, Conservation and Scenic Views Master Plan.
- (b) Viewshed and Ridgeline Protection Area-any parcel that appears entirely or partially as a Viewshed or Ridgeline Protection Area as depicted on the Land Visible from Canandaigua Lake Scenic Viewsheds Map, created by LaBella June 2018 and found in the Town of Canandaigua Open Space, Conservation and Scenic Views Master Plan.
- (c) Visually Subordinate – The principle of visually subordinate recognizes that development might be visible if sought out by the viewer, but that the development is not a defining or highly memorable feature of the visible landscape. Visually subordinate development shall preserve unique visual resources and the natural harmony of the landscape patterns formed by uninterrupted forests, ridgelines and hillsides.

Doug Finch 7/14/2021 12:13 PM

Deleted: of the northern and eastern shoreline

Doug Finch 7/14/2021 12:13 PM

Deleted: of

Doug Finch 7/14/2021 12:13 PM

Deleted: looking west from which the Town of Canandaigua is visible

Doug Finch 7/14/2021 12:11 PM

Deleted: Viewshed and Ridgeline Protection Areas Map.

**Upcoming Meetings:****September 27, 2021 @ 9:00 am**

- Discussion of the Viewshed and Ridgeline Protection Draft Law

**Adjournment @ 10:21am**