

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

ORDINANCE COMMITTEE

Monday June 7th, 2021, at 9:00 AM

Rev. 6/16/2021

MEETING REPORT

MEETING CALLED BY:	GARY DAVIS		
COMMITTEE MEMBERS:	GARY DAVIS	CHUCK OYLER	BOB HILLIARD
	TOM SCHWARTZ		
SECRETARY:	KIMBERLY BURKARD		
GUESTS:	TERRY FENNELLY	DOUG FINCH	SHAWNA BONSHAK

PRIVILEGE OF THE FLOOR

Mr. Davis opened the meeting at 9:02 am.

PRIVILEGE OF THE FLOOR

COMMITTEE BUSINESS

- Mr. Davis introduced the topics for the meeting and said that Mr. Finch would be sharing further information on the two agenda items.
- Mr. Finch asked about the last meeting's results, specifically Form Based Code (FBC). Mr. Davis said that had been moved out of Committee and can be taken forward.
- Mr. Hilliard had a question on Form Based Code after reading the FBC document. He is trying to figure out what the role of the ZBA is and asked if there would be training for ZBA members. Mr. Finch shared a flow chart of how FBC will operate, which is mostly handled by the Planning Board. He also said there would be training provided. He said that the FBC is designed to be very open and most things would fit in but if there is something to be resolved then it would go to the ZBA.
- Mr. Hilliard questioned if there will essentially be different codes for the two areas of the Town (Uptown and the rest). Mr. Finch explained that the FBC is very different and it was designed for that specific area of the Town. He also said that it was designed such that nonconforming structures are brought either into conformance or that their degree of nonconformity is lessened in order for them to continue to be in existence. The degree of nonconformity and what will be considered nonconforming will be very different in the Uptown area where the FBC will be applied. Mr. Finch also said that the ideal character of the Uptown area was identified by the Uptown Study and that the Uptown Plan was that ideal. The Form Based Code was created to implement that ideal/plan. He noted that it is a big change.
- Mr. Hilliard says that the ZBA will need training on the FBC to help minimize bumps in the road. Mr. Finch noted that Ms. Bonshak will be working with the different Boards on this once she comes up to speed and Ms. Baptise from Bergman will also be brought in for training efforts.

Conservation Subdivisions

- Mr. Finch noted that Barb Johnson had sent out a new version of the Conservation Subdivision documents on 6/4/21 but he noted it was only sent to the project team. He will check with Barb Johnson to see if it can be sent along to the Ordinance Committee. Mr. Finch gave a very brief overview of some of the changes in the document from the previous version. Mr. Finch asked if the Ordinance Committee needs Ms. Johnson to come in and discuss the changes. Mr. Davis noted that a number of the Ordinance Committee members are on that project team and have seen the document. (Only Mr. Hilliard and Mr. Casey have not seen this material.) Mr. Davis said that he thought that they should wait for the sub-team meeting on 6/14/21 before deciding anything on this topic. Mr. Finch suggested inviting all of the Ordinance Committee to that meeting and he passed along the document to the Ordinance Committee members.

Discussion on Viewshed/Ridgeline Proposal

- Mr. Finch shared how to access the Ridgeline documents on the Town's website. You can find the documents here: <http://www.townofcanandaigua.org/page.asp?id=243>
- He noted that the original Ridgeline work was started but not completed because it became quite complicated. The Town had hired Saratoga & Associates to draft Ridgeline law. That draft is in the website location noted above and titled: "January 2018 draft Viewshed Ridgeline Law." Or see direct link: <http://www.townofcanandaigua.org/documents/files/2018-01-09%20RIDGELINE%20PROTECTION%20LAW%20REDLINE%20VERSION%20PDF.pdf>
- Mr. Finch noted that the work on this has been stopped for a few years but the draft documents are there to help the Committee to move forward.
- Mr. Finch began to go through the document a section at a time starting with the intent and purpose of the law that is to promote development so there is a blending of it with the natural terrain, scenic character, and the environmental quality of the Canandaigua Lake viewshed.
- Mr. Finch said that the next section states that all development within the Viewshed and Ridgeline Protection Areas will be visually subordinate with examples of how to accomplish that. He also notes that the maps shared by Chris Jensen in the last meeting and other map documents would also be found in the noted website location.
- Mr. Oyler asked if the intention is to protect views from the Lake only or will hill views be included too. Mr. Fennelly noted that Mr. Jensen defined the difference between viewshed and ridgeline in the last meeting—a viewshed is defined as where you are and looking up. Mr. Oyler suggested that viewshed should be subordinate to the general topic of ridgeline so that a viewshed is a specific type of ridgeline. That way viewshed could refer to lake views and ridgeline is anywhere shown on the map Mr. Jensen shared.
- Mr. Fennelly also asked if this was to be only for lake views or including other ridgelines. Mr. Finch indicated that the draft law from Saratoga Associates defined the "common public viewing area" as only "any portion of the northern and eastern shoreline of Canandaigua Lake looking west from which the Town of Canandaigua is visible." This law was drafted to only be looking west from the Lake. Mr. Fenelly questioned its applicability to the Lake only and Mr. Finch answered that these same questions were raised in the previous effort and that was the reason that this draft law effort stalled.
- Mr. Oyler noted that during the review of Lakeview Meadows (section 9) that their review made sure that the townhouses were on the westside of the ridgeline and not visible from the Lake but that created a situation that there is now—people are not happy to be seeing the back of townhouses from Middle Cheshire Road. Mr. Fenelly said that they had negotiated with Morrell to move the homes east so their view would be

minimized from both the Lake and Middle Cheshire Road but the style of homes being built changed. Mr. Fennelly said that this illustrates the issues of ridgelines, viewsheds, and views from the Lake. Mr. Fenelly questioned what will be protected in this effort and noted that if it is only Lake views being protected, that every hill not visible from the Lake will be clear-cutted and have a house built on the top of it.

- Mr. Hilliard commented that if this is only about the Lake, that there is nothing protecting the other beautiful views in the Town. Mr. Finch agrees that this draft law was centered on the Lake only.
- There was discussion about the definition of “common public viewing area”—noted above. Mr. Finch commented that the definition could be changed.
- Mr. Finch asked for the group to put aside the definition of “common public viewing area” for a moment so they could review other items in the draft law. He asked if they agreed that the developers should submit plans that include the viewing aspects of their project. The Committee agrees with that and with the other required developer documentation such as grading plan, tree cutting plan, visibility studies, and landscaping plans. Mr. Finch asked about the section saying that development atop ridgelines should be avoided and the Committee agreed with it. Mr. Finch saw that the Committee was agreeing with the bulk of the draft law language and requirements with the exception of the “common public viewing area” definition. He noted that could be changed and the rest of the law would most likely fall into place.
- Mr. Hilliard cited an example of homeowners that “live in the shadow” of another development which was built after they bought their homes and those homeowners now see those newer townhomes when they look up. Mr. Fenelly commented that those homeowners in the later development are ironically actively asking for ridgeline view protection. Mr. Oyler commented that the view from that newer development (of Bristol Mountain) is spectacular. He further commented that it is “in the eye of the beholder” whether you are looking up or down—when you are looking down, it is a beautiful view and when you are looking up, not so much.
- Mr. Fenelly said that if people can accept not building on ridgelines to protect the Lake views, why can’t they accept the same when building farther “inland.” They could build down from the peak there too.
- Mr. Finch cited the example of Lakewood, section 9—if they only protected the Lake view, that was fine but if it included a view from a public street, as was suggested, where could they build? Or are people suggesting that the development get pulled down the ridgeline and have the view buffered? Mr. Fennelly agreed that pulling it down and buffering it would be ideal. He continued that screening with trees and berms would be needed.
- Mr. Finch asked if the public viewing area is expanded would the Committee see that as only areas west of the Lake or east too? Mr. Fennelly said it should apply to the whole Town and Mr. Davis agreed. Mr. Oyler noted there is an application in process for a project that can be seen from the Lake. Mr. Fennelly suggested that our road structure is a common public viewing area. Mr. Oyler offered some scenic, non-Lake views (ex. RTE 21).
- Mr. Finch posed a hypothetical new building example on Moran Road and asked if the Committee should care about that. The group said no. He pointed out that this is the problem with roads being part of the definition.
- Mr. Schwartz asked if it is better to leave it as it is now (with guidelines) rather than trying to make it so formal. Mr. Fennelly said guidelines do not work.
- Mr. Finch went back to his Moran Road example, which people did not care about the building there but he noted that people do care if it was on Middle Cheshire Road. He asked if you base it on a number of units (ex. minimum of 4) being built or some other metric to direct these regulations to larger building projects. Mr. Fenelly questioned

landowners selling off parcels under that limit each year that would end up with the same result in a number of years. Mr. Finch continued that what was being talking about would not apply to single homes being built.

- Mr. Hilliard said that the restraints we have in place are what will be protect the charm, and character of the Town areas.
- Mr. Finch noted that the Conservation Subdivision will be a critical piece in protecting the Strategic Farming Area. Mr. Hilliard said that Pittsford needed to buy greenspace and our Town is in a better place currently with regards to that but that is being challenged and we need to take action.
- Mr. Oyler said that this doesn't apply only to residential and noted a solar farm example that needed a lower profile to protect views.
- Mr. Finch asked the Committee if they want to move forward with a definition that includes the major subdivision aspect and make it Town wide. The Committee agrees that it is a start and is more than they have to work with now. Mr. Oyler said there will be push back from developers but it is better to have a tougher law on the books and give relief as needed than not having it at all.
- Mr. Fennelly said that unlike the original effort, there are residents currently supporting this law. To which Mr. Hilliard added there are supply chain issues for builders now but those will be resolved soon so the pause on building may be lifted and that this is a perfect time to enact such protection laws.
- Mr. Finch asked about existing ridgeline maps that are only for the west side of the Lake and if there should be areas identified to the east. He noted there are other viewsheds (ex. looking to Bristol Mountain). He suggested getting rid of the ridgeline/viewshed map to make the law town-wide and leaving it up to the Planning Board to make the determinations/judgments. There were many comments wishing for objective rather than subjective elements for applying the law.
- Mr. Oyler asked about the map creation. Mr. Finch noted software and visual tests from a boat on the Lake were used to create the maps. Mr. Oyler noted that this could be like Floodplain determination where it is up to the developer to challenge it and bring supporting data forward.
- Mr. Hilliard noted that the ideal that the Town wants in this regards needs to be documented and that maybe this needs to have the same attention as the Uptown area.
- Mr. Oyler said that this all goes back to the public viewing area definition. He asked if there are any defined "scenic roads." Mr. Finch said there is nothing official but NYS RTE 21 has some designation but there is nothing else. Perhaps some roads need more scrutiny and others don't.
- Mr. Finch summed up what he saw the Committee suggesting—this draft law applied Town-wide with some flexibility for the Planning Board determinations. The Committee agreed but would like to see things being defined as subjective as possible. Mr. Finch suggested that the Committee members consider this and bring ideas to him/next meeting. He also asked if it was segmented into west of lake, east of lake, and Middle Cheshire Road would the concerns be addressed.

OTHER COMMITTEE BUSINESS

- Mr. Hilliard asked to meet in-person at the Town Hall. The Committee agreed with an in-person meeting. Mr. Finch noted it will be a hybrid-meeting (Zoom and in-person) and there are limitations of the quality for the Zoom users. Mr. Davis proposed June 23rd at 9:00 am meeting in the Oriana Conference Room.

Upcoming Meetings:

June 23, 2021 @ 9:00 am

- **Discussion on Viewshed/Ridgeline Proposal**
- **Conservation Subdivisions**
- **Code of Ethics**

Adjournment @ 10:15 am