

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

ORDINANCE COMMITTEE

Monday, May 23, 2022, at 9:00 AM

Rev. 6/3/2022

MEETING REPORT

MEETING CALLED BY: JOHN CASEY

COMMITTEE MEMBERS: CHUCK OYLER TOM SCHWARTZ TERRY FENNELLY
ADELINE RUDOLPH (R)

SECRETARY: KIMBERLY BURKARD

GUESTS:

TOWN STAFF: SHAWNA BONSHAK DOUG FINCH

R = REMOTE

Mr. Casey opened the meeting at 9 am. It was shared that he is the new chair of the Ordinance Committee and Mr. Fennelly and Ms. Rudolph are now Ordinance Committee members.

Approval of meeting minutes will be added to future agendas. Both sets of May 2022 meeting minutes will be approved at the June 6th meeting.

PRIVILEGE OF THE FLOOR

ZOOM ETIQUETTE REMINDER

COMMITTEE BUSINESS

➤ Updates to Town Code, Chapter 174 Subdivision of Land

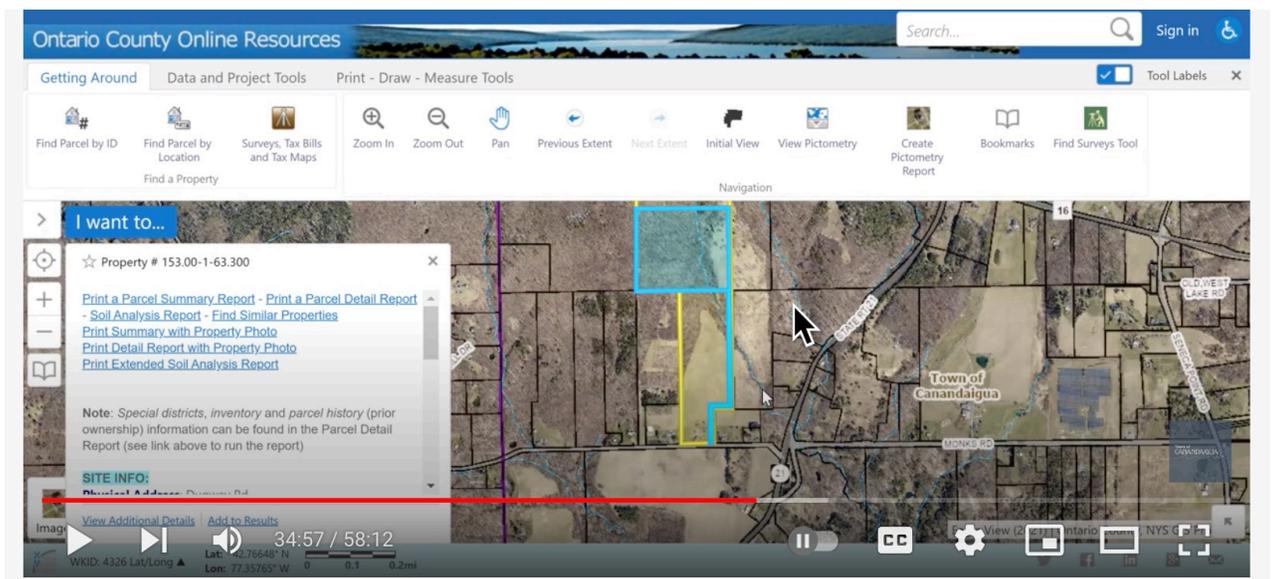
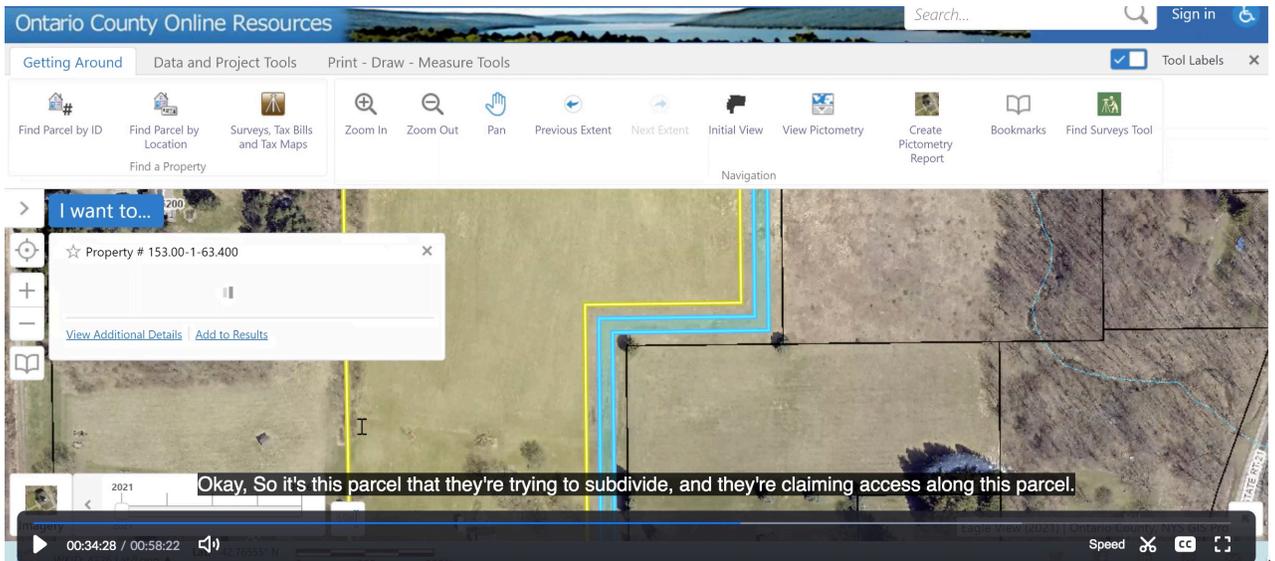
- Mr. Finch said that he drafted this update and that it is not “good enough.” He said he tried to keep it simple but there were some issues. He read town code 220-9-C, which is applicable to all town property: *“Every developed lot of record shall have access to a public street. Access may be either direct or by private road or drive. All structures shall be so located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.”*

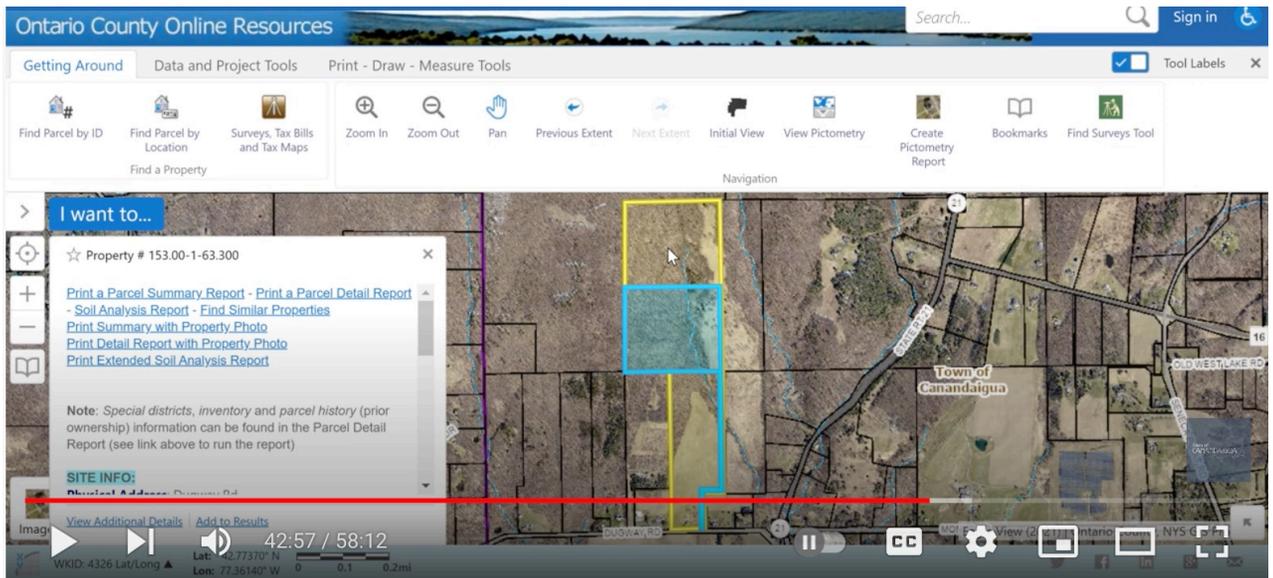
This section says that you can subdivide along a private drive. This may need to be updated to reflect the proposed changes for subdivisions of four+ on a private drive. Mr. Casey pointed out that 220-9 says you can subdivide but 174 says how. Mr. Finch noted that there is no definition of “drive.” There needs to be definitions of the terms made or the terms used in 220 need to be changed.

- Mr. Finch said that in current town code that there is no definition of “major subdivision” and “minor subdivision.” He suggested making sure that there are definitions for these.

- Mr. Finch noted that he could not find the on-site law for a requirement of a sanitary sewer for four+ lots.
- Mr. Schwartz said that he wished definitions were italicized/bolded and hyperlinked in the on-line code when the word was defined. Mr. Finch said that the hosting company has been asked about this but are unable to do this.
- Mr. Finch said that he will have to bring back a revised draft ordinance.
- Mr. Casey asked if three was the appropriate number of subdivisions. NYS Dept. of Health regulates five lots. If five+ lots, it is a major subdivision and various things from NYS Health applies. Mr. Finch read the definition of major subdivision from Town of Middlesex code: *“Major subdivision, any subdivision of a parent parcel of land into four or more lots, including the parent parcel or any subdivision requiring a new public street road or extension of municipal facilities would be a major subdivision.”*
- Mr. Finch continued: *“The minor subdivision is any subdivision of the parent parcel of land into no more than three lots including the parent parcel now previously classified as a major subdivision.”*
- Mr. Casey asked if the town should be consistent with NYS Dept. of Health and go with five+ lots. Mr. Schwartz asked about how many pre-existing nonconforming 3-4 lots exist. Ms. Bonshak said many.
- Ms. Rudolph asked if there was a reason for the subdivision definitions being removed. Mr. Finch has been searching but can find none. Mr. Fennelly said the numbers 3-4 were there when he was on the Planning Board fifteen years ago.
- Mr. Oyler said the higher the number of lots on a private street increases the chance for conflict among residents. He believed three was the correct number.
- Mr. Schwartz asked Mr. Oyler if in the construction standards if there was a standard for a private driveway. Mr. Oyler said a typical section would have dimensions: width, gutter, etc. Mr. Schwartz asked how many conform to existing standards. Mr. Oyler said very few. Ms. Bonshak said that they are requiring them to bring them up to code when they come in. Mr. Schwartz questioned: if Onalinda’s right-of-way is 12’ and it needs to be 20’, how do you engineer that after the fact. Mr. Casey noted an agreement was needed no matter how many on the drive.
- Mr. Finch said he did include that, *“Access may be direct or by private road or drive and shall include a recorded easement so as to not create a landlocked parcel.”* Mr. Oyler suggested this be in the definition section of a private road.
- Mr. Casey asked about someone creating a family compound with more than two children, they would need a road that meets town standards. Mr. Fennelly said ownership changes a lot now. Mr. Fennelly said he sees no reason to change the number from 3-4. Mr. Schwartz said he likes 3-4 because the more people involved, the more potential there is for problems.
- Mr. Schwartz noted this applies to lots, not dwellings.
- Mr. Finch and Ms. Bonshak will work on revisions to the update.
- Mr. Oyler noted 174-7 General Procedure and that the Planning Board can not waive any zoning issue in section 220. Mr. Finch noted that there are three sections with regards to Planning Board waivers: 1.) site design criteria—chapter 174, section Site Design. There has been discussion that the Planning Board can grant waivers for anything under site design. The Site Design Criteria in code notes that the Planning Board has authority to grant relief and waive any of that. 2.) There is another section on procedural requirements. 3.) There is another section that covers more general stuff. Mr. Finch notes that it is not clear. Mr. Finch suggested that the Ordinance Committee look at what does the Planning Board have the authority to waive. He also suggested setting aside Conservation Subdivision which gives broad authority. Scenic Viewshed also noted.

- Mr. Finch posed an ex: does the Planning Board have the authority to waive the creation of a flag lot? 174 Subdivision of Land talks about minimum lot width—clearly chapter 220 zoning. 174-19 Design Standard section has lot size, arrangement, and lot depth can't be 2.5 times greater than lot width. Argument could be made that the Planning Board does have the authority to waive a flag lot because it is under design standards. It is not clear.
- There was a discussion about allowing or not allowing flag lots and pro's/con's of them.
- The Dugway Road property example was shared. It was noted that these are classic flag lots. To subdivide into three lots, a public road would not be required. If four+ lots, a public street would be needed. No definition for the width of a private right-of-way. The design standards talk about the width of a road but not a right-of-way.





- Current town code discourages the creation of flag lots—174-19-E: the lot depth can't be greater than 2.5 times the lot width. Ex: 20' wide at the road means it could be the maximum of 60' deep. There are many pre-existing nonconforming lots. The Planning Board via Conservation Subdivision can create flag lots.
- The Dugway lots are 20' wide at the roadway. The applicant owns the middle strip. A common easement would make sense in this situation. Application before the Planning Board includes the "post" of a flag lot to Dugway that is 30' wide strip from the back lot—which is not the required 225' of required frontage.
- The upper "yellow" lot is a pre-existing nonconforming flag lot with 20' wide at road edge. If that lot was to be subdivided into three lots in the future, there would be enough frontage along the private drive to do this. Lot width is measured at the street edge. If another subdivision was to occur causing a cumulative fourth house, it would then need the public street.
- Research into easement documents is important to see what is/is not allowed, who does maintenance, etc. Mr. Oyler noted having Mr. Nadler review easement documents. Many of the side-roads along the lake edges have these types of situations.
- Mr. Oyler suggested that a "private drive" is providing access similar to an easement and a shared driveway is four or less lots.
- Mr. Finch noted section 220-75 Access Control and 174-21-A-1 Streets plus Uptown Code Access Control 220-75. The changes strike 220-9-D and reference 220-9.
- Mr. Schwartz asked in "Lot line, Front," what is a "public right away." Ms. Bonshak said that "public or private right-of-way" would be added to that definition. He questioned if a "public right-of-way" was a street. Mr. Schwartz also noted a utility line as a public right-of-way which wouldn't apply to this situation. Mr. Finch said that was noted in an initial draft by Ms. Bonshak and Mr. Jensen. It is not part of the proposed draft law.
- Mr. Finch said private right-of-way is land owned by a non-public agency or organization occupied or intended to be occupied transmission maintenance, gas pipelines, or special uses. Public right-of-way is land owned by public agencies for use as street or other public purposes. Mr. Finch and Ms. Bonshak will revise the draft and resubmit to the committee.
- Mr. Finch noted "private drive" and "private driveway"—private drive is defined in NYS Building Code and private driveway is defined in town code. There is not a need to repeat what is in Building Code for purposes of construction.

➤ Potential Future Topics

- Mr. Casey said that there is a future potential topics list that has been shared with the committee (handouts). He asked if waivers by the Planning Board should be added. Mr. Finch said yes. Mr. Finch also suggested the Zoning Schedule, RR3, which has a dashed line instead of dimensions noted. Ms. Bonshak suggested a review of all zoning schedules. Mr. Finch said incentive zoning one might need priority attention. Incentive Zoning will be put on June 6th agenda. Priorities can be assigned going forward.

Upcoming Meetings: June 6, 2022 @ 9:00 am

Adjournment @ 9:58 am