

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

ORDINANCE COMMITTEE

Monday, March 7, 2022, at 9:00 AM

Rev. 4/1/2022

MEETING REPORT

MEETING CALLED BY: GARY DAVIS

COMMITTEE MEMBERS: GARY DAVIS CHUCK OYLER TOM SCHWARTZ
JOHN CASEY

SECRETARY: KIMBERLY BURKARD

GUESTS: TERRY FENNELLY KATE SILVERSTRIM SARAH REYNOLDS
ADELINE RUDOLPH (R) DOUG FINCH (R) LIEF HERRGESSEL

TOWN STAFF: SHAWNA BONSHAK

R = REMOTE

PRIVILEGE OF THE FLOOR

Mr. Davis opened the meeting at 9:00 am.

PRIVILEGE OF THE FLOOR

COMMITTEE BUSINESS

Double Frontage Update

- Mr. Davis shared the status of the double-frontage ordinance sent along to the Town Board. The Town Board reviewed it and there was some opposition to it. Some on the Town Board thought the proposed was the same as existing regulations—which Mr. Davis said was untrue.
- Ms. Bonshak said that the proposed regulation excluded residential lots having two frontages. She will prepare a memo for the Town Board plus include the Ordinance meeting minutes where this was discussed (June 23, 2021 meeting) to give clarity.
- Mr. Casey said that the ZBA has seen this issue 2-3 times over the last 3-4 months. He shared details about one of the cases (corner of Wyffels & West Lake Rd.) which ended up being withdrawn. Another was submitted by Peter German which was approved by ZBA. There was another one from Jeff Morrell/Piercebrook which was approved. Mr. Casey also submitted a request to put in an entrance off of a Laurel Lane so he could access the back of his property. The permit was denied because two driveways into a single lot is not allowed. He noted that only way he can do this would be to subdivide the property, which he doesn't want to do. He noted seeing two driveways per lot for some properties in the town such as those with u-shaped driveways. He is supportive of two entrances if on different roads.

- This issue was referred to the Ordinance Committee by Chris Jensen on June 17, 2021.
- Mr. Davis noted that the Chairman of the ZBA and the County were asked to review this. No response received thus far. Ms. Bonshak will follow up on this.
- The proposal permits it in residential but not in non-residential properties.
- Mr. Oyler suggested that the ZBA discuss this in their upcoming meeting.
- Mr. Davis shared that the Town Board was looking for documentation as to why this issue moved from committee to committee. Mr. Schwartz read from Chris Jensen's original note, "The ZBA has requested the Ordinance Committee examine this portion of the code and research the original intent and consider removing the section."
- Mr. Oyler noted that non-residential are going to potentially have a situation where they want a service road in the back rather than using the main entrance. He suggested reviewing on a case-by-case basis at the Planning Board level. Mr. Schwartz noted a NYS review of entrances/exits on RTE 332.
- Ms. Rudolph asked if a variance could be required so every double fronted lot plan is reviewed by the Planning Board. Ms. Bonshak said that if it is permitted, a variance can't be required. There is a permit required to put a new driveway onto a town road. It can be approved or not at that point. County and state review driveways to the roads they manage. Ms. Bonshak added that you can have two driveways if one is ag related.
- Mr. Davis asked the committee if the resolution could be withdrawn. Mr. Finch said that if withdrawn, local law will stand as is but if they want to strike that section of code, that would be a new local law. If it stands as is, it would be up to the ZBA to determine future outcomes related to this. Mr. Oyler said he would like to see the whole section struck (H) but he would like to know Chris Jensen's input before proceeding.
- Ms. Bonshak suggested that rather than striking the entire section to leave the decision to the Planning Board or Highway Department. Mr. Finch said that the Planning Board cannot offer a variance to town code and this would be taking the decision away from the ZBA and giving it to the Planning Board. This would require a new local law.
- Mr. Schwartz asked what weight site design criteria have. The site design criteria can be amended by the town board without going through the local law process.
- Mr. Oyler said that Zoning should handle this. Mr. Casey said that the only drawback is that the applicant must bring enough information/evidence for the ZBA to go against local law and the ZBA usually goes with local law and applies the code. Ms. Bonshak added that the ZBA tries not to set precedent. Mr. Schwartz asked if precedent would have bearing in litigation. Ms. Bonshak said it would.
- Mr. Schwartz made the motion to pull the resolution and leave code as is. Mr. Oyler seconded it. Motion carried by voice vote.

Cemetery Committee Document Review

- Mr. Davis noted that Mr. Finch had drafted a new version of the cemetery document. The update removed the committee information.
- Ms. Rudolph asked why the Committee information was removed. Mr. HerrGessell shared information covered in the previous meeting with Ms. Rudolph.
- Mr. HerrGessell expressed opinion that a less formal group (a non-committee) would not be successful. He noted legal issues such as dangerous trees (need to be removed/replaced) and lack of a clear property line. He suggested this is a legal issue to be decided by the Parks Department but if there was an official body, they would do this work—trees to come down, the cost, what will replace them, etc.
- Mr. HerrGessell noted that the graves and headstones are public property and of historic value.

- Hunn Cemetery was surveyed (boundary). Academy Cemeteries has a chain link fence. Fences are down at the other cemeteries and boundaries are unclear. Some recent information on Wolverton Cemetery exists.
- Mr. Finch said that before the cemetery mowing/landscaping contracts, it was the Parks Dept. that handled the work. The Parks Dept. still handles maintenance: fixing fences, taking care of flag poles, building maintenance, works with Highway Dept./Tree Team, etc. The Tree Team marked trees for removal in the cemeteries last year. A need for a bucket truck for tree work has been requested. The Highway Dept. has been removing the trees. Mr. Finch noted that an easement from neighbors is needed for access to complete the pending tree work in Cooley or New Michigan cemeteries. The easement is still pending. Mr. Finch noted that due to the Highway Dept. and Parks Dept. workload, the cemetery work is not always the highest priority. Mr. HerrGessell said that a committee would be able to help organize this type of work, ensure the work got done, and manage the costs.
- Mr. Davis asked if there were people interested in serving on the committee. Mr. HerrGessell said yes and suggested that the committee meet quarterly.
- Mr. Schwartz noted that there is no perpetual care in any the town owned cemeteries and that the fees for Academy and Pinebank are not enough to fund the care going forward. It was noted that Pinebank has its own association and they set the fees. If that association dissolves, the town would inherit whatever funds they have. The proposed committee would take over the association duties at that point.
- Mr. Casey asked for clarification on the care of Wolverton Cemetery, which he owns. Mr. Finch said that NYS law says that once a cemetery association is abandoned, the municipality that the cemetery is in is responsible for the maintenance (which is defined in NYS law). The town is responsible for Wolverton Cemetery as there is no association. The only cemetery that the town is not responsible for is Pinebank Cemetery. The town accepted the Academy Cemetery in 2013/2014 when the association dissolved and took on responsibility for that. The town's responsibilities are defined by NYS law and includes a fence around the cemetery, maintenance, etc. The town makes a contribution to Pinebank Cemetery to help keep the association solvent.
- Mr. Casey asked if the town was responsible for headstone care and Mr. Finch said that was more loosely defined. It is up to the Town Board to determine the level of care for the headstones. Ms. Silverstrim noted that any financial aspects are up to the determination of the Town Board, no matter if there is a committee or not. She noted that the Town Board has budgeted funds for 5+ years for preservation and repair work in the cemeteries. She can provide a report for exact expenses but it is only a few thousand each year in addition to the mowing. Currently the yearly priorities are set in a conversation between the Parks Dept., Highway Dept., and the Historian. Mr. Finch added that the Town Board adopted a capital improvement plan in 2017 that include all the cemeteries. The surveying, fencing, etc. for Hunn Cemetery cost approximately \$10,000. Some money was spent at Wolverton Cemetery but that was identified in the capital improvement plan. Capital improvement plan: 2019: \$16,000, 2020: \$1,500, 2021: \$6,500. The proposed committee would recommend annual expenditures.
- Mr. Schwartz said that the town is doing more than required by NYS law by preserving headstones. Mr. HerrGessell added it would be the committee that would recommend what care and expenses were needed going forward.
- Mr. Fennelly asked if there was a reason to not have a committee. Persons willing to be on the committee was noted but Mr. HerrGessell indicated earlier that this would not be an issue. Ms. Bonshak added the other concern was that this could be something for the History Team to take on but it has been established that they do not want to take this on.

No compelling reason not to have a committee was noted. Ms. Silverstrim noted that the committee can be a conduit for the feelings of the community on the care of cemeteries.

- Mr. Davis said it would be a priority to get the Cemetery Committee established. Mr. Fennelly said code would be required to move that forward. Mr. Oyler added that the draft of the powers and duties of the committee would need to be updated to cover much of what was discussed in the meeting (historical side) as the document only covers three items of operation and maintenance. It was suggested that the inclusion of planning for the eventual Pinebank acquisition be added. Mr. HerrGessell said the Cemetery Committee could be of use in a high mortality event/emergency preparedness.
- Ms. Bonshak said the document will be reworked. Ms. Silverstrim said that the code from the Town of Victor will be helpful in the expanded powers and duties. The document will be reworked and sent to the committee before the April 4 meeting.
- Mr. Schwartz is interested in knowing the endowment of Pinebank. Their annual reporting is available. Having someone from the Pinebank Association serving on the committee was suggested. The committee should be looking for grant funding as well.
- Ms. Bonshak asked what other communities are charging for cemetery fees. Mr. HerrGessell said it varies.

Upcoming Meetings:

April 4, 2022 @ 9:00 am

Adjournment @ 10:018 am