

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, NY 14424

ORDINANCE COMMITTEE

Monday, May 2, 2022, at 9:00 AM

Rev. 5/22/2022

MEETING REPORT

MEETING CALLED BY:	GARY DAVIS		
COMMITTEE MEMBERS:	CHUCK OYLER	TOM SCHWARTZ	JOHN CASEY
SECRETARY:	KIMBERLY BURKARD		
GUESTS:	TERRY FENNELL	ADELINE RUDOLPH (R)	
TOWN STAFF:	SHAWNA BONSHAK	DOUG FINCH	

R = REMOTE

PRIVILEGE OF THE FLOOR

Ms. Bonshak opened the meeting at 9:00 am and said Mr. Davis was absent.

COMMITTEE BUSINESS

Review of Amendments to Town Code to Address Private Drives, Driveways, Streets, and Associated Definitions

- Ms. Bonshak read from the memo distributed to the Ordinance Committee:

The Development office continues to encounter challenges with the Code as it relates to definitions, lack of, and ambiguities associated with private drives versus driveways. When a lot fronts on a private driveway, where do we measure lot frontage? If we used the current definition, it would be on a public right of way or street and many parcels would then become “flag” lots or land locked. Our current “minimum lot width” definition is based on width at street line. And “street” as it currently reads, does NOT include a definition of private drive, or allow frontage on private drives (or driveways). Yet, these continue to be proposed.

Chris Jensen and I have looked at all relevant definitions and want to clean up the code both ending land locked parcels (aka anything that fronts on a private right of way). Additionally, myriad private drives exist with no provisions for maintenance and upkeep.

- Ms. Bonshak added that the associated definitions were attached with the revisions and additions noted in red. (See distributed memo.)
- Mr. Finch added that the revisions, as shared by Ms. Bonshak, would allow for subdivisions along private-rights-of-way. Example of The Villas given—which is a subdivision along a private-right-of-way. New residents make complaints to the town regarding road, drainage, etc., when the town can take no action because of the private-right-of-way. Mr. Finch suggested no major subdivisions along private-right-of-ways. Example of Hillcrest Drive given. If a major subdivision, he suggested that a roadway be

built to town standards and dedicated to the town. (Major subdivision is four+ lots.) The Villas has an HOA while Hillcrest does not. Onalinda does not have an HOA and that is another example of this situation.

- Mr. Casey asked if the problem was the lack of an HOA and procedures to handle the issues. Mr. Finch answered it was because the road was not built to town specs. Mr. Casey believes that private drives used in such cases should have a prescribed maintenance for them. Mr. Finch asked how that would be enforced. Mr. Casey suggested it be handled by an HOA. Mr. Finch pointed out that The Villas has an HOA—what is the recourse for those residents? Even though there may be some legal recourse for them, they still call the town for resolution. The suggestion was made to refer them to the HOA.
- Mr. Finch pointed out that there are two issues: 1.) the definitions needed for the different items as proposed, 2.) major subdivisions.
- Mr. Schwartz noted an application on Onalinda with a “shared driveway” and asked if shared driveways were the issue at hand. He referred to town zoning regulations concerning “shared driveways” and “cross access driveways.” He felt “roadways” were town responsibility while shared driveways and private-right-of-ways were not. There are regulations for shared driveways and cross access driveways in place. He further noted width of 20’ needed for two-way travel in shared driveways.
- The Villas has a double-width roadway. Ms. Bonshak noted that Onalinda has a private driveway and a private drive. Mr. Schwartz commented that everything there once it leaves Co Rd 16 is a shared driveway.
- Mr. Finch said definitions are important and cites Chapter 174 regarding subdivisions says there can be a subdivision along private-rights-of-way.
- Mr. Casey said there can be legal recourse against HOA’s not fulfilling their obligations. Ms. Rudolph says that only works/is equitable when everyone is on the private drive. Example of Beacon Hill shared. Mr. Casey pointed out that there is nothing that can be done with existing nonconforming conditions. Mr. Finch questioned if Beacon Hill should have been built to town standards and been part of the town’s roadways.
- Mr. Finch shares example of a development with less than four lots—three houses, private drive, with HOA, septic systems, etc. Is this an issue? For three lots or less, this can be done currently. Three lots or less can be on private drives. HOA is not required, unless the Planning Board requires it. Mr. Oylar added that he would require a cross access easement for this to address maintenance of the driveway. An access easement/maintenance easement would give structure and prevent problems between neighbors. He noted the Planning Board requiring access/maintenance easements to be submitted that have the approval of the town attorney.
- Mr. Schwartz suggested putting a responsibility with the abutting owners in the deed.
- Mr. Casey suggested implementing code for an agreement between three or less homeowners sharing a driveway.
- Mr. Schwartz cited code 220-75-B (Access Control) which talks about shared driveways:
Shared driveways, cross-access driveways, interconnected parking, and private streets constructed to provide access to lots internal to a subdivision shall be recorded as an easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities should be recorded with the deed.
- Ms. Bonshak noted two private drives in the Sunset Ridge development—with three lots—off of public roads.
- Mr. Finch shared the definition of a shared driveway: a driveway connecting two or more contiguous lots to the public street system. If subdividing 2-3 lots, you can have that subdivision along a private-right-of-way or private shared driveway providing it meets

other requirements. If a major subdivision (four+ lots), the developer should have to bring the road up to town standards.

- This would only apply to future developments. Fixing areas already built, ex. Onalinda, is not possible.
- With regards to 220-75-B Access Control, it has been applied with information being recorded in the deed.
- Ms. Rudolph asked if there is a length of driveway restriction. No, as long as it is noted in the deed and meets safety requirements plus any other applicable requirements.
- A private road has other standards. Pre-existing nonconformity private road at Onalinda 14' wide.
- Mr. Casey gave an example of a new subdivision with four+ lots, with either 1.) a private road/driveway with an HOA that has defined maintenance of the drive/road or 2.) roadway constructed to town specs and dedicated to the town. Mr. Finch said residents claim to be negatively impacted by a private roads (storm water, traffic, etc.) frequently so questioned why should private roads not to town standards be allowed. Mr. Casey suggested there are two markets—completely private and town maintained. Mr. Finch said there is not a difference in the real estate market. Ms. Rudolph said upon resale the home owner may not realize the difference between the services for a private road versus public road. Mr. Casey said that should be specified in the documents when you buy the property. Mr. Finch noted Hillcrest with a private road that the town is often responding to issues with—ex. stuck fire truck needed to be pulled out. The lack of adherence to town standards for roadways cause problems. Roadways built to town standards would better serve residents.
- Mr. Fennelly added that residents below Hillcrest are impacted by the roadway design. He cited the example of St. James Pkwy. He suggested that if you are going to build a development, the roads must meet town standards.
- Mr. Casey asked if it was the Planning Board's responsibility to address drainage and insure abutting properties are not negatively impacted. Yes. Mr. Fennelly noted that even though best engineering is always attempted, you can change watercourses any time you stick a shovel in the ground.
- Mr. Finch noted having to put plows on in the summer time to scrape debris off of Co Rd 16 at the bottom of Hillcrest during storm events.
- Mr. Oyler added storm water management is better now but there are many developments built before that current technology.
- If Hillcrest was built today, the road configuration would be different. The road would have to have the proper slopes, switchbacks, laid out different, and supporting infrastructure. RSM development noted. RSM will have town roadways.
- Notre Dame Retreat House is could go up for sale, 100 acres off of Foster Rd. What if a developer put in 60 homes on a private road up from existing Co Rd 16 residents? Mr. Casey said if engineered properly, the roadway should not impact those residents and if a private road, there would need to be a HOA to maintain the road. Ms. Rudolph said she sees only problems with a private road for more than three houses.
- Mr. Finch noted that developers often don't want to include the other things like sidewalks, gutters, etc. Should these be required for a 60 home development? Ms. Bonshak noted Complete Streets are making that happen. Mr. Oyler said that in a hybrid situation, the storm water management is HOA—public streets/access but privately maintained storm water system. He suggested that as a possible model for the future.
- Mr. Oyler said that eventually residents on private streets want the town to take over the roadway. The only way for the town to consider it is if the roadway is brought up to town standards.
- Discussion about the lack of formal access easements in many locations.

- Why would any new four+ house subdivision not have gutters, sidewalks, etc.? Complete Streets already require that, at the discretion of the Planning Board, on public roadways.
- Example of Hillcrest and three sets of couples walking in the roadway—no sidewalks.
- Mr. Casey noted that roads built to town specs will increase the cost of construction. Mr. Finch countered that there are other ways to mitigate costs like extra density.
- Why not put in roads to town specs? To keep costs down and to have more space.
- There are benefits of Complete Streets—more friendly neighborhoods. Discussion about putting Complete Streets into town code.
- Private homes with a private driveway to a public street. Apartments with private driveways. Condos with HOA and public streets. Need public maintenance with housing density.
- Creekview example: hybrid with private roads off of a public street. Apartments off of private roads/driveways. The public road with loop allows school bus pickup.
- Simplification of definitions as there would only be: driveway, shared driveway, and road.
- Public maintenance of roads versus private maintenance—Mr. Finch noted that the town can maintain the roadways more efficiently than a private entity. There is a taxpayer cost bringing in a single-family residential home subdivision.
- CHIPS funding is based on roadway miles.
- Ms. Rudolph asked about commercial private drives. Example: Everwild. Would they need to be to town road specs? Mr. Fennelly said if publically maintained, yes. Mr. Finch noted that is SCR1 zoning and Everwild could have been a Special Use application to the Planning Board and it would be a Planning Board decision. Ms. Bonshak said it would have to be because of the traffic.
- 26' for the roadway—2 x 13' travel lanes, plus shoulders, plus gutters, plus sidewalks. 66' usually. Usually the Planning Board allows sidewalks only on one side. Nothing in town code says sidewalks on both sides. Complete Streets says sidewalks on both sides plus bike lanes.
- Mr. Finch and Ms. Bonshak will work on material to bring back to the Ordinance Committee.
- Lot Frontage definition: There is confusion about the definition as it is written. A sketch was suggested. The code does not reference lot frontage, it notes lot width for which there is a definition. This would feed to the flag lot discussion.
- There is a section of the code that does not allow flag lots because the frontage cannot be less than three times the depth.
- Discussion about a pending application, CPN-2022-015 and flag lots. Mr. Finch noted discussing this with Chris Nadler. He also said that subdivision along a private right-of-way is currently permissible while the flag lot is not. A variance would be needed for the flag lot or they would need to change the lot lines. There are three 20' wide right-of-ways proposed. If a road to specs was put in, there would be no issues and the possibility of further subdivision. Mr. Oyler noted problems with the applicant providing access easement for this application. Discussion about hypothetical development on parcel—2 houses, private driveway. Four, a roadway to town specs. If the desire would be to eventually put in more homes, creating the roadway to town specs first would be better. Minimum road frontage in this area is 225' – there is not enough for two 225' frontages. A ZBA interpretation will be coming at the May ZBA in reference to this.
- Mr. Casey asked what is a quorum for the Ordinance Committee. Four members. Two would be a quorum. Adding another member was suggested. Mr. Finch suggested passing some administrative ordinances directly to the Town Board so the Committee can focus on land-use ordinances. Mr. Fennelly said that it takes so long for the Ordinance Committee to deal with issues that possibly hiring someone like Bergman would be advised—especially for solar. Meeting every two weeks was suggested.

Upcoming Meetings: May 23, 2022 @ 9:00 am

Adjournment @ 10:25 am