

Town of New Scotland  
Special Town Board Meeting  
09/23/2020

The following Town Officials were in attendance:

Supervisor:	Douglas LaGrange
Councilperson:	Adam Greenberg
	Bridgit Burke
	William Hennessy
	Daniel Leinung
Highway Superintendent:	Kenneth Guyer
Town Clerk:	Diane Deschenes
Town Attorney:	Michael Naughton

**1. Call to Order**

Supervisor LaGrange called the workshop to order at 6:04 PM to discuss the draft update of the Town's subdivision regulations. This meeting is held through Zoom pursuant to the Governor's Executive Order 202.1 which includes not having public meetings. This was advertised and I have proof of that from Diane, our Town Clerk. We will start with a roll call attendance.

Mrs. Stolzenburg said she could give a little update based on our last meeting. She made the changes discussed at that time. She cleaned up the draft by removing the sidebar comments that we had actually talked about. What is left in the version of the subdivision showing changes as of September 2020 includes all of those updates. The comments that are in the sidebar that are left are the ones that were still to be discussed. We didn't get to them all last meeting. She thought that it would be a good place to start to finish up those specific places that needed the Board's input. She doesn't know whether you want to then go back to the beginning and review the potential changes again or how you want to handle that. She thought we should at least start by finishing up those comments.

Section 164-19

Supervisor LaGrange asked what page she would like to start on. Mrs. Stolzenburg said that the first set of comments yet to be discussed is in Section 164-19. On her computer it's page 43. Councilperson Leinung asked if it was the dead ends and cul-de-sacs. Mrs. Stolzenburg said that that's correct. The comments that are in this section and the next couple of sections about streets and highway grades, street intersections, and all of those that are listed there. She doesn't know how up to date they are because since this subdivision law was written you had done some work on the Green Highway Law and maybe some other highway standard updates. She just received today that new Green Highway Law so she has not had a chance to look and see. Maybe you know the section, 19-24. Actually all have new street requirements: widths, dimensions, grades, and things like that. They really need to be consistent with whatever other highway standards you have. She doesn't know if you want to go through these if you know what those dimensions are or if you want her to take what she received today and make those changes. What are your thoughts on that? The comments that you see in those sections are really just to make sure we're consistent with the most recent highway standards that you actual use. These seem a little out of date in a sense that a lot of communities have narrower roads these days than they did before. This needs to be consistent with the other thing that you've got.

Attorney Naughton said that he has a suggestion on how to handle that so that we don't end up with conflicting standards. He thinks that when it comes to the width, depth, the construction, subbase etc., of streets and designs of streets we should just say streets within subdivisions should be designed in accordance with the current standards for highways under section whatever it is. Right at this moment we don't have that but he thinks there is no reason we can't pass those new street designs contemporaneously with passage of this subdivision law. If we make future changes to that we won't have to go back and forth between the two. The only exception to that would be if there are design preferences, like we want to say that a cul-de-sac are discouraged and that kind of thing that the Planning Board can work with because we probably will keep within those designs and cul-de-sac designs, but we will say things like we discourage cul-de-sacs and encourage hammerhead dead end designs where possible and just take that general approach. Looking at these things, if there is general guidance on what we prefer we can keep that in but stay away from how wide the road is etc. How does that sound? Councilperson Greenberg said that that sounds right to him.

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Councilperson Hennessy said that he'd like to tread lightly on that. He hates removing things in entirety without a little more thought given to it. If it's not typical to have it in this law, then great. Obviously it's harder to keep it consistent with the highway but we don't see the highway regulations very often so we won't know that stuff very much. Mrs. Stolzenburg said that she thinks it happens both ways. You see highway standards sometimes in the subdivision law but just as often there is a standalone that the subdivision refers to. She doesn't think that there is any precedent to keep them in the subdivision law as long as you're working off of one set of standards somewhere. Councilperson Hennessy replied that that was okay. Councilperson Leinung said that he thought that made sense. Attorney Naughton said that, along with that, this is just subdivision and then you have zoning for site plan review, special use permit, so it could get kind of clunky having to make amendments every time we make amendments to our highway law. You have to go back in and make amendments to subdivision and the zoning site plan, special use, etc., if we just give general guidance and then say it should be designed in accordance with these standards. Our standards can also say what our preferences are for smaller streets. Kenny for example doesn't want to have cul-de-sacs. He wants to have narrower streets, less blacktop, less maintenance, less snowplowing, etc. If you are in here and you want to give general guidance that these are our preferences then they can do that and say it should be designed in accordance with section such and such. Then the applicant can go right over to whatever our standards are for that.

Mrs. Stolzenburg had a question. Is what we received today from Garrett that was green road design standards the same? It looks like it was a law that was passed a while ago. Is that the same thing that you're referring to? Attorney Naughton replied no, that was a standalone law that we did in connection with the LeVie subdivision, and we made it a general standard that could be used elsewhere. We have received a draft from Stantec. He thinks Dave Hansen was leading that charge of some new standards. He doesn't believe there is much text that goes along with it to say things like we prefer this design which is the narrow one; we discourage cul-de-sacs. That still needs a little work. It's hasn't gone through a workshop yet and we should do that. Councilperson Hennessy said that that law was written in response to NYS Stormwater Management Regulations requesting that storm water instead of being directed to detention ponds all the time see if you can get it to infiltrate in the ground where the raindrops landed. One of the ways to do that is to do these swales which are much larger instead of piping it to a stormwater pond. You can reduce the need for stormwater management ponds all over the place. LeVie's was one of the first ones, from what he heard from other engineers, to be done in the capital district. New Scotland was one of the first towns, if not the first town, to actually write a law. Just real quick on LeVie's: They still have a stormwater pond in the back which kind of irks him a little, but that's the way it is. He suspects you will never see water in that pond, but be that as it may it does cut down on a lot of that problem.

Mrs. Stolzenburg said that it's certainly no problem to keep the general things that are oriented to board design kind of concepts and just refer to this new highway standards law. That's easy to do.

Councilperson Burke said this raises a question that was on her mind related to the highway law but also related to the interplay between the zoning law. There are places where you are suggesting it should really be in zoning and not here in the subdivision law. So, this is really a question for the rest of the Board. What is our order of operation? Nan has made some really good recommendations here and if we did put it in here and don't have it in the highway law yet do we have sort of a game plan for what we are going to tackle and how rapidly so that we don't lose these things that we don't necessarily want right here. Attorney Naughton said that he thinks this subdivision law is going to take a little bit to work its way through the process because the next step after we get something that we consider final is going to then go over to the Planning Board. He doesn't think it's one of those things where it ought to be like a one meeting and you're done Planning Board. He thinks they ought to dig into it a little with their own little workshop and go thought it. They do see these things all the time and will have fresh experiences. Many members of the Town Board were on the Planning Board but as you leave that Board over time you tend to forget about this or that. So there is a little bit of time here, and in that time we could dust off the comprehensive revision of the highway laws and get those designs ready so that when we're enacting the subdivision we can also enact that revision to the highway. That will also require that we look back at our updated zoning law. There may be some things that are inconsistent in there. He thinks that the hamlet zone has some of its own highway sidewalk type of design standard in it. So, that is very probably very current and we will probably borrow from that and lift some of that out. There may be occasions where we kind of say oh wait we have a little bit of a problem over here, and if we're doing a few amendments on a local

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law we could fit that pretty easily also. There is enough time in the pike to get both done at once and make sure we get it right. Mrs. Stolzenburg said to remember that we have the zoning updates to come. She thinks it makes sense to make sure that if we're moving ahead with this subdivision and the highway standards, then we would know what tweaks to make in the zoning law to make sure all of these are working together. That makes sense. Councilperson Burke replied okay.

Section 164-28

Mrs. Stolzenburg said that the next item, maybe Michael knows or maybe Crystal knows, section 164-28, had a reference to appendix A of that chapter. She's on page 46. She has never seen what appendix A is. If anyone knows she would like to see that or if anyone doesn't know what that is we should change that language. Attorney Naughton said that he has an appendix A. If you turn to the very back of that thing you ought to have a copy of it there as an appendix A regarding the subdivision of land. We need to get that to her. Mrs. Stolzenburg said that she would make arrangements to get that. Supervisor LaGrange said that he would get it scanned to her tomorrow. Mrs. Stolzenburg said that was very good. She just wanted to make sure we included that so it was part of the whole. Attorney Naughton said that she has a feeling that these are very old stormwater management design considerations. We should try to find an updated version of this. She asked Councilperson Hennessy if he knew off the top of his head? This is a 2004 document so she can't imagine that it's current. Councilperson Hennessy said that he's looking at it right now. We might need to just refer to the NYS Stormwater Management regulations because they change all the time. What Nan put in here for stormwater management of September 2015 might not even be the latest. It's a good comment for Jeremy to consider also. Attorney Naughton said that that would be good. The then current stormwater management plans and regulations for subdivisions issued by whoever it is, NYS Dept. of Environmental Conservation, Division of Water. Mrs. Stolzenburg asked if he thinks that the reference to Appendix A should come out and we just drop that out? Attorney Naughton replied that he did. Councilperson Hennessy said that it's based on old TOGS. DEC has these things called Technical Operational Guidance Series, something like that. It's based on that and it might even be outdated. Supervisor LaGrange said that he wouldn't send Appendix A. He will find out from Jeremy what the newest and greatest stuff is from DEC. Councilperson Leinung said that there is a whole bunch of stuff on DEC's website for the TOGS. There is a lot of it and it looks like there are various updates. The latest one looks like from 2017 or 2018. Attorney Naughton said to Nan that the general reference should be those current regulations in effect at the time of subdivision approval.

Article 6

Mrs. Stolzenburg said, moving on to the other areas needing discussion, quite a few of them are related to Article 6 starting on page 50, Conservation Subdivisions. What this whole section had was a cluster development section in the subdivision. She doesn't know if it's been there for however long, but the Comprehensive Plan called for use of the Conservation Subdivision design technique which is really an updated version of what clustering is. So what she did in this section was changed. You had to be more consistent with the kind of standard conservation subdivision design method. Conservation subdivision the way it's normally applied is what we call a density neutral technique. It's a siting technique. It doesn't change how many dwellings someone is eligible to get. That is outlined by the zoning. If the zoning says you get 50 houses in that zoning district you would still get 50 lots in the conservation subdivision design. It's just developed so that the lots and the house sites are strategically located, oriented around protecting the unique features and environmental features on that parcel. It's a flexible technique in terms of the lots sizes and the setbacks. It's kind of like a cluster development in that those things are relaxed but a conservation subdivision is different from a cluster subdivision in that how it goes about. It starts by having a really good understanding of what the resources on the parcel are. Instead of just saying I get 50 houses and I'm going to survey out 50 lots and put them across the landscape, the conservation subdivision starts with analyzing the environmental features on the parcel. Actually the more important feature of a conservation subdivision is where the houses actually go. The lots are less important. The lot lines are drawn in as a last step whereas with a conventional subdivision you typically start with 50 lots and I'm going to draw in 50 two-acre lots and that's what you get. So the conservation subdivision's premise is that a certain amount of open space has to be incorporated into all of these designs. The houses are strategically placed to create that open space as well as to give those new landowners either visual or physical access to the open space. It could result in a cluster of homes or several clusters of homes, but it also could spread the house sites out across the landscape but strategically located to preserve that open space. It's usually applied to major subdivisions because it's harder to

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do when you're only doing a one-, or a two- or a three-lot subdivision. It's not terribly effective on the smaller subdivisions. What is in this section now is some updated definitions and the procedural requirements on how you actually get at a conservation subdivision, and it lays out some specific steps of the process you would take to get at it. It's important because the conservation subdivision starts off with environmental resources instead of starting off with the number of homes that you get. So this section brings your formerly clustering sections kind of up to par with the conservation subdivision method. Within that though there are various design standards. There are various requirements that are policy that you all need to make a decision on. There is a component in the zoning law that usually matches the conservation subdivision. Some communities put it in the use table or they put it somewhere that says major subdivision either shall or may be developed with using the conservation subdivision design per article 6 of the subdivision law. That's like the highway law. That's another place where we have to make sure the zoning and the subdivision have the same language. The purpose of a conservation subdivision as I like to call it is you have your cake and you get to eat it, too. The developer, the landowner, gets to have the same number of dwellings that they would normally get, and the Town gets preserved open space and environmental protection at the same time. Councilperson Hennessy added, "And less roads to plow." Mrs. Stolzenburg said those types of things but a big question that is not answered yet, which I said is a policy, is how you want to apply this. Do you want to make it completely voluntary so you can say you'd like to do a conservation subdivision and then you say go see section 164 or whatever, or you can say every major subdivision in town has to be developed according to the conservation subdivision method, or there is an in-between where you might say the Town prefers a conservation subdivision design and we're going to require it under certain circumstances. Some towns apply it like in an overlay district. Some towns require it when there are a certain number of houses. If you have a really big subdivision versus five or six houses it would be a conservation subdivision. One of the real discussion items is how do you want to use this technique and kind of coupled along with that is the ultimate purpose of this is to promote and preserve open space. What goes along with a conservation subdivision is that a certain percentage must be preserved as open space. "If I recall, and I may be wrong, but I seem to remember from when I went through this the first time was that it was that the amount of land to be preserved was kind of up to be decided at the time of the subdivision." There are a lot of ways to get this done from voluntary to mandatory with multiple iterations. Some communities say that for a certain size subdivision you have to submit a conventional subdivision design and a conservation subdivision design, and then it's up to the Planning Board to pick the one that works the best for that parcel in consideration of working with the applicant. There are lots of ways to do this. There are some standards and specifics in here that we need to talk about, but the very first thing we need to do is decide how you want to apply this. What do you want to get out of this and how much do you want to use this technique?

Attorney Naughton said that generally you would like to see more flexibility on these kinds of things because you're jamming it through, and acquiring in every case doesn't make a lot of sense in certain situations, especially if it's a site that doesn't have a lot of natural features, streams, and ravines, etc. On the other hand he would like to hear Crystal's point of view on this. If you just make it a may it's not real strong. He would be concerned that the Planning Board wouldn't have the legal basis to insist that a developer present a conservation subdivision. By the way that was a really good presentation. Maybe we should say it's a shall and then say "unless the Planning Board finds after consideration of a sketch or site information that it would not be beneficial for the Town and the particular site in question." So, it starts with a shall and then it gives the Planning Board an out if they find in their discretion that it's not appropriate. He thinks it gives the Planning Board a little more teeth to require an applicant to go and present that way, but at the same time you haven't tied their hands because there isn't one rule that seems to work very well sometimes and you hate to have an applicant spend a lot of money proving to the Planning Board that it just doesn't make any sense to do that on a development in that particular scenario. He then asked Crystal what she thinks about it. If it's just a wide open "may" would the Planning Board have the teeth to be able to insist that they do it?

Attorney Peck said that she agrees that we need a little bit of flexibility depending on the sites for the project. One of the things that she wanted to point out was that she knows how this section used to be under the cluster subdivision title. There is a correlating zoning provision to cluster subdivisions in the application process. It's 190-59 where it goes through. What that does in that section is that it actually says that the Planning Board has the discretion to require the applicant to submit. It's cluster in 190-59, but we can very easily change that and make those procedures applicable to a

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conservation. If a project comes into the Planning Board where it feels like it would be appropriate, the Planning Board actually has the ability to require the applicant to put in that alternate design. It also has the ability to push that forward to the Town Board for consideration. Maybe that's one of the ways to consider it instead of having just a straight up "may" allowing the Planning Board the discretion in those circumstances depending on the physical characteristics of the site to require it for the types of subdivisions it feels would be beneficial and should be considered.

Councilperson Burke asked, "What if we put some of the onus on the person that's trying to develop the land by requiring that if they are intending not to do a conservation subdivision they need to provide the justification for why it would not be appropriate?" Then they don't have to pay for an elaborate plan but they at least have to put their thoughts out there. Attorney Peck said that they use that exact procedure in other areas of the zoning code too where we actually require them to show why they are requesting either a waiver or why this is not applicable. That's obviously an option for something like this, as well. There is usually a dialog that will happen too between the Planning Board and the applicant. If the Planning Board is discussing it and showing the applicant that this is something that it's going to consider and may very well require, the applicant would have an opportunity during those discussions as well to make a pitch for why the Planning Board should not require it in that scenario. Councilperson Burke said that it's really just a question of where do we put the onus for initially requiring it. If we say right off the top that we want everybody to be considering this and justify it if they're not going to do this, or do we say that they propose what they want but the Planning Board may step in and say that they think this should be a conservation subdivision. Mrs. Stolzenburg said that those are both valid approaches; definitely they have a different flavor on how you get to the end product. Councilperson Burke agreed.

Councilperson Leinung said that we updated our plan last year. One of the big things was preserving open space, and conservation easements were a big part of it. Also being on the Planning Board he's seen a lot of times that if we give the option of doing a conservation subdivision 90% of the time it's going to come in with, "No, it's too expensive; I want to do this other one." He thinks the default should be a conservation development but give the Planning Board some type of discretion to give themselves an out. Honestly it probably doesn't work every time. As long as we have guidelines or at least a few check boxes that the Planning Board would use to determine whether something is feasible they have to weigh the balance of the conservation subdivision. Is this too onerous? Is the benefit going to outweigh the cost to the developer and the Town? Is it really beneficial having some kind of allowance for the Planning Board there to do that? The preference would be for the default to be conservation with the Planning Board able to override it under certain circumstances.

Supervisor LaGrange said that there is one question that she had that ties into this a little bit. Our Parks fund is primarily funded through subdivisions not setting aside green space. Usually that's been a substantial area like with Kensington Woods. You know you have your four general areas of build out. Say there was 200 acres and they set aside 30 acres to offset the lot fees. What would this do to the potential lot fees or would this still kind of work in concert with that premise if they set aside a big area in addition to some of the areas that need to be kept aside because of their environmental factors? Is there any thought to that? Mrs. Stolzenburg asked if he was saying that if you have a subdivision that comes in that creates a substantial amount of open space for those residents then they don't pay a recreation fee? Supervisor LaGrange said that's correct. Councilperson Greenberg said that in that case he thinks it's a good point. He thinks we could just say that if you're getting the same number of houses you would get by developing it in entirety. You still have to pay the fees, but if you're reducing your number of houses in some way then maybe you don't have to pay that. Supervisor LaGrange said that it's just something to keep in our minds. He loves this idea. There is no question, and it conforms with what we are looking for in the Comprehensive Plan as Dan mentioned. That's something to be mindful of because it is a sizeable component of revenue for our parks. Mrs. Stolzenburg asked if someone just had a lot and they were just building a house do you not charge them a recreation fee? Supervisor LaGrange said that he thinks it's only on subdivisions and asked if Michael or Crystal knew. Attorney Peck said that she doesn't think we do. Attorney Naughton said that we don't do that, not for individuals. Supervisor LaGrange asked if it is a 3-lot subdivision? Where is the breaking point? Councilperson Greenberg said that it's probably major subdivisions. Councilperson Leinung agreed. Mrs. Stolzenburg said that the other thing you can look at is even if a subdivision preserved x percent of the parcel in open space it doesn't mean that those new residents aren't going to use Town Hall and other town park facilities, so she would think that that doesn't negate the need to have a recreation fee per household.

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Supervisor LaGrange said that it's something to be mindful of as we move forward. He didn't want it lost in the discussion. Mrs. Stolzenburg said that she thinks that that is a really good point. That would definitely come into being either in how we approach this or how we approach the fees. Supervisor LaGrange said that maybe there would be reduced fees. Michael was talking "shall" as was Dan, and he doesn't disagree. Maybe reduced fees would encourage someone to go this route. He's just thinking out loud. Attorney Naughton said that he kind of likes the idea of creating incentives with developers to do that and go along with us. On the other hand we are supposed to encourage denser development all in one space and then leave things open. If the town gets developed a lot and if you're eliminating those fees, then you're kind of encouraging more sprawl. Attorney Naughton added that that's something we're trying to get away from. Councilperson Burke said that she thinks we should look at exactly what the structured fee is now, and then with that information in front of us we can tweak it. Mrs. Stolzenburg said that they could think about that. We don't necessarily make an absolute decision tonight. Going back to the suggestion of kind of a default for a major subdivision or for a subdivision over a certain size it will be a conservation subdivision with the out by the Planning Board allowing for a conventional subdivision. Is that the direction you want to go? She only heard from a couple of you. Councilperson Hennessy said that he'd like it to be the primary because with the suburban sprawl we have enough of the "mc-mansions" in town. We need to encourage some other opportunities he believes. He'd like to go in that direction as long as it's the primary. If the Planning Board has discretion, that's fine. As you say "shall" is better than "may." That should be the primary goal. Councilperson Greenberg said that he agreed. He's for "shall" with some Planning Board discretion. Councilperson Burke said that she would include the Planning Board's discretion, but for the initial application she would stick with alerting the Planning Board that they prefer to do a conventional and their justification for that. Supervisor LaGrange said that he totally agrees with everything here but would we want to set certain parameters that someone could come to the Planning Board, for lack of a better term, and argue why they shouldn't do it? There is no wetland or certain things that would kind of help guide the Planning Board with some concrete stuff along with an applicant. Is that nonsensical or something we should maybe consider? Mrs. Stolzenburg said that you might have to carefully think of the wording. You might want to put it like what Bridgit said. If the parcel in question has none of the primary environmental features on it that the Town is seeking to reserve, then they could make their case to the Planning Board as to why that should be waived or something like that. Supervisor LaGrange agreed. Councilperson Greenberg added that Crystal said that that already happens to a degree or will happen. Mrs. Stolzenburg added that that would be consistent with what's in the zoning. Councilperson Greenberg agreed. Councilperson Burke said that there are other places in the zoning law where people are given an opportunity if they want to part from the norm, but she doesn't think that's in this particular case, is it? Attorney Peck said it was not specific to that consideration in the cluster subdivision area. She's almost picturing when you're looking at some of the different density requirements up in say the Adirondack Park Agency area. Their jurisdiction where you're looking at the actual environmental physical characteristics of the land and if you're going to make a pitch to change the density you're looking at those physical characteristics and you have to show to the agency that this land that you're looking at doesn't have it. That's exactly what she thinks Nan mentioned based on what Bridgit said. She thinks that's a good standard to use when you're looking at conservation subdivisions. Attorney Naughton said that he thinks it's always good if you want to give the Board discretion when it comes to those kinds of things to give them this list which Nan could come up with pretty quickly. You know wetlands, ravines, natural features, streams, and that kind of thing. Some of the things that the Planning Board could consider in connection with that decision would be this list and then it wouldn't be just willy nilly. That's how he defends a case about a Planning Board decision. If you come up with a list it would be good. We could add a few more maybe. He would also add even a flat open field, grassland. That's probably something that we want to encourage. Sure it's common in Town, but it's habitat. It's good and it's something to look at. Mrs. Stolzenburg added that it's also part of the rural character. Attorney Naughton agreed. Mrs. Stolzenburg said that she thinks she has an idea of the direction you want to go. She will update this to try and reflect that. Supervisor LaGrange added that we also have to be mindful that we have a Planning Board that we're primarily satisfied with right now. That doesn't mean things don't change in the future after we're done with our work here, and so it's always important to be a little more structured and have things set up that are more definitive rather than so much discretion outside of the points we're trying to make. Mrs. Stolzenburg added, "Defined discretion." Supervisor LaGrange added that he personally has been here a long time and suffered through some interesting Planning Boards that he was on. A lot of the things we've done over the years to get to the positions we're in now we've done a solid job of, and we're continuing that. We

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need to leave the structures that need to be in place not just for the Planning Board that we have today but for potential ones in the future. Councilperson Burke added, “Especially since the Planning Board is going to be looking at things and we have such faith in them. If we put in a structure that they don’t feel gives them discretion then we can modify it.” Mrs. Stolzenburg said that there are a couple of other triggers. Do you want to say that this will be where we’re going to go? That “shall” with the defined discretion for any major subdivision or subdivisions over a certain acreage or over a certain number of houses? What’s the trigger there? Councilperson Leinung said that he’s thinking everything. To be honest, we don’t get a ton of major subdivisions anyway. We already have 4 and over, so he thinks having it for that is fine. He doesn’t think we need to break it up by acreage or anything.

Councilperson Burke asked Nan, in terms of putting together their package, if we were talking a minor subdivision how would applying this change affect what they had to do in terms of cost in time and effort? Mrs. Stolzenburg said that she thinks it potentially could add a lot of cost because they may be going through the site planning analysis in a much more detailed way that is typically associated with majors and not minors. There might be an easier way to get at similar Town goals with a minor subdivision. We haven’t talked about those, but it could be authorizing the Planning Board to establish the building envelope. So if there are a lot of environmental features on a minor subdivision, the Planning Board could have the authority to say that the building envelope would include the house, and the driveway needs to go over here because there is a wetland over here, a steep slope, or whatever it might be. On a minor subdivision, let’s say you have one lot and you’re just splitting it in two. To put in a requirement that you have to preserve half of that parcel as preserved open space, some communities do but not many. That could be onerous. Councilperson Burke said that she would definitely say we not apply it to minors.

Attorney Naughton said that he likes the idea of this building envelope and then giving the Planning Board the direction. When deciding on the building envelopes, it could be a general area of building envelopes that they apply the concepts in the conservation subdivision. For example, right across the street from him there is a four-lot subdivision. There are really just three lots because there is an existing house. It was like an 11-acre parcel. It’s called Toby Lane. Very nice property. If they just followed what they had to do under the current subdivision they could put the house anywhere and there was kind of a water drainage feature right down the middle of it and there were other features that probably could have been detected. As it turned out, it ended up being done in kind of an environmentally sensitive, conservation-minded result but it didn’t start out that way. There was an early iteration that got approved that did not do that at all, and without some kind of teeth within the subdivision regulations even for smaller ones which Dan is talking about you could end up with some bad results. Why should we have different rules for different size things? Much of what gets developed in Town is one lot at a time, one after another, after another. So, if we give them this building envelope concept at least we can have the house put in a smart spot. Councilperson Burke said that she agrees with that in terms of the envelope but not in terms of applying the whole subdivision. Attorney Naughton said that it’s cheaper.

Attorney Peck said that this is actually a discussion that came up recently too between her, Jeremy, and Chuck. Technically the way the code is building envelopes require that as people are going through an approval process and how we’ve been starting to talk about the fact that it is not a bad idea to make a requirement just so we can start looking at a broader picture, probably subdivisions are going to look like they have houses on them and if they want to change it when it comes time to build out it’s not that big a lift to go back to the Planning Board and just ask for that before they get the permit. Mrs. Stolzenburg said that it’s always been kind of amazing to her that a lot of Planning Boards all they care about is where the lines go. The lines really, from an environmental perspective, mean little. It’s really where the building is taking place that matters to both the environment and character. The subdivision law doesn’t really address that unless you do the building envelope route. She can certainly come up with some wording in our minor subdivision section to get at that. Councilperson Greenberg said that he would like to see that. Supervisor LaGrange agreed.

Section 164-39 Item C – Minimal Parcel Size

Mrs. Stolzenburg said, moving on to the bottom of page 52, you’ll see item C, manual parcel size. That is a holdover. It was moved from someplace else in here that required it to be 5 acres or greater of buildable land. If you’re going to go with the trigger being a major subdivision, the question is that important. Councilperson Hennessy said that that wasn’t the discussion just now that majors are

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not just the trigger. We want to have those concepts incorporated into minor. Mrs. Stolzenburg said that before the cluster required a minimum parcel size of five acres. Councilperson Hennessy asked if this was part of an old cluster section or was this actually a conservation subdivision design? Mrs. Stolzenburg said that she'd have to go back and look. It's in green. In Word "green" means that you've moved it from somewhere else so she's suspecting that she moved it from somewhere else to here. She'd have to go back and look at that. Councilperson Hennessy said it might have been part of Tom's original subdivision. Mrs. Stolzenburg said that that's right; it might have been. He thinks a major subdivision is a major subdivision and he's just not sure how important this becomes then. Councilperson Burke said that her page numbers are different, and could he give her the section number? Mrs. Stolzenburg said that it's section 164-39, Item C. Councilperson Hennessy said that it looks like you might have just moved it just a paragraph below. Mrs. Stolzenburg doesn't know whether it was there or if it was Tom's. The broader question is is it important to have it in there at all? Councilperson Hennessy said that he guesses not; he really doesn't think so. He'd like to be able to incorporate some of the elements of the conservation subdivision into the minors also. He doesn't see a need for the five acres, unless it's something that's similar in other regulations that you've seen. Councilperson Burke added that she thinks that when we talk about affordability and wanting to have an environment where different financial doctrines can be welcomed allowing for the appropriate question: Does it really meet all the other criteria? Mrs. Stolzenburg asked if there were any other thoughts on that one? Councilperson Greenberg said that he agreed that we don't need it if we're going with a major subdivision idea with some minor subdivision regulation too.

Definitions

Supervisor LaGrange added that on a previous page Nan had a comment about the definitions. His feeling is that our definitions should all be under one spot. He thinks that that's what she was asking here. Mrs. Stolzenburg said that the definitions are in one section so she didn't know if you wanted to keep these here or if you wanted to move them so they are all in one spot? Councilperson Greenberg said that he likes them all in one spot. Supervisor LaGrange said that we've run into issues in the past when they've been in different areas. Sometimes they've been in conflict with each other so he thinks it would be best to have them all in one spot. Councilperson Leinung agreed.

Councilperson Greenberg said that she asked about the 17%. Mrs. Stolzenburg asked if that got resolved? She knows there were some emails after our last meeting about that and she wasn't sure what that turned out to be. Councilperson Greenberg said that he believes she had asked what was in the Comprehensive Plan. The Comprehensive Plan mentioned 15%. It doesn't exactly recommend it, but it says that that's what we've had in the past or something like that but he believes it was changed in 1994 to 17%. Councilperson Hennessy said that in 1994 we did the Comp Plan update, and they stated that 15% was the level that could be difficult to develop. In 1995, the zoning ordinance was written based on that Comp Plan and they went to 17%. Seventeen is kind of an odd number. He asked Mark Dempf to see if he remembered about it. He did not necessarily. He also suggested that he go back to 1994. He had a good recommendation to look at the Comp Plan initially. He has a couple of theories as to why it's 17%. He's not going to burden the Board with that now. He thinks it comes to a point of what is actually discernable in the field for a code enforcement officer or a building inspector to go look at and measure. He personally thinks we should leave it and have our engineers look into it because it's not necessarily something that is appropriate for us to deal with. He thinks it's something that engineers should have a reason for why it's there. It's more of a technical engineering terminology, geology, and topography. His opinion is to just leave it at 17% and ask our engineers to make an analysis or commentary on it. Put a couple of hours in and ask if they suggest we alter this? Councilperson Greenberg asked if there is a number we are generally seeing now in terms of this? Mrs. Stolzenburg said that some are 15% and some are 20%. She doesn't think there is a consensus on it. Councilperson Burke said that she likes the idea of checking with the engineers. Councilperson Greenberg said that we will leave it unless engineering suggests otherwise. Mrs. Stolzenburg said that that was okay. Do you want her to send an email over to Garrett and ask him to opine on it? Councilperson Hennessy asked Doug if he could supervise that effort? Supervisor LaGrange said that he was just going to ask if he'd like him to. He can copy Nan. Mrs. Stolzenburg replied, "Great." Councilperson Greenberg said when Supervisor LaGrange talks to them he'd like to see some justification for the number, not just yes, 17% is fine.

Section 164-40

Mrs. Stolzenburg said that the next big discussion is 164-40. It's B1b. Hers is on page 55. It's the text that's in yellow highlight. It's number 8 and it starts with "Identify the project price range and

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distribution for individual properties.” In the passage of time she doesn’t remember if this was something you had or if this came from Tom and his model. This is very interesting but it’s also very undefined. This is kind of what we call an “inclusionary zoning.” Inclusionary zoning is when you have a requirement that says for x number of houses a certain percentage of them have to be permanently sold and created to be affordable, and the affordability is defined in the law. While she thinks this is an important thing, we want to have affordable housing. This can be very complicated. This is not very defined. There is no definition of “affordable residence.” Who would decide that? How would you design it? There are all sorts of questions on how this gets implemented. She likes the idea of promoting affordable housing, but this is not enough to lay out how that happens. She guesses it’s okay to have it in the subdivision law, but it’s usually in the zoning law because it’s a development standard, not a subdivision kind of thing. It’s kind of like density. She just thinks it needs fleshing out. If someone said what does that mean, I don’t know what your definition of affordable residence is. Do you pick a number? Some communities use the median household income of the community. Then there are issues where you don’t define this further. Someone says this lot is going to be my affordable lot and I’m putting it in the back 40 surrounded by wetlands on all sides. There has to be a standard. The way this typically works is that the affordable houses that are built or the lots that are sold are like every other lot. There is a mechanism involved with making sure that they met the affordable kind of households you’re trying to get. She thinks we can work on this one. She’s not very confident that this particular paragraph does it. Councilperson Burke asked if it makes sense to take this out for now and for Mrs. Stolzenburg to find us some examples that we would later put into the zoning law. Mrs. Stolzenburg replied that that would be her recommendation, but that’s a policy decision for the Board. She thinks affordable housing is important and it’s consistent with the Comprehensive Plan; it’s just a matter of how you want to handle it. Councilperson Burke said that she definitely doesn’t want to get rid of it altogether. Supervisor LaGrange agreed. Mrs. Stolzenburg asked if Michael or Crystal had any suggestions. Attorney Peck said that she agrees 100%. If you look at other inclusionary zoning ordinances that get passed that are dealing with affordable housing they are really getting into the details about how you are going to determine all of this. This isn’t doing the job. She thinks Bridgit’s suggestion of going and grabbing a couple of other ordinances and seeing how it’s has been tackled before and how the town wants to tackle it is in best context. Actually developing the law to be included in the zoning law is a better way than just putting in a paragraph that’s really not going to do it. Attorney Naughton said that he agrees with all of that. Councilperson Leinung said that he was just going to add that in the Comprehensive Plan he’s pretty sure there were a couple of sections about making affordable housing available. He thinks that that is a huge part of our Comprehensive Plan. He agrees that this doesn’t do it. He doesn’t know if it makes sense to keep a foothold there if we’re just going to expand it later. He’s just a little uncomfortable with taking out any reference to affordability or affordable housing in the zoning law. Maybe that’s just his pickup there. He’s not sure if there is a way to keep a placeholder knowing that we’ll come back to it. He agrees that this doesn’t do it. He doesn’t think we’re going to be able to fully develop it in this context here anyway. Councilperson Hennessy asked Mike and Crystal if this is something where they’d like to have a paragraph here saying “provide affordable housing in accordance with the provisions in the zoning law” similar to what you did with the highway roads? If we don’t specify here and we just say provided in accordance as written in zoning and we have to write it up in zoning. Mrs. Stolzenburg said that we could put something in there like he said to provide for affordable housing in accordance with the zoning law as provisions may exist, something to tie the two together. Councilperson Hennessy said the same way we had the highway law referenced that we did; use similar language. Councilperson Leinung said that he thinks that would be a good idea just so we have something in there for now so we’re not taking out any reference to affordable housing in our current zoning law. He thinks it is something that we do need to work on in the future. Mrs. Stolzenburg said that we can certainly look at that.

Section 164-41

Mrs. Stolzenburg said that the next item is a little further down on that same page 164-41. At the last meeting you asked her to add in both a minimum and maximum lot size. The reason that you typically have a minimum and a maximum in a conservation subdivision is that you are trying to preserve open space. Certainly you can have a big lot that has some preserved open space on it. She gave what she thought might work but she wasn’t sure whether these numbers were what you are thinking of. So this is with splitting it up if you have water and sewer, if you have just sewer, or if you have onsite septic, basically a septic system and a well. Attorney Naughton said that, just for reference, an acre is 44,000 square feet. Mrs. Stolzenburg said that basically if you have water and

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sewer you have to have a minimum of a quarter of an acre and a maximum of a half an acre. When you have water and sewer, half an acre is still considered pretty big. These may be where we need the engineer to weigh in. Number 3 says a minimum of 40,000 square feet which is about an acre. Oftentimes we don't put a number in. It's just like if you have a septic system and a well, the lot size has to be whatever the Health Department would require for the conditions on that site. We need to make sure these numbers are what you want. Attorney Naughton said that his general comment on it would be that if you're trying to do a conservation subdivision you really shouldn't need that big a lot if it's designed well. You could have a building envelope on a relatively small property but it would be surrounded potentially or overlooking a nice pond or a meadow or something like that so it would feel like a bigger lot. He thinks putting that too large a minimum would tend to discourage those good creative designs. Councilperson Hennessy said that for hamlet zoning they used 10,000 for that, but that was a different perspective. We had a more condensed potential. He doesn't know how you drop it so incredibly low. He knows that currently in zoning he thinks Nan referenced that a little bit when she did that. We may want to be more consistent with what zoning has. Mrs. Stolzenburg said that she thinks the maximum lot size if you have sewer and water may be more important than the minimum. She's trying to remember our conversation from the last meeting that we had. Councilperson Hennessy said it was the old language that had minimum lot sizes like typical language of zoning, whereas with the conservation subdivision you almost want to go the opposite. You almost want to have a maximum lot size. Mrs. Stolzenburg said that that was right. Councilperson Hennessy added that maybe we don't even have a minimum. You probably need to establish some kind of minimum because of the water and sewer potential. If somebody wants to put water/sewer, you really don't want to put it on a quarter of an acre lot if they don't have any public sewer. If they have to build their own onsite a quarter of an acre won't do it. You don't want to try to squeeze it. That's why we rezoned New Scotland South. Dolin rezoned New Scotland South from one acre to two acres because it didn't have anything and they were having trouble in town fitting water and sewer with the radius, separation requirement in the code.

Councilperson Greenberg asked Nan where she got these numbers from. Mrs. Stolzenburg said that the original numbers that are still in black, she'd have to go back. They probably came from the model that Tom started this with. The minimum acres she doesn't know if she got them from anywhere. She just thought about what might work. Part of the beauty of a conservation subdivision technique is it's so flexible. You want it to be flexible because you are trying to get a design. It gives the landowner or the developer the opportunity to create some very small portable lots and some bigger lots. She personally thinks that when you don't have any water or sewer obviously you need bigger lots. It may be enough to simply say that if there is no water and sewer the minimum lot size has to be whatever Albany County Department of Health would require. Councilperson Greenberg said that that's true either way, right? That's true no matter what we write here. Whatever Albany County Health requires we have to meet. Mrs. Stolzenburg asked if he means whether you have water and sewer or not? Councilperson Greenberg said yes, for someone building a house. Councilperson Greenberg said that, in other words, they approve all septic systems and all wells so they're going to determine on any lot whether or not the lot works for their requirements. Councilperson Burke said that she does like the idea of taking these prescribed sizes out and allowing for the designs to match the property. Councilperson Hennessy asked if that means we'd consider taking out the minimum? Councilperson Burke responded that it would. She thinks with respect to that it would be just referencing the county's authority. Councilperson Greenberg asked if she was suggesting just taking out the minimum or did she want to take out the maximum too? Councilperson Burke said that she'd like to go with no numbers, but you were all very wedded to the maximum and she understands why so she wouldn't push back on that. She just likes more flexibility generally. Mrs. Stolzenburg said that she could see and she has seen some situations. For instance let's just do this as an example: You have 100 acres with 100 houses and you put 95 of the houses in a clustered area on vary small lots that have water and sewer. The other five lots are basically big huge estate lots that have a building envelope, but the rest of the lot has a conservation easement on it so they can't be further split. They may be 30-40 acres in size. In that situation, you're getting what you want. You get preserved open space. You get some variety of lot sizes to accommodate different incomes and types of houses. In that case, that's where a maximum would prevent something like that. Councilperson Burke asked what she sees as the advantage of the maximum? Mrs. Stolzenburg said that she thinks the maximums are generally put in when someone really wants to make sure that what is designed is clustered. Her personal perspective on it is that there could be a really great design that's not clustered. If you're looking for the maximum flexibility, we're adding a dimension to these requirements that would bring it back to more of a kind

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of conventional subdivision with preserved open space. She thinks that with no public water or public sewer you have to have lots that are big enough to work but she doesn't know. She personally feels that there is more flexibility by not boxing these in. It doesn't matter what she thinks; it's what you are hoping to accomplish from this technique. Councilperson Burke said that she agrees with Nan because she likes the idea of having non-cookie-cutter subdivisions. Even clustered subdivisions can become cookie cutter if we prescribe too much. Mrs. Stolzenburg asked for other thoughts. Councilperson Greenberg said that this is one that he personally would like to think about a little and do a little research on so he can have a better understanding of what the lot sizes will end up causing. Mrs. Stolzenburg added that the Planning Board may have some experience with lot sizes, as well. They might have something to add to it. Let's ponder this one a little bit more. Attorney Naughton asked to jump in. He thinks it sounds like kind of an experiment to say no maximum and no minimum. She understands Adam's point on that. Maybe this is something we can break out now. Adam, would you do research but reach out to the Planning Board right away and ask if anyone has any real information about this and try to get a little input so we don't get through this whole exercise and then it gets over to the Planning Board and they jump in? She thinks it's really an important issue and it's a forward-thinking approach to allow for maximum flexibility, but we need to be careful that we don't create something that might have unintended consequences. We would send an email over and say we're thinking about this and we'd like your input sooner rather than later. She thinks it might be helpful to streamline the work for Nan. Councilperson Hennessy added that maybe one of the people on this phone call has some experience in Colonie with some of their conservation subdivisions. Attorney Peck said that she does not but the Planning Board does have its next meeting in about two weeks. If this is something you want them to discuss we can add it to the agenda. Mrs. Stolzenburg thought that that was a good idea. She thinks it's an important concept so she agrees with Michael that you ought to look at all angles of it and decide what really is going to meet your needs and get you the kind of subdivision you are hoping for. She knows that if you go back to the actual original work that went into conservation subdivisions by a guy named Randall Arendt, and I could scan that and send it to you. She thinks he would outline why you need the maximum lot size in there. He can send that to you just for your consideration and you can see that opinion. Councilperson Greenberg said that that would be great. Attorney Naughton said that you've got those experts right at your fingertips, Nan. That's pretty impressive. Mrs. Stolzenburg said that it's a book that she has right on her book shelf.

Section 164-43

Mrs. Stolzenburg said we are continuing down a couple of pages at the top of Section 164-43. In Tom's model that he gave us to start with way back when the goal of the open space area was to create 60% of the parcel preserved. She looked up your Town Comprehensive Plan and it specifically says 50% not 60%. Councilperson Greenberg said that that's correct. Mrs. Stolzenburg added that she changed that 50% but she just wanted make sure that that's what you wanted. Councilperson Greenberg said that he was good with 50%. She believes that it lined up with the hamlet plan and asked of Councilperson Hennessy remembered. Councilperson Hennessy said that we had a staggered requirement in the hamlet plan. Councilperson Greenberg added that the most was 50% he believes. Is that correct? Councilperson Hennessy replied that there was discussion of 60% because the town of Queensbury had 60%. He's looking at it. Councilperson Greenberg said that it doesn't really matter because it's not going to be an issue in the hamlet probably, but it would be nice to be consistent. Councilperson Hennessy said that we have in the hamlet development district 60%. It was 45%, less than 50%, in the hamlet extension and the hamlet center, but we did have 60% in the hamlet development district. Councilperson Greenberg said that that's in a special area but maybe 50% is right since it's more of a town-wide issue. He's good with 50%. He doesn't know how everyone else feels. Councilperson Leinung said that 50% makes sense. Mrs. Stolzenburg replied okay.

Section 164-44

In this next one, Crystal and Michael ought to weigh in. It's kind of a legal issue in a sense. It's Section 164-44. On page 62 it's A. Basically the way the conservation subdivision works is that now we know we're going to have 50% of the parcel that needs to be preserved as open space not to be developed. What mechanism do we put in place to make sure that the land doesn't get developed in the future? It's typically done through a conservation easement in which case you need to have either a land trust and an environmental organization or the Town hold that easement. Some places that she's worked a couple of things happened. If you go to Columbia County, the land trust there is only interested in big, huge easements, 100 acres or 200 acres. They are not interested in holding an

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easement on 10 acres here and 30 acres there. She has no idea if the Mohawk Hudson Land Trust would be one or what their policy is on it. She doesn't know what their policy is on it but we have to find a doable mechanism. A lot of these are written that you can protect that land with either a conservation subdivision or an easement. Some places require it to be protected as a deed restriction which is less permanent. She doesn't really want to say less permanent but she doesn't know what the word is. Attorney Naughton said that it's more difficult to enforce. Mrs. Stolzenburg agreed adding that the ownership of that open space and how we handle that is an important consideration. She's seen it both ways. She's seen it as an easement; she's seen it as a deed restriction; and she's seen it as an open space lot that a homeowners' association owns and manages and has a deed restriction on. We need to pin down what the mechanism is for preserving this open space so in 15 years if someone says I'm going to develop this 50 acres, we don't want that to happen. Attorney Naughton said that he thinks starting with where you started it's generally true that land trusts don't want smaller ones because there is cost to them. They have to do audits and enforcement and unless someone is funding the land trust to perform those tasks they don't want it. He's talked to Mark King about other situations and he doesn't think in general that Mohawk Hudson would be interested in smaller ones. It's easier to do with bigger ones, especially if there is a water feature or something, a nice geological feature involved. Traditionally there are not very many in town and he thinks Kensington is done with an HOA. Is that right? Supervisor LaGrange agreed. Councilperson Burke asked what an HOA is. Attorney Naughton's response was that it's a homeowners' association. The homeowners who are part of the subdivision have an interest in protecting it and making sure. They will also have standing to sue if necessary if someone tries to do something with that inconsistent with keeping it as open space. That's a mechanism that's not very expensive and burdensome on the Town to try and enforce. HOAs sometimes fail. Sometimes people are not interested in running them and they just kind of become empty shells that no longer function. He's seen that in cases. There is that danger, but if it's a pretty substantial subdivision the HOA works pretty well. He's even represented developers who develop a lot who tried to, you might be surprised, and that other people thought was supposed to be an open lot. It can work and you also could overlay that with a deed restriction and also specifically within that deed restriction give the Town standing to enforce it. So, there would be a double mechanism in the event that the HOA is not there. I like this idea of having a menu to do that. Potentially you could have a conservation easement with the local land trust. How does that sound? Mrs. Stolzenburg said she likes it but is that what you want? Councilperson Leinung said that he thinks it makes sense to leave different options on the table. There might be benefits of doing each. Councilperson Burke said that she agreed.

Mrs. Stolzenburg said that she's just flipping through. In terms of her comments where she had noted some specific decision that needed to be made, that pretty much covered those questions but that's not to say that there aren't a lot of other things to read and make sure you're comfortable with, but that covers those policy decisions. Councilperson Greenberg said that we're going to have more time because once we refer this he's sure Jeremy is going to want to talk about it and have his thoughts. As Michael said, it's not going to be a fast-moving process. It would be good if you update what we've talked about tonight and then we continue to have some discussion about any issues we might have in other sections. Attorney Naughton said that we're going to have a place holder for just a couple of these things that we left open for discussion. Supervisor LaGrange added that it's definitely a marathon, not a sprint. Councilperson Greenberg added that it was really great work by Nan. Mrs. Stolzenburg thanked the Board and said it was a really good discussion. Councilperson Greenberg added that she has the guidance, too. Councilperson Burke added that she appreciated Nan's work too. Mrs. Stolzenburg said that she would work on the update and send it along to everybody, and then the Board can take it from there. We will add to it as we go along. Supervisor LaGrange said excellent, thank you again. We are good as far as that goes.

#### COVID Meeting

There is one question Supervisor LaGrange had for the Board. We did tentatively schedule a COVID update meeting for Friday at 1:00 PM. Bridgit has a conflict and he's hoping to take an afternoon on Friday. He does have some new numbers here if you want to hear them and then what's your pleasure on getting together on Friday. Councilperson Leinung said that he defers to others but he's good either way. He doesn't see a pressing need but if others would like to, that's fine too.

#### Lighting Law

Councilperson Burke said before we get to that can we talk to Nan about the lighting law and resolve that? We had talked on Friday and all said that we would like Nan to take a crack at doing the bigger

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modification with the lighting law, but frankly when she asked her what those modification were she didn't really feel qualified to say that. From what Doug was saying earlier maybe we should just do the Christmas lighting now. If someone could quickly define for Nan what we are looking for she could perhaps let us know if she could do that quickly for the October meeting. Supervisor LaGrange said that he didn't go through Nan's examples yet so he doesn't know exactly what those changes might be and how much it would slow down the process so he would defer to anybody else who did. Councilperson Leinung said that he thinks Nan's recommendations are good, and he thinks that's something we should look at for a larger picture when we're starting to looking at the dark skies. He remembers actually working on something a long time ago in his other job on that. He thinks it's something really important, especially with suburban sprawl going on. He would like to give it a little more thought and input because it might make sense for some parts of the Town but might not make sense for other parts of the Town. We do have some fairly agricultural areas where you know it's not suburban lighting and you might need some more security lighting. So, it's something definitely to look at. We should just try to get this holiday light situation squared away just because we're getting close to that time by the time we introduce the law and have a hearing and everything. We're already pretty close to the holiday season. His preference is that we do that and then circle back and look at the lighting law in general in larger context. Councilperson Burke said that Adam had specifically thought there was something we could do now at the same time. Councilperson Greenberg said that it's not about what Nan had suggested with the dark skies; it was Michael who stated that there were some other tweaks to the lighting law that Jeremy had kept a list on. Is that right, Michael? Attorney Naughton said that he didn't remember that. Councilperson Greenberg said that he thought there was a list somewhere; maybe Jeremy has it. If there were tweaks to the lighting law that he wanted to see or the Planning Board did then we could make them now. It wasn't that Nan had to do more work in terms of a whole new law; it was five things that we could change, one being the holiday lights, and one being the level of lights or downspout; he doesn't know all the terms. We could make those few tweaks at the same time. That was all he said. There is no doubt that whatever we decide we need to have on the agenda for October. If we can't have it done by October then we just move ahead with holiday lights. If we can include three or four other small changes we should make them at the same time. Why do we want to revisit and go through another public hearing and all that kind of business? He will look into that in the next couple of days and get back to the Board on what the other changes would be and then we could discuss how we want to incorporate them or not. Supervisor LaGrange asked if he wanted to check with Jeremy or did he want the Supervisor to? Councilperson Greenberg said that either way was fine. Doug is there, and it's probably easier. Councilperson Greenberg doesn't mind doing it. Supervisor LaGrange said that he's here and he doesn't mind checking with him if there is anything relatively benign that needs to be changed. Councilperson Greenberg said that if you're going to check, ask Chuck and maybe Jeff, as well. Councilperson Hennessy said that he had some comments. He has to get through it to get to them. He hasn't gotten to them yet on some of the cut-off fixtures, visors, glare, and display on the lighting; he'll comment on that also. Councilperson Greenberg said that if we're going to work backwards, the October meeting is the 14<sup>th</sup>. We need the law at least a week in advance, right? Attorney Naughton said that we need it a week in advance, five days before you actually vote on it. You could continue to make changes and have a revised law. You really want it in good shape though for the hearing. Councilperson Leinung asked when do we need to have it introduced before the meeting? Attorney Naughton said that you could introduce it, and if a couple of changes come up at the 14<sup>th</sup> meeting we could still make that and have it on deck for the public hearing in November. Councilperson Greenberg said that if it has to be finalized a week before the November meeting, it has to be in our hands a week before. Attorney Naughton said that that's right. Councilperson Greenberg said that we have a little bit of time.

Attorney Naughton said that he thinks he did draft something. He can't recall if he circulated it to the Board. Councilperson Leinung said that he saw it. Attorney Naughton said that he wanted to point out that he came up with some dates by the scientific method of asking his assistant when people first put up their lights and when they have them down. He came up with something right around before Thanksgiving in November and then January 15<sup>th</sup> as the holiday period. There may be other holidays in the world but he thinks that's the holiday period we're talking about. It's dark out and that's when lights would be most appropriate. Does that sound generally good to the Board? Councilperson Burke said that she always thinks it's tacky to put up your lights before Thanksgiving but she'll go along with the norm. Supervisor LaGrange said that he wouldn't get into personal preferences on when they want to hang their lights. If we're going to do that, we're probably going to want to define holiday lights as those through the Christmas and Hanukkah season. Attorney Naughton said not

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Christmas. Supervisor LaGrange said that he likes to leave his up and has mostly red ones on for Valentine's Day, St. Patrick's Day; you can keep going through a list of holidays. Attorney Naughton said that that's why he's talking about a period with dates. Supervisor LaGrange said that that's fine if you're comfortable with those dates, but again what if someone wants to put up holiday lights celebrating President's Day, red, white, and blue? Attorney Naughton said that our law would not permit it. Supervisor LaGrange said that he just wants to be sure because that's the story he got at one time. He was told that the individual keeps them up because they celebrate Martin Luther King Day, after that President's Day, and after that another day. You can go almost through the entire year. As long as we're good that way, that's fine. Councilperson Greenberg said that he's more concerned with the people having them on uninhabited buildings and things like that. He's not as concerned with the length of time. Supervisor LaGrange agreed. Councilperson Greenberg said that that's kind of where he is. Supervisor LaGrange said he is too. Councilperson Burke said that she agreed. Attorney Naughton asked if we don't want to have any dates? Councilperson Leinung said no. He thinks just the straight nothing on vacant or uninhabited residences. Whatever the terminology is that we came up with that addresses the specific circumstance that has been raised to us. Supervisor LaGrange said that it will bridge us in, and if we need to do more later we can when we make one of these more substantive changes. Attorney Naughton said that personally he doesn't know how we are going to determine whether someone is staying in the house or whether it is uninhabited with the definition. Councilperson Leinung said that he thought we used something like primary residence. Councilperson Burke said that she doesn't really like the primary residence thing. If someone has their second home here and they are here at Christmastime, we're saying that they can't put holiday lights up because 10 months of the year they live somewhere else. Councilperson Greenberg asked if she thinks someone is coming here for Christmas? (He was teasing her.) He agrees with what she was saying. Councilperson Leinung said that maybe it's both non-primary residents that is uninhabited and something. Councilperson Burke said that the uninhabited and vacant came from insurance law and there were definitions there. To Michael's point, if we have to defend giving them a fine how do we do that? Attorney Naughton asked how you know if someone is living there? Councilperson Greenberg said that he understands what Attorney Naughton is saying, but then it doesn't help us in our present situation because the person is going to put their lights up, and we're going to have the same problem we've had from the November date we set until January 15<sup>th</sup>. Attorney Naughton said that all he is saying is that at least we have a calendar date to say "Now you are a nuisance. It's January 18<sup>th</sup> and it's a nuisance for you to have them up. Please take them down." Councilperson Greenberg said that he understands what Attorney Naughton is saying, but we are trying to solve a problem where it's a nuisance between the dates you're proposing. Attorney Naughton said and so you have a double thing where you say you have to live there. We will really have difficulty proving that or establishing it. If it goes on too long, more than eight weeks, you by definition have a nuisance light. He's just going back to see where the loopholes have been established and that's what he's trying to address. Let's face it; we are trying to fix a very specific situation. It might come up in other places but this is just one specific spot in Town. Supervisor LaGrange said that he doesn't want to hurt other spots in Town that may want to go a little longer or set them up sooner. Again, we're impeding everybody for one situation. Attorney Naughton said that that also goes along with enforcement because unless someone complains he doesn't think Jeremy or Jeff or whoever else is going to be driving around handing out tickets unless there is an issue. This is the situation we are only trying to control: People that are not acting in a neighborly fashion. Councilperson Greenberg said he understands Michael's concerns and he can be convinced, but he also hears what Doug is saying. A lot of people put up Halloween decorations now with different lights and things like that. Does that count? Supervisor LaGrange said that that goes back to the definition of holiday lights. Councilperson Greenberg agreed. Supervisor LaGrange said that he sees some pretty obnoxious Thanksgiving decorations. If he was next door he might say that that's decreasing his property values. We could get into a lot of different scenarios. Sometimes you have to keep it simple stupid and that's where we are here. He gets what Michael is saying, but at the same time it's very obvious if it's inhabited or not. There are people right next door that could suggest one way or the other. He'd at least do the basic now and see where we go. His first reaction is that the gentleman that owns the house could move in or he could be renting it. He could rent it out and still put the lights up where it's obnoxious to the neighbor. That goes back to the timeframe. Attorney Naughton said he hears you. We will eliminate the dates and keep it to the inhabited concept. It's a very short thing. We'll do that and see if that works. How does that sound? Councilperson Burke said that most people will acknowledge that there is a determination to pester each other that we may not be able to resolve, but we don't want to infringe on other people's rights in our attempt to resolve it. Supervisor LaGrange agreed. Councilperson Greenberg added that we

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can see how it works. If we need to add to it, we can add to it.

COVID Update

Supervisor LaGrange said that we did go over 1,000 cases and contacts in Albany County. On September 22, 2020, yesterday, the numbers were 128 cases which is down a little, but 890 quarantines which is up substantially. In New Scotland we are down to two cases of the three that we had previously, but we are also up to 19 quarantines which is up substantially. We were at 11 the last time we talked on September 16. Councilperson Leinung said that he just saw today that there was a positive case today at the Voorheesville Middle School so those numbers might be going up a lot in New Scotland. Apparently the whole sixth grade is staying home for the next few days. Supervisor LaGrange said that if the Board wants to skip the meeting on Friday and if he gets an update between now and Friday noon time he'll ship out the number to the Board. Unless some emergency comes up, he'd like to get out of here around noon on Friday, and Bridgit has an obligation. Councilperson Greenberg said that he's fine with skipping Friday, but the next Friday we have to meet because that's when we hand out the budget. There was nothing else we had to take care of Friday of this week. Supervisor LaGrange said not at this point but we wanted to schedule it just in case. Councilperson Greenberg asked if Kenny wanted us to approve someone. Supervisor LaGrange said that he said he could do it this week or next week depending on his timeframe, but it wasn't too pressing.

**2. Adjourn**

Councilperson Greenberg made a motion to adjourn, seconded by Councilperson Leinung. The meeting adjourned at 8:04 PM.

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Diane R. Deschenes, Town Clerk