

**REGULAR MEETING OF THE
TOWN OF VICTOR CONSERVATION BOARD
February 21, 2023 – 6:30 pm**

A regular meeting of the Town of Victor Conservation Board was held on February 21, 2023, at 6:30pm in the Veteran's Room 85 East Main Street, Victor, Ny 14564, with the following members present:

The YouTube link to access the meeting is: <https://www.youtube.com/c/townofvictornewyork>

ATTENDING: Keith Parris, Patrick Coleman, Tim Norman, Matt Matteson, Andrew Phillips, Ed Kahovec, town board member, Dolores Fanton, and Kenneth Fanton

Chairman Parris called the meeting to order at 6:26 pm and explained the role of the conservation board to the guests.

Correspondence received: Concerns about 1086 Strong Road

Dolores and Kenneth Fanton were present to share their concerns with 1086 Strong Road with the Conservation Board. Chairman Parris stated that the Conservation Board had received a series of e-mails regarding these questions/concerns. Dolores Fanton stated that she had written to the Conservation Board because the Planning Board had told her if she wanted answers, she had to ask the Conservation Board, which prompted the second letter because the situation had changed after the most recent Planning Board meeting. Mrs. Fanton stated that the code enforcement officer had called her as well after she had made calls to the Planning and Building Department. (Which she was surprised by because she stated she had called the same office in 2022 and never received response from the office.) She also has concerns that they can no longer address anything to the Planning Board because the Public Hearing has been closed. She stated that after the Public Hearing was closed the environmental assessment form was read off, which she had made copies of for the Conservation Board to look at. Mrs. Fanton reiterated that this was all presented after the public was no longer allowed to comment. She stated that she would like to understand what the Conservation Board thinks of the proposed 70 conservation easements and understood the goal of Conservation Easements. She stated she did not believe the goal was to have itty bitty plots of land as Conservation Easements. She is also looking for the Conservation Boards take on the Environmental Assessment form, stating that the form was filled out to state that there is no flooding, and she has been flooded in the past. She also stated that the applicant intended to put berms up. Mrs. Fanton stated that she believed the chances of them flooding again has increased because of this project. She stated she does not see how the chance of flooding could possibly be decreased when they are going to destroy the drumlins. Chairman Parris addressed Mrs. Fanton, stating it looked as though she had 3 questions for the Conservation Board. Mrs. Fanton stated yes, the first letter addressed everything. The first question regarding the proposed conservation easements and if it was the intent of the Conservation Board for the applicants to have 70 little easements on 34 acres. She stated in her opinion these small little easements are not the intent of a Conservation Easement. She stated after her father passed, he had given his land to the city of Chilli which was dedicated as Conservation Easement where it would never be developed and was there and intended for people to enjoy (camping, etc.) She does not believe the proposal of 70 easements will allow the land at 1086 Strong Road to be preserved. Mr. Fanton stated he was concerned about how these 70 easements would be enforced as well. The board addressed the Fanton's regarding the proposed Conservation easements. The Conservation Board stated that what the applicant is proposing is just 2 easements (which may run across a few properties), but it is one continuous easement. The Board stated they believed the Fanton's were looking at the markers of these easements to get that number of 70 proposed easements. The board stated it is important to have proper markers for the easement (marking

the corners of each property where the easement is located.) Mr. Fanton stated that the edge towards Taylor Road seemed to have a whole mish mosh of easements dealing with some as do not touch and others not the same, stating that these easements were all mixed together. Mr. Fanton reiterated he was concerned about how this would be able to be enforced the way its proposed. (He stated that its confusing and no body will know where anything is, pertaining to which areas would be no touch and which areas would be Conservation area) Chairman Parris asked where the Fanton's fell it regard to the Conservation easements. Mrs. Fanton stated they live at the bottom of the hill. Chairman Parris asked how this Conservation Easement was going to affect their section. The Fanton's stated the easements were not proposed in their section. Mr. Fanton stated although they are not proposed on their properties specifically the far west properties (uphill), to level out those properties they will need to dig out a lot of dirt. Mr. Fanton stated that flattening out these properties would cause all the water to be in the front yards and the driveways and so fourth and come right down to the road. Currently there is a culvert there which drops into a class C stream which come across the Fanton's property. Mr. Fanton stated that would mean that anything that went into that water would end up in the class C stream. (As far as DEC sees it) Mr. Fanton stated that the developer sees this stream as an intermittent stream. Mr. Fanton stated the stream flows 24 hours a day/ 7 days a week all year long (with water in the stream at -14.) Mr. Fanton also stated that as far as code enforcement was concerned the stream does not even exist. (Even though the town has put culverts in because of this stream) Mrs. Fanton stated that she was under the impression that the Conservation Board had already seen this project and that they already had the maps. Mrs. Fanton stated that Bill Kaiser had brought these maps to the last meeting which is how she became aware of the 70 conservation easements. Mrs. Fanton believes she must do another FOIL request, because she thought that the Conservation Board would know what she was talking about. The Conservation Board stated that they did not expect the Fanton's to bring a map, they stated that they have seen this project before and they have looked at the maps, unfortunately they do not currently have it in front of them. The Conservation Board stated when they reviewed the draft there were not 70 conservation easements proposed. The board is trying to understand where the disconnect is happening. The understanding of the Conservation Board is that there are 2 proposed easements (one being a no touch, no mowing and the other being a lesser no build easement, with seasonal mowing allowed). The Conservation Board views it as 2 easements. The board is trying to understand where the 70 proposed easements is coming from. Mr. Fanton stated that at the presentation they had several different shaded in areas and each property had a mix mosh of several different shaded areas. The Conservation Board asked if it were specified that each of these shaded areas was a proposed Conservation easement, or if there could possibly be some utility easements in place as well. The Fanton's stated that it was said that all these shaded areas were Conservation Easements. Mrs. Fanton stated there were berms and no touch. Mrs. Fanton again stated that she was told that if she wanted answers she had to come and speak with the Conservation Board. Mr. Fanton stated per the last conversation at the Planning Board the berms have went away and they are being replaced with mounds, which Mrs. Fanton stated prompted the next letter to the Conservation Board, because at that point in the Planning Board meeting the public was no longer able to talk. Chairman Parris reiterated that the questions the Fanton's are really asking are 1- What does no touch mean? 2- What is a berm? Mr. Fanton stated that that was correct. The Conservation Board stated that a no touch Conservation Easement means no mowing, no building, no trails, technically if there is a tree that falls in this area you are not supposed to go ion and take that out, so truly no touch, supposed to remain the way it is. Forever wild. The board stated that the less restrictive easement proposed still restricts building, etc., with the exception of allowing some seasonal mowing and allows for trails. The board stated where they believed the land was most sensitive (near the creek) the no touch easement is proposed in these areas. These areas (the conservation easements would act as a buffer), and deer and animals run through these areas. Chairman Parris stated

that he would like to add that when a developer presents a proposal to the Conservation Board, the developer presents the type of Conservation Easement they would want, the Conservation Board then reviews the proposal, it is not in the position of the Conservation Board to tell the developers what type of Conservation Easements they need to propose. Chairman Parris stated that the Board looks at 3 types of Conservation Easements, most restrictive, intermediate restrictive, and least restrictive. Chairman Parris stated that as long as the Conservation Board did not believe that there was any major disruption to the environment or to the neighbors, etc. and as long as the proposal meets all the guidelines the board hears what the developer is proposing. Chairman Parris stated that the board does not view this as 70 different easements and that is not the way the Board reviews Conservation Easements or agrees to Conservation Easements. The Board stated that they do look for congruence throughout proposed easements versus having smaller spots of Conservation (which is not the spirit of Conservation Easements) The Board stated that there should be a natural flow of any proposed easements. (Which is what the Board believes was proposed for this project) Mrs. Fanton asked if there was a way, she could find out how many of these easements are no touch and how is this going to be enforced. She reiterated that tattling is not feasible. The board stated that they believed Mrs. Fanton was referring back to the "70 easements", the board stated there are 2 easements, one (Type A) proposed as no touch and one (Type B) proposed as site specific, these specific areas would be required to be marked. The markings are required so that these easements are visible to the landowners. (So, they know exactly where the lines are) The Board stated that there is no requirement that the Town checks once a year or anything like that as far as Conservation Easements go. The Conservation Board stated that if a code violation were seen, that would be something that you would want to bring to the attention of the code enforcement office. The Board stated that it has happened in the past and that the code enforcement office is receptive to these concerns, and they investigate each of these concerns that they receive. The easements themselves allow for the Town to go in and check. The Conservation Board stated they do understand the point the Fanton's have brought up that it may feel odd calling up and tattling on a neighbor but that is how the process is. The Board stated that code enforcement is limited, stating that they cannot be eyes and ears everywhere and sometimes these areas are in a back yard that cannot be seen. If code enforcement is made aware they will come and check it out and there are protocols in place if someone is going against the language of the easement. The Board stated that these easements start with marking and the Board has been adamant over the last few years about making these easements known (by being marked, either with a 4 x 4 post, plaque, tree, large rock, etc.) Mr. Fanton stated that he believes that these lots will violate the easements because all these proposed lots are shot gun lots (3 acre lots) with less than an acre that they can use. Mr. Fanton stated he dint understand who would buy 3 acres of land when they cannot use 2/3 of it. The Conservation Board stated that they work a lot with developers and that is something that they always tell the developers to make sure the potential homeowners are aware of these easements and know where they are located. The Board stated that they are trying to educate developers and in turn the developers are educating these potential homeowners. Mr. Fanton stated that they are trying to avoid close rows of houses where they have to dig way into the hillside. Mr. Fanton stated that there are other developments around town in similar situations that had retaining walls collapse and the particular subdivision he is speaking of is ugly as sin. The proposed plan is an area where there are mainly rural homes (converted barns, farmhouses that have been there for generations) Mr. Fanton stated that the developer is proposing "luxury McMansions" which do not fit the characteristic of the neighborhood. The Conservation Board stated that unfortunately if the developer is building these homes to code there is not a lot the Town can do. The Conservation Bord stated that they have seen this project in its preliminary stage, the still need to see it again in its final stage. The Board stated that the Fanton's are more than welcomed to attend that meeting. The Conservation Board also stated that when this project initially came before the Conservation Board the proposal was for

the homes to be way back on the lots. (Significantly further back on the lots) the goal of the Conservation Board has been to keep as much of the natural topography/ geography as possible, meaning that the goal of the Conservation Board is similar to that of the Fanton's, to limit the impact. Mrs. Fanton stated that it seemed inconsistent because their home is still considered a new build (built in 2006) and at that time they were required to keep the 10 acres (was not allowed to be subdivided) She stated that she is not understanding why they were required to keep their acreage, but all of these homes are allowed to be placed on these small acre lots. Mrs. Fanton also stated that she was required to have a letter from the DEC allowing them to straighten out the creek and add a pond, so she is not sure why this new development is not required to do the same thing (stating that code enforcement stated that the stream is not located on the US geological survey map). Mrs. Fanton stated she does not believe she had to pester the DEC the way she did when they were going through the process of building their own home. Mrs. Fanton stated she does not understand why so much interest was taken into this when they were building (the stream, the seasonal swamp, the wood ducks, etc.) but the same attention is not being taken to all of this for this project. Chairman Parris stated that the Conservation Board can reiterate to the developer that is careful about anything that could affect the Fanton's property. Mr. Fanton stated that the stream that runs along their property is a tributary to Irondequoit Creek, stating that if their end is polluted that will affect the whole stream/creek. The Conservation Board asked if this stream fed into the pond on the Fanton's property. The Fanton's stated that no, the stream does not. Mr. Fanton stated that their pond is 12' deep and has 2 springs in the bottom of it and reiterated that the creek runs all year long. Mrs. Fanton showed the Conservation Board the area on the property where the seasonal swamp is located. The Conservation Board stated that there have been cases where things have gotten better after development. The Board stated that the developers are required to show plans of how they plan to retain/ move the water. In certain cases, the Conservation Board has seen this improve because they are re-directing water that has caused problems in the past. The Board stated again that all these concerns would come up in the final subdivision. Mr. Fanton asked if any of this had anything to do with the fact that they are putting wells in, he stated that they are far enough back on their own property located within a different aquifer compared to people closer to the road. Mr. Fanton stated that people located closer to the road are part of a pocket aquifer that goes a lot further south. The Fanton's well is 36' where the wells closer to the road are well over 100'. Mr. Fanton stated that 3 people they know had to re-dig their wells when Hiawatha Hills went in, which caused the area to dry up. His concern is that when these houses go in, where they are proposing these wells, it is within a small aquifer that has a limited amount of water, he is unsure whether this will be able to feed all the newly proposed homes. The Conservation Board stated that would be a question for the engineers on the project. Chairman Parris asked the Fanton's if they believed the Conservation Board and addressed their concerns (the "70 easements" and the berms). Mrs. Fanton stated that the developer said that the original proposal showed berms but after the public comment was closed it was stated that what they really meant mounds. Mr. Fanton stated that the developers do not plan to build anything just to subdivide and then sell everything off, the actual developer of the homes is still up in the air. Chairman Parris wanted to clear up that the Fanton's question is what a berm is. Mr. Fanton stated yes, they would like to know the difference between a mound and a berm. Mrs. Fanton asked about easements as well surrounding the berms. Chairman Parris stated they do not generally use berms or mounds for easements, it is something that is generally used to restrict water flow or noise or landscape, etc. its just part of a landscaping measure that is used to prevent any disruption to the neighborhood or the surroundings. Mrs. Fanton stated they were using these berms as easement. The Conservation Board stated that the berms could be located within an easement, or it could be somewhere else on the property. Chairman Parris stated the berm itself is not an easement. Mrs. Fanton stated they had stated there were two types of easements one of them being these berms. The Conservation Board stated that yes, there are 2 types of

easements, but a berm/mound are separate from the 2 easements. Berms/mounds are just features of the land. Mrs. Fanton stated that they are concerned about this whole development. The Conservation Board stated that an easement goes with the land, so once the easements are in place, it is set forever. The Board stated it takes a lot to undo an easement. There are different kinds of easements. Tonight, was mostly focused on Conservation easements, but there are also utility easements, which allow electric company / town access to fix something, there can also be storm water easements, where some developments maybe not this one specifically, have a storm water pond that allow access to these ponds to do maintenance. Mrs. Fanton stated they just do not know how to put the breaks on this overbuilding and destruction of the drumlins and damage to the creek. She stated it is a gorgeous area that she feels strongly should be saved. She stated that she wants to see the Conservation easement be 50% of the land left alone, not 70 small easements. The Conservation Board again reiterated that this was not the case here, the proposal is not for 70 easements, although it may cross 70 properties, the proposal is for 2 easements. The Conservation Board stated that the spirit that Mrs. Fanton keeps mentioned is the means in which the board has reviewed this project and what has been tentatively approved. The Board stated that they have the same concerns and are thankful that they are hearing from the Fanton's because when the project comes back for final approval, they will remember the concerns brought before them. The board stated there was another resident that they had spoken to at a prior meeting regarding this project. It is very apparent to the Conservation Board that there is a lot of concern here from the community. Mrs. Fanton asked if there is anything else they should be actively doing to preserve the area. Chairman Parris thanked the Fanton's for their concerns and stated that they would also like to preserve the land as best as they can, the Conservation Board has noted the concerns brough before them tonight and they will make sure to consider everything when the project does come before them again for review and that things are in place to help address the concerns. Mr. Kahovec had mentioned that the Planning Board agendas are posted on the website and the Fanton's are allowed to attend those meetings as well. The Conservation Board stated the next time they see this project the Fanton's are welcomed to attend that Conservation Board meeting as well, although they are unsure when that meeting will be. Mrs. Fanton asked if there is anything she should prepare in preparation for next time. (Bring maps, etc.) Chairman Parris stated if she feels very strongly about something, it may be in their best interest to get professional support to help validate what they think and strengthen the argument. Although this is not something the board can tell them they have to do/ or recommend that they do, Chairman Parris brough this up as a discussion point because the Fanton's asked what they can do. Chairman Parris reiterated that it is their responsibility as a board to look at what is presented to them and make sure it fits the criteria and procedures and guidelines that the Conservation Board has to use to evaluate and make recommendations. The Fanton's thanked the Conservation Board for their time. The Conservation Board thanked the Fanton's as well and wished them a good night.

O'Shea Barn

05-SP-2023

Applicant is requesting approval to construct a 32' x 48' x 12' pole barn on 7.5 acres for personal storage.

Chairman Parris stated that the O'Shea Pole Barn was the second item on the agenda. He stated that the approval is to construct a pole barn for personal storage. The applicant has provided favorable responses from the neighbors. Chairman Parris stated that the actual proposal seemed to be straight forward, the applicant does not plan to disrupt anything (trees, land, etc.) the space is there. The runoff will have very little impact on the environment. He stated he did not see any concerns about the proposal. The board stated that it looked like the intended are for the proposed barn is in a flat area clear of trees. The board asked if there were any easements on this property, stating that nothing was mentioned about any easements. There were no further comments or

objections to the project, the board supports the proposal as presented, with the limitation of any disturbance.

OTHER BUSINESS:

- On a motion made by Tim Norman and seconded by Patrick Coleman the February 7, 2023, minutes were approved.
- Mr. Kahovec had nothing to report on about the Town Board.

On a motion by Matt Matteson seconded by Andrew Phillips the meeting was adjourned at approximately 7:13 pm.