**Caroline Town Board Meeting Minutes of April 5, 2023**

The Town Board Agenda Meeting was held in person and electronically via zoom teleconference on April 5, 2023, beginning at 7:01 p.m. and was hosted by Town Supervisor Mark Witmer

**Attendance**:

Supervisor Mark Witmer

Councilmember Cal Snow

Councilmember Tim Murray

Councilmember Kate Kelley-Mackenzie

Councilmember Katherine Goldberg

**Recording Secretary**:

Velvet Lyke, Assistant to the Supervisor

**Also present:** **11** members of the public via zoom, 45 members of the public in person

## Privilege-of-the-Floor

Mike Wargo – The kennel business would not have been allowed to build if the zoning was in place back when they started the business. He is opposed to zoning in Caroline.

John Morse – Stated that the petition should be included in the meeting minutes and felt discussion of the petition should on the agenda for this evening. He is opposed to zoning. Supervisor Witmer responded that he would be making a statement about the petition later at tonight’s meeting.

Eddie Spaulding – Feel that NYS laws cover what Zoning Law includes. She feels it should be tabled or not have it at all. She is opposed to zoning.

Peter Hoyt – His statement will be included in the Town Correspondence tomorrow, as he will be delivering it to the clerk. He is opposed to zoning. (same throughout?? - your choice:))

RC Quick – Commented on how he feels the board is treating the community. He had a lectern brought in for speakers to use. Against zoning.

Bruce Murray – Discussed the various stages of how the Zoning Commission came to be and how the board addressed various incidents that he regarded as unethical.

Jessi Ververka – He would like the board to take time to work on the Zoning for the town to come together with a significant number of residents who agree with the law.

Julie Sorrell – Asked why discussion of the petition not on the agenda for today? Concerns why RT 79 is not a commercial zone? Against zoning.

Megan Burke – Identified the demographic of Zoning Commission. Would like a new committee with various demographics. Against zoning.

Matt Mix – He belief is that Zoning doesn’t help farmers, growth, and also that some of the Board have their minds already made-up regarding Zoning. Against zoning.

David Arsenault – His family had various businesses in the town and would like to see neighbors being neighbors again. Against zoning.

Nelson Mix – He believes Zoning has its place and time but it is not the time for Caroline. Against zoning.

Ann Costa – Disappointed that petition was not on the agenda and opposed to extension of Moratorium. Against zoning.

Chad Tibbals – Zoning will make it harder for those how live here and those who might want to live here in the future. Against zoning.

Kathy Mix – Asked the board to listen to the public and to remind the board they are public servants to help neighbors. The Zoning is going to make neighbors get away from talking to each other. Against zoning.

## Zoning Commission Statement to Present Zoning Law to Board

Zoning Commission Chair Jean McPheeters read the resolution below and provided the Final Report for a Town Zoning Law from the Zoning Commission to the Caroline Town Board.

## Resolution 72 of 2023 Accepting the Final Report on Recommendations for a Town Zoning Law from the Zoning Commission.

**Motion By: Witmer Second: Kelley-Mackenzie**

WHEREAS the Caroline Town Board by Resolution 64 of 2021 formed a Zoning Commission

with a specific charge to:

a) examine existing conditions in the Town,

b) through a process which encourages and accommodates public input, recommend the

boundaries of the zoning districts and appropriate regulations to be enforced therein,

c) make a preliminary report of this information,

 d) hold public hearings on the preliminary report, and

e) submit a final report to the Town Board; and

WHEREAS, the Town’s Zoning Commission has worked steadily from March 2021 through

March 2023 towards these goals, with the advice and expertise of our planning consultant; and

WHEREAS, the Zoning Commission has considered public input at Privilege of the Floor at

Commission meetings, written comments by mail and email, comments at six informational

meetings and two Public Hearings; and

WHEREAS, the Zoning Commission has worked in earnest to gather and consider information and recommendations to create zoning regulations that protect and promote the interests and values of the Town of Caroline; and

WHEREAS, the Zoning Commission has voted to forward their Final Report to the Caroline

Town Board for consideration; therefore be it

RESOLVED, the Caroline Town Board hereby gratefully accepts the Final Report on Zoning

Regulations for the Town by the Zoning Commission; and further be it

Resolved, The Caroline Town Board hereby expresses its deep gratitude to the Zoning Commission volunteers, Jean McPheeters (Chair), Ernie Bayles, Michele Brown, Barbara Knuth, Bruce Murray, and Bill Podulka for their tireless work and contributions to the Town over a two-year period.

Tim Murray asked to add the last Resolved listed above - Sup. Witmer granted.

Clm. Murray commented: As the Board Liaison to the Zoning Commission, I first want to express my deepest appreciation to Chair Jean McPheeters and the members of the Zoning Commission: Ernie Bayles, Michele Brown, Barbara Knuth, Bruce Murray, and Bill Podulka as well as to four members who served temporarily: Wilma Lawrence, Val Warke, Evelyn Weinstein, and Patrick Braga. Since March 20, 2021, the Commission met biweekly, and sometimes weekly, to fulfill the Town Board’s charge to the commission. Throughout they remained open to all public comment, most frequently tweaking aspects of their working draft of the law in response to suggestions made by the public. To facilitate public discussion and understanding of their process, they voluntarily provided 215 written answers to questions posed by the public, while posting them on the Town website, held six public information meetings and two public hearings. I commend the Commission not only for their dedication to this complicated process but also for their impressive commitment to soliciting and responding to public comment throughout their two- year process. All meetings of the Zoning Commission were recorded and remain available to the public.

I similarly would like to express equal thanks to Nan Stolzenburg of Community Planning and Environmental Associates who, along with her colleague Rick Lederer-Barnes, for her expertise, care, and thoughtful contributions to the Zoning Commission’s many public presentations.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

**Nays: None**

Sup. Witmer acknowledged the petition submitted at the March 15, 2023 Town Board Meeting:

I want to acknowledge the petition we received at our last meeting with more than 1200 signatures asking that the town board forego any vote on the zoning law until January 1, 2024, or thereafter and that the land use moratorium on major commercial developments be immediately suspended. I’ve seriously considered both the assertions of the petition and what it asks of the Town Board.

There has been continued conversation about the merits of a petition and whether it has legal significance. A petition from members of the community to a governing board is to offer information and possibly recommendations to that board. The petition we have been presented with 1228 signatures is concerning. It is important to understand that the merits of a petition ultimately lie in its substance.

The premise of the petition is that such additional time is needed for adequate community discussion of the proposed zoning regulations. The great majority of signatures were dated from January 2022 and then added throughout the remainder of that year, following closely on the posting of the first working draft of the Zoning Law on December 29, 2021.

The Zoning Commission has provided a number of avenues for public engagement, including:

* privilege of the floor at 51 Zoning Commission meetings
* email or mail
* 8 comment boxes placed around town.
* 6 public informational meetings
* 2 Public Hearings on the Preliminary Report to the Town Board, as required by NYS Town Law

The Zoning Commission has answered questions, including 215 posted on the town website, and they have seriously considered feedback however received and modified their draft zoning regulations where they felt that was appropriate.

Both the Task Force and Zoning Commission advertised for volunteers and appointed all applicants. All meetings have been open to the public and have invited public comment. Meetings of these bodies were held effectively during the Coronavirus emergency using videoconferencing technology. Most meetings have allowed both in-person and remote attendance, something not previously done. The Final Report of the Zoning Commission provides a detailed summary of their process.

This zoning process was not initiated suddenly on a whim by the Town Board, but through a well-considered public process, including the six-year methodical work of the Town’s volunteer Planning Board to update the Comprehensive Plan, which called attention to the vulnerability of Caroline to development interests without stronger land use tools in place, the work of the Land Use and Economic Development Task Force in the fall of 2020 charged with investigating and recommending land use regulations for the Town, and the Zoning Commission’s work over the past two years to develop zoning regulations appropriate for Caroline. The Zoning Recommendations from the Zoning Commission are now in the hands of the Town Board. I am concerned about the concerns and fears of the people who signed this petition. Our job is to review what the Zoning Commission has presented us to ensure that it appropriately supports the community’s vision in protecting and promoting the Caroline we all love. Our goals are to:

* protect open space.
* encourage nodal development of vibrant hamlets.
* support home businesses and local commercial enterprises.
* protect our natural resources, especially our waters and waterways.

I understand that there are those who believe that zoning of any kind is not needed for the future of Caroline. I do not subscribe to that philosophy. It is clear that increasing growth pressures are coming. We have been, and are, doing our due diligence in taking responsibility to guide growth in Caroline in ways that support the community’s vision.

At today’s Town Board meeting I will introduce a local law to extend the Land Use Moratorium on major commercial developments for six months in order to put a hold on major developments while the town board continues work on enhanced land use regulations for Caroline. That is the express purpose of a Land Use Moratorium. We have made very good progress. We are ready to continue this work for the Town.

Clm. Murray made the following statement:

As I have said frequently throughout the Zoning Commission’s process, I laud the service of the appointed members of the Zoning Commission but also the participation of members of the public across this public process. We have welcomed the passionate participation of those members of the public who provided public commentary to the Zoning Commission and the Board during Privilege of the Floor, public information sessions and public hearings, and in written statements. What I have most valued have been those members of the public who have carefully studied the zoning drafts and provided detailed response to the Zoning Commission.

Similarly, I value the expression of participation by those citizens and taxpayers who signed the petition presented to the Board at the last meeting. But in noting the signatures of many of my neighbors on this petition, I do want to briefly recount my own experience with one of the more ardent passers of this petition. My concern is that this neighbor, apparently without realizing that I was on the Town Board, rang my bell and proceeded, in a very animated fashion, to tell me that she needed to talk to me to let me know that “they” were meeting in secret to rush through a zoning a law that would take away our rights. I should add that the Zoning Commission had been meeting publicly for 9 months by that time. Even after I identified myself, I was told that no one in the town knew about this process and that the law would result in a list of harms including requiring grass to be cut at a certain length and disallowing home sales of Avon. I since have learned that other residents who signed the petition did after having been presented with similar incorrect information. The petition itself mentions “rushing through the board” and incorrectly states that the work on zoning has occurred at a time “when open public debate has been completely restricted.”

Since similar comments about the Town Board’s secrecy and speed have also been made in letters to the editor in area papers, I’d just like to make a couple of points. 11 public meetings by the Town Board and/or Zoning Commission, recorded for public access, and 215 written responses to public questions, etc. suggest otherwise. Furthermore, this Board’s unanimous decision to appoint a Zoning Commission came as the result of years of revision of the Comprehensive Plan and the subsequent recommendation of the Task Force for Land Use and Economic Development, which met weekly and over public zoom throughout Fall 2020, and which included Ken Miller who was a leading proponent of this petition. I am sure that we will have many more such discussions over the coming months, but it has not been helpful or productive for the public to be barraged with misinformation about secrecy, speed, etc.

As regarding this petition’s demands regarding the Town Board’s calendar, I am confident that the Board’s process of considering the recommended draft law will conclude after proper outside consultation and after when we are confident in our deliberations.

**Clm. Snow –** Believes the Board needs to take their time and do it so that the town’s thoughts and feelings are considered.

## Highway Superintendents Report:

**Clean Up Week Schedule:**

April 24th – April 29th

Monday – Thursday 6:00 am – 4:00 pm

Friday - 6:00 am – 2:00 pm

Saturday - 6:00 am – 12:00 pm

Drop Off at the Town of Caroline Highway Department (852 Valley Rd)

Appliances, Furniture, Scrap Metal, Mattresses, Rugs, etc.

**NO CONSTRUCTION MATERIALS, PAINT, HAZARDOUS MATERIALS, HOUSEHOLD GARBAGE, AND NO TIRES**

Clean-Up Week is only for Caroline Residents

Questions, please call 607-539-7610 or email at highway@townofcaroline.org

Mr. Spencer reported on recent **equipment resale** – Pick up $43,000 (we paid $46,000), old woodchipper $7,000, old chipper truck $6,600.

Mr. Spencer noted that the sidewalk in front of town hall has a lip that could be a tripping hazard. Clm. Goldberg suggested we use yellow paint to identify it and then work to get the hazard fixed.

## Dan Klein, County Legislator

Mr. Klein attended a meeting with Speedsville residents and Tompkins County Assessment Director Jay Franklin on March 27 to answer questions about the recent property reassessments.

 At the April 18, 2023, Tompkins County Legislature Meeting. the legislature will vote on an application for a new Caroline property to be included in the Agricultural District.

The County adopted a resolution of support for Senate and Assembly bills for state funding to support EMS Services.

Mr. Klein commented that zoning enables the community to stop projects that are not sited in an appropriate locations.

## Committee Reports:

**Broadband** – Sup. Witmer and Clm. Kelley-Mackenzie met with Hunt Engineering and meetings continue.

**Ag Committee** – Brooktondale Community Center Event tomorrow at 6:00 (dinner) and 7:00 meeting

## Resolution 73 of 2023 Authorizing §284 Agreement for 2023 Expenditure of Hwy. Funds

**Motion By: Witmer Second: Snow**

WHEREAS, Highway Superintendent Spencer has presented a Highway Law §284 Agreement

for the expenditure of funds on highways for 1) General Repairs on 70 miles of town highways

and 2) Permanent Improvements for 1704 ft. on Weber Rd. - Whipper Will Ln. and approximately 1.0 mile on White Church Rd. from Caroline Depot Rd. to Belle School Rd.; therefore be it

RESOLVED, the Caroline Town Board hereby authorizes this 2023 §284 Agreement with the

Town’s Highway Superintendent for expenditure of funds on Town highways.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

**Nays: None**

## Introduction of Local Law to Extend the Land Use Moratorium

**Sup Witmer introduced the Local Law to Extend the Land Use Moratorium**

**Motion By: Witmer Seconded: Murray**

The proposed law is attached to the end of the minutes for your review.

The Board agreed to set a Public Hearing to receive comments from the public on this proposed Local Law on May 3 at 7:00 at the Caroline Town Hall. The Proposed Law can be viewed at

## Resolution 74 of 2023 Supporting Assembly Bill A01091 and companion Senate Bill S01852 proposing a novel State funding model to support EMS services.

**Motion By: Witmer Second: Murray**

WHEREAS volunteer Fire and EMS services in rural New York State have been under pressure

for many years - ongoing declining volunteerism rates which leads to the closure of departments,

which leads to the expansion of coverage areas for nearby agencies, which themselves struggle

with staffing – in an environment of ever-increasing costs; and

WHEREAS efforts to increase volunteerism, particularly in EMS, while noble, are neither sustainable nor effective enough to make a meaningful long-term impact; and

WHEREAS as a result of these circumstances, many municipalities have been forced to implement paid EMS Departments, contract for services with other paid departments, or do without

timely EMS coverage for their residents; and

WHEREAS the Covid-19 pandemic highlighted the critical nature of EMS services, particularly in rural areas where EMS response is the primary source of frontline emergency healthcare to

millions of NY residents; and

WHEREAS, as a subset of the healthcare field, annual EMS cost increases strain the budgets of

rural towns and villages who are nevertheless morally and ethically obligated to provide these

services to their constituents; and

WHEREAS Article XVII §3 of the New York State Constitution states that,

“The protection and promotion of the health of the inhabitants of the state are matters of public.

concern and provision therefor shall be made by the state and by such of its subdivisions and in

such manner, and by such means as the legislature shall from time to time determine.” (emphasis added); therefore be it

RESOLVED, that the Caroline Town Board fully supports Assembly Bill A01091 and companion Senate Bill S01852, which would establish a “CHIPS-style” state funding subsidy for municipalities who operate or contract with public and not-for-profit EMS Agencies; and be it

FURTHER RESOLVED, that copies of this resolution shall be forwarded to the Tompkins County Legislature, Assemblymember Kelles, Senator Webb, Assembly Speaker Heastie, Senate

Majority Leader Stewart-Cousins, and Governor Hochul. Against zoning.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

**Nays: None**

## Resolution 75 of 2023 Fee for One Day Marriage Officiant License

**Motion By: Witmer Second: Kelley-Mackenzie**

Resolved, the Caroline Town Board establishes a fee of $25 for the One-Day Marriage Officiant License.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

## Nays: None Resolution 76 of 2023 Repeal of Resolution #62 Purchase of Filing Cabinets

**Motion By: Witmer Second: Goldberg**

Whereas the Town Court is in need of lockable file cabinets to secure their records; and

Whereas the town is committed to reuse whenever possible (as articulated in Resolution 115 of 2019); and

Whereas Cornell University Recycling is a local source of quality office furniture and file cabinets, therefor be it

Resolved, the Caroline Town Board hereby repeals Resolution 62 of 2023 authorizing the purchase of two file cabinets.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

**Nays: None**

## Resolution 77 of 2023 Termination the Town Board COVID Policy.

**Motion By: Witmer Second: Kelley-Mackenzie**

Whereas the Town of Caroline had established a COVID-19 Policy on May 14, 2020; and

Whereas the Department of Health and Human Services has announced a termination date of May 11, 2023 for the COVID-19 Public Health Emergency; therefore be it

Resolved, the Caroline Town Board repeals the Town of Caroline COVID -19 Policy at the end of the day on May 11, 2023.

**Motion carried.**

**Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie**

**Nays: None**

## Agenda Items:

Discussion the purposes of zoning (1 hour)

## ----Adjourn the meeting ----

The meeting adjourned on a motion by Sup. Witmer and seconded by Clm. Goldberg at 9:01 p.m. and was carried unanimously.

Respectfully Submitted,

Velvet Lyke, Assistant to the Supervisor

**TOWN OF CAROLINE, TOMPKINS COUNTY, NEW YORK**

**LOCAL LAW NUMBER \_\_\_ OF 2023**

**A LOCAL LAW MODIFYING AND EXTENDING THE EXISTING MORATORIUM UPON**

**LAND USE DEVELOPMENT REVIEWS AND APPROVALS AND COMMERCIAL,**

**RETAIL, BUSINESS, AND INDUSTRIAL LAND DEVELOPMENT ACTIONS**

**Be it enacted** by the Town of Caroline as follows:

**SECTION 1:** This Local Law shall be known as “Local Law Number \_\_ of 2023.” It is the intent of this Local Law to extend the land use and development moratorium imposed by Local Law #3 of 2020 until November 1, 2023, or the date upon which the Town of Caroline (“Town”) adopts and enacts an initial zoning law or determines not to adopt a zoning law and instead implements a comprehensive regulatory update for subdivision and site plan reviews.

**SECTION 2:** Since the effective date of this moratorium, as herein extended, the Town has made, and continues to make, substantial progress towards the implementation of regulations and goals pursued and sought to help implement the Comprehensive Plan, including but not limited to: (i) hiring a professional planning team to review and write zoning or land use regulations, oversee mapping, manage public engagement and regulatory reviews, including the evaluation of environmental impacts under SEQRA; (ii) appointing a Zoning Commission that has spent hundreds of hours in meetings and conducting reviews and work to draft the local laws and rules/regulations to implement such Comprehensive Plan; (iii) coordinating with many other agencies and the public concerning the mapping and regulatory goals being pursued; (iv) undertaking the completion of draft zoning regulations by the Town’s Zoning Commission, and updating the same through the review and public engagement processes, including two Public Hearings, and to now have approved a Final Report of Zoning Recommendations to the Town Board on March 27, 2023.

**SECTION 3:** For the purposes of clarity, and to extend the existing moratorium until November 1, 2023, Local Law #3 of 2020 be and hereby is amended and restated in its entirety as follows:

**A LOCAL LAW PROVIDING FOR A TEMPORARY MORATORIUM UPON**

**CERTAIN LAND USES AND DEVELOPMENT REVIEWS AND APPROVALS, INCLUDING MOST COMMERCIAL, RETAIL, BUSINESS, AND**

**INDUSTRIAL LAND DEVELOPMENT ACTIONS AND ACTIVITIES**

**TOWN OF CAROLINE LOCAL LAW No. \_\_\_\_ of 2023**

Be it enacted by the Town Board of the Town of Caroline as follows:

**Section 1 TITLE :** This local law shall be known as the “local law” or the “moratorium”, each as the context thereof so admits or requires. Among the purposes of this local law are to freeze-in-place current land uses and development activities while the Town considers town-wide zoning and/or other regulatory updates to implement the development goals of the community.

**Section 2 AUTHORITY AND INTENT :** This local law is a police power and land use regulation. It is intended and declared to address matters of local concern. This local law is intended to be consistent with and adopted pursuant to the authority granted to the Town Board under the New York State Constitution and the laws of the State of New York, including but not limited to Town Law §§ 130 and 261, *et seq*., the New York State Constitution Article IX, Municipal Home Rule Law § 10, and the Statute of Local Governments §10. It is the intent of the Town to consider its first zoning law and, if the Town opts not to proceed with zoning, then to consider architectural and size-form based controls to supplement existing site planning and subdivision requirements and local laws.

**Section 3 PURPOSES AND GOALS :** The following are among the continuing purposes of this local law:

1. To place a moratorium on consideration and approval of certain residential and almost all commercial projects, including those land use and development activities subject to subdivision or site plan reviews, pending the consideration and completion and adoption, if appropriate, of its initial zoning regulatory scheme (or other land use development regulatory updates). After careful deliberation, the Town Board duly finds and declares that the Town’s lack of a comprehensive zoning scheme likely does and will prevent or impede the accomplishment of the goals and community vision as are outlined in the Comprehensive Plan. In accordance with these determinations, the Town Board believes that it is necessary to enact a temporary moratorium so that the Board can, during the pendency of the moratorium, consider and adopt resolutions, policies, and local laws necessary to implement changes to local laws and consider and adopt a new zoning code which will promote and maintain the rural character, livability, and natural resources of the Town, and protect the health and safety of its residents.
2. The Town Board declares that, in accordance with the Comprehensive Plan, resource and land use planning are central and vital to public health, safety, land values, and the rural character of a residentially and agriculturally oriented, small town in the Finger Lakes Area of Upstate New York. Thus, the Town desires to consider any recommended land use regulations that guide future residential and commercial land use developments to help ensure that all projects are allowed, sited, and reviewed by appropriate land use regulations and resource protection laws and requirements that will help implement the vision of the Comprehensive Plan. These may include measures that guide not only development within a single parcel, but also shape the nature and distribution of development within the boundaries of the Town to help promote the goals and aspirations of the community, as identified in Section 4C (Findings) of the Comprehensive Plan.
3. The Comprehensive Plan calls attention to the unique vulnerability of Caroline to a loss of rural character by unplanned growth, which can be avoided or controlled by updated land use regulations, including zoning. The Comprehensive Plan stresses the importance of maintaining the rural nature of the Town, while balancing a vibrant local economy that encourages harmonic growth and businesses and commercial developments that integrate well with the Town’s goals of remaining rural and agriculturally oriented.
4. Having a moratorium in place to maintain the *status quo* while considering zoning or, if rejected, site planning and subdivision updates, for the purposes of enhancing and implementing the vision of the Comprehensive Plan, including regulating where certain land uses may be sited, is therefore deemed to be vital to the public health, safety, and interests of the Town of Caroline and its citizens, visitors, and surrounding communities, and to the natural resources of the Town, the Finger Lakes areas of Central New York, and the remarkable inventories of scenic views this rural part of New York preserves and seeks to protect.
5. If a comprehensive zoning plan is selected as the most appropriate way to achieve the goals of, and implement the vision within, the Comprehensive Plan, this moratorium may need to be extended to fulfill the need for full public participation and comprehensive environmental reviews of any zoning or other regulatory proposals so developed.

**Section 4 FINDINGS AND SUPPORT :** The Caroline Town Board finds, determines, and makes and continues the following declarations:

1. Actions of the types subject to discretionary review in and under the Town of Caroline’s Site Plan Review or Subdivision Local Laws and procedures, (hereinafter “Actions”) may affect the overall nature and patterns of development within the Town. Unchecked and non-regulated Actions create unreasonable risks pertaining to the loss of important local resources of value, as well as create potential conflicts between residences and other uses. These potential losses and conflicts require consideration and mitigation to preserve desired characteristics, resources, and harmonies between adjacent uses in a rural environment.
2. The Town’s Comprehensive Plan identifies the types of land use and resource regulations that may best implement the shared community vision of the Town, including the following:

* + 1. General Goals, p. 14: Noting that there is a need to “Explore and enact land-use planning regulations such as zoning, design guidelines, and Formula Business regulations that encourage locally-owned businesses that integrate with the rural residential and agricultural nature of the town and discourage commercial development that would negatively affect local agriculture, business, and residential communities”.
		2. General goals, P.14: Further noting a need to “Develop a process to strengthen reviews of significant commercial development to include economic impact reviews.”

* + 1. Development & Residential Growth: Impact on Rural Character, pp. 37-38, where it is noted that “Another strategy to preserve rural character in the face of development is more traditional "zoning". This would provide additional guidance related to siting development projects in locations which would preserve open spaces and viewsheds, be strategic and proactive in regard to traffic patterns, and create buffers around commercial development in service to the vision of preserving a rural residential living experience.”
		2. Changing Agricultural Landscape & Strategies for Addressing, p. 38: Noting “A variety of agricultural protection tools have been identified which may be implemented, as desired, to preserve rural character. These include: agricultural districts, agricultural assessment, agricultural zoning, right to farm laws, infrastructure planning, subdivision regulations, purchase of development rights, transfer of development rights, and land banking. Town residents are encouraged to determine which of these strategies may assist with stewardship of their land in ways most consistent with their values. This Comprehensive Plan is in support of Town leadership continuing to recognize the value of these agricultural protection tools and actively working to explore possible impacts of implementation.”
		3. Identifying Goals in Current Trends, p. 40: “Enact legislative land regulations which would preserve rural character in the face of development pressure, i.e. nodal development/development focus zones, traditional zoning, and/or formula business restrictions.”
		4. Replete throughout the Comprehensive Plan are references to the use of enhanced land use controls, including traditional zoning, to effect and support the community’s vision for its future, including but not limited to: (1) increased support of local businesses and opportunities for new small and home-based businesses, central to continued viability of the town; (2) promoting economic development in hamlets that is compatible with other long-term goals and enhanced infrastructure, such as modern communications and renewable energy that supports small business enterprises; (3) encouraging human-scaled locally-owned businesses that integrate with the rural residential and agricultural nature of the town; (4) developing stronger reviews of commercial and retail development, including architectural, form, and locational controls; (5) to promote residential development guidelines that include neighborhood preparedness, resilience, and Age-Friendly Community design principles; (6) to promote and protect ecological values that promote air, water, and agricultural resources, as well as environmentally sensitive areas, including clustering to help preserve open space and recreation; (7) and, overall, to promote the Town as a vibrant and desirable community to enjoy the rural lifestyle, highlighting contemporary homesteading, hobby farming and small-scale agricultural activities consistent with what the economy and topography can reasonably support.
1. It is anticipated that the Town will determine whether a comprehensive initial zoning regulatory is both beneficial and needed, and if so, then complete a draft of such legislation to implement an anticipated initial two-to-three zone zoning law (or other site control/subdivision updates) in or before May 2023. This recommendation and draft will, in turn, allow the Town Board to assess what are the proper tools, means, and methods to utilize to best implement community goals and visions as set forth in the Comprehensive Plan, including with respect to land development activities, residential and non-residential subdivisions, and proposed land development projects as may or could change the characteristics of, intensity of use of, and primary uses of both small and large parcels of land throughout the Town. Having the moratorium thus extended until November 1, 2023, will allow for time to complete environmental reviews and allow for the adoption of any final local laws pursuant to and in compliance with the Municipal Home Rule Law.
2. The Town Board is concerned that protection of the Town’s interests, and the public health and welfare interests so implicated, could or would be damaged or subverted if Actions (as defined in Section 5, hereunder) were to be entertained or approved before a comprehensive zoning scheme is both evaluated and adopted, or before the Town could consider modifications of or additions to current regulatory measures as are deemed necessary or desirable to address land use and public health and welfare issues. Accordingly, to address these issues, and to protect the public health, safety, and welfare, it is the intention of the Town Board to stay the review or approval of Actions during the effective period of this moratorium.

**Section 5 PROHIBITED ACTIONS AND REVIEWS:** Until November 1, 2023, or the date upon which the Town of Caroline (“Town”) adopts and enacts an initial zoning law and/or updates its subdivision and site plan review laws,the Town Board hereby declares a moratorium prohibiting each of the following “Actions” in the Town, regardless of the submittal or receipt of any application prior to the effective date of this local law, unless such Action is exempt under Section 6 hereunder:

1. The consideration or review by the Town, or any of its boards or committees, of any site plan or subdivision requiring discretionary or environmental reviews, for or in relation to any matter which is a new or amended/revised land use proposal, including any modifications that trigger review, including any waivers, appeals, or variance reviews by the Town or its boards or committees, except for a waiver issued by the Town Board under this local law.

B. The proposed siting of, or development or use of land for, any commercial, business, retail, manufacturing, or industrial use or operations that require any discretionary or environmental reviews, including any new or amended/revised land use proposal that triggers any such reviews, including any waivers, appeals, or variance reviews by the Town or its boards or committees, except for a waiver issued by the Town Board under this local law. For purposes of construing the scope of this subdivision “B.”, traditional dictionary-based and land use definitions shall apply to construe terms such as “commercial, business, retail, manufacturing or industrial use or operations” and, in the event of any ambiguity as to the application of this moratorium to such use or application, the owner or applicant shall be required to seek a Waiver in order to proceed with any application or the proposed siting of, or development or use of land for, any commercial, business, retail, manufacturing or industrial use or operations, or expansions of any thereof.

C. Traditional single-family residences and accessory buildings that are to be constructed and emplaced upon an existing lot that are of a size, character, and design as trigger review under the Town of Caroline’s existing subdivision or site plan review procedures and laws, and any traditional home occupation that is of a size, character, or nature as would trigger or require site plan review(s). For the purposes of construing the scope of this subdivision “C.,” residential uses and home occupations that do not require subdivision or site plan reviews (often being those wholly located within residences and accessory residential buildings) are not subject to or prohibited by this moratorium.

D. The issuance of any permit by the Town of Caroline for highway utility work in connection with any Actions prohibited in or by this local law, and the issuance of ground disturbance permits, SWPPP reviews or approvals, or building permits or approvals in relation to any Actions prohibited in or by this local law.

**Section 6 EXEMPTIONS :** The following Actions are exempt from this moratorium and the terms and requirements of this local law:

A. Any Action that has received final approval or conditional final approval from the applicable town board or agency upon or prior to the original effective date of this moratorium (December 9, 2020).

B. Any traditional Agricultural Action that is: (i) protected under Article 25-AA of the Agriculture and Markets Law; and (ii) exempt under the Town of Caroline’s subdivision or site plan review procedures and laws.

C. Traditional single-family residences and accessory buildings that are to be constructed and emplaced upon an existing lot that are of a size, character, and design as to not trigger review under the Town of Caroline’s existing subdivision or site plan review procedures and laws.

D. Any appeal or review seeking a variance or waiver in relation to an Action that has already been approved and which meets the requirements of Sections 6(A), 6(B), or 6(C), above.

E. Any Action or matter for which a waiver is granted under Section 7, hereunder.

**Section 7 WAIVERS :** Should any applicant or owner of property affected by this moratorium suffer an extraordinary hardship as a result of the temporary requirements or limitations set forth in this local law, then said applicant or owner may apply to the Town Board in writing for either: (i) a determination that this local law does not apply to such action or application, or such land use; or (ii) relief from strict compliance with this moratorium, upon submission of proof of such extraordinary hardship and proof that the action meets the standards and requirements set forth in this local law (both individually or severally hereafter, a “Waiver”). For the purposes of this moratorium, an extraordinary hardship shall not be the mere delay in being able to apply for some determination or approval related to an Action during the period of the moratorium. Any applicant and any property owner may apply to the Town Board for a Waiver of or from any one or more of the requirements or restrictions set forth in this local law and, upon good cause shown, the Town Board may grant such relief, or so much relief as said Board may determine to be necessary and appropriate in accordance with the following application and review criteria:

1. Substantive Requirements: No Waiver seeking relief or partial relief from the requirements and restrictions of this moratorium shall be granted unless the Town Board shall specifically find and determine, and set forth in its resolution granting such Waiver, in whole or in part, that:

i That the failure to grant a Waiver will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public and greater than the potential harm to the public welfare that could result from the granting, in whole or in part, of any Waiver. In considering this factor, the Town Board may consider the unique nature of the land in question, including whether the site of the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Waiver, and the hardship should be unique to the applicant or its land, and not a form of hardship suffered generally by others in the Town, whether across a spectrum of a particular land uses, in a particular neighborhood or area, or by any group of citizens generally. A hardship should be a unique, invidious harm that should, in fairness or constitutionally, be mitigated by carving out an exception to this local law and the public interest and good it duly seeks to protect and promote.

ii. That the granting of a Waiver will have no clear, adverse effect upon the goals or objectives being now pursued or undertaken as outlined in this local law, including but not limited to efforts to protect and preserve the essential character and important resources of the Town, including avoiding potentially deleterious or irreversible impacts to residential life, open spaces, agricultural resources and farming, or wildlife corridors and other significant ecological resources.

iii. That the Waiver is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be or become, harmonious with neighboring uses and the Comprehensive Plan.

iv. That the extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in interest, and such alleged hardship has not been self-created. In considering this factor, the Town Board may consider whether the need for a Waiver is based in whole or in part upon a lack of maintenance or repair of the property or improvements thereupon, including a consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.

v. That the impact and harm to applicant in denying a Waiver will not be outweighed by the benefit to the community in preserving the *status quo* pending completion of the work envisioned by this local law. In considering this factor, the Town Board may consider the applicant’s or landowner’s vested rights and monetary investment “in the ground”, but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken in consideration of this factor. However, under no circumstances should the costs and expenses of a Waiver application be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships.

vi. That the application for a Waiver is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the Town Board had a full and fair opportunity to consider the facts, bases, and arguments upon which the Waiver application and any Waiver approval (or denial) is to be, or was, based. In evaluating this factor, the Town Board may consider whether the applicant advanced new theories, facts, or arguments not set forth in the application as may have unduly and adversely impacted the Town Board’s ability to conduct a full and fair hearing, as well as the rights of participants and witnesses to prepare evidence and address the application and Waiver request as submitted.

vii. That no relief granted in respect of the Waiver is greater than the relief requested by the applicant in their application or petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.

1. Procedural Requirements: The following process and procedures shall apply, and whenever there is doubt the due process rights of property owners shall be deemed primary, particularly including the right to petition for relief, the right to a timely hearing, the right to be heard, and the right to have a full and fair opportunity to present evidence and testimony in favor of any application for a waiver:

i. Upon submission of a written application to the Town Clerk by any person seeking a Waiver, the Town Board shall schedule a public hearing within 45 days, upon 10-days published and posted notice, with due and similar notice to such applicant by personal service or by mailing notice thereof to the address of the applicant, which shall be set forth in such application.

ii. An application shall consist of all general materials required for a general sketch plan meeting or, if desirable or beneficial in the opinion of the applicant, such materials as would be necessary to allow for a preliminary site plan or subdivision plat review, together with a description of the proposed land subdivision or proposed land uses. The applicant shall also include a delineation of the issues, facts, conditions, and features, or mitigation of impact features, as will be proposed in such Action, including such information as addresses the evidence needed to support the findings required for a Waiver. The applicant shall be solely responsible to determine the extent to which factual and evidentiary matters are alleged and relevantly explained in the application seeking a Waiver, and all applications shall contain a subscribed certification of the applicant stating that the foregoing application, and its exhibits, constitute the applicant’s full and complete application and set forth all bases upon which applicant relies upon for a Waiver.

iii. At said public hearing, applicant and all other persons shall be entitled to submit evidence and have an opportunity to be heard, and the Town Board shall hear and accept all evidence regardless of formal rules of evidence, instead giving weight to such testimony and evidence as it deems worthy of relevance and reliability.

iv. Within 30 days of the close of the public hearing, or 45 days of the date of the first public hearing, whichever shall first arrive, the Town Board shall issue its written findings and decision and grant the Waiver in whole or in part, with or without conditions, or deny the same. Denial without prejudice to re-applying is proper where the basis for denial is any of the following: (i) the application was incomplete; or (ii) the applicant advanced a new theory, or new facts or evidence, which are not addressed or described in the application. The fact that a hearing was conducted or concluded is not relevant to, or an acknowledgement that, any application was substantially complete at any time.

v. All determinations as to the criteria and findings set forth for Waivers shall be and be deemed discretionary actions in respect of a legislative determination by the Town Board, and all determinations shall be subject only to review in accord with Article 78 of the New York Civil Practice Law and Rules. Approving a Waiver in whole or in part is not an approval of the Action, which must still undergo formal review, including environmental reviews as required under Article 8 of the New York Environmental Conservation Law and its implementing regulations.

vii. All persons who submit testimony, applications, documents, surveys, site or development designs, or other evidence, undertake to prepare and submit the same at their own and sole cost and expense, including all surveying, engineering, planning, legal, ang general or other costs and expenses. The results of, and determinations issued upon, any Waiver application entitle no person, applicant, party, or participant to recover any portion of such fees, costs, or expenses.

**Section 8 VALIDITY AND SAVINGS:** If any provision of this local law, whether as written or applied, shall be adjudged by any court or tribunal of competent jurisdiction to be invalid or unenforceable, such judgment or determination shall not affect, impair or invalidate the remainder of this local law, shall be confined in its operation and interpretation only to the circumstances, persons, and provisions of this local law directly involved in the controversy in which such judgment or determination shall have been rendered, and such invalidity or unenforceability shall not be applied to other persons or circumstances. If such provision may not be so saved, then it shall be deemed severed from this local law and the balance hereof shall survive.

**Section 9 LIMITATION UPON TOWN LIABILITY:** The Town, and its officers, employees, and agents shall not be liable or responsible for any injuries to persons or damages to property or property rights due to the Town’s actions or failures to act under or pursuant to this local law, unless it is proven to a reasonable degree of certainty that: (i) such alleged act of, or failure to act by, the Town was a primary cause of such injury, loss, or damage; and (ii) such act or failure act was principally caused by a willful or intentional act of the Town, its officers or agents. This provision shall be construed and applied to the maximum extent permitted by law, does not waive any sovereign or governmental immunity of the Town, and does not create any theory or claim of liability where none exists at law or in equity.

**Section 10 ARTICLE 78:** Any person aggrieved by any decision or determination of the Town Board in respect of the application of this local law, or the issuance or denial of a Waiver hereunder, may have said decision or determination reviewed by the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules. This provision shall not, however, expand the jurisdiction, scope, or applicability of said Article 78, create a right of standing where such right does not otherwise exist, or waive any claims, rights, or defenses the Town may have regarding questions of law or fact pertaining to the judicial and legal concepts of ripeness, standing, timeliness, governmental immunities, or of any other matter. Further, all administrative remedies and appeals must be fully exhausted before any Person may commence any proceeding under said Article 78.

**Section 11 EFFECTIVE DATE :** This local law shall take effect immediately, and for good cause shown may be further extended for such periods of additional time as the Town Board may declare in accord with law.