

**Danby Planning Board
Minutes of Public Hearing and Regular Meeting
January 16, 2014
Draft**

Present:

Joel Gagnon
Anne Klingensmith
Frank Kruppa
Ted Melchen
Steve Selin
Naomi Strichartz

Others Present:

Acting Secretary	Pamela Goddard
Code Officer	Sue Beeners
Town Board	Leslie Connors
Comp. Plan Assistant,	Rebecca Brenner
Public	Steve Willcox, owner/applicant, Anthony Augustine, owner/applicant, Ted Crane, George Blanchard, Diane Bonaccorse, Warren D. Cross, Chuck Row, Kalli Anderson-Dyer, DeAnna DeMark, Sally Regoord, Toni Iacovelli, Jim Iacovelli, Jamie Sorrentino, Russ Cornwell, Erick Palmer, Matt Ulinski, Jim Rundle, Grey Bartholomew, Dan Klein, Robert Roe, Carol Bushberg, Henrik Spoon, Nancy Medsker, Russ Cornwell, Amie Hamlin, Mike Hovanec, and others

RESOLUTION NO. 1 OF 2014 - APPOINT ACTING CHAIR

Resolved, that the Town of Danby Planning Board appoints Frank Kruppa as acting Chair for its January 16 meeting.

Moved by Gagnon, Second by Klingensmith.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Selin, Strichartz

Planning Board Statement

Klingensmith read the following statement to those in attendance for Public Hearings:

“As a planning board we want to know what residents have to say. The time set aside for this is at the beginning of the meeting during 'Privilege of the Floor.' This time to speak is a privilege--not a right--and while we realize that residents are sometimes upset about an issue, we need to insist that the tone and content of your remarks be civil and respectful. If these simple guidelines are not adhered to, you will be asked to sit down and remain silent.

Once our meeting moves past the Privilege of the Floor section, we are still interested in what you have to say, but please be aware that your comments or questions during this part of the meeting can be entertained only if time permits, so please wait to be recognized by the chair before speaking. If you wish to comment or ask a question during the regular part of our meeting, we ask that your comments pertain to the subject at hand, and again we insist that they be civil and respectful.”

The Augustine Public Hearing was opened at 7:03 pm

Public Hearing to consider approval of the Proposed Subdivision of an 11.152 acre portion of Tax Parcel 6.-1-18.2 into three (3) lots of 3.5+/- acres each, and a 0.65 acre tract to be consolidated with the adjacent tax parcel, 6.-1-18.12, located on the south west corner of the intersection of East Miller and Nelson Roads. Anthony Augustine, Owner/Applicant.

Consider Augustine Proposed Subdivision

Written Comments were received via Email from Katherine Hunter, David Werier, Todd Rose, and Diane Olden. All of these comments were in opposition to the proposal for three building lots at the proposed subdivision. These comments noted that this is a low density zone and expressed a desire to maintain the rural character of the area.

Public Comments were presented by several members of the assembly. Speaking in opposition were Warren Cross, Ted Crane, Jim Rundle, Kalli Anderson-Dyer, Dan Klein, Matt Ulinsky, Grey Bartholomew, Nancy Medsker, and others. Many of these residents expressed concern about the land being divided into three lots rather than the two they believed were allowed. There were concerns about the placement of the houses, the visual impact on the neighborhood, and the impact on the local environment.

Speaking in favor were George Blanchard and Erick Palmer. They noted a property owner's right to subdivide.

Carol Bushburg expressed concerns about "profound issues of development" and the fact of several lots being divided from the previous large holdings of the Melchen family. She called on the Planning Board to look at and address the issue of large landowners subdividing land without thought to the Town's Comprehensive Plan. In her words, "The cat is out of the bag."

Augustine responded to concerns expressed by neighbors and other Danby residents. He countered concerns with the observation that Danby is under pressure to develop and that these changes can not be stopped. Klingensmith responded that the Planning Board is aware that Danby Zoning Law has flaws. She encouraged the public to help the PB create better zoning for the future.

There was further discussion about how the property may be divided and the impact of the proposed subdivision. According to current zoning regulations, the property could be subdivided into two lots without Planning Board review or into three lots with PB approval. Given the size of these parcels, in three years the new owners could further subdivide their lots in two without Planning Board review.

Beeners commented on the level of impact her office needs to determine for a recommendation to the PB. She noted that the 2003 Comprehensive Plan identified this area as one of the most significant areas for historic, agricultural, and environmental preservation. The current permit process can cause "mistakes" in relation to goals and objectives of the Comp. Plan. There are limited resources for establishing scenic corridors and other protections.

Beeners raised the question of how parity should be taken into account in subdivision proposals such as these? Is the proposal environmentally disruptive? Is it consistent with other lot sizes in the neighborhood? Is it consistent with the rural character of the neighborhood? These are questions which need to be considered during SEQR review.

RESOLUTION NO. 2 OF 2014 - CLOSE HEARING

Resolved, that the Town of Danby Planning Board closes the public hearing regarding consideration of approval of the Proposed Subdivision of an 11.152 acre portion of Tax Parcel 6.-1-18.2 into three (3) lots of 3.5+/- acres each, and a 0.65 acre tract to be consolidated with the adjacent tax parcel, 6.-1-18.12, located on the south west corner of the intersection of East Miller and Nelson Roads.

Moved by Klingensmith, Second by Strichartz.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Selin, Strichartz

The Augustine Public Hearing was closed at 7:58

The Hiney-Willcox Public Hearing was opened at 7:59

Consider Hiney-Willcox Proposed Ice Cream Stand

Public Hearing to consider issuing a Special Permit for a proposed seasonal Ice Cream Stand and related parking area, proposed to be located on the west side of Danby Road, north of its intersection with Muzzy Road on Tax Parcel 2.-1-23.321. Suzanne Hiney Willcox and Steve Willcox, Owners/Applicants.

There was one Written Comment, in favor of the proposed Ice Cream Stand, from neighbor and in-laws, William and Patricia Hiney.

Steve Willcox provided a brief overview of his proposal. He has plans for a parking lot that would accommodate seven to ten cars. The proposed parking area would need a setback variance from the Board of Zoning Appeals.

Ted Crane asked for more details regarding the Special Permit and whether this might lead to expansion should a future owner take over the project. Code Officer Beeners explained the scope of the Special Permit as being similar in nature with other special permitted uses. The Special Permit would be specific and limited to this owner/applicant. Given that assurance, Crane spoke in favor of the proposal.

Carol Bushberg asked whether there would be ongoing review of the Special Permit and whether the Planning Board would have review of potential signage. Bushberg expressed concern that the size and lighting style of the signage be carefully regulated and in character with the area and with the product being sold. Beeners responded to these concerns, from a zoning perspective. Willcox also spoke about the intended design of the signage. The Planning Board could ask for review and make approval of signage prior to installation a condition of the special permit.

George Blanchard spoke in favor of the project and stated that zoning for signage already exists.

Mike Hovanec spoke in favor of the proposal. He had a question about the intended hours. Willcox stated that the intent is for the business to be in operation from 11am to 9pm.

RESOLUTION NO. 3 OF 2014 - CLOSE HEARING

Resolved, that the Town of Danby Planning Board closes the public hearing regarding consideration of issuing a Special Permit for a proposed seasonal Ice Cream Stand and related parking area, proposed to be located on the west side of Danby Road, north of its intersection with Muzzy Road on Tax Parcel 2.-1-23.321. Suzanne Hiney Willcox and Steve Willcox, Owners/Applicants.

Moved by Klingensmith, Second by Selin.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Selin, Strichartz

The Hiney-Willcox Public Hearing was closed at 8:13

The Regular Meeting was opened at 8:13pm

Approval of Minutes

This action was deferred until the February 2014 PB meeting.

Consideration of Augustine Public Hearing

The Planning Board held a lengthy discussion regarding the SEQR Review for the proposed Augustine subdivision. Several changes were suggested by Gagnon and Klingensmith. There was extensive question and answer between members of the Board and Code Officer Beeners. Both Gagnon and Klingensmith took exception to this being “consistent with the adopted Comprehensive Plan” and asked that this be changed. There was a discussion as to whether this was similar or different to other existing subdivisions/properties.

Klingensmith noted that there is threatened habitat for the threatened Northern Harrier. The fields on that corner are “hot spots” for this bird. Klingensmith reported on other “at risk” birds represented

in the area. There was a discussion about the level of environmental impact related to the proposed subdivision and construction envelopes.

Gagnon asked whether approval or disapproval might be related to a level of environmental impact which could not be mitigated. Beeners responded with a suggestion that the PB determine what level of impact, from a wide spectrum, was relevant to this proposal and potentially ask for an environmental impact statement. Klingensmith asked what legal mechanism would back up possible mitigation of impacts? How would these be enforced? The only current restrictions are construction envelopes.

Klingensmith suggested that a different configuration of housing lots might better preserve the “view corridor” and increase the feel of the view at that location. Gagnon suggested that agricultural land be listed as a threatened resource. The fields at that corner—prime grassland habitat—will now be decreased.

There was discussion as to what to do with the SEQR determination and the proposed changes to the draft SEQR. Beeners noted that the action before the Board was to decide whether it agreed that there was a “negative determination of environmental significance” for the proposed subdivision. Beeners recommended that, in the context of the project, there is no adverse effect so significant that it warrants an environmental impact statement. There was a discussion of possible steps toward the SEQR determination.

Gagnon made a counter proposal to Augustine’s subdivision proposal, suggesting instead two one-acre lots and a residual 8+/- acre lot. He suggested that this would better mitigate the impact on agricultural land. There was a substantial discussion regarding ways to redesign the proposed construction envelopes in order to mitigate adverse visual and agricultural impacts. Gagnon and Klingensmith raised the question of whether soils in the area would meet health department requirements for septic on one acre lots.

Beeners asked, if the PB was going in the direction of adjourning the matter, what it would like the applicant to provide. Members of the Board wished to explore other options for configuring the proposed subdivision lots to minimize the loss of agricultural land and wild life habitat. A proposal was made for two PB members to meet with the applicant to draft a reconfiguration of the subdivision proposal. The applicant agreed to such a meeting and possible redesign.

Following this agreement, a motion was made to adjourn the hearing consideration. Any significant changes to the proposal will require a second public hearing. Significant changes include construction envelopes and lot size.

RESOLUTION NO. 4 OF 2014 - ADJOURN CONSIDERATION

Resolved, that the Town of Danby Planning Board adjourns the matter for future discussion and consideration regarding approval of the Proposed Subdivision of an 11.152 acre portion of Tax Parcel 6.-1-18.2, located on the south west corner of the intersection of East Miller and Nelson Roads, for additional information.

Further Resolved, that representatives of the Planning Board will meet with the applicant and Code Officer to work out alternatives to lot sizes and other mitigating factors on the property and report back at the February 27 Planning Board meeting. At that time the Board will determine whether another public hearing is necessary.

Moved by Gagnon, Second by Strichartz.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Selin, Strichartz

Steve Selin left the meeting at 9:11pm

Consideration of Willcox Public Hearing

There was discussion regarding approval of signage. Klingensmith noted that the current zoning is not very specific regarding the size, location, and lighting of signs. The applicant had stated that he plans to have signage attached to the side of the building. There may also be a freestanding sign. Beeners suggested that it be limited to 50 square feet total signage.

There was discussion about ongoing review and a requirement for Planning Board review prior to expansion of the building and/or parking lot.

RESOLUTION NO. 5 OF 2014 - CONSIDER GRANTING SPECIAL PERMIT FOR PROPOSED SEASONAL ICE CREAM STAND, DANBY ROAD

Whereas, this action is to Consider Granting a Special Permit for a proposed seasonal Ice Cream Stand and related parking area, proposed to be located on the west side of Danby Road north of its intersection with Muzzy Road on Tax Parcel 2.-1-23.321; Suzanne Hiney Willcox and Steve Willcox, Owners/Applicants, and

Whereas, this is a Type II action which requires no further environmental review, and

Whereas, the Planning Board has reviewed the General Considerations Required for all Special Permits provided in Section 901 of the Town of Danby Zoning Ordinance, and

Whereas, the Planning Board on January 16, 2014, has held a public hearing on the matter,

Now Therefore it is

Resolved, that the Town of Danby Planning Board deems the proposed use to be similar in nature to other uses permitted by Special Permit and to be compatible with the purposes of the Low Density Residential Zone, and it is

Further Resolved, that the Town of Danby Planning Board grants a Special Permit pursuant to Section 600(3)(n) of the Zoning Ordinance to Suzanne Hiney Willcox and Steve Willcox for a proposed seasonal Ice Cream Stand and related parking area, proposed to be located on the west side of Danby Road north of its intersection with Muzzy Road on Tax Parcel 2.-1-23.321; conditional upon the following:

1. The Special Permit is limited to the current owners
2. Application to and granting of Variance for a parking lot set back by the Board of Zoning Appeals
3. Approval of signage by Planning Board prior to installation
4. No expansion beyond what is proposed, without review by the Planning Board

Moved by Gagnon, Second by Strichartz.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

Consider Recommendation of Planning Board Chair

Members of the Planning Board commended Kruppa on his job of chairing the current meeting. Gagnon recommended that the Board defer a recommendation for Chair until there was a full PB at the February meeting.

Connors informed the PB that the Town Board will be holding interviews with applicants for the current PB vacancy during its next meeting on January 20. She invited as many members of the PB to attend as were able. Interviews will start at 5:45pm. There was a discussion about holding a special meeting following those interviews, in order to voice a recommendation.

RESOLUTION NO. 6 OF 2014 - HOLD SPECIAL MEETING REGARDING VACANCY RECOMMENDATION

Resolved, that the Town of Danby Planning Board will hold a special meeting on January 20, following interviews of Planning Board candidates, to make a recommendation for appointment to fill a vacancy on the Planning Board.

Moved by Gagnon, Second by Klingensmith.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

February Planning Board Meeting

There was a discussion about when to hold the February meeting, whether it should be on the third or fourth Thursday. At least one member is likely to be out of town on the third Thursday in February. The Board will have further discussion of whether to hold meetings on the third or fourth Thursday at the next meeting.

RESOLUTION NO. 7 OF 2014 - SET FEBRUARY MEETING DATE

Resolved, that the Town of Danby Planning Board will hold its February meeting on the fourth Thursday, February 27 at 7:00pm.

Moved by Gagnon, Second by Klingensmith.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

Sketch Plan Review

Consider scheduling a Public Hearing for 7pm February 27 to consider a Special Permit for the construction of a second, detached dwelling on the same lot at 1116 Coddington Road, Town of Danby Tax Parcel 5.-1-1.78, 10 acres total. Barrett and Angela Nelson, property owners.

The applicant was not in attendance. Beeners provided an overview of the proposal/request for a special permit. The Nelsons wish to build a permanent house higher up on the property. The current dwelling, the second floor over a garage, is being used as a rental/income unit. Beeners noted that the Board of Zoning Appeals had denied a variance request for minimum frontage for a subdivision with a shared access. The BZA denied this on the basis that the flag was much too extreme, with less than 30 feet of frontage on one parcel. Neighbors had concerns about density with that subdivision.

There was discussion about other aspects of this special permit request. Beeners suggested that PB consider adding a condition that the dwelling be owner occupied. The PB may also add a condition that the property not be subdivided.

Set Public Hearing

RESOLUTION NO. 8 OF 2014 - SET PUBLIC HEARING

Resolved, that the Town of Danby Planning Board schedule a Public Hearing for 7pm, February 27, to consider a Special Permit for the construction of a second, detached dwelling on the same lot at 1116 Coddington Road, Town of Danby Tax Parcel 5.-1-1.78, 10 acres total. Barrett and Angela Nelson, property owners.

Moved by Klingensmith, Second by Melchen.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

Sketch Plan Review

Consider scheduling a public hearing for a proposed Subdivision of a portion of Tax Parcel 14.-1-3.2, 19.69 acres total, located on Michigan Hollow Road, into two parcels of 9.8 +/- acres each, and with each parcel having 123 feet of frontage, involving application to the Board of Zoning Appeals for variance of the minimum 150 foot frontage requirement in Article 600, Para 402 of the Zoning Ordinance, High Density Residential Zone. Judith Lehman, owner; Russ Cornwell, Applicant.

Beeners gave an overview of the proposal, from the perspective of the Code Office, describing the property and the intention of the applicants to engage in organic agriculture. She explained that the applicants had put a lot of thought into the proposed house locations and shared driveway. The split would require a frontage variance from the Board of Zoning Appeals.

The PB had several questions for the applicants. Gagnon asked why not locate the houses closer to the road, as this is a high density area? There was a discussion of the proposed subdivision in regards goals and objectives in the Comprehensive Plan and Hamlet Plan. This was identified as a parcel with potential to grow. Locating the houses closer to the road would keep options open for the future. In the meantime, it would retain the greatest agricultural potential for that field. There was a discussion between Beeners and Gagnon on this question.

Klingensmith asked for more details about the well, septic, etc. in relation to the pond. This is one of the few locations in the hamlet area with soils suitable for septic systems. Beeners noted that the well and septic need to be setback with a buffer from the pond. The distances are required by the health department. This influences the location of the houses. Klingensmith suggested that this information be included in the packet of data for the public hearing.

Cornwell gave a preliminary overview of the proposal during privilege of the floor. During the site plan review, applicant Cornwell stated that he has an approved purchase offer on the property, contingent on subdivision and variance. Practically speaking, he can not purchase the property unless it is subdivided. The applicants wish to arrange the houses in such a way as to provide acreage for an organic farm/garden. Cornwell wants to place the houses where they are not, "on top of each other."

There was discussion about the shared driveway and how it might facilitate or impede development in the future. A member of the Planning Board expressed support for the shared driveway proposal.

Set Public Hearing

RESOLUTION NO. 9 OF 2014 - SET PUBLIC HEARING

Resolved, that the Town of Danby Planning Board schedule a Public Hearing for February 27, immediately following the previous Hearing, to consider a Proposed Subdivision of a portion of Tax Parcel 14.-1-3.2, 19.69 acres total, located on Michigan Hollow Road, into two parcels of 9.8 +/- acres each, and with each parcel having 123 feet of frontage, involving application to the Board of Zoning Appeals for variance of the minimum 150 foot frontage requirement in Article 600, Para 402 of the Zoning Ordinance, High Density Residential Zone. Judith Lehman, owner; Russ Cornwell, Applicant.

Moved by Klingensmith, Second by Gagnon.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

Status Report - West Danby Chapel

Sally Regoord gave an update on the West Danby Chapel request for a special permit. The NYS DOT has undertaken a speed study of that section of Spencer Road/Route 34/96. A safety study on Station Road is yet to be done. The Chapel has made a request to slow the speed limit in the area of the West Danby "hamlet." There are currently 35 mph advisory signs in this section of the highway. During a one-hour study, speeds were recorded with a minimum of 20 and a maximum of 68 mph. 85% of drivers were doing 59 mph or less, 50% were doing 53mph or lower.

The Chapel has had an architect redesign a proposed parking setback and design of the building for public/mixed use space. The health department has inspected and approved the septic system. The Chapel would like to be able to advertise for summer weddings. The Chapel intends to apply to the PB for a special use permit.

The Chapel status report lead to a related discussion of lowered speed limit on Spencer Road/Route 34/96. In the opinion of members of the WD Fire Department, the blinking yellow light is an insufficient warning of potential traffic hazard. The Fire Department would support a lower speed zone.

Gagnon reported that the West Danby Community Association would also like to see a lower speed limit in this area. The WDCA is considering circulating a petition to this effect. Regoord asked whether the Planning Board and Town Board would write letters of support for a lower speed limit in that area. A coordinated effort may be timely.

RESOLUTION NO. 10 OF 2014 - LETTER OF SUPPORT FOR SPEED REDUCTION - NYS ROUTE 34/96

Resolved, that the Town of Danby Planning Board respectfully requests that the NYS DOT substantially lower the speed limit on Spencer Road/Route 34/96, with special attention to the West Danby Hamlet.

Moved by Gagnon, Second by Klingensmith.

In Favor: Gagnon, Klingensmith, Kruppa, Melchen, Strichartz

Comprehensive Plan - Status Report

Brenner made a short report on the status of the Comprehensive Plan revision. A public information session is needed at this point, to engage the public in the Comprehensive Plan review process. In Brenner's view, many of the draft revisions are subjective and need public input. Advance notice of this meeting will be published in the Danby Area News. There was discussion of this proposal. There was support from the PB for this next step.

Adjournment

The meeting was adjourned at 10:20 pm.

Pamela Goddard, Acting Planning Board Secretary