

**Town of Danby Planning Board
Minutes of Regular Meeting
September 18, 2014**

DRAFT

Present:

Joel Gagnon
Frank Kruppa
Ted Melchen
Jim Rundle
Steve Selin
Naomi Strichartz

Absent:

Anne Klingensmith

Others Present:

Secretary	Patty Jordan
Code Officer	Sue Beeners
Town Board	Leslie Connors, Ric Dietrich (Town Supervisor)
Public	Ray VandeBogart, Mike Sullivan, Bill Kuhns, Duanne Miller

The Public Hearing was opened at 7:03pm

Public Hearing to Consider Granting a Special Permit for second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 2167 Danby Rd., Tax Parcel 14.-1-22.6, 17.13+/- acres, LD Res. Zone, Michael and Michelle Sullivan, owners/applicants.

Ray VandeBogart (neighbor of the applicants) spoke in support of the project and stated his admiration for the applicants in taking in multiple generations of their family.

The Public Hearing was closed at 7:06 pm

The Regular Meeting was opened at 7:06 pm

Additions to the Agenda

Three items were added to the agenda: 1) letter from the PB to the Town's attorney, 2) draft resolution templates, and 3) motions vs. resolutions.

Approval of Minutes

The approval of the August 21, 2014, minutes was delayed until the October meeting.

Privilege of the Floor

Bill Kuhns spoke indicating that he would like to make some changes to the approved Eagle Automotive Repair Shop site plan. Kruppa informed him that if he alters the site plan after approval, he will need to resubmit a new proposal and it will be processed according to the standard, formal procedure.

Beeners handed out a proposal from Michael Hovanec, owner of Fort Locks Storage and Bailey Park. He would like to remove the oldest existing Fort Locks storage building and replace it with a climate-controlled building. He would also like to erect new storage units in Bailey Park. Consideration of this proposal and a possible public hearing will be added to the PB's October meeting agenda.

Consider Public Hearing Matter

There was a brief discussion resulting in agreement that Section 901 and 902 of the Zoning Ordinance are not of concern regarding this proposal. Selin stated that this is the perfect example of a low impact proposal.

RESOLUTION NO. 41 OF 2014 - CONSIDER GRANTING SPECIAL PERMIT FOR SECOND, DETACHED DWELLING, 2167 DANBY ROAD (SULLIVAN)

Whereas, this action is to Consider Granting a Special Permit for a second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 2167 Danby Rd., Tax Parcel 14.-1-22.6, 17.13+/- acres, Low Density Residential Zone, Michael and Michelle Sullivan, owners/applicants; and

Whereas, this is a Type II action which requires no further environmental review, pursuant to 6NYCRR Part 617 and Town of Danby Local Law No. 2 of 1991; and

Whereas, the Planning Board has reviewed the application materials for this proposal; and

Whereas, the Planning Board has reviewed the General and the Miscellaneous Considerations Required for All Special Permits provided in Section 901 and 902 of the Town of Danby Zoning Ordinance; and

Whereas, the Planning Board on September 18, 2014 has held a public hearing on the matter; **Now, Therefore it is**

Resolved, that the Town of Danby Planning Board grants a Special Permit to Michael and Michelle Sullivan for a second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 2167 Danby Rd., Tax Parcel 14.-1-22.6, 17.13+/- acres, Low Density Residential Zone.

Moved by Gagnon, Second by Melchen. The motion passed.

In Favor: Gagnon, Melchen, Rundle, Selin, Strichartz, Kruppa.

Sketch Plan Review

Consider Scheduling Public Hearing, for Application for Special Permit for second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 92 Hillview Road, Tax Parcel 26.-1-6.1, LD Res. Zone, Gerald and Kathryn Decker, owners/applicants

Duanne Miller (the Decker's contractor) stated that the apartment would be on the first floor only. Strichartz said that she would like to see some provision in the zoning for when families need to expand or convert their properties to accommodate other family members.

MOTION - SET PUBLIC HEARING

Moved that the Town of Danby Planning Board schedule a Public Hearing for 7pm, October 16, 2014, to consider a Special Permit for second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 92 Hillview Road, Tax Parcel 26.-1-6.1, LD Res. Zone, Gerald and Kathryn Decker, owners/applicants.

Moved by Selin, Second by Strichartz. The motion passed.

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

Letter to Town Attorney

Rundle passed around his draft version of the letter from the PB to Guy Krogh, Town of Danby Attorney. The memo addressed the communication between the PB and the attorney in regards to the Eagle Automotive Repair Shop and included suggestions to improve communication in the future. Selin pointed out the second sentence in paragraph two which says, "The memo we received from you did not help us decide this issue." He suggested that the language should be more specific in regards to the help that the PB would like from the attorney. Rundle said that he believed he addressed that in paragraph four of the letter. Melchen stated that he did find the memo from the attorney helpful when he made his decision regarding the Eagle Automotive Repair Shop but that he understood that not all of the PB members did. For future communications, the PB agreed they should be more specific in their request in order for the attorney to be more specific in his response. After further brief discussion, it was decided to leave the letter as it is and have Kruppa sign on behalf of the PB and send it to Krogh.

MOTION - LETTER TO TOWN ATTORNEY

Moved that the Town of Danby Planning Board authorizes Chairperson Kruppa to sign the letter to Town of Danby Attorney, Guy Krogh, on behalf of the Planning Board and send it to him via Email.

Moved by Gagnon, Second by Strichartz. The motion passed.

In Favor: Gagnon, Rundle, Selin, Strichartz, Kruppa

Opposed: Melchen

Draft Resolution Templates

Beeners had e-mailed proposed resolution templates to the PB. There was discussion about the need for draft approval and denial resolutions for every proposal. Kruppa said that, in his experience, a draft resolution is based on one side and a draft approval resolution does not mean that, ultimately, the PB cannot deny. He also felt that the effort to put together two drafts for every proposal is not necessary. Selin agreed with Kruppa and felt that it is rare that the public perceives the draft approval resolutions as if the Board had already made a decision. Strichartz stated that she did not believe it was a rare instance and that sometimes people may not come to public hearings because they are under the impression a decision has already been made. Beeners indicated that she would not produce two draft resolutions for every proposal and feels that the draft approval resolutions are a starting point and can be changed to denial. It was agreed that a disclaimer be added to the bottom of the agenda indicating that the draft resolution does not indicate a decision by the PB. Kruppa said he would draft language for this disclaimer.

Training

Rundle pointed out the zoning training being held at TC3 on October 30, 2014, and indicated that he would be attending.

Motions vs. Resolutions

It was agreed that general, procedural items would be recorded in the minutes as motions. Items that are more important or lengthy will be recorded as resolutions.

Town Board Liaison Report

Connors reported that there are two upcoming meetings in Caroline that she will be attending. The first is on the "basics" of aquifers and will be held on September 25, 7-8:30. The second will be on aquifer general threats and protective measures and will be held on October 21, 7-8:30. She also suggested "Site Plan Exemptions" of the Zoning Ordinance as a section for review and possible amendment.

“Draft Groundwater Protection Law” Amending the Town of Danby Zoning Ordinance to Protect Groundwater Resources, and Amendments to Land Division and Subdivision Regulations to Enhance Groundwater Protection - **Review of Next Steps.**

Gagnon gave a brief update of the meeting with Steve Winkley (Water Resources Specialist, New York Rural Water Association). He reported that the draft law includes fairly strict provisions for proposals that are on land overlying aquifer recharge areas. In addition, there is a long list of prohibited uses, including gas stations and hairdressers. Any suggested changes can be sent to Winkley who is working on a revised version. There will be another meeting at the end of October. Beeners indicated that once there is agreement, it will be added to the PB agenda and the PB would make a recommendation to the TB. Gagnon said he would like public opinion before the PB makes their recommendation to the TB.

Zoning Issues Discussion

Beeners had prepared and distributed proposed changes to Article II, Section 201(B) – LAND DIVISION BY PERMIT - of the Subdivision and Land Division Regulations of the Town of Danby. She felt that the administrative burden for deleting Section 201(B) would be high. She had looked at some statistics and said that potentially, the PB could have ~20 proposals a year if this Section is deleted altogether. She suggested instead changing the large- lot land division from 8 acres or more to 20 acres or more. She also suggested changing the small-lot land division from less than 8 acres and 3 consecutive years to less than 20 acres and 10 consecutive years. Selin felt that changing the numbers was a better idea than deleting the provision because it provides a framework for applicants.

Beeners mentioned that as a longer range change she would suggest looking at the recreational open space provision with a goal of requiring preserved open space.

Selin moved that changing the numbers in Section 201(B) be the first item to make the “short list” of zoning changes to be recommended to the Town Board. Kruppa indicated that a vote would be held on the motion but that all recommended changes would be sent together at one time to the Town Board.

RESOLUTION NO. 42 OF 2014 - SUBDIVISION AND LAND DIVISION RECOMMENDED CHANGES

Resolved, That the Town of Danby Planning Board recommend to the Town Board that three changes be made to Article II, Section 201(B)-LAND DIVISION BY PERMIT, of the Subdivision and Land Division Regulations of the Town of Danby, as follows:

B. LAND DIVISION BY PERMIT – A division of land in which all criteria are met for one of the following options:

1. Option #1 – A large-lot land division is permitted, provided the following criteria are met:

- a. All lots resulting from the land division are ~~eight (8)~~ **twenty (20)** acres or more, each with frontage on a public road maintained year-round;
- b. All lots resulting from the land division meet all other pertinent zoning requirements; and
- c. No extension or improvement of an existing, or creation of a new public road, public utility, or other public facility or area is involved.

2. Option #2 – A small-lot land division is permitted, where the division results in a lot or lots of less than ~~eight (8)~~ **twenty (20)**, provided that the following criteria are met:

- a. No other division(s) or subdivisions(s) involving the parcel being divided except for Land Annexation have taken place within the previous ~~three (3)~~ **ten (10)** consecutive years;
- b. The division results in no more than two lots, including the parcel being divided;
- c. All lots resulting from the land division have frontage on a public road maintained year-round;
- d. All lots resulting from the land division meet all other pertinent zoning requirements; and
- e. No extension or improvement of an existing, or creation of a new public road, public utility, or public facility or area is involved.”

Moved by Selin, Second by Gagnon. The motion passed.

In Favor: Gagnon, Melchen, Rundle, Selin, Strichartz, Kruppa.

Beeners had also prepared and distributed proposed changes to Section 701 – LIMITATION OF USES WITHIN 200 FEET OF A RESIDENCE ZONE and 704 – PUBLIC GASOLINE FILLING STATIONS AND GARAGES of the Town of Danby Zoning Ordinance. The proposed changes were to delete “garage or shop for the painting or repairing of automobile bodies or fenders” from Section 701, to expand Section 704 to include automotive repair facilities and body shops, to add “...or any occupied dwelling in any zone” to Section 704(1), to change the setback in Section 704(2) to 50 feet, to add Section 704(3) which addresses heavier use facilities be setback 300 feet instead of 200 feet, and to add Section 704(4) which addresses the general elevation of a public vehicle-servicing area. There was discussion of these changes and additions and it was agreed that the word “occupied” should be removed, Section 704(2) should be left at 30 feet instead of increasing to 50 feet, and the newly-added Section 704(4) should be deleted.

MOTION - ZONING ORDINANCE RECOMMENDED CHANGES

Moved, that the Town of Danby Planning Board Recommend to the Town Board changes to Section 701 and Section 704 of the Town of Danby Zoning Ordinance.

Moved by Strichartz, Second by Rundle. The motion was tabled.

There was further discussion of Section 701 and whether “...or any dwelling in any zone” should be added. There was also discussion of what specific types of facilities should be included in the list in Section 701. Connors suggested that light pollution should be included along with “loud or unusual noise, fumes, or odors...” Kruppa indicated that Sections 701 and 704 should be looked at one more time at the next meeting before any recommendations are made.

Adjournment

The meeting was adjourned at 9:10pm.

Patty Jordan, Planning Board Recording Secretary