

Town of Danby Planning Board
Minutes of Special Meeting
Thursday October 22, 2015

DRAFT

PRESENT:

Joel Gagnon
Anne Klingensmith
Frank Kruppa
Ted Melchen
Jim Rundle
Naomi Strichartz

ABSENT:

Steve Selin

OTHER ATTENDEES:

Town Planner C.J. Randall
Town Attorney Guy Krogh
Town Board Leslie Connors, Jack Miller, Ric Dietrich
Rec. Secretary Kelly Cecala
Public Ted Crane, Linda Fetherbay, Charles Tilton, Pat Woodworth, Frank Darrow, David Hall,

The meeting was opened at 7:03 pm.

CALL TO ORDER/AGENDA REVIEW:

Frank Kruppa handed out the agenda to the Board for comment and review, nothing was added or deleted.

PRIVILEGE OF THE FLOOR:

Pat Woodworth, 305 Gunderman Rd., remarked that the final decision is a legislative one which lies with the Town Board and acknowledged that the Planning Board is tasked with making a recommendation to the Town Board. Therefore Woodworth referred to Section 3 (Purposes of PDZ 10) of the proposal and gave specific examples as to why the proposal was not consistent with the Comprehensive Plan.

Woodworth said that language found in Danby's own 2003 Comprehensive Plan contradicts the Gunderman Rd. proposal. Woodworth expressed a concern

about sprawl, and added that the proposal would allow more intensive development in a low density rural area, and could set a precedent which could increase sprawl throughout other areas Danby.

Woodworth referred to Section 3, Parts C&D and talked about other "false" claims that she found within the proposal. Woodworth said that the proposal does not describe a true Business Incubator and there is nothing in the proposed law which will require incubated new businesses to move to the Town Center, or to hire Danby residents. Therefore the assumption that PDZ 10 will incubate new business' into the Danby community, and generate more jobs for Danby residents, is far-fetched.

Woodworth discussed the Town's desire to encourage more open space, as it is stated in the proposal. Woodworth reiterated that that the density allowed in Lot # 3 of the proposal is 2.1 versus the rest of the town which is 2.0. Woodworth stated that the only required open space preservation was the apple orchard, and that all other open space could be lost. Woodworth also commented that agricultural uses could easily be more accommodated without a PDZ.

Frank Darrow, 400 Gunderman Rd. commented that his presence at the meeting was because he was very interested in the Planning Board's discussion of PDZ 10.

Charles Tilton, 305 Gunderman Rd. wanted to provide important observations to the Planning Board, that he felt were critical while discussing the new proposed law. Tilton first stated that there was no legal, moral, or ethical requirement to rezone PDZ 10. Tilton requested that the Planning Board consider the proposed law and it's consistency with the Comprehensive Plan and it's land use. He noted that many hours were spent on the previous proposal, which was re-written and expanded by the Town Attorney. Tilton's suggestion to the Planing Board, was to not waste anymore time, and reject the law as it is written. He added that the Planning Board should recommend the law be limited only to the few requirements which were originally stated by the applicant. In regards to the autism center, Tilton said the possibility of hunting restrictions, or the enforcement of a "gun free zone" is unacceptable.

Linda Fetherbay, 334 Gunderman Rd., echoed the concerns about the proposal and it's incompatibility with the 2003 Comprehensive Plan. Her opinion was the "sky's the limit" with the law and asked the Planning Board to honor the concerns of the public and not approve to rezone PDZ10.

Ted Crane, 888 Comfort Rd., described how the Planning Board had three (3) paths to choose from, approve it, disapprove it, or approve it with changes. He added that going over the proposal line by line, and trying to fix what was wrong, would be an incredible waste of valuable time. Crane suggested that the

Planning Board disapprove the law as it is written, because it is not viable as presented.

David Hall, 279 Gunderman Rd., acknowledged that the law is too broad and is concerned when others suggest to just dismiss his proposal, which he has been working on for over 12 months. Hall admitted that the location of the site is not in line with the Comprehensive Plan, but that it already exists there with fewer restrictions. Hall believes that housing markets will rise once the potential hazards with the current zoning are removed.

DISCUSSION:

Planned Development Zone 10: Summit Enterprise Center Rezoning & Development Proposal.

Consider rezoning of Planned Development Zone 10 (Formerly known as Angelheart Design) located at 297-303 Gunderman Road, from the currently permitted commercial use (clothing manufacturer) under Local Law 1-1997 to a mixed use business incubator with a 8,000 +/- sq. ft. future addition. Tax Parcel 9-1-9.12. JLF Holdings, LLC, Owner, David Hall, Applicant. The Town Board has requested a non-binding recommendation from the Planning Board.

Frank Kruppa introduced Town Attorney, Guy Krogh, at the meeting. Krogh provided an outline of the procedural steps to rezoning. Krogh stated that the Planning Board should look at the areas of concern, traffic, noise, water, and light and mitigate impacts. Strichartz asked Krogh if it had to be a PDZ. She asked if the law could be bypassed and still allow David Hall to do some of the things that he had requested. Krogh said that in a rezoning process to rezone it, in theory to some other zone, but without making it a PDZ. Krogh confirmed that it is already a PDZ and that a PDZ is normally for mixed-use, with a common theme, i.e. mixed housing or a business parks. He added that the list of allowed uses came from the NY state building code classification.

Rundel said that one of the original criticisms of PDZ 10 was spot zoning, and asked if we try and deal with this through zoning, wouldn't we be engaging in spot zoning? Krogh said that there has already been a legislative declaration by the prior Town Board who approved the PDZ, which states that commercial use is compatible with the surrounding area. He added, the question now is whether or not this is still true and how viable is it to only allow one commercial use in the zone.

Strichartz commented that the former Town Board, 30 years ago, was very pro-development and despite the overwhelming objections by the neighboring residents, passed the PDZ. Klingensmith added, it has been proven that the

current area should have never been made a PDZ to begin with and that the commercial activities occurring are not harmonious with the neighborhood.

Klingensmith asked Krogh if it was legal for the Town to pull back the levels of activity and to change the law to remove some of the activities that are causing the disturbances. Krogh clarified that what is legal to do, versus legal and risk free, are very different. He said, yes it is legal for the Town to rezone land, but the Town does not have to rezone land consistent with whatever a developer wants. He added that the Town has an obligation to zone the land in the best interest of the Town and said that zoning is a balance between growth and preservation. He concluded by saying that planning needs to be done regionally, versus one community.

Klingensmith wanted to know what happened to the original document that the Planning Board had previously worked on, which was passed to the Town Board but received no response. Krogh explained that the document did identify a number of impacts, but that it was written more like a site plan document, versus a zoning regulation.

Rundle asked about water, and stated that all of the previous water language disappeared from the current proposed law. Rundle stated that the water monitoring portion was removed. Strichartz commented that water is like gold in her neighborhood. Krogh said that the greater risk of water use is the future build out and one of the site plan conditions is to have a monitor on the well. He stated that a geologist is going to determine what the appropriate regulatory trigger was going to be, and said that the blanket regulatory trigger is 2,000 gallons/day. Krogh added that in New York, groundwater is a property right.

Kruppa gave a five (5) minute recess, so the Planning Board could read the rezoning document that Guy Krogh provided.

Gagnon stated this is a zone and within that zone you can have constraints that apply within that zone. Gagnon said that his impression of the public comment, very little flexibility in terms of use and the allowed uses would be a very short list. He suggested that the Planning Board can try and pair down the list of uses, and hopefully bring them in line with something that the people can live with.

Strichartz said that the uses need to be specific. She is concerned about succession, and said that it is about the community. Strichartz suggested to vote no on the law, but would like the Town Board to consider some of the main uses that David Hall wants. Gagnon clarified that there must be a context for those stated uses, and there are only three (3) business districts, so the use must apply to one. Gagnon doesn't think zoning is as pliable, as a PDZ. With a PDZ, the use can be more specific.

Rundle's opinion is to reject the proposal as currently written, but said it's possible that some of the proposed uses are compatible with the Comprehensive Plan. Rundle agrees with Gagnon, that the Planning Board should make a good faith effort to give some input to come up with a PDZ that will work for everyone. He added that recommendations should be kept somewhat general, and let the Town Board sort out the specifics.

MOTION - Vote to reject the law as currently written

Moved by Strichartz, second by Melchen

In Favor: Unanimous

The motion passed

MOTION - Vote to go through the document, remove/add/revise document, and make a recommendation to the Town Board

Moved by Gagnon, second Rundle

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

Abstain: Strichartz

The motion passed

The Planning Board members continued reviewing the Gunderman Rd. document and the uses listed and made additional recommended changes. The applicant, David Hall, was involved in the PB discussion and agreed to the recommendation to delete the uses outlined below:

Section 5 B 2 Allowed Principal And Accessory Uses; Lot Locations:

(b) The Commercial Development Area (Lot 2) page 7:

(2) Uses allowed as of right but subject to Site Plan review and approval by the Planning Board (page 8):

Delete a, b

c. Make a change to 1,000 sq.ft and limited retail sales to accessory use only - new recommendation: Retail sales facility, not exceeding 1,000 sq.ft in combined gross total floor area, and limited to accessory uses only.

d. Recommendation - the list of "Light Industrial and Assembly Uses" is too expansive and it should be pared down. Strichartz commented that anything which states industrial or manufacturing will be opposed by the neighborhood. Strichartz wanted to strike (d) altogether. Kruppa added that a few of the uses seem reasonable. Hall stated that he would provide alternative specific uses for the Town Board and would include square footage restrictions.

Delete e

(3) Allowed uses subject to the issuance of a Special Permit by the Planning Board (page 10):

Delete a

(c) PDZ Management and Office Space (Lot 1) page 10:

(2) Uses allowed as of right but subject to Site Plan review and approval by the Planning Board:

Delete a, b,

d. Planning Board disagrees with how the loose term "medical clinics" is used and requested that the wording be more specific to an Autism Center. Kruppa said that the Comprehensive Plan encourages the development of medical facilities for Danby residents, and despite whom we think may go to the clinic, we should not discriminate. Strichartz argued that the location is not appropriate for this use.

e. Add "within the existing footprint." New recommendation - Bed and Breakfast facility or a tourist home for lease, within the existing footprint.

(3) Allowed uses subject to the issuance of a Special Permit by the Planning Board (page 11):

Delete a

Section 5 B 4 Yardage, Set-Back, Bulk and Density Requirements (page 12):

b. Make a change to 5 acres - new recommendation: Minimum future lot sizes shall be 5 acres.

Section 5 B 5 Traffic, Parking, and Roadways, and Dedication of Same (page 13):

b. Make a change by adding "which is connected to the PDZ 10 activities" - new recommendation: No parking, which is connected to the PDZ 10 activities, is allowed at any time or for any purpose on Gunderman Road. The Planning Board raised questions on the actual enforcement of this. What happens to a vehicle if they violate this law?

Section 5 B 8 Lighting And Signage (page 16):

a (5) Make a change by omitting "be removed" - new recommendation: Once emplaced, no sign may be relocated or substantially altered except upon approval of the Planning Board using Site Plan review.

Section 5 B 9 Water and Sewerage Services; Storm-water; SPDES Permitting (page 18):

b. Make a change by adding "and quantity" after water quality - new recommendation: "The potential impact on water quality and quantity of the proposed land..."

Rundle added that the Planning Board still remains concerned about water usage, because the PDZ is in a low yield area, and because of some of the proposed uses, i.e. food and beverage processing, could have a high water use. The PB is not unanimous on what to do about food and beverage processing, however the PB is unanimous in their concern and dismay for any activity that has a high water use.

The Planning Board recommends adding a new subsection under Section 5 B 9 Water and Sewerage Services; Storm-water; SPDES Permitting, to be inserted as 9 (f) and reads as follows:

A meter shall be installed and maintained at the water system within said "Barn" so that water usage in that building can be monitored. The building owner shall submit annually to the Town Code Enforcement Office a log of water usage measurements made at least monthly for such purpose. Additionally, the building owner shall notify the Town Code Enforcement Office immediately upon recorded usage indicating average day use meeting or exceeding 750 gallons a day in the prior month.

Section 5 B 10 General Restrictions and Prohibitions (page 19):

d (1) Rundle raised question about the wording found in the document and how many employees shall be employed "at any one time." The original draft read, "No more than 50 full-time employees, or equivalent, shall work at the facility." The Planning Board's main concern is the total number of employees and the impact on traffic and noise.

d (2) Make a change to the operating hours - new recommendation: 8:00 am to 8:00 pm.

d (7) The Planning Board has concerns about measuring noise by a quantitative decibel and distance, which is too subjective and could be unreasonable. In addition there is no existing noise ordinance in Danby which limits allowable

noise level(s) for different zoned areas. Therefore the PB recommends the Town Board determine a more appropriate way to measure and monitor noise. The PB suggested a more "organic" approach in the wording, i.e. limits noise from disturbing the neighboring residence from enjoying the peacefulness of their property.

Section 11. Amendments (page 23)

Make a change to the number of days to submit a recommendation to the Town Board, to 62 days.

FINAL THOUGHTS

Some of the Planning Board members do not agree with the findings in Section 3, Purposes of PDZ 10. Several members expressed concern about signing on to the law explicitly and the rationale behind it. The PB is in agreement that a PDZ should have never been put in the area, and the neighborhood suffered from it. Some PB members believe that limiting the uses, and adding restrictions to the current PDZ, will help protect the neighborhood in the future. The key area(s) of concern are traffic, noise, water, and light.

MOTION - Vote to recommend approval, which includes the changes made by the Planning Board, and includes the Town Board specifically reviewing the sections related to Food and Beverage Processing (and its impact) Light Industrial Use (more limited and acceptable/specific uses) Medical Clinics (defining it and the acceptability of them) Noise Ordinance, and Special Harvest Activities located in Lot 3

Moved by Gagnon, second Klingensmith

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

Abstain: Strichartz

The motion passed

ADJOURNMENT

The meeting was adjourned at 10:05 pm.

Kelly Cecala, Planning Board & Board of Zoning Appeals Recording Secretary