

Town of Danby Planning Board  
Minutes of Regular Meeting  
Thursday December 15, 2016

**DRAFT**

**PRESENT:**

Joel Gagnon  
Jim Rundle  
Naomi Strichartz  
Frank Kruppa

**ABSENT:**

Anne Klingensmith  
Jody Scriber  
Steve Selin

**OTHER ATTENDEES:**

Town Planner	C.J. Randall
Town Board	Leslie Connors
Recording Secretary	Kelly Cecala
Public	David and Adrienne Hall, Michael Allmeyer, Thomas Clements, Dan Clements, Tim Tonjes, Luke Tonjes, Emily Miner, Jessie Tonjes, Allie Johnson, Katherine Hunter, Scott Davis, Frank Darrow, Ted Crane, Pat Woodworth, Charles Tilton, and Sandy Loomis.

*The meeting was opened at 7:03 pm.*

**(1) CALL TO ORDER/AGENDA REVIEW:**

C.J. Randall provided copies of the agenda. Kruppa announced that there were no Public Hearings being held tonight because there was a technical issue getting the postings out to the public. Kruppa said that all of the Public Hearings that were scheduled for tonight have been postponed to January.

**(2) PRIVILEGE OF THE FLOOR:**

Pat Woodworth said that she has seen all of the documents that were provided for the Blue Sky Center for Learning proposal and said that the 1 1/2 page proposal overview does not contain enough details about the proposal. She added that there are several inconsistencies found in Exhibit E versus the supplemental letter and commented that all of the provided documents should be detailed and consistent with one another. Woodworth commented that there were no specifics mentioned on traffic impact and that present levels of traffic will certainly increase. Woodworth stated that the proposal should be very clear and detailed (in all areas) and only approved under the condition(s) that all state licenses (etc.) be obtained in order to protect the town from possible lawsuits. She concluded by saying that the water study found in Exhibit E was prepared prior to the current drought and that water should be reevaluated again.

Ted Crane provided a six page document to the Planning Board with his comments about the proposal for Blue Sky Center for Learning. He commented that the overview is too brief and does not summarize completely the entire business proposal and that all of the prepared documents were done with slightly different ideas in them. Crane questioned that the stated estimated project cost would be zero and that no alterations would be done to the existing building.

Crane said in general there appeared to be a lack of documentation and said that many of the required documents have not been supplied, i.e., planting plan, utilities plan, elevation drawings, soil study, drainage and other engineering reports. He also commented that the relationship between the Applicant and Dr. Vincent Carbone should be made more clear and questioned what happens if the contract between them falls through, does the Town end up with a special use permit and no project?

Crane questioned how a Special Use Permit can be granted and said "The description of Blue Sky (as provided) includes the descriptive key words, "agency," and "therapy center," but the supplied permitted uses are, "hospitals" (clearly no overlap), and "nursery schools, group family day care home, and day care centers" (also no overlap). It is far from clear that "(n) other [similar] uses" would have to be stretched pretty far out in order to apply to Blue Sky. The Planning Board would have to bend over backwards to call Blue Sky a Hospital, and it would probably be an insult to Dr. Carbone to call Blue Sky a day care center. Therefore, there is no pathway to granting a Special Use Permit."

Crane also commented on traffic and said that it appears that one client can generate up to 12 separate trips per week and concluded that there could be hundreds of trips on the road if there were up to 25 clients. Crane said that there is more missing information than what is actually being provided. A complete copy of Ted Crane's comments can be found at the Town Clerk's office.

Katherine Hunter said that she is concerned about the traffic and water impact on Gunderman Road and more generally concerned that rules (or exceptions) are being made for each (individual) plots of land.

David Hall responded to the comments that were made about his proposal. Hall said that he quoted the passage from the PDZ10 re-write that is relevant to the Blue Sky Center for Learning. He said that some of the comments made referenced the PDZ10 re-write (i.e. barber shops, retail stores) and have nothing to do with the Blue Sky Center for Learning proposal.

Hall said that the inconsistent hours are because the questions were different. Hall spoke about the statement on traffic and that there will be no increase to present traffic levels. He said that the building is going to be used one way or another and said this is a benign choice with

traffic occurring during business hours (when most people are at work) and one client coming in for 2-3 hours at a time, means one car going by every few hours.

Hall said that his required state license(s) are outside the purview of this Board (just as a tavern's liquor license is) and that we are here to talk about zoning. Hall said that the past document that was prepared for water included this part of the project (as part of a larger study) and subdividing a piece out of it is completely accurate. Hall said that project costs are minimal and that no changes need to be made and/or they would be insignificant and impossible to predict.

Hall says that he stands by his environmental answers and that the water consumption and discharge being used would be typical of an office setting. He said that the well and septic system that are in place are adequate for Blue Sky.

Hall also said that his contract with Dr. Vincent Carbone is private information and whether or not he chooses to license the program is within his purview.

Frank Darrow urged the Planning Board to be totally transparent and to have all the details in place before any decision is made. He said that every presentation has been different from the one before and, as it was heard tonight, there is still significant confusion on what is actually being proposed. Darrow said that the Town deserves a single, coherent, detailed proposal for what is actually going to happen on the property.

Sandy Loomis commented that she has been involved with non-profits in her past and has a broad sense of how they operate. She asked that the Planning Board keep in mind that a lot of different things (meetings, classes, seminars, or multiple things at once) can be done in the building without the Town's knowledge or approval.

Crane said that a section found in the submittal process for asking permission to run a business in an area that is not allowed, does state that any other information determined necessary by the Town Board, Planning Board, or Code Enforcement Officer may be asked for.

Hall stated that he doubted very much that the Carbone institute would make their contacts public.

### **(3) APPROVAL OF MINUTES:**

#### **MOTION - Approve November Minutes**

Moved By Strichartz, Second By Gagnon

In Favor: Gagnon, Rundle, Strichartz, Kruppa

The motion passed

### **(4) TOWN BOARD LIAISON REPORT:**

Leslie Connors reported on logging or not logging on the 25 acres that the Town owns near the West Danby Fire Station. The CAC had asked the Town Board for some direction in anticipation of the CAC drafting a management plan for that property. At the last Town Board meeting the members that were present all agreed that they were not interested in a management plan that included routine harvesting of lumber. Connors said there was an interest in leaving the wooded hillside in its natural state as much as possible and that there was some disagreement on managing the health of the woods. Gagnon said that he had not heard

Connors said that Allison from the DCC said that there has been difficulty keeping the Director position filled (high turnover) possibly because it was only a half-time position. Allison asked the Town Board if they would consider making it a three-quarter position.

Connors commented about a misunderstanding at the Town Board meeting where somebody had said that the Planning Board was upset that they had drafted some zoning proposals and the Town Board did not address them. Connors said she did some research and found some recommendations that Frank had passed in February of 2015. Connors said that at the time the Town Attorney suggested not doing the subdivision by permit and the other two parts of the recommendation got lost and that she was going to continue doing some research on it.

Kruppa said that the issue with Hamlet was that the Planning Board didn't want to have further discussions about the Hamlet unless they knew what the Board's temperature was on zoning because they didn't feel like any movement could be made on the Hamlet planning if there wasn't some interest in doing some zoning change to make it successful. Kruppa said that is where the Hamlet piece connected and that there was nothing specific to Hamlet it was just the simple zoning request. Connors said that they (Town Board) will try not to let that happen again.

Randall added that she got in touch with Rob from Stream Collaborative and that he was available for a presentation in February.

### **(5) ACTION ITEMS:**

#### **Action Item A:**

**Project:** Blue Sky Center for Learning

**Location:** 303 Gunderman Road, Tax Parcel #9.-1-9.12

**Applicant:** David Hall

**Anticipated Board action(s) this month:** Declare of Lead Agency, Consideration of preliminary approval of special permit, Set date for Public Hearing

**Project Description:** The applicant proposes to create a therapy center specializing in treating autism spectrum disorders not exceed 12,000 square feet within the existing barn structure on the 2.61-acre lot. The project is in Planned Development Zone 10. This is a Type I Action under the Town of Danby Environmental Review of Actions and the State Environmental Quality Review Act and is subject to environmental review.

#### **Action Item A Discussion:**

Gagnon questioned whether or not a complete application had been submitted. He commented that a clear and detailed proposal had not been provided. Gagnon said that the EAF is incomplete and agreed with some of the comments made that the proposal is somewhat of a moving target with inconsistencies. Gagnon remarked that he did not feel that the information being provided gives him a clear enough picture and that he would have a hard time considering approval without having a better handle on what the nature of the operation is and what the scope of it is. Gagnon said that the information had not been adequately defined. He said that if he were looking at this in 10 or 20 years time he would not have a good sense of what the limits are of what is actually being proposed.

Hall said that he is responding to what is being asked of him and said that he is trying to do his best to provide the information correctly. Hall asked what criteria is being missed/omitted and asked for a guide so that he can provide it and know that it was done. Randall responded that there is a development review application and attached to it is a checklist of materials that are needed for site plan review. She suggested that the Board go through the checklist with the applicant to see what is missing.

Strichartz said it would be helpful and give some sense of relief if the applicant stated that he is not asking for a barber shop, or a retail store, or any other use that was previously proposed. Hall said there was this big black board of what was being asked for over the last two years and that it was his understanding that the black board was been wiped clean with this new proposal and that if it is not in here now, it is not being asked for. Hall said his fear is that he is never going to satisfy the requests for his proposal. Rundle stated that the Planning Board had made a request that the proposal be as explicit as possible. Hall said that he didn't know how to be more specific and asked for some guidance.

Kruppa said that he is not confused about what is being proposed and that at some point (we) the Board need to make a decision. Kruppa said that the Board needs to let the applicant know if there is something specific that they need (or clarity) so that the applicant's marching orders don't change every month. Kruppa said that the Planning Board needs to tell the applicant exactly what they (Planning Board) still need otherwise he suggests that the Board take some action.

Gagnon suggested that the Planning Board first go through the EAF.

#### **Full Environmental Assessment Form - Part 1 Discussion**

D.2.c (change from No to Yes)

D.2.c.i. (add 230 gallons/day as the anticipated water usage)

D.2.c.ii. (applicant needs to fully complete the remaining water section - additional information needed)

Gagnon stated that the purpose of the EAF is to assess if the water-table is adequate. He said that there should have been a response indicating that yes there will be some water usage and the proposed site can handle it. Gagnon asked what is your projected water usage per day and where are you getting the water? Gagnon said that the purpose is to evaluate the proposal and its maximum capacity.

D.2.d. (change from No to Yes)

D.2.d.i. (applicant needs to fully complete the remaining liquid waste section - additional information needed)

Gagnon stated that this question is aimed at making sure the septic system is adequate.

D.2.j (traffic impact - additional information needed)

The applicant marked no to a substantial increase in traffic above present levels. Strichartz asked what is substantial. Rundle said if the applicant is going to mark no on the application, then it needs to be supported with documentation. Rundle said that some effort needs to be made to quantify the traffic impact based on full buildout. Strichartz said to provide the maximum (or an upper limit) traffic impact based on the parameters of the proposal. Hall said that he made an attempt to provide the traffic by listing the number of employees and staff.

Kruppa said part of what is missing is a trip number (i.e. we expect this many car trips per week) and Rundle added that a baseline needs to be established first. Randall clarified that substantial should be determined by a traffic impact analysis. Randall said if a proposal is for a new commercial use then the assumption is that it will generate some traffic. She said that the applicant is responsible for completing Part 1 of the EAF and that she and the Lead Agency complete Part 2. Gagnon commented that more information is needed in order to gauge whether or not it (the traffic impact) is a substantial increase over present use. Hall said that the SRF report did not provide a lot of useful information and also clarified that the present use is not inactive. Kruppa said that all of the questions in section j. need to be answered.

D.2.l (hours of operation)

Kruppa said that the summary letter had different hours listed then what is on the application. Hall said that he provided the hours of operation (when are the doors open/closed) on the application of 8 am to 8 pm. However Hall said in the the summary letter he listed the main hours of "activity" which will be 9 am to 6 pm.

D.2.n (change from No to Yes - additional information needed)

Gagnon remarked that the special permit is for 2.6 acres.

D.2.r (change from No to Yes - additional information needed)

Gagnon said that this section should be marked yes, there will be trash generated, and list how it will be dealt with. Gagnon asked if there would be recycling, composting, etc.

E.1.a (add 1.61 acres under "Meadows, Grasslands or Bushlands" to equate to the total square footage of 2.61 acres which is found in Section D. Project Details)

E.2.q (not answered - change to Yes)

E.3.a (answer is Yes need to add District 2)

E.3.h (change from No to Yes and identify resource: Jennings Pond)

**PLANNING BOARD RESOLUTION NO. 18 OF 2016 - DECLARATION OF LEAD AGENCY, SPECIAL PERMIT FOR BLUE SKY CENTER FOR LEARNING, 303 GUNDERMAN RD., TAX PARCEL NO. 9.-1-9.12**

**Whereas**, an application has been submitted for review and approval by the Town of Danby Planning Board for a special permit for to create a therapy center specializing in treating autism spectrum disorders at Town of Danby Tax Parcel No. 9.-1-9.12, by David Hall, Owner and Applicant; and

**Whereas**, this proposal action is reviewed under Article IX: Special Permits, of the Zoning Ordinance of the Town of Danby, amended through June 10th, 2013; and

**Whereas**, 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) and Section IX of Local Law 2 of 1991 Environmental Review of Actions in the Town of Danby, require that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

**Whereas**, State Law specifies that for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and carrying out the action; and

**Whereas**, the Planning Board is the local agency with primary responsibility for approving the action;

**Whereas**, this is a Type I Action under the Town of Danby Environmental Review of Actions and an Unlisted Action under the State Environmental Quality Review Act, both of which require environmental review; and

**Whereas**, pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the aforementioned information must be mailed to all involved agencies notifying them that a Lead Agency must be agreed upon within thirty (30) calendar days of the date that the aforementioned information is mailed to involved agencies;

**Now Therefore, be it**

**Resolved**, that the Planning Board of the Town of Danby hereby authorizes the mailing to all Involved Agencies of the aforementioned information, together with Notice that the Planning Board intends to declare itself Lead Agency for purposes of SEQRA for this Type I and Unlisted Action, unless objection to such designation is received within thirty (30) days.

**Moved By Strichartz, Second By Rundle**

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

**The motion passed**

**MOTION - Set a Public Hearing for Blue Sky Center for Learning in February pending a complete application and additional information is submitted for review in January.**

Moved By Rundle, Second By Gagnon

In Favor: Gagnon, Rundle, Strichartz, Kruppa

The motion passed

Rundle stated that he would be absent at the January meeting on the 19th and Strichartz said that she would most likely be absent as well. Gagnon made a motion to have a quorum check for January 19th and if necessary move the Planning Board meeting to January 12th. Randall said that she would send out a quorum call ASAP.

**Action Item B:**

**Project:** Minor Subdivision

**Location:** 119 W. Miller Rd, Tax Parcel #7.-1-65.2

**Applicant:** Tucker Milton

**Anticipated Board action(s) this month:** Declare of Lead Agency, Review Part 1 of Environmental Assessment Form (EAF), and Review of Preliminary Plat application

**Project Description:** The Applicant proposes to subdivide the existing 11.5-acre property into two parcels: Parcel A, measuring 2.42 acres, with 50 feet of road frontage on West Miller Road, 793.86 feet of depth; and Parcel B, measuring approximately 9.09 acres with approximately 432 feet of frontage on West Miller Road, approximately 794 feet of depth, with existing house. The property is in the Low Density Residential Zoning District, requiring a lot area minimum of 2 acres, frontage of 200 feet, and lot depth of 300 feet. On November 22, 2016 the Board of Zoning Appeals of the Town of Danby approved the area variance from the 200 foot required road frontage requirement for a Low Density Residential lot in Section 600, paragraph 5 of the Town of Danby Zoning Ordinance.

**Action Item B Discussion:**

Randall said that there is an access easement in place and that the BZA already approved the variance and made it contingent on the applicant consolidating the three pieces. Randall said that the applicant needs permission to subdivide first. Gagnon said that the question being posed is whether or not the subdivision can be granted contingent upon there being no further subdivision of the parent parcel. Kruppa said that if this is not approved then the applicant is probably going to sue the county since the county assessors signed off on the sell of the land. Hall said that there is a risk of foreclosure too which is why the BZA had to act quick on the variance. Randall said that she could look into conditions. Kruppa said that more information is needed.

**PLANNING BOARD RESOLUTION NO. 19 OF 2016 - DECLARATION OF LEAD AGENCY, MINOR SUBDIVISION, 119 & 125 W. MILLER ROAD, TAX PARCEL NO. 7.-1-65.2**

**Whereas**, an application has been submitted for review and approval by the Town of Danby Planning Board for a Minor Subdivision of Town of Danby Tax Parcel No. 7.-1-65.2, by Tucker Milton, Applicant and Owner; and

**Whereas**, the Applicant proposes to subdivide the existing 11.5-acre property into two parcels: Parcel A, measuring 2.42 acres, with 50 feet of frontage on West Miller Road, 793.86 feet of depth; and Parcel B, measuring approximately 9.09 acres with approximately 432 feet of frontage on West Miller Road, approximately 794 feet of depth, with existing house; and

**Whereas**, a 5.542-acre portion of the property is in the Low Density Residential Zoning District, requiring a lot area minimum of 2 acres, frontage of 200 feet, and lot depth of 300 feet; and

**Whereas**, 600 feet from the centerline of W Miller Road this property is located in the High Density Residential Zoning District, requiring a lot area minimum of 1 acre, frontage of 150 feet, and lot depth of 200 feet; and

**Whereas**, this is considered a Minor Subdivision in accordance with the Town of Danby Subdivision and Land Division Regulations, Article II, § 201 B.2. Minor Subdivision, Option #2 – A small-lot minor subdivision is permitted, where the division results in a lot or lots of less than 8 acres, provided that the following criteria are met:

- a. No other division(s) or subdivision(s) involving the parcel being divided except for Land Annexation have taken place within the previous three (3) consecutive years;
- b. The subdivision results in no more than two lots, including the parcel being divided;
- c. Both lots resulting from the subdivision have frontage on a public road maintained year-round;
- d. Both lots resulting from the subdivision meet all other pertinent zoning requirements;
- e. No extension or improvement of an existing, or creation of a new public road, significant public utility infrastructure, or significant stormwater improvements, or extension of public benefit districts is involved;
- f. Compliance with the Stormwater Local Law, if applicable, has been demonstrated, including, but not limited to, the preparation and approval of SWPPPs, the obtaining of Stormwater Permits, and the design, planning, installation, construction, maintenance, and improvement of temporary and permanent Stormwater Management Practices, as each and all of such capitalized terms are used within such Stormwater Local Law; and

**Whereas**, this is an Unlisted Action under the Town of Danby Environmental Review of Actions and the State Environmental Quality Review Act and is subject to environmental review; and

**Whereas**, State Law specifies that, for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and funding or carrying out the action;

**Now Therefore, be it**

**Resolved**, that the Town of Danby Planning Board does hereby declare itself Lead Agency for the environmental review for the action of Minor Subdivision approval of Town of Danby Tax Parcel No. 7.-1-65.2, by Tucker Milton, Applicant and Owner.

**Moved By Gagnon, Second By Rundle**

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

**The motion passed**

The Planning Board approved scheduling a Public Hearing for this action item in February.

**(6) PLANNING & ZONING REPORT:**

Due to time constraints no report was given.

**(7) ADJOURNMENT**

*The meeting was adjourned at 9:13 pm.*

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