

Town of Danby Planning Board
Minutes of Regular Meeting
May 17, 2018

PRESENT:

Ed Bergman
Scott Davis
Joel Gagnon
Jim Rundle
Jodi Scriber
Frank Kruppa

ABSENT:

Naomi Strichartz

OTHER ATTENDEES:

Town Board	Leslie Connors
Town Planner	C.J. Randall
Recording Secretary	Alyssa de Villiers
Public	Ted Crane, Toby Dean, Katharine Hunter

The meeting was opened at 7:02pm.

(1) CALL TO ORDER/AGENDA REVIEW

Gagnon pointed out that the February minutes were also awaiting approval. There were no other changes made.

(2) CHAIR ANNOUNCEMENT

Frank Kruppa is resigning, effective July 1st. He will be moving to Dryden, and expressed regret to be leaving Danby. He will be here for the June meeting. The chair position will then be available; the Town Board ultimately makes the appointment.

(3) PRIVILEGE OF THE FLOOR

Ted Crane pointed out that in the documents relating to the erection of a second dwelling unit at 520 W. King Rd. the quality and accuracy of the representations were poor. Davis shared an additional drawing he had made, and Randall contributed that, should the Planning Board wish to put a square footage limitation on the unit, the applicant would be held to that as the Planning Board may take into consideration lot size in the case of a second dwelling on a lot. The setback of the structure from the road was agreed to be unclear.

Crane also pointed out that this is the third case in recent history of the special permits section of the zoning ordinance subverting the original zoning purpose. He questioned whether a special permit request can be turned down at all as there is a right to a second dwelling for all lots. He suggested a recommendation to the Town Board to nullify the special permits section pending a rewrite, and emphasized the importance of addressing this issue early on, before a full zoning update takes place, rather than letting the problem grow.

Katharine Hunter spoke in agreement with Crane. She added that she would like to see zoning address the “rural character” of Danby as, with the two acre lot size and ability to put up second dwellings, it doesn’t always feel like low density. She said she has heard Randall mention the possibility of varying lot size requirements for different areas, but her understanding is that currently you could have two acre lot sizes, possibly with second dwellings, right up to and around State Forest land.

(4) APPROVAL OF MINUTES

MOTION: Approve February minutes

Moved by Gagnon, seconded by Rundle

The motion passed.

In favor: Bergman, Davis, Gagnon, Rundle, Scriber, Kruppa

MOTION: Approve April minutes (as amended)

Moved by Gagnon, seconded by Scriber

The motion passed.

In favor: Bergman, Davis, Gagnon, Scriber, Kruppa

Abstaining: Rundle

(5) TOWN BOARD LIASON REPORT

Leslie Connors shared that the Water Well Trust is offering low-interest loans for new wells or the reheading of wells. Tompkins County is open for applications until September, with a focus on low-income households and minority or elderly applicants. Bergman added that they operate out of North Carolina. Kruppa mentioned there is information at the Health Department website.

Connors also briefly addressed the timber harvesting draft zoning amendments, adding that the Conservation Advisory Council (CAC) will be pursuing educational efforts for landowners. They are currently working on a presentation about land use.

(6) ACTION ITEMS

Project: Special Permit, second dwelling unit

Location: 520 W King Rd, Tax Parcel # 1.-1-3.35

Applicant: Nathaniel Greenspun for Susan Perri, Owner

Anticipated Board action(s) this month: consideration of preliminary approval of special permit; set date for Public Hearing

Project Description: The Applicant is proposing the approval of a special permit for construction of a 450 square foot second dwelling unit in a separate building for permanent occupancy. The project is located in the Low Density Residential zone. This is a Type II action under the Town of Danby Environmental Quality Review and State Environmental Quality Review Act.

There was discussion of whether the structure met the setback requirement of the ordinance, with Randall clarifying that the requirement is 50 feet, usually from the center line. Davis pointed out that there are discrepancies in the drawings regarding the proposed structure's location in relation to the existing structure, the well, and the road. Rundle later echoed this sentiment, saying that the current drawings do not match up.

Kruppa questioned whether the septic system was sized correctly; documentation provided by the applicant shows it to have a capacity equal to a three bedroom residence. Randall confirmed that the existing structure is two bedroom, suggesting that the septic will be large enough to handle the additional structure, which is presumed to be one bedroom as it is only approximately 450 square foot.

Gagnon said he would like to first see what the constraints on the site are, and Kruppa said a to-scale drawing is needed. No public hearing was set, as the board wanted to first see a to-scale site plan with the existing structure, the proposed structure, on-site waste storage, and the well.

No further action was taken.

Discussion on Special Permits

Davis felt that this instance evoked broader questions regarding special permits, as briefly brought up by Ted Crane during privilege of the floor. He proposed contacting Town Attorney Guy Krogh for some clarification — is the special permit language in the zoning such that the writers felt that it is a permitting process, in which case the board has discretion? Gagnon answered, yes, the point was to allow other considerations such as impacts on adjoining properties, views, screening, etc. to be taken into account. Kruppa later echoed this, pointing out that the board has the ability to place stipulations in an instance where the owner does not see a problem but the board does. Gagnon suggested that the board can't say,

“No,” but can say, “Yes, but...” Rundle added that, as it is, the burden of proof is on the Planning Board to show what factors controlled their decision and prove they have grounds for it.

Davis continued that this provision of special permits begs to be an actual permitting process because otherwise the low-density zoning ordinance is contradicted by the special permit process — you are allowed one dwelling, but you can have two. The issue was boiled down to the concept of two dwelling units versus two separate units. Kruppa clarified that the authors appear to have been okay with a duplex, i.e., two families living on the property, but that two separate units needed the further review of a special permit. Davis questioned whether an existing duplex could add another dwelling unit via special permit. Kruppa said this was not the case because that property would have already met the capacity of two dwelling units, and therefore could not get a special permit. Scriber contributed that this was as clear as mud — both for the public and the board — and discussion moved on to whether any action could be taken.

Gagnon suggested that the fact that the zoning ordinance provides for two dwelling units on a lot rather than one has been a sore point for years. He brought up the possibility of only allowing for one dwelling unit, but then allowing an accessory dwelling unit, perhaps defined as a percentage of the primary dwelling. Without considering something like that, he added, it would be possible for Danby to double in density in every zone. Kruppa pointed out that completely prohibiting second dwellings would limit many use scenarios such as aging in place or mother-in-law apartments. Crane suggested an issue like this could be routed through the Board of Zoning Appeals, which would be different because they would have some discretionary power. Randall added that it could be considered a use variance, which would be harder to obtain; if second dwellings on the same lot were prohibited, then a second dwelling would be a different use. In conclusion, it was decided that Davis would draft and share with the Board an email to Guy Krogh asking for clarification.

Project: Oltz Minor Subdivision

Location: Comfort Rd, 8.-1-31.22

Applicant: Susan Oltz and Michelle Phalin, Owners

Anticipated Board action(s) this month: Declaration of Lead Agency

Project Description: The Applicant proposes to subdivide the existing 44.80-acre property into two parcels: Parcel A, measuring 22.071 acres and vacant and Parcel B, measuring 22.068 acres and vacant. 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. This is an Unlisted action under the Town of Danby Environmental Review of Actions and an Unlisted action under the State Environmental Quality Review Act and is subject to environmental review.

The Planning Board reviewed the Short Environmental Assessment Form and had the following recommended change:

Q. 5(b) should have “yes” or “no” checked rather than “N/A”; the answer is presumed to be “yes.”

Gagnon also noted question 9 was handwritten "N/A," and that seemed somewhat correct, while question 10 asked for more if "no" was checked; in this case, however, there is nothing to put in, bringing up the limitations of the form. Randall commented that the Board may soon cease to do this for minor land subdivisions as the Department of Environmental Conservation (DEC) has made revisions. Bergman pointed out this is just a simple split in half of the land. Randall will set the public hearing for next month.

MOTION: Declaration of Lead Agency

Moved by Bergman, seconded by Gagnon

The motion passed.

In favor: Bergman, Davis, Gagnon, Rundle, Scriber, Kruppa

PLANNING BOARD RESOLUTION NO. 14 OF 2018 - DECLARATION OF LEAD AGENCY, MINOR SUBDIVISION, 552 COMFORT ROAD, TAX PARCEL NO. 8.-1-31.22

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. 8.-1-31.22, by Susan Oltz and Michelle Phalin, Owners and Applicants; and

Whereas the Applicant proposes to subdivide the existing 44.80-acre property into two parcels: Parcel A, measuring 22.071 acres, with 294.56 feet of frontage on Comfort Road, 2114.63 feet of depth, and vacant; and Parcel B, measuring approximately 22.068 acres with 306.04 feet of frontage on Comfort Road, 2184.08 feet of depth, and farmed; and

Whereas 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 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 #1

– A large-lot minor subdivision is permitted, provided that the following criteria are met:

- a. Both lots resulting from the minor subdivision are (8) acres or more, each with frontage on a public road maintained year-round;
 - b. Both lots resulting from the minor subdivision meet all other pertinent zoning requirements;
 - c. 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;
 - d. 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;
 - e. The subdivision results in no more than two lots, including the parcel being divided;
- 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 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) requires that a Lead Agency be established for conducting environmental review of projects in

accordance with local and state environmental law; and 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 of Town of Danby Tax Parcel No. 8.-1-31.22, by Susan Oltz and Michelle Phalin, Owners and Applicants.

Project: Amodie Minor Subdivision

Location: Curtis Rd, 23.-1-10.2

Applicant: Michael Amodie for Deborah A. Friends, Owner

Anticipated Board action(s) this month: Declaration of Lead Agency

Project Description: The Applicant proposes to subdivide the existing 109.77-acre property into two parcels: Parcel A, measuring 4.042 acres and undeveloped, to remain undeveloped on Curtis Road; and Parcel B, measuring 105.77 acres and undeveloped. On March 27, 2018, the Town of Danby Board of Zoning Appeals granted an Area Variance from the Zoning Ordinance Section 600(4)(a) requirement that road frontage be located on a public road maintained year-round with the stipulation that no permanent structures be constructed on Parcel A. 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. This is an Unlisted action under the Town of Danby Environmental Review of Actions and an Unlisted action under the State Environmental Quality Review Act and is subject to environmental review.

The Planning Board reviewed the Development Review Application and had the following recommended change:

The role of Debra Friends was left blank; "owner" should be circled.

The Planning Board reviewed the Short Environmental Assessment Form and had the following recommended changes:

Q. 3(a,b,c): As the answers to (a) and (b) are currently reversed, they need to be fixed. The answer to (c) is currently zero, but should be the total acreage of 109.

Q. 4: "Rural" should be checked in addition to "forest."

Q. 5(b): "Yes" or "no" should be checked rather than "N/A."

Randall said that technically 5(b) does not need to be marked "yes" or "no," and Gagnon confirmed that he would prefer it to. Questions 9, 10, and 11 had the same problem as in the previous application in that they were not applicable. Randall pointed out that there is a substantive omission in the survey maps in that they do not show that this would be prohibited from having a permanent structure installed on it, and that that carries with the chain of title; the final version will show this.

MOTION: Declaration of Lead Agency

Moved by Gagnon, seconded by Scriber

The motion passed.

In favor: Bergman, Davis, Gagnon, Rundle, Scriber, Kruppa

PLANNING BOARD RESOLUTION NO. 15 OF 2018 - DECLARATION OF LEAD AGENCY, MINOR SUBDIVISION, CURTIS ROAD, TAX PARCEL #23.-1-10.2

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. 23.-1-10.2, by Michael Amodie, Applicant, for Deborah A. Friends, Owner; and

Whereas the Applicant proposes to subdivide the existing 109.77-acre property into two parcels: Parcel A, measuring 4.042 acres and undeveloped, to remain undeveloped on Curtis Road; and Parcel B, measuring 105.77 acres and undeveloped; and

Whereas 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 on March 27, 2018, the Town of Danby Board of Zoning Appeals granted an Area Variance from the Zoning Ordinance Section 600(4)(a) requirement that road frontage be located on a public road maintained year-round with the stipulation that no permanent structures be constructed on Parcel A; 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 for Town of Danby Tax Parcel No. 23.-1-10.2, by Michael Amodie, Applicant, for Deborah A. Friends, Owner.

(7) PLANNING AND ZONING REPORT

C.J. Randall, Town Planner, reported the following:

- As of this meeting, there is a new Planning Board and Board of Zoning Appeals secretary, Alyssa de Villiers.
- The Highway Department executed their contract with the engineering firm Barton and Loguidice for the Brown Rd. stream bank stabilization project; surveying and permitting is going on now.
- The Highway Department applied to the Department of Transportation (DOT) Bridge NY program for three no-match grants. The first priority is the Gunderman Rd. bridge (although they deem it a culvert); the engineering assessment has been done. Later, in response to a question from Scriber about large trucks crossing the Gunderman bridge, Randall explained that she believes that section is a County road, which is required to be able to carry a certain amount, and it is currently safe for those vehicles to be using.
- The Town won a \$100,000 no-match grant from NYSERDA that will cover work at the Highway Department, including new doors for the garage, new air source heat pumps, and a new wastewater recycling system to assist in truck cleaning. Currently, the water used is transported to downtown Ithaca at a significant cost.
- She advised the Board to begin thinking about flooding, particularly in West Danby, in relation to the FEMA flood risk maps. The area feeding into Cayuga Inlet is a County priority in terms of funding for natural infrastructure projects. The County is beginning its Hazard Mitigation Plan review this summer, so it is an opportune time to think about flooding and emergency planning.
- The strengthened Verizon cellular network will be up and running in July.
- Electric vehicle charging stations are moving forward, and the Town Board will be making a decision soon. A decision needs to be made between two types, one of which is lower-tech and could not accept payment from those charging their vehicles (meaning the town would cover the cost of charging) and one that is on the Verizon network and would be a pay station. The decision between the two devices must be made by the end of May. Bergman contributed that it may be worth looking at the energy consumption of the stations when running but not in use, as the higher-tech station may be more expensive to run, and therefore not a large cost saving despite users paying for their charge. Randall added that the Town's solar array is sized to the existing power use, and that it is possible the charging stations could cause an increase large enough to go over this, which would cause an increase in the Town's electric bill.

In terms of location, the TCAT Park & Ride was deemed too expensive, and the current options being considered are to the east or north of the Town Hall building. In response to Ted Crane's question about locating it to the west (behind) the Town Hall, Randall explained that the long-term plan for that area involves moving from it being pavement to a more pervious material in order to reduce water and blacktop runoff into Buttermilk Creek.

- The Town will be filing Intent to Apply for some grants in June, specifically for a water and wastewater hamlet feasibility study and a housing needs assessment. The grants would cover the cost of hiring consultants to do the work.
- There has been a lot of turnover in staffing; the Deputy Town Clerk is moving out of the County and being replaced by cohistorian Alex Pfeifer, and the Bookkeeper, Laura Shawley, has a new assistant.
- In response to constituent concern about logging on Deputron Hollow Rd., Randall was instructed by the Town Board to prepare some amendments to zoning about timber harvesting. These are largely borrowed from the Town of Ithaca's timber harvesting law. An article went out in the Danby Area News describing the balance between private property rights and the public interest, and the draft amendments are on the website. The Highway Superintendent and the Code Enforcement officer will be attending the CAC meeting on Tuesday to work on the draft, the Town Board will look at it again in early June, and there will be a public info session in late June or early July. Davis added that he spoke with Matt Ulinsky and Don Schaufler about the current situation, and the conclusion was that legal action was unlikely to be pursued in this case, and the ordinance would prevent the situation from arising in the future; some cleanup on the site has been initiated.

(8) ZONING AUDIT QUESTION REVIEW

Randall clarified that the purpose of reviewing these questions is to ascertain whether these are the questions the board wants to be seeing — are they the right questions? This is the start of the foundational work of redoing zoning; codifying the zoning will allow people to better access and understand zoning. She said she understands that it is not going to be as rapid as some would hope, and Kruppa said he is pleased to see that there is a process.

Gagnon wanted to know where the questions originated from, and Randall explained that they are a compendium of the best from a number of sources (including New York's "Questions for the Analysis and Evaluation of Existing Zoning Regulations," Smart Growth America's Smart Growth Implementation Tool Kit, and the firm GreenPlan), as well as some she added herself, and some that Scriber and Davis contributed. As some questions refer to a future land use map (Zoning Map section), he wondered how those could currently be addressed, particularly as that is outside the scope of redoing the zoning. Randall said that, looking to the future, the comprehensive plan will need to be revised beginning around mid-2019,

as in 2021 it will be ten years since it was last updated. It would be possible to work on the land use map now as part of this work, as part of the comprehensive plan update, or using a hybrid from the natural resource inventory (NRI) maps; she feels the NRI maps in particular will be helpful for working on the zoning.

Bergman brought up the question of how these questions will be answered and by whom. Randall laid out her vision of the process: (1) begin drafting answers to the questions (largely done by Randall), (2) conduct an in-depth review and edit in conjunction with the Planning Board, (3) hold a public info session, hopefully with lots of maps and diagrams, (4) prepare a final document by the end of the year, and (5) describe the findings in the newsletter. Many people will have a hand in answering these questions, and the public will be brought into the process as much as possible. Already, in next month's Danby Area News there will be a link to these questions, which will also be posted on the website. All Town departments — Highway, Code, the historians — will be drawn in to contribute.

Gagnon thought it would be interesting to see what a total build out would like — if Danby did everything that is allowed in zoning, what would Danby look like? Later, Connors added that this might help to inspire additional public reflection, as intended by the questions. Gagnon also had some specific recommendations on the questions. First, at the bottom of page 3 in the "Zoning Districts" section, the last question was not specific enough; the use of "exceeding" was unclear and the use of "standards" begets the question of what standards. On page 4, in the "Lot Sizes" section, he wondered if the types of questions posed were leading to specific answers — did they entertain the possibility of zero lot lines, zero setback, or joint systems? Would alternatives be evoked through those questions? Randall responded that she could add a question about providing for cluster subdivision. Gagnon also thought a question on dimensions of minimum lot sizes could be added. Formerly a lot could, by right, be carved off if it had 5 acres with 200 feet of road frontage. In the past on Troy Rd. this led to some very long, skinny parcels. He felt a requirement regarding lot proportions could address this. The broader point made was that it is important that this set of questions bring up discussion of problems specific to Danby that have come up in the past.

Scriber felt that it was appropriate for these questions to be less specific, as the Board members, who are aware of Danby-specific issues, would bring those into consideration through the answering process. Kruppa re-clarified the goal of the questions is to get the framework in place — are all the concepts covered, and did people feel there was enough here to get the group going? Already, the list was nine pages long, and was clearly initiating discussion. Rundle thought that perhaps it would be worth comparing a list of issues specific to Danby with these questions. Kruppa pointed out that everyone might have rather different lists, and Bergman suggested each person could create a list of questions and concerns once these questions were answered. Scriber added that, as the questions are also going to the community, hopefully there will be enough participation to have a really robust process. Randall felt that there is plenty of opportunity to add, but that this starting list is intended to be broad. Kruppa suggested beginning now on the questions so too much time is not spent on deciding exactly which questions are included.

Davis expressed hope that the board would not postpone addressing certain issues because of being in the process of examining zoning. He wondered if it was possible to put a hold on certain actions or uses while they were taking shape or under consideration. Connors said that this would be a moratorium, which requires a process to put in place that takes 30 to 60 days.

Gagnon inquired how the Board will get from here to the revised zoning draft. Randall explained that first there will be a matrix made from the abbreviated answers. Public discussion will follow, and some thought will need to be given to how to get people involved. A report will be made with top priorities highlighted, possibly with timeframes associated. She pointed out that this project is finite, and the project of editing the zoning will have its own timeline; the scope of this project includes these questions and a memo that accompanies them providing the public with information.

(9) ADJOURNMENT

The meeting was adjourned at 8:43pm.

Alyssa de Villiers – Recording Secretary