

Town of Danby Planning Board
Minutes of Regular Meeting
August 16, 2018

PRESENT:

Ed Bergman
Scott Davis
Joel Gagnon
Jody Scriber
Jim Rundle (Chair)

ABSENT:

Naomi Strichartz

OTHER ATTENDEES:

Town Planner	C.J. Randall
Recording Secretary	Alyssa de Villiers
Public	Devon Buckley, Ted Crane, Carolyn Klass, Brian Marsh, Beth Myers, Ulysses Williams

The meeting was opened at 7:00pm.

(1) CALL TO ORDER / AGENDA REVIEW

Jim Rundle opened with the announcement that he is the new Planning Board Chair, having been appointed as such by the Town Board. He stated that he intends to end meetings at 9 p.m. unless there is a special circumstance warranting otherwise.

A discussion of special permits was added to the agenda as item number eight and selection of Vice Chair as item nine. Topics to add to next month's agenda was added as item number ten; Rundle proposed each meeting end with this agenda item.

(2) PRIVILEGE OF THE FLOOR

Ted Crane pointed out that the draft July meeting minutes had not been posted to the Town website last month.

(3) APPROVAL OF MINUTES

MOTION: Approve July minutes

Moved by Gagnon, seconded by Scriber

The motion passed.

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

(4) TOWN BOARD LIASON REPORT

C.J. Randall, speaking on behalf of the Town Board liaison, said the Town Board had appointed Rundle as Planning Board Chair in the last meeting. There was suggestion that appointing Joel Gagnon as Vice Chair would make a good team; while the Town Board appoints the Chair of the Planning Board, the Planning Board selects its own Vice Chair. They also interviewed three candidates for the vacancy on the Planning Board left by Frank Kruppa's departure: Ted Crane, Nancy Pochily, and Bruce Richards. Brief descriptions of the candidates can be found in the Town Board meeting minutes for August 13, 2018. The term runs through the end of the year.

(5) ACTION ITEMS

Project: Special Permit for Earth Rhythms Day Care Center

Location: 1230 Danby Rd, Tax Parcel # 2.-1-8.1

Applicant: Devon Buckley for Pamela Kaminsky, Owner

Anticipated Board action(s) this month: Public Hearing; Determination of Environmental Significance; Preliminary and Final Approval of Special Permit

Project Description: The Applicant proposes the establishment of a Day Care Center in the existing 4,371 square foot building, permitted by Special Permit under Town of Danby Zoning Ordinance Section 603(4)(d)(i). The property is currently zoned Commercial B. 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 public hearing was opened at 7:10pm.

Ulysses Williams and Beth Myers attended on behalf of the Ithaca Waldorf School (20 Nelson Rd.). Williams said that he supports the expansion of Earth Rhythms Day Care and looks forward to a mutually beneficial working relationship.

Carolyn Klass (36 Comfort Rd.) asked how many children would be in attendance. In response, Buckley answered that there will be 30 full-time spaces available.

The public hearing was closed at 7:14pm.

With regard to the Determination of Environmental Significance (Resolution No. 22), Gagnon pointed out that the fifth whereas clause should read "SEAF" rather than "FEAF."

MOTION: To approve the Negative Declaration of Environmental Significance, as amended

Moved by Gagnon, seconded by Bergman

The motion passed.

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

PLANNING BOARD RESOLUTION NO. 22 OF 2018 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE, SPECIAL PERMIT FOR EARTH RHYTHMS DAY CARE CENTER, 1230 DANBY ROAD, TAX PARCEL #2.-1-8.1

Whereas an application has been submitted for review and approval by the Town of Danby Planning Board for a Special Permit for a Day Care Center at Town of Danby Tax Parcel No. 2.-1-8.1, by Devon Buckley, Applicant and Pamela Kaminsky, Owner; and

Whereas this proposal action is reviewed under Article IX: Special Permits, of the Zoning Ordinance of the Town of Danby; 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, the Planning Board, being the local agency which has primary responsibility for approving the action, did on July 19, 2018 declare itself the Lead Agency for the environmental review, and

Whereas, this Board, acting as Lead Agency in environmental review, did on July 19, 2018 and August 16, 2018 review and accept as adequate: a Short Environmental Assessment Form (SEAF), Part 1, submitted by the Applicant, and Part 2, prepared by staff;

Therefore, be it

Resolved that the Town of Danby Planning Board determines the proposed Day Care Center will result in no significant impact on the environment and that a Negative Declaration for purposes of Article 8 of the Environmental Conservation Law be filed in accordance with the provisions of Part 617 of the State Environmental Quality Review Act.

With regard to the Preliminary and Final Approval of Special Permit (Resolution No. 23), it was agreed that the third whereas clause needed clarification. It was discussed, and the following language was agreed upon: "...no expansion of the building footprint is required to renovate and reuse the existing building within this area, which is zoned Commercial "B"." Randall added that under the seventh whereas it should include "...and Survey Map titled "No. 1230 Danby Road" dated 9/18/2009, prepared by T.G. Miller, P.C."

Also in regard to Resolution No. 23, Rundle pointed out that the permit is for two years, at which time the permit must be renewed; the applicant must reapply within 90 days of its expiration. Davis brought up parking again to make sure there was nothing the Board might be missing in its understanding of traffic flow. The applicant confirmed that currently the only access is on Comfort Rd. Discussion followed as to whether the Board should add a condition to the Resolution requiring the applicant to return to the Board with any changes to access. Randall pointed out that, as an entrance on 96B is not on the site plan, the applicant would need a NYS Department of Transportation (DOT) work permit to open another access point, which would trigger them returning to the Planning Board to make modifications to the permit. In the

end, the decision was made to add the condition as number (v), assuring the Board will have the ability to guide any future changes should the need arise.

MOTION: Preliminary and Final Approval of Minor Subdivision and Special Permit

Moved by Gagnon, seconded by Bergman

The motion passed.

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

PLANNING BOARD RESOLUTION NO. 23 OF 2018 - SPECIAL PERMIT FOR EARTH RHYTHMS DAY CARE CENTER, 1230 DANBY ROAD, TAX PARCEL #2.-1-8.1

Whereas an application has been submitted for review and approval by the Town of Danby Planning Board for a Special Permit for a Day Care Center at Town of Danby Tax Parcel No. 2.-1-8.1, by Devon Buckley, Applicant and Pamela Kaminsky, Owner; and

Whereas this proposal action is reviewed under Article IX: Special Permits, of the Zoning Ordinance of the Town of Danby; and

Whereas the Applicant proposed adaptive reuse of the existing 4,371 sq. ft. building where no expansion of the building footprint is required to renovate and reuse the existing building within this area, which is zoned Commercial "B"; 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 the Planning Board, being the local agency which has primary responsibility for approving the action, did on July 19, 2018 declare itself the Lead Agency for the environmental review; and

Whereas legal notice was published and adjacent property owners within 500 feet notified in accordance with the Town of Danby Zoning Ordinance, Article IX, § 904(2) and a Public Hearing was held on August 16, 2018; and

Whereas this Board, acting as Lead Agency in environmental review, did on July 18, 2018 and August 16, 2018, review and accept as adequate: a Short Environmental Assessment Form (SEAF), Part 1, submitted by the Applicant, and Part 2 prepared by staff; and Survey Map titled "No. 1230 Danby Road" dated 9/18/2009, prepared by T.G. Miller, P.C.; and

Whereas the Planning Board did on August 16, 2018 make a Negative Declaration of Environmental Significance for the project; and

Whereas the Tompkins County Planning Department, pursuant to §239 -l, -m, and -n of the New York State General Municipal Law determined the proposal has no negative inter-community, or county-wide impacts;

Therefore, be it

Resolved that the Town of Danby Planning Board hereby grants the Special Permit for the Day Care Center to be valid for a period of two (2) years from the date of this resolution, finding that the standards of Article IX: Special Permits § 901 and § 603 (d)(i), of the Zoning Ordinance of the Town of Danby have been met, subject to the following conditions:

- i. The Applicant must apply for a renewal of the Special Permit not later than 90 days before the expiration of this special permit.
- ii. That upon application for renewal of the Special Permit the property will be subject to an inspection by the Town of Danby Code Enforcement Officer.
- iii. The Applicant must demonstrate continued compliance as a validly licensed day care center with the New York State Office of Children and Family Services.
- iv. The Special Permit is granted only for adaptive reuse of the existing 4,371 sq. ft. building on the existing Tax Parcel 2.-1-8.1.

v. Modification of vehicular ingress and egress (currently permitted only from Comfort Road) requires approval of modified Site Plan by Planning Board.

(6) PLANNING AND ZONING REPORT

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

- The housing needs assessment application through the Community Development Block Grant program (CDBG) is complete. She added that it is important to apply for some grants while the Town is still able as the median household income in Danby has increased and the Town is inching out of eligibility for some lower-income programs, such as Block Grants. Substandard housing can still get assistance because that is targeted at an area's least wealthy residents. Danby's median income has risen significantly in the last ten years.
- White Hawk Ecovillage, PDZ 19, will need amendments to their zoning. They will need a recommendation from the Planning Board to the Town Board for the rezoning, and then they will need to return to the Planning Board to modify their site plan. One issue is that, because ownership is in the zoning, they cannot currently move forward with their offering plan. Another is that the zoning references a site plan, which means that they have to return every time they want to modify their site plan. There was also some confusion surrounding a survey map being filed by the County as a subdivision plot, leading to the property being treated as a subdivision with 30 different tax parcels. For many reasons, including that they want to move forward with a bread shop, they would like to get this all sorted out. Randall added that there is no maximum lot coverage for commercial buildings.
- The drawings for the Brown Rd. stream stabilization project are almost complete, and public outreach will be coming soon.
- With regard to timber harvesting in the Town, Randall spoke with John Clancy at the NYS Department of Environmental Conservation (DEC). They were supportive of the Town's approach to regulation, which will involve some changes to the zoning, but also amending the Town's Stormwater Law (2010-1) and Road Use Law (2011-4). The current Road Use Law has an exemption for moving agricultural products. Davis asked about modification to the zoning ordinance, as he was on the committee that worked on a recommendation. He thought that some modification was still a good idea, specifically involving logging on grades and requiring basic clean up. Randall mentioned the DEC offered to do a tour of the Danby State Forest with a state forester, and Davis recommended a book, *The Hidden Life Of Trees* by Peter Wohlleben.

- NYSEG is considering giving the County a license so the South Hill Recreation Way can be extended south past its current end. It is in the Town's Comprehensive Plan to support this happening.
- The two-port electric vehicle charging station will arrive by the end of the week, and the install will be complete by September 30th. Paul Hansen has a site plan.

Discussion of Inclusive Housing

After Randall brought up that Danby's median household income is rising, discussion followed as to what impact this might have on the Town's demographics. Davis asked if programs exist to help areas that are rising in median income maintain demographic diversity and not begin a trend of pricing out lower-income individuals. Randall said that this can be done in a few ways. The Town of Ithaca includes an affordable housing mandate that requires new projects to build a certain percentage of affordable housing in order to be eligible for tax abatements. With incentive zoning, it is possible to require a certain number of units be built at an affordable level, but this is harder to do when the majority of units being built are individual homes. Tompkins County also has a community housing trust fund that a town and a developer can apply for to help bridge the affordable housing gap. However, Ithaca Neighborhood Housing Services (INHS) is the area's major player in affordable housing, and they are following a standard of only building on existing water and wastewater infrastructure. Danby only has this in a small portion of the Town.

Scriber brought up the lack of affordable housing that uses universal design principles to make it also functional for elderly individuals and those with disabilities. She pointed out that if you are a person with a disability looking to rent or purchase a home in the area, it can be prohibitively expensive. Universal design is defined by the Centre for Excellence In Universal Design (based in Ireland) as "the design and composition of an environment so that it can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability. An environment (or any building, product, or service in that environment) should be designed to meet the needs of all people who wish to use it." This allows existing buildings and their surrounds to be enjoyably used by a less narrow demographic. Randall responded that, like with promoting affordable housing, encouraging builders to create spaces using universal design is difficult on the single-family-home scale. INHS builds to LEED standards, but they may or may not be pursuing the credits related to universal design. The Town could decide to forego a portion of tax revenue to create a tax incentive for this type of residence.

Randall said that the majority of people moving to Tompkins County are 55 or above, and have incomes over \$75,000. Right now the choices are old houses or high-end apartments. Scriber pointed out that an older age demographic means that, as the community ages, there will be even greater need for housing that allows people with a cane, walker, or wheelchair functionality. Randall added that the buildings going up right now will be what the community has for the next 50 years, and if they build with universal design

principles in mind it is much less expensive than trying to retrofit. Davis asked if some municipalities require a percentage of homes to be built this way, but that did not seem to be the case.

It was generally felt that some education on the topic would be ideal. Bergman mentioned that Tompkins County is making some efforts to be aging-friendly, and that seniors really add to the community. He suggested a brochure that people received when applying for a permit could be a good place to start. Something like this could do some simple price comparisons between building with universal design and not — while it might cost more up front, it allows the homeowner to age in place if they so desire. Scriber has this type of information from a universal design presentation she attended. Gagnon added to this that it could be made available by the Code Office. Randall said she thought Paul Hansen, the Code Enforcement Officer would be happy to distribute something if it was created, and that she would add something to the zoning audit regarding the issue so it does not disappear. Scriber will also be bringing up the issue as a member of the City of Ithaca's Community Life Commission.

Ted Crane added that perhaps Danby could provide a list or brochure with information for prospective Danby residents. Gagnon added there is something about right-to-farm, but Crane said he was thinking more of a pre-welcome.

(7) ZONING AUDIT REVIEW

Review of Pages 1-4

Preemption

Gagnon began the discussion with the question on preemption by state or federal law. He said that, by virtue of preemption, there are parts of the ordinance that are becoming irrelevant, and it is worth considering what the implications may be. For example, manufactured housing may no longer be treated differently than any other kind of housing, but Danby does differentiate in the Zoning Ordinance.

Originally, single-wide manufactured houses were felt to depress housing values, and the Town regulated their location. This changed when double-wides arrived as it was felt that there was little difference in appearance between a double-wide modular, built to NYS building code and transported on a flat bed truck, and a double-wide manufactured home, built to HUD (U.S. Housing and Urban Development) code and having a frame and wheels. As long as the manufactured homes were placed on a permanent foundation, Danby allowed them to be treated like any other home. At the time, the HUD code was inferior to the State code, but this difference is no longer as extreme. Now that the State has said single-wides cannot be treated differently, the zoning would need to be changed in some way if the Town still thought there was any issue with the aesthetic shape of single-wides or their effect on property values.

One way to address this issue, Gagnon suggested, would be through form-based zoning. As there is nothing wrong with the houses on the inside, perhaps simply the proportions could be regulated. One

approach is to have a minimum square footage; Gagnon remembered that Danby used to have this regulation, but took it out as it did not make sense to force people to have larger homes. Crane mentioned that it could possibly be addressed through energy efficiency, but homes of all different shapes have energy inefficiency issues; Crane did add that this would be only for new construction. Randall pointed out that this is a difficult issue to address, and that trying to regulate an aesthetic like this with an architectural design standard would move in the opposite direction of affordable housing.

Randall concluded that she will recommend a training on preemptions to County Planning for Planning Board members in the area.

Mapping

The next topic addressed was the future land use map. Randall said this map is supposed to have fuzzy borders and be conceptual, with generalized areas showing how the Town imagines those areas moving forward. Randall mentioned that she has ideas for how to develop this map, working with the National Resource Inventory (NRI) maps, and that Planning Board members can see if there is commonality in their visions for the broad zones and work from there. Gagnon suggested doing this in conjunction with the zoning revision. He said trying to do the zoning revision without the land use map is a real handicap. Bergman added that currently there are only six zones and a map would really help visualize what other zones may be desired.

With regard to the zoning audit question addressing whether a future land use map indicates areas for targeted growth and types of development, Gagnon pointed out that the NRI maps could be of great use. He said that these can identify natural restraints on development in an area, like soils, streams, and availability of water. Before thinking about where to place targeted growth areas, it first needs to be seen where is feasible.

Bergman brought up the flood map from 2003 — is there talk about updating that? Particularly with climate change, and in light of the flooding in Lodi, he felt it was worth a more recent evaluation. Randall said that the Federal Emergency Management Agency (FEMA) is in the process of doing a flood risk update for the Seneca River area, and because the outlet of Cayuga Lake is the Seneca River they are looking at the whole watershed. She will send FEMA's draft map to the Board. She added that FEMA is considering updating the Flood Insurance Rate Maps (FIRMs), which are what flood insurance is based on; Danby's have not been updated since 1978.

Next month: Pages 5-8

Randall said these pages continue the zoning districts section and move into the intents, uses, form standards, and lots sections. She included data on the number of subdivisions that happened since July 2016, and the size of lots created; the majority are between four and five acres.

General

Randall mentioned that she and Rundle discussed having members voice what their priorities are.

Rundle noted that there are some really easy things to address. He suggested making a recommendation to the Town Board on easy items that could be passed quickly. Gagnon mentioned that any changes require drafting a local law, having a public hearing, and using lawyers, so it may be more complicated to make piecemeal changes.

Davis brought up a general process question: how do each Board member's notes get incorporated? Randall said that members could give their notes to her, email her, or talk them over with her. The goal is to have a report for the Town Board with issues and priorities.

Davis voiced that he also would like to have the visual of a map, and maybe the Comprehensive Plan should be reviewed. Gagnon mentioned that the zoning was never revised to reflect the Comprehensive Plan revision. Gagnon pointed out they could be done somewhat in conjunction, as the Comprehensive Plan is the vision for the Town. The last full revision of the plan was in 2001, so it is overdue for revision.

Gagnon brought up that the underlying principle of zoning is separation of uses—but is that the way to look at planning? That is not the traditional development pattern for many places, including Danby: the businesses and residences were mixed, originally so people could walk to them. This may still be desirable. So the need is to promote compatibilities and separate incompatibilities. Randall said that, yes, now zoning is sometimes focusing more on form, although usually more in urban areas. She said that Danby's zoning is looking backwards, but we want it to look forwards. What might be good to see in Danby? Development pressure will continue in the north end of Town, how should that happen? Would people like to see agrotourism?

(8) SPECIAL PERMITS

Randall handed out a highlighted packet of a portion of the zoning code regarding special permits and asked that the Board review it, paying particular attention to uses. Referring to special permits, she asked:

- (1) What happens if these go away?
- (2) Where do you want them to go to?
- (3) If you want them to stay as specially permitted uses, what criteria do you want to approve them based on?

She would like to move away from specially permitted uses with no criteria associated because then the Board does not have a clear basis for their decision. She asked that the Board review approved and specially permitted uses in the each zone. Davis questioned whether special permits should even exist; some towns are getting rid of them because of the "by right" component. Randall argued that with clear,

strict criteria the Board would have the power of denial. If the proposal for a special permit did not meet what the Board wanted to see, they could deny it. Rundle pointed out that this shifts the burden of proof to the applicant. Davis, however, questioned if the Board would have that right of denial given that the majority of case law regarding special permits sides with the applicants rather than the Town. Randall said that if extremely specific conditions are attached to a use, the Board would have the power of denying permits that do not meet the specific criteria and approval standards. She also suggested having fewer specially permitted uses. Davis felt that it might be hard to think up all conditions the Board may want.

Crane brought up the question of, if an applicant has met the criteria and special permits are still allowed by right, is there still oversight? The Planning Board would still not have the power to make a decision based on current conditions. Gagnon said the Board's job is to see if the applicant has met the stated criteria; as long as an applicant comes before the Board, members can review whether they have met the requirements. Randall and Scriber both raised the question of why the Town would want to say "no" to projects that match what it has been agreed the Town wants to see. Bergman said that the Board wouldn't want to make it too burdensome, say via special permitting, for applicants to move forward with projects the Town wants, for example a day care. He pointed out that with the code as it is it would be possible for a smoke shop, which does not need to obtain a special permit in Commercial "B," to be built, whereas a day care must go through the permitting process. It would be a shame if the day care chose to go elsewhere because of this.

Gagnon raised the point that if the Board got rid of special permits, where would they go? The Board of Zoning Appeals (BZA) was suggested, but Randall said the BZA would be a bad idea because a use variance is difficult to obtain. The BZA should be a relief valve for the zoning rather than something people expect to go through as part of the development process. She suggested a lot of the onus can be shifted away from special permits through site plan approval and changing the approved uses in the zoning to fit with any standards the Board wants to see. Rundle pointed out that having "other uses not specifically listed above..." allowed by special permit is a problem, and many expressed agreement.

Rundle emphasized that he would like to see the Planning Board come to a unanimous agreement on special permits, either revising or eliminating them, which would be presented as a recommendation to the Town Board. This could even be done in conjunction with recommending some easy changes arising from the zoning audit questions.

(9) DISCUSSION OF VICE CHAIR POSITION

After brief discussion, consensus was reached to have a standing Vice Chair (rather than a rotation) and to appoint Gagnon to the position. Scriber added that she appreciates Rundle's adoption of a 9 p.m. meeting stop time and asked that any Vice Chair also implement this policy.

MOTION: Appoint Joel Gagnon Vice Chair

Moved by Davis, seconded by Bergman

The motion passed.

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

(10) NEXT MONTH'S AGENDA

Continued discussion of special permits was added to the next month's agenda.

(11) ADJOURNMENT

The meeting was adjourned at 8:58pm.

Alyssa de Villiers – Recording Secretary