

Town of Danby Planning Board
Minutes of Regular Meeting
September 20, 2018

PRESENT:

Ed Bergman
Scott Davis
Bruce Richards
Naomi Strichartz
Jim Rundle (Chair)

ABSENT:

Joel Gagnon
Jody Scriber

OTHER ATTENDEES:

Town Board liaison	Leslie Connors
Town Planner	C.J. Randall
Recording Secretary	Alyssa de Villiers
Public	Ted Crane, David Mastroberti, Erika Media, Mauricio Medina, Warachi Medina, Jill Rosentel

The meeting was opened at 7:02pm.

(1) CALL TO ORDER / AGENDA REVIEW

Jim Rundle opened with a welcome to the newly appointed Planning Board member Bruce Richards.

No changes were made to the agenda.

(2) PRIVILEGE OF THE FLOOR

No comments were made during privilege of the floor.

(3) APPROVAL OF MINUTES

MOTION: Approve August minutes

Moved by Bergman, seconded by Richards

The motion passed.

In favor: Bergman, Davis, Richards, Strichartz, Rundle

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- The Town Board will be tackling budget planning at upcoming meetings; watch for agendas coming out and consider attending meetings as there are sure to be exciting discussions.
- Bobcats have been sighted by multiple residents on Muzzy Rd. and Troy Rd.
- Some horse-owning residents have complained about cars speeding, not slowing down, and not stopping fully at stop signs in the Nelson/Hornbrook/Muzzy Roads area. The issue has been transferred to the Highway Department who may be able to erect horse signs or use other traffic-calming measures.
- New York State Electric & Gas (NYSEG) has been cutting trees under the lines along the road.

In response to Connors comment about NYSEG's trimming, Strichartz asked what the company NYSEG hires for cutting is responsible for with regard to clean up, as in her area she said they were leaving quite large pieces that can be hard for residents to move. Connors answered that the expectation is they would cut up the logs into pieces people can handle, but some places seemed neater than others. She added that NYSEG contracts out the work to companies such as Asplundh. Davis, Connors, and Ted Crane said that if one spoke with the people doing the work directly or spoke with NYSEG, they were very helpful in respecting owner wishes. Crane mentioned some damage to mature trees, such as a clear-cut tunnel through the woods parallel to Lieb Rd. He also stressed that it is possible for homeowners to call NYSEG, which many people may not have done. Richards added that NYSEG and the tree companies will cut any trees they think are going to fall, and that clearing right of way is a separate issue. In conclusion, Connors mentioned that in the future the Town may be able to do something in terms of communicating with these companies, as it comes up not only with NYSEG.

(5) ACTION ITEMS

Project: Standard Subdivision

Location: 808 Comfort Road, Tax Parcel # 9.-1-13.22

Applicant: David Mastroberti

Anticipated Board action(s) this month: Recommendation to Board of Zoning Appeals;
Declaration of Lead Agency

Project Description: The Applicant proposes to subdivide the existing 43.15-acre property into three parcels: Parcel 1, measuring approximately 14 acres, with 153 feet of frontage on Comfort Road, approximately 1488 feet of depth, and previously developed; Parcel 2, measuring approximately 16 acres with 402 feet of frontage on Comfort Road, approximately 1160 feet of depth, and undeveloped; and Parcel 3, measuring approximately 13 acres, with 227 feet of frontage on Comfort Road, approximately 1289 feet of depth, with existing house. An Area Variance from Zoning Ordinance Section 600(5) from the Board of Zoning Appeals is required for the creation of Parcel 1; the matter will be considered at the September 25, 2018 meeting of the Board of Zoning Appeals. 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 a Type I 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.

To summarize the project, Randall spoke first. David Mastroberti owns a single 43.15-acre property that is both on the east and west sides of Comfort Rd. near its intersection with Lieb Rd. On the west side of the road the land is in a horseshoe shape; this crosses Comfort Rd. and connects to an area on the east side with a tie line, allowing the property to be considered a single tax parcel. Historically, there was a small lot with 153' of road frontage directly east of the road that was a separate tax parcel and was a buildable lot, grandfathered in, having previously had a house on it. This small parcel was then consolidated, creating the tie line, to make one parcel for tax purposes. The applicant would like to divide his land into three parcels such that the horseshoe on the west side is two parcels and the remaining land on the east side is one parcel. The issue is that this subdivision would create a parcel on the east side of the road with only 153' of road frontage, whereas the zoning ordinance requires 200' in Low Density Residential. Doing the subdivision as proposed would eliminate the tie line.

Randall clarified that the action before the Board was a recommendation to the Board of Zoning Appeals (BZA), and that the only section of the Zoning Ordinance that was in question was an Area Variance from the road frontage requirement stipulated in Section 600(5). She added that if Mastroberti did not get an Area Variance from the BZA, it would be possible for him to move forward with the project by keeping the tie line and a small stretch of property on the west side of the road. This would allow him to meet the 200' road frontage requirement as the frontage requirement is additive across the road; however, this would leave the Town with a very strange and potentially confusing parcel.

Mastroberti spoke next, adding to what Randall said and giving a brief history of his family land. His parents bought a large parcel in the 70s, where he grew up. After they passed away, the land passed to the children, and was later subdivided into two parcels, one for David and one for his brother. David's land included the small parcel on the east side of the road mentioned above, which was originally bought by his parents to keep it from active dumping. It seemed ridiculous to pay more taxes on it, so he merged it with the rest of his land. He did not realize at the time that this would effectively be giving up the ability for a buildable lot on the east side of the road due to the shortage of road frontage. He now would like to sell the horseshoe-shaped land on the west side of the road to Mauricio and Erika Medina. The Medinas would like to buy that land as two parcels so that a family member can help them with the cost of the property by purchasing one parcel while they purchase the other. Mastroberti added that he hopes not to get bogged down by this process as he never expected to have to go through it and the Medinas would like to move forward with their move. He added that he felt the spirit of the law was to reduce the number of new homes

being built close together, but that if he did build on his land on the east side of the road, it would be further back from the road where the parcel widens out to well over 200’.

After various clarifications were made, discussion by the Board turned to the question of how much development would be possible with this subdivision. Rundle pointed out that Parcel 2, currently just acreage but with 402’ of road frontage, could be divided at another time. Strichartz asked what the maximum number of allowable houses would be on all three lots. Randall said that, as is (no new roads, infrastructure, or zoning changes), the answer would be three—one on Parcel 1, and up to two on Parcel 2 if it was divided, depending on where it was divided. Crane added that he counted the potential for 12 houses on the 78-acre section showed on the map (including existing houses). Bergman also asked if there were any other implications of the tie line, and whether leaving the tie line would be a burden on the Town. Randall felt that it would be, and said that there were not any others cases like this that she knew of. In conclusion, it was felt that it would benefit the Town to remove the tie line, and that that was more logical than making the applicant keep a small strip of land on the west side of the road.

MOTION: Recommend to the Board of Zoning Appeals that an Area Variance should be granted

Moved by Bergman, seconded by Strichartz

The motion passed.

In favor: Bergman, Davis, Richards, Strichartz, Rundle

MOTION: Declaration of the Planning Board as Lead Agency

Moved by Strichartz, seconded by Bergman

The motion passed.

In favor: Bergman, Davis, Richards, Strichartz, Rundle

PLANNING BOARD RESOLUTION NO. 24 OF 2018 - DECLARATION OF LEAD AGENCY AND RECOMMENDATION TO BOARD OF ZONING APPEALS, STANDARD SUBDIVISION, 808 COMFORT ROAD, TAX PARCEL #9.-1-13.22

Whereas an application has been submitted for review and approval by the Town of Danby Planning Board for a Standard Subdivision of Town of Danby Tax Parcel No. 9.-1-13.22, by David Mastroberti, Owner and Applicant; and

Whereas the Applicant proposes to subdivide the existing 43.15-acre property into three parcels: Parcel 1, measuring approximately 14 acres, with 153 feet of frontage on Comfort Road, approximately 1488 feet of depth, and previously developed; Parcel 2, measuring approximately 16 acres with 402 feet of frontage on Comfort Road, approximately 1160 feet of depth, and undeveloped; and Parcel 3, measuring approximately 13 acres, with 227 feet of frontage on Comfort Road, approximately 1289 feet of depth, with existing house; and

Whereas the property is located 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 proposed Parcels 1 and 2 are currently joined by a tie line across Comfort Road; and

Whereas an Area Variance from Zoning Ordinance Section 600(5) required frontage not less than 200 feet is required for the creation of Parcel 1; and

Whereas the Planning Board recommends the Board of Zoning Appeals grant the Area Variance to avoid creation of an additional, irregularly shaped lot with 47’ of road frontage required to maintain the tax parcel’s tie line across Comfort Road; and

Whereas this subdivision is classified as a Standard Subdivision in accordance with the Town of Danby Subdivision and Land Division Regulations, Article II, § 201 C. Standard Subdivision, defined as any division of land resulting in three or more lots, of any size, at one time, which such division of land is and remains at all times subject to the requirements and terms of the Stormwater Local Law, if and as applicable; and

Whereas 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; 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;

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 Standard Subdivision approval for Town of Danby Tax Parcel No. 9.-1-13.22, by David Mastroberti, Owner and Applicant.

Project: Second (accessory) Dwelling

Location: Nelson Road, Tax Parcel # 6.-1-18.27

Applicant: Jill Rosentel

Anticipated Board action(s) this month: Consideration of preliminary approval of special permit

Project Description: The Applicant requests the approval of a Special Permit for construction of second dwelling unit in a separate building for permanent occupancy on the 12.345-acre lot. 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.

Jill Rosentel summarized her project. She is trying to buy a 12-acre parcel on Nelson Rd. between E. Miller and Hornbrook Roads. She would like to build a single-family home (3 bedrooms, 2 bath) and to put in a garage with an apartment above that would be on the same well and septic. She added that she would not need a special permit if the structures were connected by a breezeway, but this is not her preference.

A brief discussion followed, including Bergman asking about any environmental considerations the Board should pursue. Randall said this action was not subject to SEQR (State Environmental Quality Review), but the adequacy of the lot must be considered for each dwelling unit under Section 902. Davis asked about yard area, to which Randall said that under Section 510 the structures would need to be the sum of the side yards apart from each other; this would be 100'. Because the survey map provided to the Board stated 80-100' between the structures, the Board asked to add a condition of a 100' separation between the structures.

MOTION: Set public hearing for October 18th at 7:00 p.m.

Moved by Strichartz, seconded by Bergman

The motion passed.

In favor: Bergman, Davis, Richards, Strichartz, Rundle

(6) PLANNING AND ZONING REPORT

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

- A local law amending PDZ 19, White Hawk Ecovillage, has been drafted for the Town Board. The Town Board will need a recommendation from the Planning Board, so she asked members to read it for next month's meeting. She reviewed the current issues that the law attempts to address. First that, due to a survey map being filed by the County as a subdivision plot, the property is being treated as a subdivision with 31 tax parcels rather than ground leases. The law will reconsolidate the property; it will also add a metes and bounds description so it is clear what the boundaries are. Second, the lot coverage could currently be infinite as there are no maximum sizes for any uses, only a limit of 30 dwelling units. Third, because ownership is in the zoning, White Hawk cannot currently move forward with their offering plan without the Attorney General signing off on each ground lease. Finally, folks would like to have a bakery and farm stand, and later perhaps a neighborhood commercial or microgrid, so they want to make changes to the uses; square footage limitations will be included. They will still be subject to site plan review for any changes. A final problem is that their infrastructure is not where it is supposed to be because they could not get a hold of the site plan or the original engineer when they added new drainage. Randall has been working with White Hawk and the Town's lawyer, Guy Krogh, to clean this up and make it work for both White Hawk and the Town. Next month will be a recommendation to the Town Board, and then both the Planning Board and Town Board will need to hold public hearings.
- The Town's Highway Department has been working with Tompkins County Soil and Water Conservation and U.S. Fish and Wildlife Service, among others, and the drawings for the Brown Rd. stream stabilization project are at 30%. The Town is hoping to get funds through the BRIDGE NY program administered by NYS DOT to replace the Gunderman Rd. culvert. These projects will tie together as part of a massive project in which dump trucks full of material will reform the landscape to make a gentler slope.
- Work is continuing on the TCAT bus shelter on 96B across from the Town Hall. Stakes are down marking the approximate location, and it will be installed within in the coming months. There will be a bike rack in addition to nine parking spots. There will be a working agreement with the Dotson Park Community Association to maintain a section of the road so people can get in and out of the park and ride in the winter.
- The Highway Department project to upgrade the wastewater recycling system, funded by a NYSERDA grant, is ongoing. It is not yet clear whether a dedicated wash bay will be built.
- The Conservation Advisory Council (CAC) has a new meeting time: the second Tuesday of every month. This will allow them to be part of the environmental review process as they will meet prior to the Planning Board and be able to provide comments from the environmental experts on the

Council. If the Town Board adopts the National Resource Inventory (NRI) maps, the CAC could petition to become a conservation board, which would even allow them to be lead agency for a State Environmental Quality Review (SEQR).

- With regard to timber harvesting in the Town, Randall is working with Guy Krogh, the Town's lawyer, on changes to the Town's Stormwater Law (2010-1) and Road Use Law (2011-4), as well as minor amendments to the Zoning Ordinance. Drafts for all three are coming next month.
- The two-port electric vehicle charging station is installed and will be activated next week. If the Planning Board has an opinion on whether it should be free to all, free to some (say Danby residents), or a pay-to-use system, Randall will pass that along to the Town Board. There is also the consideration of how long a vehicle can park there. Rundle pointed out that it may not be in high demand now, but it could be in five years. Randall said that with this type of station, these decisions can be reprogrammed at any time.
- Randall will have a fourth-quarter helper, a City and Regional Planning student, who is going to assist in making a spatial map of Board of Zoning Appeals and Planning Board decisions. This will allow one to click on a map and see what previous land conditions have been applied in any given locale. She will also help the Code Enforcement Office move to the new, streamlined County permit program that was a pilot program in Groton. People can apply online and then it automatically alerts all relevant parties who get notified as needed; as it is part of the Laserfiche system, it is easily integrated into public records. Then, after Randall makes sure everything complies with zoning, a building permit is printed.

(7) ZONING AUDIT REVIEW

Review of Pages 5-8

Rundle said that in his reading he found some questions answered "partially," which begat the question of, what more would you do? What is missing? For example, on question #43, if "other uses" was taken out of the zoning, would that solve the issue? Randall said that, along with a definition of home occupation, without that provision there would not have been a business like, for instance, Angelheart. Angelheart was an example of a business getting its foot in the door with a special permit followed by a planned development zone (PDZ).

Next month: Pages 9-10

Randall said that side and rear yard requirements are included in this section. Setbacks and lot areas are not that different between zones, for example between Low Density Residential and High Density

Residential. She also brought up the idea, mentioned by Town Supervisor Ric Dietrich, of providing for more types of housing. For example, would the Town like any type of senior housing development? Currently the zoning would not provide for anything like that anywhere.

Strichartz said that she has heard from many people who like the idea of “acorn” houses, in other words downsizing, which sounds reasonable—people often want to stay near where they have been but may want a smaller house or a single floor. She would envision something more like this than something like Longview, especially considering the Town’s existing infrastructure. Randall mentioned that in the future the Town could consider whether there would be interest in connecting to Bolton Point Municipal Water System in the north part of town, whether that would be feasible, and what the cost would be. Bergman asked if the idea of small homes on one piece of land, maybe with a land caretaker, would be possible currently, to which Randall said, no, not unless a PDZ was created. She added that this process has positives and negatives. Strichartz asked about auxiliary housing possibilities. Randall said that certainly is possible using square footage or percentage-of-main-residence limitations. Bergman added that he would support changes that allowed for the potential for grouped small-scale senior housing.

General

Davis offered a process analogy with regards to the zoning audit—redoing the zoning could be imagined to be like trying to build a house. Perhaps the easiest path would be to hire a contractor and build the house in whatever is the current convention, doing little research along the way. He said that Randall’s approach was more like looking at all the possible materials that are available right now, including new ideas, and evaluating what the best choice would be. It’s reconsidering it all.

Randall said that the main thing she wants the Board to do is to really think of what it wants to see in the Town. She says uses are what come up all the time. To facilitate the process, she suggested sending a list of possible uses around for members to consider—where do those fit in, or not. Randall suggested tackling uses together at the next meeting, and Bergman added that he would like to do it with a map of Danby up.

Rundle reiterated the need to prioritize as it is hard to pass zoning. Randall said the Town Board is really interested in seeing something. She would like to present a two-page document of policy recommendations at joint scoping meeting in November.

Strichartz pointed out that there has been talk for 20 years about where to put things. It comes down to that Danby wants a cute hamlet and doesn’t want industry, but nothing has happened. This has led to some frustration over the years. Randall said that without a future land use map, this is hard to achieve. She added that part of the problem is getting bogged down in minutia. The zoning is meant to be a living document—it doesn’t have to be perfect the first time around.

Davis pointed out that, with the joint scoping meeting in late November, there are only two meetings left to prepare the document Randall has suggested. He suggested having an extra Planning Board meeting

between the October and November meetings. He also added his desire that when people think of what the Planning Board did for the Town in 50 years they will feel thankful, similarly to how many feel about having State Parks to enjoy today. Other Board members also felt an extra meeting would be helpful, and the date suggested was October 25th.

(8) SPECIAL PERMITS

Davis spoke to the issue saying that in Low Density Residential special permits especially stand out. One doesn't want to restrict people living, but how is it possible to accommodate business and commercial uses that will work for the zone? He has been speaking further with Guy Krogh, the Town's lawyer, about how to balance the interests of all people with commercial interests, especially when courts usually side with applicants in special permit disputes; this is because of the "by right" component. He ventured that, at first glance, the obvious thing to give the Board discretionary power might be to make a really general law stating that a use must align with the "tone" of the zone, but then who determines the tone can come into question. He said that Randall has expressed the opposite—that if you want discretion, you should be very specific, and if you haven't done it ahead of time, you lose that ability. Davis did express some concern about thinking of all possible uses and restrictions ahead of a problem arising.

Randall agreed that this is what she believes the approach should be, and added that an applicant can go to the BZA for a Use Variance or an interpretation. She stressed that then the BZA is doing the interpretation of the law rather than the Planning Board. She also said that a special use should be special, i.e., not all the time, and that special permits can be denied if they are not meeting the clearly laid out conditions.

Crane questioned why uses that are allowed by special permits could not just be categorized under regular zoning uses, or not, avoiding the use of special permits.

(9) NEXT MONTH'S AGENDA

Nothing was added to the next month's agenda.

(10) ADJOURNMENT

The meeting was adjourned at 8:59pm.

Alyssa de Villiers – Recording Secretary

