

Town of Danby Planning Board
Minutes of Regular Meeting
October 18, 2018

PRESENT:

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

ABSENT:

Bruce Richards
Naomi Strichartz

OTHER ATTENDEES:

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

The meeting was opened at 7:04pm.

(1) CALL TO ORDER / AGENDA REVIEW

Under agenda item number five, the action items for the meeting were switched in order. Agenda item number seven, the zoning audit review, was moved to number eight, and discussion of the planned additional meeting was added into it. Further discussion of timber harvesting was added as agenda item number seven.

(2) PRIVILEGE OF THE FLOOR

No comments were made during privilege of the floor.

(3) APPROVAL OF MINUTES

MOTION: Approve September minutes

Moved by Davis, seconded by Bergman

The motion passed.

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

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- On Nov. 13 at 6:00pm there will be a National Resource Inventory (NRI) open house prior to the Conservation Advisory Council (CAC) meeting at 7:00pm. To start the CAC meeting, Bob Beck will be speaking. He is the author of "The Journey at Malloryville Bog: Commitment, Teamwork and Tenacity in Defense of Land and Nature." The CAC meeting time is now the second Tuesday of the month.
- The Town will hold a budget hearing on Nov. 5; the draft budget can be found on the Town website. For every \$100,000 in assessment, the tax bill will decrease somewhere between \$10 and \$12.
- Mailings will be going out about the Highway Superintendent referendum, considering the change from an elected to an appointed position.
- There was a logging operation on Travor Rd. that was stopped by the Highway Department and the DEC due to very wet operating conditions.

(5) ACTION ITEMS

Project: Second (accessory) Dwelling

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

Applicant: Jill Rosentel

Anticipated Board action(s) this month: Public Hearing; Preliminary and Final Approval

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.

The public hearing was opened at 7:13pm.

Randall stated that a member of the public asked about how far back the house will be, citing concern about fragmentation of habitat. Rosentel said she is likely to place the house close to the minimum setback allowed.

The public hearing was closed at 7:16pm.

Although the Board had previously asked for a 100' separation of the buildings, the final decision was to treat the garage with apartment as an accessory structure, which would not invoke Article V, Section 510 of the Zoning Ordinance. This means that the applicant would not need to have the 50' side yard space for each structure, and so could place them closer together if she so chooses. Gagnon suggested there was no need to impose a 100' separation, and treating the structure as accessory would take care of this. Davis felt that the proposed second building should be considered a principal residential building. The applicant had a preference for not having the 100' requirement included.

MOTION: Grant Preliminary and Final Approval, removing reference to Article V, Section 510

Moved by Gagnon, seconded by Bergman

The motion passed.

In favor: Bergman, Gagnon, Scriber, Rundle

Opposed: Davis

PLANNING BOARD RESOLUTION NO. 27 OF 2018 - SPECIAL PERMIT FOR SECOND (ACCESSORY) DWELLING, NELSON ROAD, TAX PARCEL #6.-1-18.27

Whereas an application has been submitted for review and approval by the Town of Danby Planning Board for a Special Permit for installation of a second dwelling unit on a lot in a separate building for permanent occupancy at Town of Danby Tax Parcel No. 6.-1-18.27, by Jill Rosentel, Owner and Applicant; and

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

Whereas this action was determined to be a Type II Action not requiring environmental review under the Town of Danby Environmental Review of Actions and under the State Environmental Quality Review Act in accordance with the provisions of 6 NYCRR § 617.5(c)(2); 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 October 18, 2018; and

Whereas the Planning Board did on October 18, 2018, review and accept as adequate: application materials, including drawings entitled "Survey Map: Parcel to be Conveyed to Jill Rosentel Located on Nelson Road," prepared by T.G. Miller, P.C., and dated 9/7/2018; elevations and floor plan, and other application materials;

Therefore, be it

Resolved that the Town of Danby Planning Board hereby grants the Special Permit for a Second (Accessory) Dwelling finding that the standards of Article VI: Zone Regulations § 600 (3)(m), and Article IX: Special Permits § 902 (2) and § 904 of the Zoning Ordinance of the Town of Danby and New York State Town Law § 274-b have been met.

Project: Standard Subdivision

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

Applicant: David Mastroberti

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

Project Description: The Applicant proposes to subdivide the existing 43.15-acre property into three parcels: Parcel 4, measuring approximately 14 acres, with 153 feet of frontage on Comfort Road, approximately 1488 feet of depth, and previously developed; Parcel 3, measuring approximately 16 acres with 402 feet of frontage on Comfort Road, approximately 1160 feet of depth, and undeveloped; and Parcel 2, 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) for Parcel 4 frontage was granted by the Board of Zoning Appeals 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.

Due to the annexation of two parcels into “parcel 1,” the parcel labels on the map changed. What were previously parcels 1, 2, and 3 are now parcels 4, 3, and 2. Randall stated that the Board of Zoning Appeals has granted an Area Variance for Parcel 4 with a mandatory setback of 250’ for a principal structure; this will break the tie line, but set the house further back on the property where it widens out.

Gagnon brought up the broad question of how the Town handles “consolidation for tax purposes.” He pointed out that in some places, if this is the only reason for consolidation, you can then easily unconsolidate. He pointed out that it does matter, as it would have in this case, whether you can put the lots back the way they were. Randall said that she addressed this with the Town’s lawyer, Guy Krogh; the issue is complicated, and could go either way legally. In this case, the matter was treated as a resubdivision.

The public hearing was opened at 7:39pm.

Regarding the Environmental Assessment Form, Part 2, Davis mentioned that he had been contacted by a member of the public who had a question about the aquifer, as this person was in the general area and felt they had a low, limited water supply. He specifically addressed questions 4(a) and (b), which ask about changes to the supply and demand of water. Randall said that the threshold to be considered “moderate to large impact may occur” is the use of 2,500 gallons or more per day; this would not be close to that. Mastroberti added that he has had no trouble with the wells at any of the surrounding properties that he owns or has lived at. He also stated that, in terms of impact, there is an extant well on the site in question, although he is not sure whether it is currently functional. The Board decided to change the overarching answer to question 4 to “yes” (the proposed action may result in new or additional use of ground water), but check “no or small impact may occur” for questions (a) through (h).

Davis followed up, asking Randall whether there was anything the Town could do regarding marginal wells and subdivision, acknowledging that this did not seem to apply in this case. Randall said that other than an

environmental protection overlay district, there was not something that could be done through zoning or aquifer protection. Gagnon added that at a certain lot size, the cone of influence for a well is unlikely to affect a well on an adjoining property.

The public hearing was closed at 7:51pm.

MOTION: Make a Negative Declaration of Environmental Significance

Moved by Gagnon, seconded by Scriber

The motion passed.

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

PLANNING BOARD RESOLUTION NO. 25 OF 2018 - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE, MINOR 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 Minor 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 4, measuring approximately 14 acres, with 153 feet of frontage on Comfort Road, approximately 1488 feet of depth, and previously developed; Parcel 3, measuring approximately 16 acres with 402 feet of frontage on Comfort Road, approximately 1160 feet of depth, and undeveloped; and Parcel 2, 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 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 an Area Variance from Zoning Ordinance Section 600(5) required frontage not less than 200 feet required for the creation of Parcel 4 was granted by the Town of Danby Board of Zoning Appeals on September 25, 2018; 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 the Planning Board, being the local agency which has primary responsibility for approving the action, did on September 20, 2018 declare itself the Lead Agency for the environmental review; and

Whereas this Board, acting as Lead Agency in environmental review, did on October 18, 2018 review and accept as adequate: a Short Environmental Assessment Form (SEAF), Part 1, submitted by the Applicant, and Part 2, prepared by the Planning Administrator; a survey map entitled "Subdivision Plat Showing Lands of David A. Mastroberti," prepared by Reagan Land Surveying, and dated **October 15, 2018**; and other application materials;

Therefore, be it

Resolved that the Town of Danby Planning Board determines the proposed Standard Subdivision 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.

MOTION: Grant Preliminary and Final Approval

Moved by Gagnon, seconded by Bergman

The motion passed.

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

PLANNING BOARD RESOLUTION NO. 26 OF 2018 - PRELIMINARY AND FINAL APPROVAL, MINOR 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 Minor Subdivision of Town of Danby Tax Parcel No. 9.-1-13.22, by David A. Mastroberti, Owner and Applicant; and

Whereas the Applicant proposes to subdivide the existing 43.15-acre property into three parcels: Parcel 4, measuring approximately 14 acres, with 153 feet of frontage on Comfort Road, approximately 1488 feet of depth, and previously developed; Parcel 3, measuring approximately 16.04 acres with 402 feet of frontage on Comfort Road, approximately 1160 feet of depth, and undeveloped; and Parcel 2, measuring approximately 13.03 acres, with 227 feet of frontage on Comfort Road, approximately 1289 feet of depth, with existing house; and

Whereas the Subdivision Plat also includes a portion of Tax Map No. 9.-1-13.22 identified as Parcel 1, to be added to 9.-1-13.5, which was approved ministerially as a Land Annexation in accordance with the Town of Danby Subdivision and Land Division Regulations, Article II, § 201 A. Land Annexation; 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 an Area Variance from Zoning Ordinance Section 600(5) required frontage not less than 200 feet required for the creation of Parcel 4 was granted by the Town of Danby Board of Zoning Appeals on September 25, 2018; 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 the Planning Board, being the local agency which has primary responsibility for approving the action, did on September 20, 2018 declare itself the Lead Agency for the environmental review; and

Whereas this Board, acting as Lead Agency in environmental review, did on October 18, 2018 review and accept as adequate: a Short Environmental Assessment Form (SEAF), Part 1, submitted by the Applicant, and Part 2, prepared by the Planning Administrator; a survey map entitled "Subdivision Plat Showing Lands of David A. Mastroberti," Part of Reference Deed: Instrument No. 2018-06187, prepared by Reagan Land Surveying, and dated September 17, 2018; and other application materials; and

Whereas the Planning Board did on October 18, 2018 make a Negative Declaration of Environmental Significance for the project; and

Whereas legal notice was published and adjacent property owners within 500 feet notified in accordance with the Town of Danby Subdivision and Land Division Regulations, Article VI, § 601 II.H. Hearing and Notices; and

Whereas the Planning Board held the Public Hearing on October 18, 2018; and

Whereas the Planning Board recognizes that information received and reviewed for this Subdivision indicates the resultant parcels conform to area requirements in the Low Density Residential Zoning District;

Therefore, be it

Resolved that the Town of Danby Planning Board does hereby grant Preliminary and Final Subdivision Approval to the proposed Standard Subdivision of Town of Danby Tax Parcel No. 9.-1-13.22, by David A. Mastroberti, Owner and Applicant, subject to the submission of the final approved plat, having a raised seal and signature of a registered licensed surveyor, filed with the Tompkins County Clerk within six (6) months.

(6) PLANNING AND ZONING REPORT

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

- The NRI draft maps will be presented at the open house on Nov. 13, followed by a talk by Bob Beck at 7:00 p.m., and then the CAC meeting.
- The CAC has a conservation easement in the works along 96B across from Van De Bogart Rd. It is a large parcel with significant road frontage. There will be a public hearing at the Town Board meeting on Nov. 12.
- The beautification in front of Town Hall is in progress. Two handicap spots are currently gone, but they will return closer to the door, along with improvements to the ramp to bring it into ADA compliance (Americans with Disabilities Act of 1990).
- The EV Connect charging station is active. You can connect using a smartphone app or a free key fob that you can get from the Town Clerk.
- The Town will be applying for money next year to do a Comprehensive Plan update in 2020 so that it can be adopted in 2021. In conjunction with this, the Town will be seeking Climate Smart Community certification; questions relating to the Climate Smart Community checklist have been added to the zoning audit.
- White Hawk Ecovillage's site plan will be on the agenda for next month.
- The bus shelter agreement between the Town and the Dotson Park Community Association is almost complete. The road will be plowed to the turnaround. Geofiber permeable parking for the Park & Ride area was discussed, but the final decision is that gravel will be used.

- Because Danby is a right-to-farm town, there are strong protections for agriculture operations, especially in agricultural districts. Currently a resident would like to open a cider tasting room in Low Density Residential, and there is some question about the threshold between a tasting room and a restaurant; customary agricultural uses are permitted in Low Density Residential. The parcel with the proposed tasting room is non-contiguous with the parcel where the farm operation is located, and the proposed tasting room would be in a single-family home. Randall is in contact with Bob Somers at NYS Department of Agriculture and Markets regarding this matter. She will also ask about what is acceptable in terms of modifying the Town's Road Use Law to require a road use agreement for timber harvesting operations. Timber is an important regional agricultural product, but poor practices can lead to serious road degradation; currently harvesting operations are exempt as an agricultural activity. It may be possible to do a Stormwater Pollution Protection Plan (SWPPP) for harvests above a certain threshold, but there is a question about what would be considered unreasonably restrictive. The goal is a compromise that works for everybody.
- Scriber commented that the property of Blue Sky Center for Learning is for sale. Randall clarified that if someone buys it, there would be no right to set up a business outside of the specially permitted use already allowed.

(7) TIMBER HARVESTING

Davis mentioned that he was on a committee that has been drafting language to modify the zoning ordinance that would ideally be streamlined, and possibly contain a SWPPP. Randall said that she has not seen a draft, but encouraged him to bring one to her. She is currently beginning work on edits to the zoning ordinance regarding this issue. Davis briefly described what he was thinking of, and it was left that he would contact Matt Ulinski and get back to Randall.

(8) ZONING AUDIT REVIEW

Extra meeting

It was agreed that the Planning Board would hold a meeting outside of its regular meeting time on Tuesday November 6th at 7:15 p.m; as with all Planning Board meetings, this will be open to the public. The meeting will solely focus on the zoning audit in preparation for presenting the Town Board with suggestions at the upcoming joint scoping meeting. Randall will send the full zoning audit with a short report in advance of the meeting. She will bring a future land use map for members to circle broad use areas. Ideally the Board will have the beginnings of a future land use map, emphasize highlights and priorities of the zoning audit, and make some suggestions as to next year's work plan.

Zoning audit

Randall said that she had added questions related to becoming a NY Climate Smart Community; there is nothing in the Town's current comprehensive plan about resilience or climate. Randall will be meeting with County Planning in November to go over their All-Hazard Mitigation Plan and discuss what goes into the Town's emergency planning as well as what goes into the zoning and comprehensive plan. Discussion of this month's zoning audit questions will be held over until the extra meeting.

(9) NEXT MONTH'S AGENDA

The agenda for the additional meeting had already been discussed. For the next meeting at the Board's regular meeting time, White Hawk Ecovillage will be on the agenda.

(10) ADJOURNMENT

The meeting was adjourned at 8:42pm.

Alyssa de Villiers – Recording Secretary