

Town of Danby Planning Board  
Minutes of Regular Meeting  
November 29, 2018

**PRESENT:**

Ed Bergman  
Scott Davis  
Joel Gagnon  
Bruce Richards  
Jody Scriber  
Naomi Strichartz  
Jim Rundle (Chair)

**OTHER ATTENDEES:**

Town Board liaison	Leslie Connors
Recording Secretary	Alyssa de Villiers
Public	Ted Crane, Bill Farrell, Barbara Miller Fox, Ralph Nash, Greg Nelson, Mary Woodsen

*The meeting was opened at 7:01pm.*

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

No items were added to the agenda.

**(2) PRIVILEGE OF THE FLOOR**

Ted Crane pointed out that the minutes from both the October meeting and the extra meeting on November 6<sup>th</sup> were not yet on the Town website.

**(3) APPROVAL OF MINUTES**

**MOTION:** Approve October minutes

Moved by Gagnon, seconded by Scriber

**The motion passed.**

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

Abstain: Strichartz

Absent: Davis

#### (4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- Bruce Richards' term runs through the end of December 2018. He was appointed by the Town Board to fill the remainder of Frank Kruppa's term.
- The conservation easement between the Town and the land owner at 2275 Danby Rd. has been signed.
- Some members of the Board of Zoning Appeals reported issues with the Town email system.

#### (5) ACTION ITEMS

**Project:** Rezoning and Modification of Site Plan, White Hawk Ecovillage Planned Development Zone 19

**Location:** White Hawk Lane, Tax Parcel Nos. 7.-1-68 and 7.1-1-1 through-32

**Applicants:** Greg Nelson and Mark Pruce

**Owner:** White Hawk Ecovillage Community, Inc.

**Anticipated Board action(s) this month:** Public Hearing; Official recommendation to Town Board in accordance with Town of Danby Zoning Ordinance Section 800(3); Review of Modified Site Plan

**Project Description:** Applicants propose to replace the entirety of the White Hawk Ecovillage Local Law No. 3 of 2007 and Modify Site Plan approved by the Planning Board on June 21, 2007. 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.

*The public hearing was opened at 7:10pm.*

Greg Nelson, White Hawk treasurer, explained that he was representing White Hawk at this meeting. He stressed that they had worked closely with Town Planner Randall on the draft rezoning proposal, and there are no significant changes other than what Randall had recommended. He explained that they are trying to finalize this process so they can get the proper site plan updates.

Ted Crane raised a number of issues with the proposed local law. He first explained that he had no issue with what White Hawk was trying to do. Regarding the draft Local Law No. X of 2018, he noted that Section 1 is still titled "Findings and Repealer" even though Section 2 is "Repealer." He said that the repealer means there would no longer be a square footage maximum on non-residential uses. In Section 3(C), titled "Permitted Accessory Uses," he suggested that it should be stipulated that the uses are in accessory to residential use. In Section 3(D), "Uses Permitted by Site Plan," he pointed out there is no limit to the number of each use possibility. He also felt that in Section 3(D)(7)(b) there was a lack of specificity, and more generally that conditions were not being tied together.

Mary Woodsen asked where she could find the draft law, and Ted Crane emailed her a link to it. It is located on the Town's website.

*The public hearing was closed at 7:23pm.*

The Board carefully looked at the proposed law. Rundle explained that the Board did not anticipate any problems, but that it was important to be thorough to protect the Town in future scenarios, say if ownership changes at a later date. He pointed out that it was unfortunate that Town Planner Randall was not there to offer further explanation as questions arose. He said it would be statutorily possible to postpone a recommendation, but that he would prefer not to further hold up the project, and asked the Board to try to come to a conclusion.

Discussion included wanting to keep the current restriction of 15,000 gross square feet of non-residential uses. With this included, the Board was no longer concerned about the potential number of buildings allowed via permitted accessory uses and uses permitted by site plan. There was discussion about changing the heading "Permitted Accessory Uses" to "Permitted Residential Accessory Uses," but this was decided against. Nelson spoke up explaining that he believed the intention was to deliberately not tie all of the uses to a residence. For instance, a farm building might not be an accessory to a house, but meets the rural and agricultural character of Danby; he felt the uses listed are in line with the Town's character. Gagnon added that some uses may also be communal. Regarding moving some uses to "Uses Permitted by Site Plan," Richards asked whether it was onerous to go through site plan approval, to which multiple members answered that they felt it was not.

Scriber questioned which new buildings would need to be ADA compliant (Americans with Disabilities Act of 1990), and whether it was necessary to include anything to encourage this, or whether it would be triggered automatically.

The Board made the following revisions to Local Law No. X of 2018:

- Section 1: Rename the section "Findings." Remove the entirety of "1" and place it under Section 3 as letter "B." Remaining in Section 1 is then only what is currently numbered as "2." The reason for this was that "1" is not a finding, and the Board wanted this incorporated into the law so as not to lose the restrictions of PDZ19 by repealing it in Section 2. It was felt the 15,000 square foot limitation on non-residential uses was very important.
- Section 3: Add in what was formerly Section 1(1) as Section 3(B). This then shifts all the letters accordingly, except for letter "L," which stays the same. From here on out, the revisions will refer to the re-lettered headings. Change Section 3(D)(7) regarding roadside stands to read "...not exceeding 200 square feet in area." Add a duplicate of this section as Section 3(E)(8), with the difference that the language will read "...exceeding 200 square feet in area." This would allow a continuum of farm stand size, the smaller stands being allowed as an accessory use, and the larger being permitted upon site plan approval.
- Add page numbers to the document.

Gagnon also raised a number of points for Randall to consider. These included whether "ancillary" in Section 3(E)(g) was defined anywhere, whether the first two sentences of Section 3(G) were duplicates or if there was a difference between a "building" and a "structure," whether there should be a rewording to make the "if" of Section 3(J)(2) make sense, whether the redundancy in Sections 3(K) and (L) was intentional and

desired, and whether in Section 4 the definition of a neighborhood retail specifying less than 10,000 square feet is intentional, as in Section 3(E)(1) the limit is 5,000 square feet.

The Board made the following change to Resolution No. 28 of 2018:

- Add the language “with the suggested revisions” after the word “recommends” in the final clause of “Now therefore, be it Resolved.”

**MOTION:** Pass the amended Resolution No. 28 recommending the revised draft Local Law No. X of 2018

Moved by Bergman, seconded by Strichartz

**The motion passed.**

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

**PLANNING BOARD RESOLUTION NO. 28 OF 2018 - RECOMMENDATION TO TOWN BOARD REGARDING AMENDING THE ZONING ORDINANCE OF THE TOWN OF DANBY AMENDING LOCAL LAW NO. 3 OF 2007 TO ESTABLISH PLANNED DEVELOPMENT ZONE 19 FOR “WHITE HAWK ECOVILLAGE”**

Whereas an Application has been submitted for proposed rezoning of the existing Planned Development Zone 19, tax parcel numbers 7.-1-68 and 7.1-1-1 through-32 by Greg Nelson and Mark Pruce, Applicants, on behalf of White Hawk Ecovillage Community, Inc., Owner; and

Whereas this is an action under Sections 800 and 802 of the Zoning Ordinance of the Town of Danby, Applications for Rezoning and Modifications of Site Plans, respectively; and

Whereas an Application has been submitted for concurrent review and approval by the Town of Danby Planning Board for Modification of Site Plan; 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

Whereas the proposed project 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

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

Whereas pursuant to §617.6(b)(3) of the State Environmental Quality Review Act (SEQRA), the Town of Danby Planning Board has been identified as an interested agency and consents to the Town Board being Lead Agency for this project; and

Whereas the Town Board, acting as Lead Agency in environmental review, did on October 15, 2018 review and accept as adequate: a Full Environmental Assessment Form (SEAF), Part 1, submitted by the Applicant, and Part 2 and 3, prepared by the Planning Administrator; and other application materials;

Whereas the Town Board as Lead Agency did make a Negative Declaration of Environmental Significance on October 15, 2018; and

Whereas pursuant to the provisions of the Zoning Ordinance of the Town of Danby, the Planning Board is required to hold, and did hold, within 62 days of the filing of the completed application with the Planning Board, a Public Hearing on November 29, 2018, which was heard by the Planning Board to assure full opportunity for citizen participation; and

Whereas pursuant to the provisions of Section 800 of the Zoning Ordinance of the Town of Danby, the Planning Board is required to make a recommendation, by resolution;

Now Therefore, be it

Resolved that the Planning Board of the Town of Danby hereby recommends, with the suggested revisions, the draft rezoning proposal A LOCAL LAW AMENDING THE ZONING ORDINANCE OF

THE TOWN OF DANBY AMENDING LOCAL LAW No. 3 OF 2007 TO ESTABLISH PLANNED DEVELOPMENT ZONE 19 FOR “WHITE HAWK ECOVILLAGE” be approved.

**Project:** Minor Subdivision

**Location:** Durfee Hill Road, Tax Parcel # 13.-1-1.22

**Applicant:** Ralph W. Nash, Esq. for Barbara Miller Fox

**Owner:** William F. Farrell

**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 132.37-acre property into two parcels: Parcel A, measuring 129.30 acres and undeveloped; and Parcel B, measuring 3.07 acres with existing telecommunications tower. The Applicant is requesting an Area Variance from the Town of Danby Board of Zoning Appeals from the Zoning Ordinance Section 600(5) and 600(6)(b) requirements that new lots created in the Low Density Residential Zoning District have frontage of 200 feet and that minimum side yard width of fifty 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.

Ralph Nash, attorney for Barbara Miller Fox, explained that his client would like to buy the property currently owned by Bill Farrell, but Farrell would like to retain ownership of the valuable and long-term cell tower lease, created in 1999. Dividing the property into two tax parcels, one small one with the cell tower and one large one for purchase by Miller Fox, means the cell tower would be on a parcel that is substandard in road frontage. The assessment department has this as a separate tax parcel already, but Town Planner Randall felt that it should go through official subdivision approval. Nash also brought up the issue of whether or not the parcel would need a variance for lot size; the lot is approximately 3 acres.

The Board made the following changes to Resolution No. 29 of 2018:

- Move the eighth “Whereas” clause to follow the words “Further resolved that” as a second clause after “Therefore, be it.”
- Take the word “the” out of the new eighth “Whereas” clause so that it reads, “Whereas, if Area Variances are granted...”

**MOTION:** Pass the amended Resolution No. 29 of 2018

Moved by Gagnon, seconded by Scriber

**The motion passed.**

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

PLANNING BOARD RESOLUTION NO. 29 OF 2018 - DECLARATION OF LEAD AGENCY AND RECOMMENDATION TO BOARD OF ZONING APPEALS, MINOR SUBDIVISION, DURFEE HILL ROAD, TAX PARCEL NO. #13.-1-1.22

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. 13.-1-1.22, by William F. Farrell, Owner and Ralph W. Nash, Esq. on behalf of Barbara Miller Fox, Applicant; and

Whereas the Applicant proposes to subdivide the existing 132.37-acre property into two parcels: Parcel A, measuring 129.30 acres, with 276.5 feet of frontage on Durfee Hill Road, 2907.64 feet of depth, and undeveloped; and Parcel B, measuring 3.07 acres with 36.63 feet of frontage on Durfee Hill Road, approximately 1300 feet of depth, with existing telecommunications tower; 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 an Area Variance from Town of Danby Zoning Ordinance Section 600(5) required frontage of not less than 200 feet and an Area Variance from Town of Danby Zoning Ordinance Section 600(6)(b) required minimum side yard width of 50 feet is required for the creation of Parcel A; and  
Whereas the telecommunications tower was granted two previous Area Variances by the Board of Zoning Appeals from Town of Danby Zoning Ordinance Section 600(8) requirement of a maximum height of thirty-six feet on September 16, 1996 and July 28, 1999; and  
Whereas the Planning Board approved antennae improvements to the existing telecommunications tower by Resolutions No. 7 of 2001 and No. 4 of 2003; and  
Whereas the Planning Board is required per New York State Town Law §§ 277(3) and (6) to issue a written recommendation to the Board of Zoning Appeals regarding the Appeal for an Area Variance; and  
Whereas, if Area Variances are granted, 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;

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. 13.-1-1.22, by William F. Farrell, Owner and Ralph W. Nash, Esq. on behalf of Barbara Miller Fox, Applicant.

Further Resolved that the Planning Board recommends the Board of Zoning Appeals grant the Area Variance with the condition prohibiting any future improvements to Parcel B other than an eligible facilities request per Spectrum Act § 6409 for modifications to the existing telecommunications tower that do not substantially change its physical dimensions as per Nationwide Collocation Agreement, 47 C.F.R., Part 1, App. B and Telecommunications Act, 47 U.S.C. § 332(c)(7).

## **(6) PLANNING AND ZONING REPORT**

C.J. Randall, Town Planner, was not able to attend the meeting, which had been rescheduled due to a snowstorm on the date of its regular meeting time, November 15<sup>th</sup>.

## **(7) ZONING AUDIT RECOMMENDATIONS FOR 2019 WORK PLAN**

Randall was not present to discuss this agenda item. However, it did prompt a conversation on a vision for the Town, specifically in regards to development.

Gagnon presented two opposing possibilities for development. In the first scenario, water could be connected from Ithaca in the north part of the Town, and density could be added there. He explained that this type of in-fill from the north has been resisted in the past, with the idea that Danby then might become an extension of Ithaca rather than fostering its own sense of place. The plan for the past twenty years has been to discourage development on the peripheries and encourage it in the hamlets, but the existing zoning has allowed this type of development, while making hamlet development difficult. In a different scenario, clusters of houses that are set back from 96B could be encouraged, similar in structure to those such as Fieldstone Circle and Beardsley Lane, but with tighter clusters and more open land set aside. This would visually protect the Town's rural character while possibly encouraging a neighborly feel and internal sense of identity among the members of each cluster.

Gagnon said that, as is, people often move to Danby, buy two to eight-acre pieces of land, and build a house there, which limits any sense of orderly development; the road becomes more lined with houses lot by lot. Along with the need to put in individual water and sewer, this can limit affordability. Regarding the second scenario of clustered development, the existing clusters were done before the downzoning from a 2-acre requirement to a 5-acre requirement, and no development proposals have been put forth since; with 5-acre density, a developer would need to buy a larger amount of land for the same number of houses. This might change if a developer could purchase a large parcel and place houses closer together on smaller lot sizes, while keeping a large tract of land open. Gagnon said that one issue with hamlet development is that people in the hamlets do not necessarily want to grow them, and there are environmental constraints to consider such as wetlands, slopes, and proximity to streams. In the past, only a cottage cluster adjacent to the church found public favor. He added that there could not be a village center without water and sewer.

Strichartz spoke up against the idea of development in clusters. She said that many people move to Danby exactly because they do want the acreage. She also pointed out that the idea of connecting part of Danby to Ithaca's municipal water system is unpopular. Furthermore, contradicting the idea of clusters being affordable, she noted that many of the current clusters are very expensive housing. She acknowledged the possibility of doing something like a cottage cluster on 96B might work, and stressed the need for transportation. Scriber said that not everyone wants five acres to care for; some people would like to be in a

neighborhood, and there is room for more than one thing. Rundle added that on Townline Rd., a part of Newfield that does not have the same zoning, there are in fact apartment buildings.

Davis felt that it was critical to have exactly this discussion, difficult though it may be, to confront the thorny issue of what to do for the future residents of Danby. He felt there was frustration over smaller points because this larger picture needs to be discussed, and that it is part of the Planning Board's job to figure out how to have this discussion. To this point, Bergman said that land prices will go up and development pressure will increase, so the Town should try to think about where development could go and how to get the most from it for the Town, be that affordable housing or green space. Ted Crane brought up public involvement, and suggested that the Board could come up with a number of scenarios and present them to the public to see what people like the most. This idea was well-received, and many Board members seconded the importance of having public input.

Rundle asked what the next step on this should be, to which a number of members mentioned the idea of having a subtractive map that shows where areas NOT to develop are located. Davis, however, said that for him he would need to be able to envision what the possibilities for development are before getting to the step of where they may or may not be able to go.

#### **(8) ITEMS FOR NEXT AGENDA**

No items were added to next month's agenda.

#### **(10) ADJOURNMENT**

*The meeting was adjourned at 8:56pm.*

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Alyssa de Villiers – Recording Secretary