

Town of Danby Planning Board
Minutes of Regular Meeting
May 16, 2019

PRESENT:

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

OTHER ATTENDEES:

Town Planner	John Czamanske
Town Board Liaison	Leslie Connors
Recording Secretary	Alyssa de Villiers
Public	Ted Crane, Greg Nelson, Dawn Parks, Mark Pruce, Shannon, Leah and Emma Sessler, Matt Ulinski (Town Councilperson), John Van De Mark, Cindy Westmiller, Lynn Westmiller, Steven Wolnoski

The meeting was opened at 7:03pm.

(1) CALL TO ORDER / AGENDA REVIEW

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 April minutes

Moved by Gagnon, seconded by Richards

The motion passed.

In favor: Davis, Gagnon, Richards, Scriber

Abstain: Bergman, Strichartz, Rundle

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- A number of Town Board members will be meeting with the Sheriff to discuss speeding. They have received complaints from a number of residents about speeding on the roads, and are looking at what actions can be taken.
- The Town Hall staff will undergo active shooter preparation in response to a potential incident.
- There is a new table and chair set up for board members in Town Hall. Previously the tables and chairs were arranged in a square pattern with board members facing each other; they are now a line with board members facing the public. Connors felt moving the tables back slightly into the alcove helped. While the line arrangement is not conducive to intraboard discussion, it is easier for members of the public to hear everyone. The Town will look into options for enhancing sound. Rundle suggested looking into sound boards to create an amphitheater effect. Microphones were in place at this meeting, but were turned off after the amplified sound of paper rustling was found to be too disruptive.
- Connors attended the Timber Harvesting Practices and Training and thought it was interesting and enjoyable. There was brief discussion regarding timber harvesting laws with Connors mentioning the idea of a permit to let the Town know about harvesting. Richards said notification was fine but since there are laws now, if they are enforced that may be enough and create the least burdensome paperwork; there should be a balance of rights. Gagnon said the law referenced (in another town) was a notification requirement—the landowner had to sign a statement saying best management practices were going to be followed, but what if they are not? There must be some teeth to the law, even if it is not necessary in most situations. He also said the information on clearcutting was interesting. Richards pointed out that this ties back to water quality and erosion, covered by stormwater laws.

(5) DANBY NATURAL RESOURCES INVENTORY

MOTION: Recommend the Town Board adopts the Natural Resources Inventory

Moved by Gagnon, seconded by Scriber

The motion passed.

In favor: Davis, Gagnon, Richards, Scriber

Abstain: Bergman, Strichartz, Rundle

Rundle and Strichartz requested hard copies. Those who abstained did so because they were not familiar enough with the document at this time. Scriber suggested that the document may be something to revisit periodically.

(6) ACTION ITEMS

Project: Minor Subdivision

Location: 460 Comfort Rd., Tax Parcel No. 8.-1-12.12

Applicant: Lynn Westmiller

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

Project Description: The Applicant proposes to subdivide a 12.63-acre parcel of vacant land from the existing 196.22-acre. The property is in the Low Density Residential Zoning District, requiring a lot area minimum of 2 acres, frontage of 200 feet, and lot depth of 300 feet. This is an Unlisted action under the Town of Danby Environmental Review of Actions and an Unlisted action under the State Environmental Quality Review Act and is subject to environmental review.

Rundle and Gagnon noted that doing the public hearing, determination of environmental significance, and preliminary and final approval at once was atypical. Gagnon pointed out that if there were any substantive changes, there would need to be a rehearing. Planner Czamanske agreed that this was the case.

The public hearing was opened at 7:23pm.

Mr. Westmiller explained that a friend will be buying the property, and it is not really connected to his other acreage. Czamanske added that the land proposed to be subdivided is attached to the rest of the property via a land hook across W. Miller Rd.; it has 270 feet of frontage.

John (Jack) Van De Mark of 411 Comfort Rd. (neighbor of the applicant) said he didn't understand why Mr. Westmiller had to jump through so many hoops to sell his property. As it is his property and he has been paying taxes on it, and he is not planning to do anything with it, why would the Town be holding him back?

Dawn Parks stated that much of the land in question is behind her home and she has no issue with the subdivision.

Ted Crane agreed that doing everything at once was unusual, but pointed out that this is a "no-brainer" subdivision.

The public hearing was closed at 7:32pm.

Regarding the Short Environmental Assessment Form, Gagnon suggested the answer to 5.(a.), "Is the proposed action a permitted use under the zoning regulations?" should be "yes" rather than "N/A." Planner Czamanske acknowledged this change.

MOTION: Pass Resolution No. 8 of 2019

Moved by Gagnon, seconded by Bergman

The motion passed.

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

Town of Danby Planning Board Resolution No. 8 of 2019

Declaration of Lead Agency; Determination of Environmental Significance; Preliminary and Final Approval, Minor Subdivision, 460 Comfort Road, Tax Parcel #8.-1-12.12

Whereas, an application has been submitted for review and approval by the Town of Danby Planning Board of a Minor Subdivision of Tax Parcel No. 8.-1-12.12, Lynn Westmiller, Owner and Applicant, to subdivide a vacant 12.63-acre parcel from the existing 196.22-acre property; and

Whereas, the property is in the Low Density Residential Zone, requiring a minimum lot area of 2 acres, frontage of 200 feet, and lot depth of 300 feet; and

Whereas, the Subdivision and Land Division Regulations (Article II, §201 B.2, Option #1) permit a large lot minor subdivision, provided that the following criteria are met:

- a) All lots resulting from the land division are (8) acres or more, each with frontage on a public road maintained year-round; and
- b) All lots resulting from the land division meet all other pertinent zoning requirements; and
- c) No extension or improvement of an existing, or creation of a new public road, public utility, or other public facility or area is involved; and
- d) Compliance with the Stormwater Local Law, if applicable, has been demonstrated, including, but not limited to, the preparation and approval of SWPPPs, the obtaining of Stormwater Permits, and the design, planning, installation, construction, maintenance, and improvement of temporary and permanent Stormwater Management Practices, as each and all of such capitalized terms are defined within such Stormwater Local Law.

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 the Lead Agency for environmental review shall be that agency which has primary responsibility for approving and funding or carrying out the action; 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; and

Whereas, in accordance with Danby's agreement with the Tompkins County Department of Planning & Sustainability, this Minor Subdivision was not required to be referred to the County per GML-239; and

Whereas, the Planning Board held the required Public Hearing on May 16, 2019; and

Whereas, this Board did review on May 16, 2019 review: 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 Lands of LC Farm LLC," dated 3/28/2019 prepared by Michael J. Reagan, PLS; and other application materials; and

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

Now, Therefore, be it Resolved that the Town of Danby Planning Board does hereby:

1. Declare itself Lead Agency for the proposed environmental review of this action.
2. Determine that this action will result in no significant impact on the environment and issues a Negative Declaration of Environmental Significance in accordance with the provisions of Part 617 of the State Environmental Quality Review Act.
3. Grant Preliminary and Final Subdivision Approval of the 12.63-acre parcel from tax parcel 8.-1-12.12 as shown on the above referenced subdivision plat, subject to filing of the plat with the Tompkins County Clerk within sixty two (62) days of its signature by the Planning Board Chairman.

Site Plan Conference – White Hawk Ecovillage

Greg Nelson and Mark Pruce of White Hawk Ecovillage gave a brief history of the site and some of the difficulties they have had:

Talks surrounding starting an ecovillage began around 2004, while the land was owned by Henry Peterson. In 2007 Seven Circles LLC was formed to develop White Hawk, and site and utility plans were developed by Tim Buhl. The site plan and Planned Development Zone (PDZ) were approved by the Town; this focused on clustered housing, retaining as much open natural space as possible. A couple of years ago the community began the process of acquiring the land from Mr. Peterson so that it could be formed into a legal cooperative, and they are now approved to have an offering plan. This is similar to an IPO in that this allows members (residents) to own shares. Thus, they are a business corporation operating as a cooperative. They did have an issue with tax parcels after the County erroneously subdivided the land, but have worked with a lawyer to fix this; White Hawk would like the County to consider the lots as separate for tax purposes, but not for ownership. Also, the land was originally two parcels, but these have been consolidated for tax purposes.

Over time White Hawk has worked with Tim Buhl as the engineer, then George Van Valen for construction, then the Town's surveyors, T.G. Miller, and now Stephen Maybee. Some errors and discrepancies have been identified, including a drainage ditch through Lot 1 and a manhole where Lot 29 is (this is part of a partially constructed septic system). White Hawk is now seeking to reposition the two lots with errors, and an updated and accurate utility plan created by Stephen Maybee has been submitted to the Town. The former planner, C.J. Randall, had recommended reopening the PDZ and bringing the law up to date to make everything consistent, which has been done. White Hawk thought they were submitting modifications to their already-approved site plan, rather than seeking approval of a new site plan. They are doing this to facilitate their moving forward into a second phase of construction.

While White Hawk is trying to satisfy the Planning Board's needs, they are experiencing frustration around the amount of time, energy, and money they have already invested to achieve this; a year has already passed. They feel that the process has been complicated by the transition of planners mid-way, as their understanding of the requirements has changed. They would like to be clear on what more is needed for site plan approval.

Planner Czamanske then explained the issues from the Town's point of view:

The existing site plan shows what is currently there, including the ten extant houses, existing septic and wastewater infrastructure, and the general location of where the phase two septic will be located. He feels that it is both necessary to do the site plan modifications and make sure all the pieces of the site plan are there. When the new PDZ law was passed, a utility plan was not

approved by the County under General Municipal Law (GML) 239 before the zoning language was approved; this utility plan is now moot as the law already has been passed and the rezoning is done. However, the Planning Board still needs to approve modifications to the site plan.

The Town needs to understand where things are located, and what the planned maintenance will be. For example, are stormwater facilities being maintained the way they were designed to be maintained, and is there an agreement with the Town for maintenance? What is the understanding regarding road and bridge maintenance? Everyone would be well-served by having this explicitly laid out, and possibly having the Town's stormwater management officer check periodically. The Town has an obligation to deal with stormwater; because stormwater control is interconnected, a failure at White Hawk could affect other residents. Also, if there was a failure of the road or bridge, the development would be cut off. He said that after a site walk he noticed that there is a manhole located in a ditch, which is an indication that there may be a problem, and some trees are growing in ditches.

Czamanske laid out what he suggests the Board ask White Hawk to include in a site plan and changes that need to be made. These include: (1) the utility plan at a scale of 1" = 100' and called site plan, (2) maps at 1" = 40' to show the bridge and road connection and the residential section, (3) changing the note on the utility plan stating "...locations shown above are approximations...", (4) taking Lot 1 off the site plan, (5) having any conditions of approval noted on the plan, (6) White Hawk submitting their approved offering plan, (7) an explicit understanding of road and bridge maintenance, (8) having an engineer evaluate the original stormwater facilities design plan (including the retention/detention ponds and drainage ditches) and prepare a maintenance schedule.

Board discussion followed:

Regarding stormwater facilities and road and bridge maintenance, Gagnon said that originally the understanding was that White Hawk was responsible for this, rather than the Town providing oversight. He asked how the applicants felt about being more explicit, as Planner Czamanske had suggested. Nelson answered that, while not an unreasonable request, this was not something White Hawk had been told about at the outset. Steven Wolnoski, also of White Hawk, added that there is money in the budget allotted to do road work and drainage work. He said there has been a slow progression in development, but they are now ready to move more quickly. As money comes in through new homes being built, they are ready to do this work. Could they get an engineer in once they have more funds? They need more time for implementation.

Strichartz said she felt that it is unfair to White Hawk to shift the sand under their feet; the Town didn't have the necessary experience and now the residents are paying for it. The residents thought that they were proceeding properly according to what Randall had told them. She also said that they are paying taxes, like all residents, but not getting benefits such as road maintenance.

She felt that the Board needs to be very clear now what they are asking White Hawk to do. Crane added that there are many long driveways in the area that the Town would not get involved in, so what distinguishes White Hawk? If it is the PDZ law, and the Town wrote that law so inexactly, whose problem should that be?

Davis pointed out that stormwater and road maintenance were two different things that need not be conflated. Given that the Town is not going to take over the road, the road mostly directly affects White Hawk residents. However, stormwater control can affect everybody. He clarified that there is more runoff now, with the development in place, than when it was a field. He said that therefore it seems fair and reasonable for stormwater facilities to be monitored, but noted that White Hawk is asking for time. Wolnoski asked about submitting a budget and timeline that could be as far out as two to three years. Davis said it would depend on if there was a problem with the ponds—there is the need both for appraisal and then recommendations for maintenance, with the maintenance timing depending on the results of the appraisal.

Bergman asked whether it must be an engineer to come out, which can be pricey, or whether the plan could consist of testing current conditions and understanding White Hawk's maintenance plan. Pruce said it is a question of burden—what can the Town ask of landowners? Gagnon said that in the reapproval of the PDZ, the requirements of approval are triggered, meaning the Board must evaluate the parts of the site plan and make sure they are still okay. Czamanske said he thought it should be an engineer to do the evaluation; erosion and sediment control plan sheets were part of the original plan, but need to be checked to see if they are still accurate. He thought it would be relatively straightforward for an engineer to take a look at whether what was constructed is what is shown on the plan and to assess the stormwater facilities with maintenance recommendations. Bergman also asked how other subdivisions deal with these issues, and Czamanske explained the way Beardsley Lane is set up; there have also been stormwater planning issues in that case. He said in the subdivision regulations there are many items that need to be submitted for review, but in the Zoning Ordinance for site plan review there only five or six things and then whatever the Planning Board wants, which is problematic. Having a tiered list (simple to complex projects) that is more similar to the subdivision regulations could be helpful.

Richards said that the development is something the Town wants, but the Board has a responsibility to check on these issues, ideally through third-party verification. Although it would be nice if the process was better, everyone must work with the laws that are in place. He thanked Planner Czamanske for his thorough memo briefing the Board on the issue. He also said that the part that makes him uncomfortable is the fact that the original site plan is wrong; someone needs to be responsible.

Rundle reiterated that this type of cluster development is what the Town wants, and the Board wants them to succeed and is trying to make that feasible. Scriber said that none of the people in

attendance can change what happened, so the parties must find their way to a reasonable agreement that meets everyone's needs.

A conclusion was reached:

Czamanske had stated that a condition could be tied to site plan approval that would require an engineer to check stormwater facilities and road condition and make maintenance recommendations, which would have the benefit of not delaying White Hawk excessively. This was agreed to be satisfactory to the Board and to White Hawk. The timing was discussed, with Czamanske suggesting something like two months for site plan approval and six months to present the engineer's report. He hopes that the maintenance that has been deferred not then wait two years. He said he would work with the applicants to supply the needed documents. He revisited the stipulations he laid out earlier including changing the utility plan to an overall site plan, adding two or three additional maps that are more zoomed in, referencing previous documents by notes (such as the erosion and sediment control plan and the road and bridge plan), and submitting the offering plan. He will work with White Hawk's engineer to change the note language saying that all utility locations are approximations. He will also work to draft a condition of approval relating to the engineer's review of stormwater management including looking at previously approved plans, assessing what was actually built and what current conditions are, and making a report with recommendations for a maintenance schedule and any modifications that may be needed. Rundle asked that, in the event there was not a meeting of the minds, both positions were brought before the Board rather than letting the whole thing blow up, so to speak.

(7) PLANNING AND ZONING REPORT

Chairman Rundle asked Planner Czamanske to delay his report until next month.

(8) ADJOURNMENT

The meeting was adjourned at 9:01pm.

Alyssa de Villiers – Recording Secretary