

Town of Danby Planning Board
Minutes of Regular Meeting
July 18, 2019

DRAFT

PRESENT:

Scott Davis
Joel Gagnon
Bruce Richards
Jody Scriber
Jim Rundle (Chair)

ABSENT:

Ed Bergman
Naomi Strichartz

OTHER ATTENDEES:

Town Planner John Czamanske
Recording Secretary Alyssa de Villiers
Public Greg Nelson, Mark Pruce, Sarah Schnabel, Susan Storey

The meeting was opened at 7:04pm.

(1) CALL TO ORDER / AGENDA REVIEW

A discussion about retail variety stores was added as agenda item number seven, construction on Sand Bank Rd. as number eight, construction on Nelson Rd. as number nine, appointment process for Town Planner as number ten, and follow up on Earth Rhythms Daycare's special permit as number eleven.

(2) PRIVILEGE OF THE FLOOR

No comments were made during privilege of the floor.

(3) APPROVAL OF MINUTES

Gagnon suggested it may not be necessary to print out last month's minutes for the packets members receive ahead of the meeting. Everyone present agreed email would be sufficient, but it was left that the Board would check in with the two absent members.

There was not a motion on the table for approval of June minutes before the vote, but all members present did vote to approve the minutes from the June meeting.

(4) TOWN BOARD LIAISON REPORT

No Town Board members were in attendance, and so no report was given.

(5) WHITE HAWK ECOVILLAGE

Project: White Hawk Ecovillage

Location: White Hawk Lane of Rt. 96 B; Tax Parcel 7.1-1-32

Applicant: White Hawk Ecovillage Community LLC

Anticipated Board action(s) this month: Public hearing; conditional site plan approval

Project Description: Proposed amendment to previously approved site plan based on reconfiguration of two residential lot locations, removal of one residential dwelling location, and other changes in order to meet the requirements of PDZ 19 of the Zoning Ordinance

The public hearing was opened at 7:08pm.

Greg Nelson thanked the Planning Board for their time.

The public hearing was closed at 7:08pm.

Regarding Resolution No. 9 of 2019, Planner Czamanske announced that Tompkins County's referral was now made. Gagnon suggested two edits in the second "Be it further resolved:" the word "to" should be added after "agreed" in "...changes to the commitment and/or report may be agreed through..." and a comma should be added in after "The review..." in the next paragraph.

Nelson asked what the process would be by which the engineer's report would be accepted by the Board. Czamanske said that it would be a resolution voted on at a meeting, and that there would not be a public hearing.

Rundle noted that this was a big piece of work. Davis added that he appreciated Czamanske's work in putting the whole thing in context and giving the history—it was very helpful. Rundle added he feels it has been done the right way, and reiterated his appreciation of White Hawk working with the Town to complete it.

MOTION: Pass Resolution No. 9 of 2019

Moved by Gagnon, seconded by Richards

The motion passed.

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

Town of Danby Planning Board Resolution No. 9 of 2019

Conditional Site Plan Approval, White Hawk Ecovillage Community, Tax Parcel #7.1-1-32

Whereas, a White Hawk Ecovillage site plan was originally approved by the Town Planning Board in 2008; and

Whereas, an application was submitted to the Town of Danby in September 2018 for rezoning of Planned Development Zone 19 for White Hawk Ecovillage Community, which rezoning and some slight residential lot reconfigurations necessitated an updated Site Plan review; and

Whereas, no new development is proposed through this proposed site plan revision relative to that site plan previously approved by the Town of Danby Planning Board; and

Whereas, the combined rezoning and associated site plan review was determined to be a Type I Action under the Town of Danby Environmental Review of Actions Section V 1(a) and a Type I Action under the State Environmental Quality Review Act Section 617.4(b)(2), both of which require environmental review; and

Whereas, the Town Board, as Lead Agency for Environmental Review of this action, did on October 15, 2018 review and complete a Full Environmental Assessment Form, and did adopt a Negative Declaration of Environmental Significance for the rezoning and its associated site plan review; and

Whereas, the Town Board subsequently approved updated zoning for Planned Development Zone 19 on February 4, 2019 as Local Law #1 of 2019; and

Whereas, the White Hawk Ecovillage Community exists on land which previously consisted of two parcels (tax ID 7.-1-68 and 7.1-1-32), which parcels have been consolidated into a single parcel with tax ID 7.1-1-32; and

Whereas, this land is presently owned by Red Tail, LLC for the benefit of White Hawk Ecovillage Community LLC and its shareholders; and

Whereas, White Hawk Ecovillage Community has been notified by the Town that any future effort to subdivide consolidated parcel 7.1-1-32 into the previous two parcels or any other number of parcels of any configuration would require prior subdivision approval by the Town of Danby; and

Whereas, the existing White Hawk Ecovillage Community offers shares in its Ecovillage development which allow shareholders to construct houses within residential 'lots' as shown on its existing site plan and the proposed site plan, which lots are not separately-owned and subdivided parcels of land but which have been assigned tax parcel numbers by the County Tax Assessor for the purposes of taxation of improvements by Ecovillage home owners, tax ID numbers 7.1-1-2 through 7.1-1-31; 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; and

Whereas, legal notice was published and adjacent property owners within 500 feet notified in accordance with the Town of Danby Zoning Ordinance; and

Whereas, a duly noticed public hearing was held on July 18, 2019 and any public comments were carefully considered by the Planning Board;

Now, Therefore, be it Resolved that the Town of Danby Planning Board does hereby acknowledge and restate that the Danby Town Board as lead agency issued a Negative Declaration of Environmental Significance for this action on October 15, 2018; and

Be it Further Resolved that the Town of Danby Planning Board does grant Conditional Site Plan Approval subject to the following condition:

Acceptance by the Planning Board of a commitment by White Hawk Ecovillage to address any deficiencies of the storm water management system from what was designed and originally approved by the Planning Board in 2007. This commitment is to be in the form of a written letter from White Hawk Ecovillage which is to include and be based on a written report by a certified stormwater management engineer regarding construction of the storm water management system as designed, its current maintenance status, recommendations to address deferred maintenance, and recommendations for future maintenance as further described below. This commitment and accompanying report shall be submitted to the Planning Board no later than six (6) months from this conditional approval. This submittal will be reviewed by the Town Planning Board and the Town Stormwater Management Officer, and at a duly scheduled meeting of the Planning Board with White Hawk Ecovillage, the board will discuss the commitment and its accompanying report. Changes to the commitment and/or report may be agreed to through this review and discussion. The board may engage the services of a peer reviewer as provided in the Zoning Ordinance and Town Fee Schedule. Following this review and discussion, and based on any subsequent changes to the commitment and/or the report, the board will consider final acceptance of the commitment from White Hawk Ecovillage to maintain the stormwater system in perpetuity and thereby consider this condition fully satisfied.

The review, in the form of a written report, to be completed by an engineer certified to design storm water management systems in the state, is to include:

- a) Review of the approved SWPPP and the storm water system as-built, noting deviations from the plan;
- b) Recommendations to fix substantive and impactful deviations from the original plan;
- c) Review of the current status of stormwater practices / system;
- d) Recommendations for addressing deferred maintenance;
- e) Recommended schedule for regular maintenance of the system in perpetuity;
- f) Any other recommendations or considerations for White Hawk and the Town of Danby from the engineer.

Be it Further Resolved that any future effort to subdivide consolidated parcel 7.1-1-32 shall require prior subdivision approval by the Town of Danby; and

Be it Further Resolved that within 62 days of the approved acceptance by the Planning Board of the stormwater commitment stated above, White Hawk Community Ecovillage is to file the approved site plan sheets with the Tompkins County Clerk.

Approved July 18, 2019

James R. Rundle, Chairman

(6) PLANNING AND ZONING REPORT

Discussion of Gagnon's shift to Town Supervisor

Scriber asked when Gagnon would be leaving the Board, to which he answered his new position as Town Supervisor will begin January 1st. However, current Town Supervisor Dietrich has begun involving Gagnon in order to have a smooth transition. Rundle pointed out that this means the Planning Board will need two new members, as Strichartz's term is up at the end of December. Sarah Schnabel asked how the appointment process works, and Rundle said the Town Board interviews candidates and selects them. If you know someone who may be a good candidate, they can apply to the Town Board. Gagnon said the process ideally happens between October and December so that the appointments can be made at the organizational meeting in January, although in past years it has tended to run late, creating a gap.

Town Planner Czamanske reported the following:

- He has revised the agricultural data statement. The old form was worded more for farmers to describe their farming; the new form asks for the names and addresses of farm operations within 500 feet of the proposed project, which is what New York State (NYS) has asked for. At minimum, the Town must meet the state requirements, although it could ask more. Davis asked what qualified as a farm operation, and Czamanske said the definition is provided by the Agriculture and Markets Law, although Gagnon pointed out that the Town of Danby's definition is more liberal. Czamanske explained that the Town would then notify the farmers listed on this form of the proposed project. Gagnon pointed out that the Town of Danby also has a requirement of notification for landowners within 500 feet of a project for a public hearing.
- Czamanske also revised the area variance form, as the new tests for area variances were not previously included. He will work on a new use variance form and a catchall form for anything else.
- Czamanske created a land annexation form. This came up recently, and he realized that the development review application does not meet the need.
- After reviewing the issue with Ted Melchen's past subdivision, discussed at the previous meeting, with Guy Krogh, it was concluded that it was a de facto subdivision of the land on the north side of the road. This means the Board has no further action to take. Mr. Palmer had a plat that had not been recorded at the County, and, after coordination with the assessment office, Mr. Melchen was able to file it even though it was three years old.
- A retail variety store has expressed interest in building a 9,000 sq. ft. structure in the commercial zone. Czamanske proposed a sketch plan conference. He pointed out that the subdivision regulations are much more elaborate as to what the processes are and what needs to be submitted as compared to the site plan list in the zoning ordinance. A discussion would allow the Board and potential applicant to better understand the plan in relation to the Town's zoning; it may involve some further clarification on a proposed access road. Davis asked if the potential applicant would need a special permit. Czamanske said they are in the Commercial "C" zone, and he read from the

Zoning Ordinance. Gagnon asked if it would be considered a “retail food store,” but Czamanske said that was not how it was characterized to him. He said it was a dollar-store-type establishment, and may fit under “facilities for the sale of any new products, produce, goods, and equipment.” Scriber asked how much leeway the Town has in controlling the appearance of buildings in the commercial corridor. Czamanske and Gagnon agreed that the current zoning does not have design standards. Czamanske said the Board could certainly have this conversation with the future applicant and see what they are willing to do.

- The job description for Danby Town Planner has been completed and will be posted widely. It was a collaboration involving Planner Czamanske, Supervisor Dietrich, Joel Gagnon, Matt Ulinski, and Laura Shawley. Czamanske distributed copies for the Board to look at, and highlighted the roles of Code Enforcement versus Planning and Zoning. The way the job description is written, the Planner is the Zoning Officer and interprets the ordinance, but the Code Enforcement Officer is also the Zoning Enforcement Officer.
- A request for proposals (RFP) will go out next Monday for the housing needs assessment, made possible through a Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG).

(7) RETAIL VARIETY STORES

Davis opened the discussion by pointing out that he would not necessarily want to impose his aesthetics onto stores in Danby. He understands that Danby does not have form requirements in place, but wondered how this is done. Czamanske said that the Board currently has limited ability to apply aesthetic pressure. Czamanske said the Town could decide to make changes, but this is not a quick process. A moratorium would be possible, but that would be intensive, requiring a lot of work and money; a moratorium would be tailored to what the Town wants to work on and would have a time limit. Scriber said that part of the Board’s plan has been redoing the zoning, and they need some time to look at the issues. Gagnon added that it is a process to put a moratorium into place, but the Board has advocated making interim changes to the Zoning Ordinance to deal with its the inadequacies for some time, pending a thorough review. Czamanske mentioned that farm craft beverages are another example arising in the Town where the Planning Board has little to no control. If these are in an agricultural district, they are allowed by right and only need a building permit. It would be better if the Town’s ordinance required basic site plan review, which, if reasonable, the NYS Department of Agriculture and Markets does support.

Scriber said that she believes retail variety stores can meet the needs of the community, but that she would like the Board to have some influence on the looks of stores that get built. She wondered if one approach would be to have the mindset of asking applicants to work with the Town on these points. Regarding the zoning, Scriber expressed frustration that the Board has been stalled for so long, and felt that they need to commit to do the work. Davis said it merits thinking hard about it, and also advocated for having a “try to

do” mindset. Rundle said that, while he and others had attended a training that described how Towns can have some control over the appearance of businesses to make them in keeping with the Town’s character, the language for that is not in Danby’s zoning. Richards said that he is more pragmatic about form, but thinks there are problems in the zoning regarding the Town’s ability to influence development, and mentioned the continual dividing of land. Regarding a moratorium to allow the Board to work on zoning, Richards said the Board would need to look at existing laws in other communities, have a plan acknowledging the necessary resources, and ask what budget the Town has available in order to set the scope. He would be willing to meet weekly to accomplish this. Gagnon asked how long a moratorium could be, to which Czamanske answered that six months would be reasonable.

There was discussion of whether and how to propose a moratorium, which resulted in a motion by Gagnon, with the understanding that this would be followed by a letter to the Town Board describing the reasons for this proposal, and what the Board hopes to do. Gagnon was selected to further present the issue to the Town Board.

MOTION: We as a board propose strongly that a moratorium be put in place in order to make some interim changes to our codes and ordinances.

Moved by Gagnon, seconded by Scriber

The motion passed.

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

(8) CONSTRUCTION ON SAND BANK RD.

Davis mentioned that someone is building a structure on Sand Bank Rd. at West King Rd. The structure violates setbacks, but is on wheels. Czamanske said it is a utility trailer in the location that the person had proposed.

(9) CONSTRUCTION ON NELSON RD.

Rundle said that there is some new construction on Nelson Rd. that seems extensive. He wondered what was happening since he did not remember it coming before the Board. No one had concrete knowledge, so Rundle said he would ask John Norman.

(10) APPOINTMENT PROCESS FOR TOWN PLANNER

Gagnon asked the Board how much they would like to participate in the hiring of the new Town Planner. While not the Planning Board’s decision, they do have an interest. Rundle pointed out that the Board’s recommendation that the position be full time has been recognized. Gagnon said he would value other people’s perspectives on whether candidates would be a good fit for Danby and good to work with. The Board indicated that it did make sense to them to be involved. Gagnon felt that in the case there were

multiple finalists, it would be reasonable for them to meet a wider group of people, probably in a different setting than a Planning Board meeting.

(11) EARTH RHYTHMS DAYCARE

Scriber had brought up Earth Rhythms Daycare because she wondered what happens if an applicant has not completed the work they had expected to in the time period given. Czamanske said it is up to them to do what they need to do. In this instance, Earth Rhythms has not applied for a building permit to renovate the building. In the Ordinance it says that if a special permit is granted and there has been no activity for a year, it expires; in this case the special permit was approved for two years. It is not totally clear which time limit would be in effect, but Czamanske thinks the Ordinance governs.

(12) ADJOURNMENT

The meeting was adjourned at 8:53pm.

Alyssa de Villiers – Recording Secretary