

Town of Danby Planning Board
Minutes of Regular Meeting
October 17, 2019

PRESENT:

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

ABSENT:

Naomi Strichartz

OTHER ATTENDEES:

Town Planner	John Czamanske
Future Town Planner	Jason Haremza
Recording Secretary	Alyssa de Villiers
Public	Ted Crane

The meeting was opened at 7:04pm.

(1) CALL TO ORDER / AGENDA REVIEW

Rundle noted that Monica Roth was not able to attend the meeting, but the Board could still discuss agenda item number five, "Eight Year Review Process – Tompkins County Agricultural District #1." He added that he wanted to discuss a training that many Board members had attended on incremental development during the discussion of interim zoning changes, agenda item number six.

(2) PRIVILEGE OF THE FLOOR

Planner Czamanske introduced the new Town Planner, Jason Haremza. No one else spoke during privilege of the floor.

Introduction of New Planner

After privilege of the floor was closed, Planner Czamanske briefly explained some of the orientation Planner Haremza has been getting. Haremza will be attending the October 22nd Board of Zoning Appeals

meeting, and will officially start November 1st. Czamanske added that the Code Enforcement Officer (and present Zoning Officer) has given notice. The Town has posted the full-time position, and it is hoped that the part-time Code Officer in Caroline may be able to help in the interim. Planner Haremza introduced himself and gave a background of his education and work, most recently with the City of Rochester.

(3) APPROVAL OF MINUTES

Czamanske noted two changes to the September 19th minutes in the section “Planner’s Report”: removing the words “in relation to the housing needs assessment” in the fourth bullet point and adding “it would take some action for a property to be split” at the end of the sixth bullet point. Gagnon had submitted a few edits via email.

MOTION: Approve the minutes of the September 5th and September 19th meetings with edits by Czamanske and Gagnon

Moved by Gagnon, seconded by Bergman

The motion passed.

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

(4) TOWN BOARD LIAISON REPORT

Leslie Connors was not present to share a report from the Town Board.

(5) EIGHT YEAR REVIEW PROCESS – TOMPKINS COUNTY AGRICULTURAL DISTRICT #1

Planner Czamanske suggested the Town should avail itself of the opportunity to look critically at what is in Agricultural District #1 and determine whether things should be added or taken out. He pointed out that the relation of agricultural (ag) district laws to local zoning laws has recently come up in the Town. He mentioned that Ted Crane has a piece in the Danby Area News that he largely agreed with. After talking with Monika Roth, he does not think there will be an effort at the County level to really analyze the district this time around.

Chairman Rundle asked what happens after the Planning Board makes a recommendation—would there then be a public hearing? Czamanske said there will be a public hearing at the County level at the end of the process. He did not believe the Planning Board or the Town Board would be required to hold a public hearing for recommendations to the County legislature, although it might still be good to. Rundle also asked if being in an ag district affects property values. Czamanske did not think it impacts assessed value. Ag value assessments can occur whether a property is in an ag district or not. Bergman noted that prospective buyers in an ag district must be notified, which could turn some people off, lowering property value.

Rundle asked about the process, is there an alternative to going parcel by parcel? Planner Czamanske noted that Planner Haremza could help coordinate this effort and interact with County Planning and Extension to have them do work on the mapping side to help illuminate the factors that would determine which properties should be in or out, such as land use and soils.

Gagnon said the timing is unfortunate because he hopes the Town will be embarking on a big picture review of what parts of the Town should be used for what purpose, and agriculture is an important part of that. He noted that silviculture is included as a farming practice, and so wooded areas might also be included in an ag district. He asked how much time the Town has for the review. Czamanske said that it is a 300-day review, which started approximately three months ago. He believes the Commissioner of Ag & Markets has 60 days at the end to review and approve the district, so the Town should be ready with recommendations by late winter. Richards pointed out that since you can only remove properties every eight years but can add at any time, it makes sense to focus on what the Town feels is inappropriate for an ag district and work on adding properties later. Davis and Scriber both said this made sense.

Rundle asked if the Planning Board would make a recommendation to the Town Board or to the County, to which Czamanske said that it is usual to go through the Town Board, who would then decide whether to send something to the County legislature. Gagnon suggested also going through the Conservation Advisory Council as it relates to conservation. Davis asked about the process for making a recommendation and whether a committee should be formed. Czamanske said that the Board could start with getting a map showing the Ag District #1 and individual parcels through County GIS. Davis asked about letting landowners know about any recommendations formed, and pointed out that it would be nice to at least send a letter. Scriber added that they should know they can apply to be re-added. Czamanske said the Board could have a meeting and invite potentially affected landowners or have a public hearing.

Ted Crane said that there is often confusion on ag tax exemptions (through the ag assessment program). There are parcels in Danby which have some tax advantage and they are clearly outside the ag districts, so it is not a financial issue directly, it mostly has to do with protections for activities that the neighbors find objectionable. While he does not think anyone would care when purchasing a house if it is in or out of an ag district, what your neighbors do could matter to you; neighbors may want to cooperate to be removed. An extreme would be to remove everybody, and those who wanted to be back in could be within a year. He said he thought there was no danger of being out of the ag district because of the Town's "right to farm" law (Law No. 2 of 2009). He does not think ag districts should be used to avoid Danby's zoning. If one got a list of parcels, it would be possible to sort by size and if they are a residence; small lots with houses would be good candidates for removal. Regarding notification, he felt that, although the County will let landowners know, it would be good to explain directly, including how the decision was made. He noted that the understanding of what is agriculture has changed over time, and he feels there is a difference between farming and agriculture.

Discussion of the significance of being in an ag district

Czamanske explained the interaction of the ag district, the Town's right to farm law, and Danby's zoning. He said that the Town has made an interpretation that Local Law No. 2 of 2009 helps define the Zoning Ordinance language regarding agriculture ("customary agricultural activity"), which is a permitted use in all zones. He recommends updating the Zoning Ordinance so there is a single, unified definition and statement of what is allowed so the Town does not have to look at the local law and figure out how it impacts the zoning. When this update is made, he suggested considering if there are areas of Danby where the Town does not feel there should be carte blanche for whatever the NYS Department of Agriculture and Markets (Ag & Markets) says is permissible in an ag district, even if the land is not in an ag district. This would be worth doing because of what is already allowed by Ag & Markets and what may be allowed in the future. Gagnon pointed out that the right to farm law says "no" to confined animal feeding operations (CAFOs), and Czamanske noted that Towns cannot prohibit CAFOs in ag districts. Rundle asked what the point of taking properties out is if they can just apply to reenter. Czamanske said the Town is notified of applications and can weigh in. However, the County and Ag & Markets can override what the Town thinks.

Czamanske said that ag district protections do not apply outside of an ag district. For instance, Ag & Markets would help protect landowners from nuisance lawsuits and determines what sound agricultural practices are. What Danby's right to farm law takes from Ag & Markets and applies to non-ag areas is only the definitional piece saying what a "customary agricultural use" is. Gagnon added that part of the point of the right to farm law is to give somebody engaged in an agricultural activity something to point to strengthen their case in the event of a nuisance lawsuit. Czamanske said the right to farm law also protects people farming who the State might not define as farm operations, for example smaller operations.

Czamanske enumerated reasons why a landowner might want to be in an ag district: protection from nuisance lawsuits, limited limitation on eminent domain, and protection from unreasonable regulation. There was some question of whether the ag assessment was different if a property was in or out of an ag district, and the conclusion was that the time period needed to be in farmland or pay money back differs. Ted Crane added that farms need to be doing \$10,000 of gross sales to qualify for the ag assessment.

Richards asked if there has been any conflict in the last eight years or any reason to find that the status quo is objectionable. Czamanske said that Rogue Creek Cidery's proposal (which is not in ag district) has raised the matter of the interplay between the ag district's limitation on local regulation of farming and the Town's zoning. It is a question of what areas the Town would like to have more control of and have the zoning be dominant over the State definition of what is allowed. Gagnon said the right to farm law was designed to say, "If it's allowed in the ag district, we allow it everywhere else in Town." He noted that customary agricultural activities are currently allowed in all zones in Danby. But, customary agricultural activity has changed over time. Ag is a commercial activity, which is usually tied to the land, and therefore might not be where the Town would usually want commercial activities. If a farm does an activity that enhances viability for its commercial operation, there is a potential conflict with the other activities around it (e.g. residences). There could come a point at which what the community thinks is reasonable is at odds with Ag & Markets thinks is reasonable. There have not been problems in the past, but the right to farm law

(referencing definitions from Ag & Markets) could become a problem at some point. The Town can change the right to farm law but cannot change what Ag & Markets allows in an ag district.

Ted Crane brought up the issue of “viable land” and how that fits with Danby’s soils and agricultural districts. Ag & Markets guidelines suggest a certain percentage of ag districts should be viable farmland. Secretary de Villiers noted that certain grazing animals, such as sheep, can do well on marginal land.

It was agreed that Monika Roth would be invited to the November meeting, and the Board would begin addressing the topic after that meeting. Bergman suggested getting better maps and being careful in the Board’s decision of who to remove and how information is spread.

(6) DISCUSSION REGARDING POSSIBLE PREPARTATION OF INTERIM ZONING CHANGES

Rundle opened by saying there have been a couple of cases recently through which the Board realized the language in the Town’s Zoning Ordinance does not protect the Town from structures that they may not think are appropriate. He then described a recent training on incremental development: the concept discussed was that each new structure should be part of the Town’s future. If a structure is built that is contrary to what the Town wants for the future, it has an impact on how development will proceed. Structures should be compatible with a longer-term vision. Davis noted that this compatibility is in regard to both aesthetics and siting. Rundle said that the Town has language on siting currently but not look. He thought the Board should discuss what look commercial structures, such as retail, should have and if there is enough language in the zoning to support that (as discussed with Town Lawyer Guy Krogh in the September 5th special meeting).

Richards said he had looked up Dryden’s standards for commercial appearance and felt this was a good place to start. They have more zones, but it could give Danby ideas and be used as a template to get traction. Gagnon said that in a recent writing sample from an applicant, they described a Town that got to the point of saying they wanted a certain appearance from a commercial retail store with similar zoning language as Danby has. Rundle said he had looked at a white paper by former Danby Planner C.J. Randall, which has a lot of pictures and emphasizes vertical lines in buildings and parking that is on the side, rather than directly off the road, so it can be screened by trees. Scriber said that in the talk on incremental development she thought one point of interest was the orientation of buildings in a block or area—not having them all front the road can create more visual interest. Rundle added that he thought the Board might need to also consider the current language on signage. Ted Crane asked whether it is helpful that pictures/example images are not as specific as a written description for allowing more discretion, and this was briefly discussed. Planner Haremza suggested that they can help steer development, but that Towns need the floor of legal language to define the bottom of what they are willing to accept.

Rundle said that he felt the Planning Board should present a well-worked out, reasonable proposal to the Town Board with the hope of passing some legislation. Gagnon pointed out that something may surface

soon. Rundle thought the Board should get the process going and asked how other members would like to proceed. Scriber suggested forming a working committee to knock out the basics and bring something back to the larger group. Rundle suggested having this committee meet with Planner Haremza in early November before the Planning Board's regular meeting so that their work could be discussed at the regular meeting. Davis thought specific proposals might not happen on this timing, but it was agreed to at least report back within this time frame.

It was concluded that the committee would consist of Davis, Gagnon, and Scriber. Davis was designated coordinator and will be in touch on scheduling. Scriber asked that they also consider smaller Towns that are closer to Danby's size. Czamanske said that what might come out of this in terms of regulation would be recommendations to change the zoning here and there on the policy side or the procedural side, but also the Board might want to engage in a visual preference survey and think about what questions or requirements they would like to have ready for applicants so they do not need to be thought of in the moment.

(7) CODE OFFICER UPDATE REGARDING REGULATION OF MOBILE TINY HOUSES

Planner Czamanske said he was not able to discuss this topic with Code Officer Norman, but there is nothing in the zoning regulating parking of campers, RVs, or mobile tiny houses. The Board could consider if this is something they would like to regulate, and whether a tiny home is any different than a camper.

Davis said that he felt there was a difference if something was a residence, and the Town should consider putting the burden of proof on owners to show that a tiny home is not a full-time residence; otherwise, it should be regulated as a second dwelling. Czamanske said there is a question of at what point something becomes a dwelling. Future Planner Haremza pointed out that tiny houses often do not meet minimum square foot requirements, which might mean they cannot be considered second dwellings. Gagnon questioned whether there is any problem with tiny homes conceptually given that there are concerns about the affordability of single-family homes and one alternative is to reduce size. Davis clarified that he was talking about setbacks specifically, not size, and that he felt exempting tiny houses being used as residences from setbacks is violating the spirit of the zoning. Czamanske said that some places do regulate parking of RVs, etc., for example limiting them to six weeks of use in one spot.

(8) PLANNER'S REPORT

Town Planner Czamanske reported the following:

- The new planner, Jason Haremza, is here! 😊
- Czamanske has approximately eight hours left of paid time to work. It has been a pleasure.

- Will the Board accept a hand-drawn, to-scale sketch plan for a sketch plan conference for a standard subdivision? The answer was yes. Gagnon said the Board has generally held that as long as someone can do it reasonably well they do not need to hire a professional and incur the additional expense.

(9) ITEMS FOR NEXT MEETING

Monica Roth, who could not attend this meeting, is expected to come to the November meeting. There will also be a report from the committee created to consider appearance standards for the commercial zone. Gagnon said he would also like to have a discussion on possible interim changes to address residential sprawl. He asked how the other members of the Board would like to address this given that it is contrary to the vision in the Town's Comprehensive Plan and the wishes of many in the Town. He is suggesting some action as an intermediary step, a placeholder—possibly changing the minimum lot size or adjusting frontage requirements—until further changes are made to the zoning. Scriber pointed out that those changes might hurt people who are not able to afford larger lots, and Gagnon agreed that, without more zones, larger lot sizes can drive gentrification. It was decided that this would only be discussed at the November meeting if there was time.

(10) ADJOURNMENT

The meeting was adjourned at 9:01pm.

Alyssa de Villiers – Recording Secretary