

Town of Danby Planning Board
Minutes of Regular Meeting
January 16, 2020

PRESENT:

Scott Davis
Kathy Jett
Elana Maragni
Bruce Richards
Jody Scriber
Jim Rundle (Chair)

ABSENT:

Ed Bergman

OTHER ATTENDEES:

| | |
|---------------------|--|
| Town Planner | Jason Haremza |
| Town Board Liaison | Leslie Connors |
| Recording Secretary | Alyssa de Villiers |
| Public | John Barradas, Andy Cove, Ted Crane, Joel Gagnon (Town Supervisor), Lizzie Goggs, Robert Goggs, Rick Hardesty, Jeremy Thomspson, Matt Ulinski (Town Councilperson), John Vakiner |

The meeting was opened at 7:05pm.

Planner Haremza reviewed the materials for the cases with the Board.

(1) CALL TO ORDER / AGENDA REVIEW

Agenda item number seven, a home occupation at 1570 Danby Rd., was removed from the agenda as it did not need a special permit. Planner Haremza explained that this was because the distinction between home occupations permitted by right and those allowed by special permit is whether there are exterior changes related to the home occupation. A garage is permitted as an accessory residential structure, and therefore a home occupation is permitted because nothing on the outside is giving indication this is a home business. In its place, a discussion of the three-lot subdivision proposed by Mr. Rick Hardesty was added to the agenda; a preliminary concept map was passed out.

(2) PRIVILEGE OF THE FLOOR

Town Supervisor Gagnon discussed the creation of a planning group. The core membership would consist of interested members of the Town's boards, but it would also be open to members of the public. The goal is to have an open, participatory, inclusive process with members of the public becoming voting members if they have attended one of the last two meetings. This would allow people to be regular members or jump in and out based on interest in a particular topic. Secretary de Villiers agreed to be secretary for the group. Gagnon asked that Planning Board members express interest between now and next month's Town Board meeting so that the first meeting of this planning group could be in late February. Councilperson Ulinski added that Gagnon will be Chair and the idea is that he will set the agenda and then members of the Town's boards who form a core group will do the strategic parts. The group will meet monthly and possibly also form working groups.

Robert Goggs (155 Beardsley Lane) asked the Board about drainage areas at Beardsley Lane. He said he knows there are ongoing discussions about the flood protections there, and he asked this be flagged for a future meeting. Planner Haremza said he would put this on the agenda for February.

As the Planning Board had two new members, Kathy Jett and Elana Maragni, Chairman Rundle asked everyone to introduce themselves.

(3) APPROVAL OF MINUTES

Secretary de Villiers noted that in the December minutes she had not summarized Ted Crane's points that were made in an email to the Board prior to last month's meeting. She suggested adding the email as an attachment to the December minutes.

MOTION: Approve November and December minutes

Moved by Richards, seconded by Davis

The motion passed.

In favor: Davis, Richards, Scriber, Rundle

Abstain: Jett, Maragni

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- There will be a public hearing during the February 10th Town Board meeting on the "Commercial Design Guidelines for Site Plan Review" (which was prepared and adopted by the Planning Board and recommended to the Town Board for inclusion in the Zoning Ordinance).

- At the last Town Board meeting a number of residents came to talk about the planned extension of the South Hill Recreation Way. It seems the Town would be making a deal with NYSEG to use the land. The Town is in the process of getting more information.
- There is a proposal to harvest ash trees off the Danby Water District property. The Conservation Advisory Council (CAC) will take up the issue to get more information about the options. The Town Board is lead agency for the State Environmental Quality Review Act (SEQR). In response to a question from Davis, Connors said that the idea is to remove the ash trees before they die (due to the emerald ash borer) or treat them. There can be infrastructure damage due to the trees dying and rotting. Councilperson Ulinski added that the CAC creates management plans for these Town-owned properties and made the suggestion to harvest some trees. There are about 60 ash trees in an area of about 20 acres.

(5) PUBLIC HEARINGS

CASE #1, SPR-2019-03 Consider Site Plan Approval

Project: Thompson house

Location: Southwest corner of Danby Road and Beardsley Lane; Tax Parcel 2.-1-9.22

Applicant: Jeremy Thompson

Anticipated Board action(s) this month: Public hearing, Site plan approval

Project Description: Site Plan Review of the property at the southwest corner of Danby Road and Beardsley Lane, tax parcel 2.-1-9.22, related to a subdivision approved by the Planning Board in August 2004. The proposed project is a new 2,800 3,475 square foot single family house with two stories above ground plus a walkout basement (ground level).

The public hearing had been held open from the December 19th meeting.

Andrew Cove and Deborah Montgomery of 111 Beardsley Lane had each submitted written statements.

Robert Goggs of 155 Beardsley Lane asked for a quick summary of the project's status. Chairman Rundle explained that at the previous Planning Board meeting there was a proposal to place a house in a spot that did not conform to the agreement made when the lot was subdivided. He then read the condition placed on the site: "House construction on Lots 1 & 2 shall require site plan approval from the Planning Board. The intent is to construct the house in or near the woods so the integrity of the existing field is maintained." The Board felt the proposal they received did not comply with that and suggested resubmitting the proposal.

John Barradas, the architect on the project, explained why they originally sited the house where they did, including setback, leach field, and topography considerations. They would like to site the septic tank and leach field in front of the building, and later a second leach field to the west. After the previous meeting, they also investigated an alternative house location, Location B, in the southwest corner of the property. They asked the NYS Department of Transportation (DOT) about a driveway off of Rt. 96B for this location

but were told they would likely not be approved. He said instead they are suggesting their preferred house location (Location A herein) and planting a hedgerow of evergreens to the west of the house; they do not want to encumber the privacy of the neighbors to the west. They also are considering planting fruit trees, making the driveway narrower, and putting the parking in the back to help address the original intent of the condition on the site.

The applicant, Jeremy Thompson, added that he had an idea of a permaculture model, planting 30 or so well-manicured fruit trees so the house could be nestled in a hobby-scale orchard to keep in line with the agricultural intent. Barradas said they are not suggesting a commercial enterprise. Supervisor Gagnon noted the Town would not object if it was commercial (due to the allowance of customary agriculture uses in the Low Density Residential zone). Barradas said that the neighbors do not want that, and there are concerns about the amount of water used. Rundle confirmed with the applicant that they would be willing to put into a document that the trees will be planted.

Mr. Goggs asked if the intent of the condition was to maintain integrity from a physical or use standpoint, and if there was a note somewhere saying it had to be maintained as a potential agricultural use. Gagnon said the intent was that the land remain open and be available for agriculture; it does not address how it is used for agriculture. One consideration is trying to preserve the agricultural resource and the other is the traumatic impact on rural character of siting houses in the middle of open fields. He said that the road was originally proposed to come straight down through the field and, in an effort to preserve the agricultural resource, the developers agreed to change the road to leave the two fields essentially intact and to tuck the houses into the corners or edges of the fields to minimize the visual and practical impacts. He felt that it was concerning that the house as proposed, being an impressively large structure, would stand out in the landscape even if surrounded by some agricultural use—semi-dwarf trees are all 15' or less in height.

Mr. Goggs suggested the best option might be Location B with a longer driveway off of Beardsley Lane as a compromise to satisfy all the concerns. Gagnon said it is too bad the DOT would not allow a driveway off Rt. 96B. Board Member Davis said he had had a long driveway and it was not onerous; that idea could be a win-win. However, Thompson and Barradas expressed concern about cost and felt this would be very expensive. Mr. Hardesty (444 Jersey Hill Rd.) said that 400-500' of extra driveway could be up to \$20,000 out of pocket.

Rundle noted that currently the field is goldenrod, honeysuckle, brambles, etc. Board Member Richards asked if there was any way the Town could influence the DOT as that seemed to be the best solution, and Planner Haremza said he could talk with them. Gagnon said that it would be worth attempting DOT approval. Richards also asked about fire truck access.

The public hearing was closed at 8:01 p.m.

Board Discussion

Richards said that he understood and respected what they were trying to do with the zoning laws and the condition on the subdivision, but he was trying to balance that with acting as advocate for the landowners. If the DOT was inflexible, he would try to accommodate both parties. It would give up some of the original goal to maintain the field as agriculture, but the individuals involved deserve compassion and consideration.

Haremza presented the Board with the three possible options: (1) approve Location B with the driveway off Rt. 96B and he would take that to the DOT, (2) approve Location A, (3) hold the decision until February. Richards asked how onerous a delay would be, and Thompson said it would be expensive.

Rundle said that what was giving him pause was that the structure is substantial and would not be obscured by the planting of fruit trees. He said the west is important to the neighbors, but the Board is focused on the original intent of the condition. Board Member Scriber asked what type of agriculture it could be used for, and Gagnon said that, while not great soil, it could be improved or used for trees. Davis made some suggestions for fast-growing hardwoods, and Thompson said he would be interested in planting larger trees along the highway side, either oaks or maples.

In response to an idea from Davis about the possibility of extending the driveway a little south, largely to avoid headlights aimed at the neighbors, Mr. Cove said that, while concerned about headlights, they assume the house is for family use and are not expecting many cars. They would prefer the location further to the south but accept that that may not be a possibility. He said that if it has to be in Location A, he was concerned about the tree line between the proposed house and his house as it is already thin; he would not want the house to be moved to the west.

Rundle asked Board members to say what they were thinking. Davis said that it was troubling the development had these proscriptions placed on it when it was developed and yet a fairly large house would now be plunked there. Scriber asked about the possibility of approving Location B with an entrance off Rt. 96B but with a secondary option of approving Location A. She said she felt the architect and applicant had done a lot to address the Board's concerns, and there is a point at which she would be concerned about the Board being really unfriendly. Rundle said that if there were an agreement that included planting trees with a taller adult height, he would be inclined to accept the proposal. He said the DOT has reasons for the driveway not going onto 96B, and that is understandable. If the land use could improve from scrubland and if the proposal could provide some visual protection from the road, he would be inclined to approve it (at Location A). Richards added that maybe they cannot preserve the entire field for agriculture given the situation with the DOT so Location A with plantings on both sides of the house works. Board Member Maragni expressed support for Location A. She said that she felt it would fit better if connected to Beardsley Lane and voiced support for the privacy tree planting. She said it was hard to imagine the house in the back corner at Location B.

Rundle summarized that the orchard alone was not enough to give visual protection from the road and that something should be in the resolution regarding larger trees. It was agreed that Haremza would work out these details.

MOTION: Move the draft resolution with an addition specifying the planting of trees for visual screening for both the road and the neighbors.

Moved by Richards, seconded by Scriber

The motion passed.

In favor: Davis, Richards, Scriber, Rundle

Abstain: Jett, Maragni

(6) MINOR SUBDIVISION, 723 Nelson Road.

Applicant to submit request for minor subdivision to formally divide tax parcel 6.-1-18.22 into two parcels. The parcel is already de facto divided into two sections by a public road (Nelson Road).

Matt Ulinski explained what he wants to do: He has 20 some acres divided by a County highway, Nelson Rd. He found out you cannot get a conventional mortgage for a property divided by a highway so he would like to subdivide. It was concluded that Mr. Ulinski would submit an application and a public hearing would be scheduled for the February meeting.

(7) PROPOSED SUBDIVISION ON JERSEY HILL

Rick Hardesty explained what he wants to do: He has approximately 16 acres and would like to subdivide into three parcels. The conclusion was that he would submit an application and then a public hearing could be scheduled for the February meeting. Haremza noted that because this is a three-lot subdivision it is a standard subdivision rather than a minor subdivision, but it meets all the dimensional requirements.

(8) AGRICULTURAL DISTRICT #1

Recommendation to County Agriculture and Farmland Protection Board regarding removal of parcels from Agricultural District #1.

Rundle began by asking the Board where everyone stood. Davis said that, while he did not think this was a huge deal, with the good "right to farm" law (Local Law No. 2 of 2009) there is no reason for most properties to be in the agricultural (ag) district. The downside is that if someone is in the ag district they could use it as leverage to get some situations that would not work well or bother the neighbors. Board Member Jett asked what the benefit to landowners is in removing them, to which Rundle said none. Davis pointed out that you can be added every year but only removed every eight years.

Rundle said that the Board was making a recommendation not a decision. In her presentation to the Board, Monika Roth of Cornell Cooperative Extension said that landowners receive a letter before they are taken out of an ag district, and if they want to remain in, they usually do. He thought this went to Davis' point that this was not a really big deal. He said that with the right to farm law and ag districts in a place like Danby it

makes sense to let people know they are moving into a rural area where agriculture happens, but he found the idea of the Department of Agriculture and Markets (Ag & Markets) protecting something that is not the kind of agriculture that they think of as agriculture disturbing. The idea that Ag & Markets can expand the definition of what agriculture is is also a concern. Rundle said Haremza would include an explanation stating that the Town is concerned with the expansion of the definition of agriculture with a recommendation of parcels to be removed. Haremza said that there is a diversity of opinion in the Town on traditional farming versus agriculture versus agribusiness versus how the State defines agriculture. In the draft resolution, Haremza references the Board's concerns in the sixth whereas clause.

Rundle said he would suggest removing the red and orange parcels, and could go either way on the yellow, although some yellow parcels are apparently being farmed. Town Councilperson Connors said she went through parcel by parcel. She agreed with the red and orange parcels except for the Youth Farm on Nelson Rd., and she recommended taking the yellow parcels on Muzzy Rd. and Van De Bogart Rd. off the removal list. Richards said that whenever the State has more say over the one portion that Town government has authority on, and that is land use, he leans toward the Town retaining control over what is going to happen using their own agriculture law. He almost would think ag districts would be an opt-in thing. He said he wants to protect agriculture but is worried about the unintentional consequences and intruding into areas that have already converted into medium or low density housing neighborhoods; there is the vested interest of people who are already homeowners paying taxes. He said he sees no downside to not being in the ag district. Davis concurred. Scriber said she felt the same way; it needs to work for the people who are here. She said that if the Board does not get it totally right, people will get a letter and can say they do not want to be removed. Rundle said he was inclined to not pulling out places where some agriculture is clearly going on.

Councilperson Ulinski asked if you could qualify for ag assessment if you are not in an ag district, to which the answer was yes. Ted Crane said there is a question of perception versus reality. If you took every property in Danby out, they would still be covered by the right to farm law. He thought there was no activity happening on any of these properties that is being protected by being in an ag district. He also noted there are properties on Steam Mill Rd. that are small and heavily residential. He said that the Town might consider sending a letter themselves to properties they are recommending for removal to explain their reasoning. He also suggested that the Board might want to reference the right to farm law in the resolution.

It was concluded that the Board wanted to take the red, orange, and yellow parcels on the map out of the ag district, except for the Youth Farm, the yellow on Muzzy Rd., and the yellow on Van De Bogart Rd. Haremza would adjust the fifth whereas of the draft resolution to reflect the final number of parcels as discussed.

MOTION: Adopt the draft resolution with the number of parcels to be determined by Planner Haremza based on the discussion.

Moved by Scriber, seconded by Davis

The motion passed.

In favor: Davis, Richards, Scriber, Rundle
Abstain: Jett, Maragni

(9) DISCUSSION REGARDING POSSIBLE PREPARATION OF INTERIM ZONING CHANGES

Town Planning Group

Supervisor Gagnon said he was happy to have all members of the Planning Board participate if they wanted. He said that it can be hard to get something done during the regular meetings and if a Planning Board action is not in coordination with the Town Board there can be a lot of time and energy invested for nothing. One reason for creating this group was that a lot of the issues are overdue for being dealt with, and one of the reasons he ran for office is because he did not think the Town was focusing enough on this matter. To be most effective, parties who are most interested should be part of the process. The intent is to appoint the initial core group at the next Town Board meeting. That group would have voting rights from the get go and serve as a steering committee. Anybody could join after that. The meeting day and time is yet to be determined.

Ulinksi said that he hopes the intent of the group is to communicate with all the Town's boards with reports to and from the planning group. It will be an advisory group not a board. Haremza added that they would see how it goes and restructure as needed. Richards and Davis expressed interest, while Scriber and Rundle said they had pretty full schedules. It was concluded that Planning Board members had until the next Town Board meeting to express interest in being part of the core group.

(10) PLANNER'S REPORT

Town Planner Haremza reported the following:

- Regarding the housing conditions survey, the consultant is preparing a draft report that Haremza will present at the February 3rd Town Board meeting. The consultant himself will then report later in the month.
- Regarding the municipal housing affordability grant, the money has been secured from the County. The next step is to finalize the scope and issue the RFP for consultant services. This grant will focus on the bureaucracy of septic systems to accommodate more compact development in the hamlet.
- He is continuing to explore the situation with the hemp operation on Howland Rd.
- The Planning Board meetings will be moved to the third Tuesday of every month. This means the next meeting will be on Tuesday February 18th.

MOTION: Change Planning Board meetings from the third Thursday of the month to the third Tuesday.

Moved by Rundle, seconded by Scriber

The motion passed.

In favor: Davis, Jett, Maragni, Richards, Scriber, Rundle

(11) ADJOURNMENT

The meeting was adjourned at 9:13pm.

Alyssa de Villiers – Recording Secretary

**Town of Danby
Planning Board Resolution Number 1 of 2020**

**Approval, Site Plan Review SPR-2019-03
Beardsley Lane Lot #2, Tax Parcel 2.-1-9.22
Zoning: Low Density Residential District (LD)**

Whereas an application has been submitted for Site Plan Review of the property at the southwest corner of Danby Road and Beardsley Lane, tax parcel 2.-1-9.22, related to a subdivision approved by the Planning Board in August 2004. The proposed project is a new 3,475 square foot single family house with two stories above ground plus a walkout basement (ground level).

Whereas the 2004 Subdivision Approval included the conditions that house construction on this lot be subject to Site Plan Approval and “the intent is to construct the house in or near the woods so the integrity of the existing fields is maintained” (see Figure 1); and

Whereas legal notice was published and adjacent property owners within 500 feet notified in accordance with the Town of Danby Zoning Ordinance, Section 804; and

Whereas the Planning Board held the required Public Hearing on 12-19-2019 and that the Public Hearing was held open until 1-16-2020; and

Whereas testimony was taken on 12-19-2019 and the applicant responded with a revised site plan dated 1-6-2020 (see Figure 3) having explored two options for the location of the proposed dwelling; and

Whereas the applicant’s preferred location for the dwelling is in the northern portion of the property, east of the stand of mature trees, slightly to the northeast of the dwelling shown on the 2004 Subdivision Approval utility plan (see Figure 2); and

Whereas the revised site plan includes a formal orchard of approximately 1/3 of an acre along the eastern edge of the property and future expansion of this orchard of approximately 1/2 acre; and

Whereas the applicant has further offered visual landscape screening along the east side of the property, along Route 96B, and additional landscape screening along the west side of the property. The final details of this landscaping plan to be reviewed and approved by the Town Planner; and

Whereas the proposed orchard meets the spirit and intent of the 2004 Subdivision Approval condition regarding maintaining a traditional agrarian landscape (orchard) common to Danby and the proposed orchard meets the condition of the 2004 Subdivision Approval to a greater degree than the current condition of overgrown scrub vegetation; and

Whereas customary agricultural uses are permitted as-of-right in the Low Density Residential District per Zoning Ordinance Section 600; and

Whereas the proposed well and onsite waste water treatment (septic) system is subject to review and approval by the Tompkins County Health Department; and

Whereas per the State Environmental Quality Review Act (SEQRA) (6 CRR-NY 617.5(c)(11)), as well as Local Law #2 of 1991, Section VI (Providing for Environmental Review in the Town of Danby), this project is a Type II Action and no further environmental review is required; and

Whereas per New York State General Municipal Law Section 239, and due to the project location within 500 feet of a state road, this project was referred to the Tompkins County Department of Planning and Sustainability for review, comment, and recommendations. In a letter dated 12-17-2019, the Department stated they reviewed the proposal, as submitted, and has determined that it has no negative inter-community, or county-wide impacts and is primarily of local concern.

Now Therefore, be it Resolved that the Town of Danby Planning Board does hereby grant Site Plan Approval to Beardsley Lane Lot #2, Tax Parcel 2.-1-9.22, subject to the following:

1. Submission of the final Site Plan drawing, including landscaping plan, to the Town of Danby Town Planner and Code Enforcement Officer
2. Installation of the plantings shown on the final landscaping plan no later than 6-1-2021.
3. Obtaining a building permit from the Town of Danby by 8-1-2020

Approved January 16, 2020

James R. Rundle, Chairperson

**Town of Danby
Planning Board Resolution Number 2 of 2020**

Eight Year Review of Agricultural District #1 and Recommended Changes

Whereas County Agricultural Districts are reviewed every eight years for potential changes, per New York State Agriculture Districts Law; and

Whereas Monika Roth from Tompkins County Cornell Cooperative Extension presented to the Planning Board about the review process on 11-21-2019; and

Whereas the Town Planner prepared a draft analysis of properties recommended for removal and presented this to the Planning Board on 12-19-2019; and

Whereas the Planning Board may make recommendations, using sound land use planning, to the Tompkins County Agriculture and Farmland Protection Board regarding properties to be removed from agricultural districts; and

Whereas the Town of Danby's analysis was based generally on property size (e.g. three acres or less), proximity to other small parcels, and current land use. Upon careful review, the analysis includes 162 parcels (see attached map and list) be recommended for removal from Tompkins County Agricultural District #1; and

Whereas the Planning Board fully supports sustainably scaled, traditional farming activities but has concerns over a very expansive definition of agriculture that can now include tasting rooms (e.g. Owera Vineyards, Town of Cazenovia), retail stores, and processing facilities that can function more like commercial and industrial operations; and

Whereas uses that function more like bars, restaurants, event venues, retail stores, and industrial operations are not generally compatible with mixed farming and rural residential communities; and

Whereas these tangential agricultural and agro-business uses are not an immediate concern on the 162 properties recommended for removal, however the Planning Board sees little benefit for small parcels unlikely to be used for agricultural uses to remain in the Agricultural District; and

Now Therefore, be it Resolved that the Town of Danby Planning Board does hereby recommend 162 properties (see attached map and list) be removed from Tompkins County Agriculture District #1.

Approved January 16, 2020

James R. Rundle, Chairperson