

**Town of Danby Planning Board  
Minutes of Regular Meeting  
August 21, 2014**

**DRAFT**

**Present:**

Joel Gagnon  
Frank Kruppa  
Ted Melchen  
Jim Rundle  
Steve Selin  
Naomi Strichartz

**Absent:**

Anne Klingensmith

**Others Present:**

Secretary	Patty Jordan
Code Officer	Sue Beeners
Town Board	Jack Miller
Public	Ray VandeBogart, Mike Sullivan, Vince Kotmel

**The Meeting was opened at 7:07pm**

**Privilege of the Floor**

No comments were made.

**Additions to the Agenda**

Documents Received (the full contents of both documents are appended to these minutes):

- “Comments on the Town Board meeting of August 18” signed by Naomi Strichartz
- “Comments on the Town Board decision of August 18 to approve a Special Permit” signed by Jim Rundle.

Naomi Strichartz and Jim Rundle both had written statements that they would like entered into the records of the Planning Board and the Town Board. Strichartz read aloud her statement dated August 21, 2014, which described her negative opinion of the way in which the Town Board meeting was run on August 18th. Her statement also expressed her dissatisfaction with the communication between Guy Krogh, Town of Danby Attorney, and the Planning Board in regards to the proposed automobile repair shop, and hopes it can be improved in the future. She felt that if the attorney’s opinion was that “you may not deny,” then it should have been communicated to the PB before they voted. Rundle read aloud paragraph 4 on page 2 of his statement dated August 21, 2014, which begins “The advice of the attorney raised important questions, but we did not get a chance to ask them because the attorney chose not to give his advice to the Planing Board, and then gave his advice to the Town Board in public at a public hearing.”

There was discussion regarding the communication from Krogh to the Planning Board regarding the proposed automotive repair shop at 1753 Danby Road. Beeners said that it was a contentious matter and feels that staff was a very convenient scapegoat. She said that the attorney was not invited to the PB meeting but, had he been, she felt he would have come. She felt the attorney’s opinion was that the Special Permit could not be denied based on the automotive repair shop’s typical operational characteristics but it could be denied for clearly evident injurious potential. Rundle stated that he be-

lieves Krogh was invited to the PB meeting but that he did not have the time to attend and so sent the memo via Email instead. It was noted that although Krogh did not write his opinion in the memo itself, he did write it in the covering Email. However, the PB members did not receive that covering Email until after they had voted. Rundle said that Krogh wrote in the covering Email: "Without writing a treatise, this is a very dangerous area of law in which to try to tread upon any fine lines. You end up in federal court and often there is no insurance coverage, which is a problem as litigation costs for these cases easily run \$100,000-\$200,000, and the duration of such cases is often 2-5 years. Been there, done that, and it is indeed a process best avoided." Rundle feels strongly that if that is Krogh's opinion, he should have expressed it to the PB members before they voted. Strichartz agreed with Rundle and said that she felt the process was flawed and disrespectful to the PB and the TB. Gagnon stated that the fundamental problem is the incompatibility between a specifically permitted use in that zone and the surrounding area. There was general agreement that Sec 901(2) of the Zoning Ordinance should be improved to make the language more explicit and enforceable.

## **Approval of Minutes**

### **RESOLUTION NO. 39 OF 2014 - APPROVE MINUTES**

**Resolved**, that the Town of Danby Planning Board approves the minutes of June 19, 2014 and July 2, 2014.

**Moved by Strichartz, Second by Gagnon. The motion passed.**

**In Favor: Gagnon, Melchen, Rundle, Strichartz, Kruppa**

**Abstain: Selin**

Kruppa said he hadn't yet had a chance to 1) look into motions vs. resolutions, 2) write the letter to the attorney regarding future communications between the attorney and the Planning Board, and 3) draft wording for the pre-drafted resolutions. Kruppa asked Rundle if he would be willing to draft the letter to the attorney given how strongly he feels about the issue. Rundle agreed to draft the letter and circulate it to PB members. Beeners said that she would draft a more general wording for the pre-drafted resolutions in order to eliminate the impression that decisions had already been made.

## **Sketch Plan Review**

Consider Scheduling Public Hearing, for Application for Special Permit for second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 2167 Danby Rd., Tax Parcel 14.-1-22.6, 17.13+/- acres, LD Res. Zone, Michael and Michelle Sullivan, owners/applicants.

Michael Sullivan provided an overview of their proposal for a Special Permit. He said that his aging parents moved in with them a few years ago and just recently their young grandchildren moved in as well. His parents are now in need of a place of their own and they would like to convert the current garage into an apartment for their use.

### **RESOLUTION NO. 40 OF 2014 - SET PUBLIC HEARING**

**Resolved**, That the Town of Danby Planning Board schedule a Public Hearing for 7pm, September 18, 2014, to consider a Special Permit for a second, detached dwelling on one lot, whereby a detached garage would be converted into an accessory apartment, 2167 Danby Rd., Tax Parcel 14.-1-22.6, 17.13+/- acres, LD Res. Zone, Michael and Michelle Sullivan, owners/applicants.

**Moved by Gagnon, Second by Selin. The motion passed.**

**In Favor: Gagnon, Melchen, Rundle, Selin, Strichartz, Kruppa**

## **Zoning Office Report**

Beeners indicated that her office is not able to fit in a twice-monthly report for the PB, however, she will continue to Email the monthly report to PB members. She reported that billing activity is brisk. Matt Cooper has developed a new procedure for handling street addressing as a result of issues on Hill Road. The West Danby water tank is up and may already be in service. The Marsh Road improvement project is moving along. Beeners offered an open invitation to Town Board and Planning Board members to drop in during regular hours to see what the Zoning Office does.

## **Zoning Issues Discussion**

Kruppa reminded everyone of last month's discussion regarding changing the Zoning Ordinance. It was agreed that PB members would bring a list to this meeting of what they feel are important changes that should be made to the Ordinance. Klingensmith Emailed her suggested changes to the PB before the meeting. Her suggestions were to 1) increase minimum lot size, 2) get rid of PDZs, 3) expand the scope of informing neighbors about projects, 4) have all land divisions come before the PB, 5) increase setbacks, 6) establish a minimum distance between houses, 7) encourage "invisibility," and 8) suspend some or all of 1-7 above if a builder wants to do clustered housing. Gagnon said that some of his suggestions were related to the Subdivision and Land Division Regulations and not the zoning. He suggested either eliminating the small-lot land division provision or limiting the number of allowed parcels and decreasing the frequency of allowed subdivisions. Gagnon also referred to the large-lot land division provision which currently allows for the creation of as many lots as the owner wants as long as they are each at least 8-acres. He said this has resulted in houses "popping up in the middle of fields." Selin pointed out that it is the opposite of the preferred clustered development. Gagnon suggested getting rid of the large-lot division provision or changing it from at least 8-acres to at least 20-acres and possibly doubling the minimum road frontage.

Gagnon's next suggestion was to change a lot of the Commercial Zone "C" into either Commercial Zone "A" or Commercial Zone "B" depending on the surrounding uses. Strichartz said that this is her #1 priority.

There was extensive discussion of the idea of "invisibility" - making houses less visible from the road. There were suggestions for how best to accomplish this such as increasing the setback or offering incentives to owners. It was noted that while there are existing provisions for the PB to require owners to minimize the visual impact of the house, they are only useful for those that come before the Planning Board. Selin suggested making the required lot size large and if the owner wants to make it smaller, they would have to come before the PB. At that point, the PB could apply the provisions that already exist. This would also allow the PB to weigh the (sometimes conflicting) visual and ecological impacts. The risk is creating a climate where people have to come to the PB to do anything. Beeners pointed out that the PB would see a lot more sketch plans and, potentially, more public hearings. Kruppa questioned the uncertainty for people in the community given that changes in Board membership could have a significant impact on what is allowed from year to year. He suggested that actually delineating changes in the Zoning Ordinance would create a larger discussion that would set standards for what is allowed. Gagnon indicated that people would have certainty in getting a lot created as long as they were in compliance, the only thing that would be negotiated is how the lot is sited.

Gagnon also suggested changing the Low Density Residential Zone - Section 600(4) - Number of Lots Allowed. He recommended changing it from the current formula of "no more than one lot created for every five acres of land or per 200 feet of road frontage," to "no more than one lot created for every five acres of land."

Rundle felt that coming up with a few simple suggested changes for the TB to consider would be a good start. If PB can get a small victory, they could move on to bigger, more complex changes. He would like to see the PB focus in on a few concrete things that need to be done.

Beeners suggested a change to Section 701 – Limitations of Uses Within 200 Feet of a Residence Zone. She recommended increasing the setback for especially noxious uses from a residence or residence zone. Rundle agreed that he would like to see something changed that would remedy what just

happened with the automotive repair shop. Selin said that this suggestion would be very concise and could really result in a very effective change.

Strichartz said that she would like to suggest changing all of Commercial Zone “C” to “A” or “B.” It was pointed out that changes to the “A,” “B,” and “C” Zoning would take longer than the “increase the setback for a noxious use from a residence or residence zone” change.

The elimination of Planned Development Zones was discussed. Strichartz said that this was in Klingensmith’s Email and is also one of her own top priorities. A PDZ creates a zone and regulations specific to it. Gagnon felt that PDZs allows for someone to do something creative that is not allowed in the zoning. Beeners felt that PDZ criteria should be improved but that it is a useful tool and some are legally established. Autosalvage and Rand Haven were two mentioned by Beeners that are not legally established PDZs. Angelheart and Stork H & E are two that are approved PDZs. In the case of Stork, each time it grew, it came before the PB for approval. Gagnon pointed out that there really isn’t any place for businesses to grow in Danby. Strichartz said that, when they were last polled, a huge percentage of the population indicated that they did not want big business in Danby. Rundle wondered what the loss to Danby would be if denial of a business expansion required impact that was mentioned.

Kruppa asked what the PB members felt the next steps should be and what specific zoning changes the PB would like to submit to the TB. It was decided that changing “C” Zones to “A” or “B” would not be put forth right now. Beeners agreed to try to find some examples of exemplary commercial zoning ordinances that the PB could use as models for their future suggested changes to the commercial zoning.

It was agreed that the setback for noxious uses from a residence zone (Sec 701) and the land division regulations would be the two suggested changes that the PB would put forth to the TB. Kruppa will convey to the TB that the PB will have suggested changes for them to consider. Gagnon agreed to work with Beeners to draft language for the suggested changes to Sec 701. In addition, everyone will look at the land division regulations with a goal of having suggested language at the next meeting.

### **Comprehensive Plan Working Session**

Rundle passed around suggested amendments to the goals, objectives, and strategies for the Agricultural section. He asked for input from PB members. The Agricultural and Housing sections will be discussed at the next meeting.

### **Adjournment**

The meeting was adjourned at 8:58pm.

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Patty Jordan, Planning Board Recording Secretary