

Town of Danby Planning Board
Minutes of Regular Meeting
Thursday September 17, 2015

DRAFT

PRESENT:

Joel Gagnon
Anne Klingensmith
Frank Kruppa
Jim Rundle
Naomi Strichartz

ABSENT:

Ted Melchen
Steve Selin

OTHER ATTENDEES:

C.J. Randall Town Planner
Leslie Connors Town Board
Kelly Cecala Recording Secretary
Public Gavin Quick, Linda Fetherbay, Pat Woodworth, Frank Darrow, Ed
Fetherbay, Gary Huddle, David Hall, Kenny Makosch, Charles Tilton, Ted Crane, Ric Dietrich,
Kathleen Hunter

The meeting was opened at 7:03 pm.

CALL TO ORDER/AGENDA REVIEW:

Frank Kruppa handed out the agenda to the Board for comment and review, nothing was added or deleted.

PRIVILEGE OF THE FLOOR:

Kenny Makosch, 98 Gunderman Rd., spoke to the PB to express his concerns about the ultimate safety of the Gunderman Rd. project. He described his family and said that he and his wife moved to Danby, for the safe and quiet atmosphere. He went on to say that Gunderman Rd. was a rural road with no shoulders or lines, and that any additional traffic on the road would be unsafe for his children to ride bikes on. Makosch said that it made more sense for a large business of scale to be located somewhere closer to a main road (i.e. Danby Rd/96 B) versus deep into the residential areas of the Danby community.

Frank Darrow, 400 Gunderman Rd., spoke to the PB about how he was alarmed at the revised Gunderman Rd. proposal. Darrow said that what was presented in the spring appeared to have three new business enterprises, none of which he had any major objections too. But what is being proposed now, is much more than that. In an attempt to define it, we ended up with a "business incubator" with a large variety of tenants to which can be leased or rented. Darrow said that what we have before us is a very complex business proposal located in a very low density rural area, with an unknown set of future tenants and ideas. It appears to be an "intense business operation" which is very different and unlike anything that the Town of Danby has seen before. Darrow wanted to caution the PB and said that he was very worried about the proposal, and mainly wanted to express the "intense interest" that both he and others have about the Gunderman Rd. project.

Pat Woodworth and Charles Tilton, 305 Gunderman Rd., addressed the PB and raised questions about the Gunderman Rd. project. Woodworth asked the PB to clarify the agenda item "proposed rezoning of Planned Development Zone 10, located at 297-303 Gunderman Rd. from the currently permitted commercial use...to a mixed-use business incubator with a 4,000 +/- sq. ft future addition." Woodworth wanted to verify that just the new law document was being considered and discussed by the PB, because the term "incubator" was not mentioned in the law.

Woodworth then wanted to discuss the use of the term "mixed-use" from a planning perspective. From her research, and examples she found online, mixed-use is commonly found in urban and suburban areas with two major goals in mind (1) increase walkability and (2) decrease traffic. Woodworth also provided examples of rural mixed-use, which were found in two major categories (1) rural fringe and (2) rural town centers, hamlets, etc. and went on to illustrate that none of these common uses apply to 303 Gunderman Rd. or what is found in the Gunderman Rd. business proposal. Woodworth also commented that language found in Danby's own 2003 Comprehensive Plan contradicts the Gunderman Rd. proposal.

Woodworth said that this proposed law is spot zoning, not appropriate, and bad planning. She said that zoning is a political issue, not a legal issue, and this law could set a political precedent for other areas. Woodworth also said that it was important to note that the current PDZ did not meet code. According to Woodworth, Sue Beeners needed to apply for a variance in Syracuse for the existing building codes. Ms. Woodworth ended by saying that the Town should investigate this, and that if the Town indeed applied for the variance, they would be liable.

Ed Fetherbay, 334 Gunderman Rd., questioned if residents on Gunderman Rd. would still be allowed to hunt from their backyards. He asked specifically if the hunting regulations (feet from a dwelling or school) would change. He also said that he was in agreement with what Pat and Charles were saying (above).

Kathleen Hunter, who lives off E. King Rd., felt it was important for outside neighboring residents to speak up as well. She said that she had concerns about the use of variances, and that zoning was better.

David Hall, the Gunderman Rd. proposal applicant, addressed the PB. In regards to Hall's proposal having no limits, he stated that the current company, operating out of the existing space on Gunderman Rd., had fewer restrictions than those found in his proposal. Hall explained that the term "business incubator" was chosen to capture the spirit of the proposed business plan. The term grew as the plan was defined, and in essence the business cannot affect the areas around it beyond this "hard shell" of categories and restrictions, i.e. limitation on operating hours, and number of employees, etc. The "business incubator" language has been removed because it is not a defined term.

Ultimately Hall's idea was to make the area more useful to the Town of Danby by supporting local cottage industry, ag-businesses, adding the autism center, all while protecting the community. Hall then discussed the existing business on Gunderman Rd. He stated that it is already a "mixed-use" business and is unaware of the building not meeting code. He said the buildings were low profile, and only the roof tops could be seen by the neighbors.

Hall does not want to continue running a clothing business at the existing location. Hall wants to change the business to something that would appeal to both him and the Town, a business that many could enjoy and would be more useful. He also wants to add the restrictions (i.e. traffic, water) that don't currently exist.

Hall briefly described the application process and how the current proposed law document came to be. He confirmed that the document met both legal and plan requirements and was ultimately a collaboration of the Town Attorney and Town Planner. To Hall's knowledge his business proposal has addressed all of the Town Board and Planning Board recommendations and previous stated public concerns.

Hall also requested a fact check on the hunting law and regulations to satisfy Mr. Fetherbay's question. He clarified that an official school was not in the plan, just the autism center with some educating and training. PB Chairman, Frank Kruppa, stated that the hunting laws and regulations would be clarified for the public.

Charles Tilton, 305 Gunderman Rd., reminded all that this is a law and will last forever.

Ted Crane spoke to say that his first reaction to the Gunderman Rd. proposal was positive, that the business proposal was fine and might even be good for the Town. However, Crane then looked at the cumulative impact on the community under the new proposed law, and what the law permits, and is now fearful and believes that it is bad for the neighborhood. He gave examples of "self-serving statements" found in the law (i.e. traffic, parking, lights) which trouble him. Crane stated that the current business is bad enough, and that Hall's new plan is worse. Mr. Crane then spoke about the term "mixed use," which was previously brought up by Pat Woodworth and echoed that "mixed-use" involves the neighborhood, it should be positive, and ultimately nearby residents should want it there.

APPROVAL OF MINUTES:

MOTION - Approve July, 16 2015 Minutes

Moved by Rundle, Second by Gagnon

In Favor: Gagnon, Rundle, Strichartz, Kruppa

Abstain: Klingensmith

The motion passed

MOTION - Approve August 20, 2015 Minutes

Moved by Strichartz, Second by Rundle

In Favor: Gagnon, Rundle, Strichartz, Kruppa

Abstain: Klingensmith

The motion passed

BOARD DISCUSSION:

Planned Development Zone 10: Summit Enterprise Center Rezoning & Development Proposal (Gunderman Rd. Proposal)

Frank Kruppa asked that CJ Randall, Town Planner, begin the conversation with a summary of the information being presented. In an effort to remain focused and organized, Klingensmith requested that the members of the PB enumerate their list of questions and the goals they hope to accomplish.

Randall provided a brief legislative history of the Gunderman Rd. location. The original planned development was approved in 1988. Since then two subsequent amendments occurred (both in 1997) when it became the planned development zone as we know it today. It was a phased development to allow the previous facility to expand its operation.

After the property was purchased by Hall, he decided that he wanted to do something different with the location and took a rezoning petition before the Town in January. The January version of the proposal was not actively worked on for several months. Randall began working on the proposal and provided assistance to the applicant in drafting the documents after she started working for the Town as Planner. Randall's suggestion to the applicant is to present his ideas to the PB for the rezoning and have an open discussion on what is appropriate and what is not, while tying it to the Comprehensive Plan.

Kruppa stated that the purposes of tonight's meeting are to decide if we are going to have a public meeting, and to further deliberate and hear the public's opinion on the proposal. Kruppa asked Randall why this document was coming back to the PB, when the PB had already given previous recommendations to the Town Board. Rundle said that a Public Hearing was held back on December 18th, that the PB set up a special meeting on January 5th, and then held the usual monthly meeting to review and deliberate the original proposal. The applicant was included in every meeting, and after

much discussion, recommendations were presented, but there was no follow through. Klingensmith said that the Town Board never gave any specific feedback to the PB on their recommendations, they just vanished into thin air. Pat Woodworth added that the Town Attorney had said at a previous Town Meeting that there were significant legal flaws in the document.

Klingensmith asked Randall to summarize what the legal concerns were with the previous document. Randall said that the main concern was the improper segmentation with SEQRA, and the lack of clarity on what the task of the Planning Board was, which is not to re-write a law. Randall said that in her opinion, the PB has three straightforward options (1) motion to approve (2) recommend approval with modifications (3) don't approve.

Klingensmith wanted to know what Randall's perception was, regarding the meetings that the PB previously held on the proposal. Randall commented that she is not obligated nor authorized to have opinions about past meetings. Rather, Randall's opinion was that the PB should speak directly to the applicant and examine the document closely and ask if it complies with the Comprehensive Plan. While thinking of the Comprehensive Plan, ask if it furthers the goals and objectives laid out in the Plan. She said, after the Planning Board forwards it to the Town Board, they as lead agency will examine the traffic impact, groundwater impact, air quality, and every other category listed in SEQRA.

Strichartz said that it wasn't straightforward to her, that the new law document included uses that the applicant never mentioned before. Strichartz listed those uses. Strichartz added that there is a verifiable water shortage. Rundle wants to see how the new document relates to the previous one because they are vastly different. Rundle added that he was very concerned about water too. Rundle asked Randall how approving with recommendations was different then re-writing the law. Randall said that the recommendations are not binding. Rundle agreed, but didn't see how this process differed from what was done before. Klingensmith asked if the PB could make some general categories of modifications. Gagnon said we can, or we can be specific. Gagnon said that the scope of what is allowed now is broader than what we had before. The feedback at that time was that we allowed too much.

Gagnon said the law provides for the area labeled "lot 3" within the PDZ to be developed into residential lots, which is contrary to anything that was previously discussed, and at the same density as the high density zone. Randall then asked the PB to refer to a "crib" sheet document which gives a side by side comparison of the PDZ draft from January 2015 versus September 2015. Randall said that trying to guess what the uses are going to be in the future is not practical, but tying the uses into building code, is an easy way for a code enforcement officer to enforce the use and ensure it is compliant with the PDZ. She added that the PB has the authority to recommend to the Town Board what type of uses they do or do not want to see listed in the PDZ.

Gagnon said that although some of these uses are similar in terms of their building code similarities, they were different in terms of the kind of businesses that I would like to see in a rural area, versus the middle of town, and the traffic that they would generate. Klingensmith added that the traffic concerns around these potential businesses was not something that David had particularly asked for.

David Hall said that he thought the Planning Board's job was to measure total impact and that the Town Board took a broader view of the entire proposal. Hall felt good about the outcome of the previous discussions and meetings, which resulted in the new document being considered. Hall acknowledged that Town Attorney Guy Krogh found that the way the original document was "crafted" was effective but not legally correct. Hall stressed that it had been a long process and said "tell me what we can do here" to move this forward? Kruppa suggested that the PB have a goal to work towards, and said to focus on the things that they want the Town Board to consider.

Randall recommended that the PB focus largely on zoning as it pertains to land use, because the action is about zoning and it's uses. She said that discussing the hours of operation and the number of employees are all "ultra vires" (or invalid) and outside the scope of the Planning Board's authority. Klingensmith asked how this pertained to water. Randall said that water impacts to groundwater would be covered in Section 12 of SEQRA and essentially the Town Board would consider the engineers' water consumption submission report and would take action from there.

After an open discussion with David Hall and CJ Randall, the Planning Board members began reviewing the Gunderman Rd. document and the uses listed and have made the following recommended changes:

Section 5 B 2 Allowed Principal And Accessory Uses; Lot Locations:

(a) The Residential and Agricultural Area (Lot 3) Page 6:

(1) Uses Permitted as of Right:

- a. Make change to 5 acres - new recommendation: One single-family or one two-family dwelling per lot, but not to exceed a density of one dwelling per 5 acres
- e. Special Harvest Activities (question commercial use because of possible traffic impact)
- g. Strike "a remote site" - new recommendation: Solar, wind, and geothermal facilities, and similar future technologies, intended to serve the PDZ

(2) Uses Permitted as of Right, but subject to Site Plan Review and Approval by the Planning Board:

Delete c,d,e,f, and g

Add a new use: Solar, wind, and geothermal facilities, and similar future technologies, intended to serve a remote site.

(b) The Commercial Development Area (Lot 2) Page 7:

(1) Uses Allowed as of Right:

b. Do not like the wording of "Medical clinics for outpatient treatment and testing up to 12,000 sq. ft total within the PDZ" - applicant said this is needed for the Autism center. The PB is uncomfortable with the current wording and the loose term "medical clinics"

d. Food and Beverage Processing - Strichartz is opposed to this use because of the low water availability in this part of Town and the applicant's water consumption of 2,000 gallons per day. This is a key item, therefore the PB will discuss this further at the next meeting. Randall suggested having the applicant's engineer present at the Public Hearing.

h. Add square footage limitation of 300 sq. ft: Barber and beauty shops not to exceed 300 sq. ft

Delete j, l, and n.

MOTION - Set Public Hearing

Moved by Gagnon, second by Klingensmith, that the Town of Danby Planning Board schedule a Public Hearing for 7pm, October 15, 2015 to consider Planned Development Zone 10: Summit Enterprise Center Rezoning & Development Proposal at 297-303 Gunderman Rd., David Hall applicant.

In Favor: Unanimous

The motion passed

MOTION to hold a special meeting on October 22, 2015

Moved by Strichartz, second by Klingensmith

The Planning Board will hold a special meeting on October 22, 2015 to discuss the outcome of the Public Hearing.

In Favor: Unanimous

The motion passed

MOTION to adjourn current meeting

Moved by Kruppa, second by Strichartz

In Favor: Unanimous

The motion passed

Due to time constraints, Kruppa waived the remaining items on the agenda.

**GROUNDWATER PROTECTION LAW UPDATE
TOWN BOARD LIAISON REPORT
PLANNING & ZONING REPORT
COMPREHENSIVE PLAN REPORT**

ADJOURNMENT

The meeting was adjourned at 9:26 pm.

Kelly Cecala, Planning Board & Board of Zoning Appeals Recording Secretary