

Town of Danby Planning Board
Minutes of Regular Meeting
July 19, 2018

PRESENT:

Ed Bergman
Scott Davis
Joel Gagnon
Jodi Scriber
Naomi Strichartz
Jim Rundle (Acting Chair)

OTHER ATTENDEES:

Town Board	Leslie Connors
Town Planner	C.J. Randall
Recording Secretary	Alyssa de Villiers
Public	Devon Buckley, Ted Crane, Earl Hicks, Brian Marsh

The meeting was opened at 7:02pm.

MOTION: Appoint Jim Rundle Acting Chair for the duration of the meeting

Moved by Gagnon, seconded by Strichartz

The motion passed.

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

(1) CALL TO ORDER/AGENDA REVIEW

Scriber added discussion of the Chair position to the agenda as item number eight. Topics to add to next month's agenda was later added by Rundle as item number nine.

(2) PRIVILEGE OF THE FLOOR

Ted Crane again urged the Planning Board to recommend the Town Board remove special permits from the Zoning Ordinance until the process can be replaced with something else. He reiterated his concern that special permits are allowed by right, not by privilege, and suggested that the Board of Zoning Appeals could handle them as variances.

(3) APPROVAL OF MINUTES

MOTION: Approve June minutes

Moved by Gagnon, seconded by Scriber

The motion passed.

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

(4) TOWN BOARD LIASON REPORT

Leslie Connors shared an update on the Town Board's consideration of making the Highway Superintendent an appointed rather than elected position. There is an upcoming public hearing on August 20th at 6:30pm, and a mailing describing the pros and cons is in the works. She also said that Town Board members have again been reminded to use their Town email accounts for Town business.

(5) ACTION ITEMS

Project: Special Permit for Earth Rhythms Day Care Center

Location: 1230 Danby Rd, Tax Parcel # 2.-1-8.1

Applicant: Devon Buckley for Pamela Kaminsky, Owner

Anticipated Board action(s) this month: Declaration of Lead Agency

Project Description: The Applicant proposes the establishment of a Day Care Center in the existing 4,371 square foot building, permitted by Special Permit under Town of Danby Zoning Ordinance Section 603(4)(d)(i). The property is currently zoned Commercial B. This is an Unlisted action under the Town of Danby Environmental Review of Actions and an Unlisted action under the State Environmental Quality Review Act and is subject to environmental review.

Devon Buckley and her partner Brian Marsh spoke to the Board about their proposal. Buckley described her journey to child care and described her current child care program, Earth Rhythms Day Care, which is run at her home on 104 Ridgecrest Rd. She has been working in the field for 20 years, some of which time was spent directing programs. She focuses on home-centric child care; she explained this means child care in an environment that feels more like home life, which eases the transition for attending children. She follows many Waldorf principles, offers home-cooked meals, and emphasizes outdoor play. She had hoped to buy the property at 1230 Danby Rd. (formerly Oasis Dance Club), but first needs to demonstrate to the bank the ability to increase enrollment; the goal is still to purchase the property. The couple intends to use the certified kitchen to cook meals, leave the dance floor intact for gym, yoga or studio activities, and operate the main activities of the daycare in the remaining space. The outdoor space will be used for play, and there may be events where non-amplified music would play on the outdoor stage. They are currently able to support care for two infants, and the move will allow them to double this number. They will also have a toddler room and a preschool room. The total enrollment is expected to be around 30 children. They hope to engage other groups, such as the homeschooler community or perhaps a forest kindergarten, in using the space as well. January 2019 is the earliest Buckley anticipates completing construction.

It was clarified that the owner, Pamela Kaminsky, had sold the property to David Hall, but then purchased it back in June of this year for the amount that hadn't been paid through the mortgage.

The Planning Board agreed there is a great need for childcare in the area, and thought that neighbors are likely to be happier with a daytime-operated child care facility than a nightclub. Gagnon asked if the applicants were moving the existing Earth Rhythms Day Care to this location, as opposed to operating both in their home and on this site. The applicants clarified that, yes, this was the case. Scriber confirmed with the applicants that they knew to be in contact with Family and Children's Services as well as the Health Department. Rundle added that they would need approval from both these agencies. The applicants were aware of this and added they would also need approval from the Fire Department. Scriber also asked about wheelchair accessibility. The site is currently wheelchair accessible, but the applicants believe they may need to add a second ramp as an exit for fire safety. Rundle inquired about fencing, particularly on the edge of the highway. One outdoor area is already fenced in, but the applicants will also be adding fencing.

Strichartz clarified that there was no access on 96B, only off of Comfort Rd., and some discussion followed. As the entrance on Comfort quickly follows the turn off of 96B, traffic disturbance to the neighborhood was agreed to be low. In response to a question from Davis, Buckley said she thought there would be 20--24 cars coming and going; this number is less than the predicted enrollment of 30 children because some are siblings. Employee vehicles would be in addition to this figure. Davis confirmed with the applicants that they believe everyone will be able to pull into the establishment without causing any holdups.

The Planning Board reviewed the Short Environmental Assessment Form and had the following recommended change:

Q. 14 should have "suburban" checked.

Gagnon also noted question 17 was marked "no," indicating the proposed action will not create storm water discharge, and sought confirmation this was accurate. He also suggested that if there was any issue with storm water discharge, this would be a good time to address it. The applicants confirmed they did not think there would be a change. They also did not think there is any current problem, particularly as the bulk of the parking area is gravel and the paved parking area is small; the proposed changes are largely internal.

Randall added that, because the property is within 500 feet of the municipal boundary, right on the Town Line, the application will now go to County Planning.

MOTION: Declaration of Lead Agency

Moved by Strichartz, seconded by Gagnon

The motion passed.

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

PLANNING BOARD RESOLUTION NO. 21 OF 2018 - DECLARATION OF LEAD AGENCY, SPECIAL PERMIT FOR EARTH RHYTHMS DAY CARE CENTER, 1230 DANBY ROAD, TAX PARCEL #2.-1-8.1

Whereas an application has been submitted for review and approval by the Town of Danby Planning Board for a Special Permit for a Day Care Center at Town of Danby Tax Parcel No. 2.-1-8.1, by Devon Buckley, Applicant and Pamela Kaminsky, Owner; and

Whereas the Applicant proposes the creation of a Day Care Center in the existing 4,371 square foot building;

Whereas this proposal action is reviewed under Article IX: Special Permits, of the Zoning Ordinance of the Town of Danby; and

Whereas 6 NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA) requires that a Lead Agency be established for conducting environmental review of projects in accordance with local and state environmental law; and

Whereas this is an Unlisted Action under the Town of Danby Environmental Review of Actions and the State Environmental Quality Review Act and is subject to environmental review; and

Whereas State Law specifies that, for actions governed by local environmental review, the Lead Agency shall be that local agency which has primary responsibility for approving and funding or carrying out the action;

Whereas the Planning Board is the local agency with primary responsibility for approving the action; Now Therefore, be it

Resolved that the Town of Danby Planning Board does hereby declare itself Lead Agency for the environmental review for the action of Special Permit approval for Town of Danby Tax Parcel No. 2.-1-8.1, by Devon Buckley, Applicant and Pamela Kaminsky, Owner.

MOTION: Set Public Hearing for August 16, 2018 at 7:00pm

Moved by Gagnon, seconded by Strichartz

The motion passed.

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

Discussion of Surrounding Zoning

Ted Crane wondered what was going on with the neighboring two parcels, which are zoned as Commercial B. He remembered that it was all one property that was then divided, which is why those two are also zoned as commercial. Randall responded that one parcel is a single-family home, and the other is woods with no road frontage; both are approximately one acre in size. Crane raised the question of how the one acre lot sizes and lack of road frontage happened, and wondered if it would make sense to change the zoning on those properties to not be commercial.

Bergman asked that Randall review the definition and uses of Commercial B zoning. Randall explained that the intention is that Commercial A is of least impact and Commercial C of greatest impact, with Commercial B being of moderate impact. The zoning is nested so that the uses allowed in "B" are the ones specified, plus the uses allowed in "A," plus all the other less-impactful uses. Given this, Bergman asked why a special permit would be needed in "A," to which Randall answered that if a special permit is needed in "A," it is still needed in "B." Davis contributed that to deny a special permit you would need to prove its incompatibility. Gagnon added that the point of special permits is to help ensure compatibility and make sure impacts are mitigated by adding any necessary conditions. Bergman suggested that, in the future, the Board could consider whether it makes sense to require a permit in cases where the use is appropriate for the zoning; if it is allowed by special permit in "A," maybe it shouldn't need a special permit if zoned as "B."

(6) PLANNING AND ZONING REPORT

Gagnon asked that Randall go back to sharing her monthly Code Office Report with the Planning Board. She has been posting it online on the Code Enforcement webpage (found by clicking “Links”), but was happy to also send it via email.

C.J. Randall, Town Planner, reported the following:

- The application deadline for the Intent to Apply for the housing needs assessment through the Community Development Block Grant program (CDBG) is July 27th. This is a priority for the Town Supervisor as the inventory can help the Town get money to help residents who need assistance.
- Work is continuing on a TCAT shelter on 96B across from the Town Hall. Coordination is ongoing between TCAT, the Highway Department, NYSDOT, and the Dotson Park Community Association.
- The enhanced Verizon Wireless network is ready to be activated.
- The two-port electric vehicle charging station should be coming at the end of the month. The agreed upon site appears to be to the north of Town Hall.
- Paul Hansen, the Code Enforcement Officer, is planning some site layouts of how the redesign of the front of Town Hall will work with the EV charging station. The north side entry of the Town Hall is not compliant with the Americans with Disabilities Act of 1990 (ADA) requirements regarding wheelchair accessibility. Hansen is working on the necessary fixes and incorporating the two new parking spaces for the EV charging station.
- In June Randall also met with the Highway Department and the project consultants on the City of Ithaca Flood Study. These are the same engineers working on the Brown Rd. stabilization project. FEMA and DEC are other players also looking at hydrology, sediment, and water flow models. With one stream, Danby contributes around 9,000 tons of sediment a year into Cayuga Inlet. Watershed-wide projects like these help the Town, help the Town and City of Ithaca, and help Cayuga Lake, creating, as Randall put it, many wins.

(7) ZONING AUDIT REVIEW

Randall gave members a packet providing initial answers to some of the questions she had previously provided. It was agreed that Board members would review these answers at home and submit their thoughts, edits, and questions to Randall. Discussion of this group of questions will follow at the next

meeting, and Randall will hand out a new set of answered questions for review. This will culminate in a report, which could be presented from the Planning Board to the Town Board.

As an example, Randall addressed the first question regarding the policing power of zoning and Municipal Home Rule Authority. Something like this is important to have clearly referenced, she explained, so that if the Town would like to preempt NYS Town Law, the municipality will have the authority to do so. It could come up in an instance such as offering density bonuses — perhaps in exchange for a conservation easement, keeping some land in working farmland in perpetuity, or allowing the public on some of the land — in the case of a cluster subdivision.

Bergman pointed out that midway down on page three the answer reads, “No — There...” and then stops. Randall said to cross out the word “There;” the answer is just “No.”

Gagnon asked if Randall was confident that by going through this comprehensive zoning audit the Planning Board would successfully identify all the issues and concerns the Town has faced in the past with the Zoning Ordinance — will all the problems come up? Randall felt that this review would not miss much. She identified some of the biggest problems with the current ordinance, including conflicting definitions and outdated range of uses. She suggested that there are now more uses to consider, like value-added ag, and that the ordinance needs to be a living document; currently it has not been revised for some time. She emphasized that right now the zoning is cumbersome and not easy for the public to understand and access. Bergman added that he feels strongly that the regulations should not be so difficult to navigate — it should be clear to the public what they can and can’t do.

Randall also brought up that the Town’s laws are not codified, and, unlike in the City of Ithaca, there is no database where all the laws are cross-referenced and can easily be searched for. Danby has many local laws, but many are most easily accessed through institutional memory. She added that there is money available from New York State to address this issue.

(8) DISCUSSION OF CHAIR POSITION

Scriber asked about what the process of appointing a Chair would be like, and what actions, if any, the Planning Board should take. Randall said that Danby’s Zoning Ordinance actually articulates how a chairperson is appointed (Section 1105). The Chair is a Town Board appointment. The Town Supervisor, Ric Dietrich, has asked members of the Planning Board to put forward a nomination to him. Randall also said that the Planning Board could appoint a Vice Chair who would automatically act as Chair in the event that the Chair was not present. A motion was passed to appoint Jim Rundle Vice Chair of the Planning Board, and as such he will act as Chair until the Town Board appoints one. Rather than put forth a suggestion for Chair as a unit, it was agreed that individuals will submit their suggestion directly to Dietrich. Connors also reminded the Planning Board that, while recommendations would certainly be taken into

consideration, the Town Board might pick somebody else, and possibly somebody not currently on the Planning Board.

MOTION: Appoint Jim Rundle Vice Chair

Moved by Strichartz, seconded by Scriber

The motion passed.

In favor: Bergman, Davis, Gagnon, Scriber, Strichartz

Abstaining: Rundle

(9) NEXT MONTH'S AGENDA

Davis asked that a discussion of a further recommendation to the Town Board regarding special permits be put on the agenda for next month's meeting. Randall added that special permits will also be addressed by the zoning audit. Members also wanted to further discuss the two parcels adjacent to 1230 Danby Rd., currently zoned Commercial B.

(10) ADJOURNMENT

The meeting was adjourned at 8:28pm.

Alyssa de Villiers – Recording Secretary