

Town of Danby Planning Board
Minutes of Regular Meeting
June 20, 2019

PRESENT:

Ed Bergman
Joel Gagnon
Bruce Richards
Jody Scriber
Naomi Strichartz
Jim Rundle (Chair)

ABSENT:

Scott Davis

OTHER ATTENDEES:

Town Planner	John Czamanske
Town Board Liaison	Leslie Connors
Recording Secretary	Alyssa de Villiers
Public	Devon Buckley, Ted Crane, Ric Dietrich (Town Supervisor), Katherine Hunter, Ted Melchen, Greg Nelson, John Norman (Code Enforcement Officer), Mark Pruce, Lucy, Mike and Tilia Rowell, Steven Woinoski

The meeting was opened at 7:03pm.

(1) CALL TO ORDER / AGENDA REVIEW

No changes were made to the agenda.

(2) PRIVILEGE OF THE FLOOR

Devon Buckley spoke regarding a solstice celebration she was intending to have at 1230 Danby Rd. (corner of Comfort Rd.), the site where she is planning to open an expansion of the daycare she runs, Earth Rhythms. She said she would now not be having it at that location. When she applied to the Planning Board to set up a daycare (June 19, 2018 meeting), she pointed out that she said she intended to do community get-togethers seasonally. She stated that while trying to set up this event, not only does she feel she did not receive clearly defined steps from either Planner Czamanske or Code Officer Norman, but the tone of an email from Czamanske was very upsetting. She read excerpts from the email chain with both

Town employees to the Planning Board. Buckley acknowledged that she did not seem to receive an email from Norman that he sent on June 4th.

Czamanske responded to Buckley, recounting his timeline of events, and stating that Buckley was told early on in the process that she would need to come before the Planning Board to have the issued special permit revised. (An email to Buckley from Czamanske, which she read, stated that the Planning Board's approval was only granted for a special permit for renovation of the existing building into a daycare.) Norman also spoke to the history of the issue, stating that at a site visit in March the interior space was partially deconstructed. In response to an email received from Buckley May 30th regarding her plans, Norman emailed on June 4th with his concerns, including the lack of a certificate of occupancy, using the American Legion for parking, the Town of Ithaca noise ordinance due to the site's location on the northern Town of Danby line, and the need for a special use permit from the Planning Board. Chairman Rundle added that as this is a new use of the space, Buckley would need to get the approval of a special use permit.

Buckley concluded by saying that she felt she was not getting enough support from the Town. She was not clear on what to do, or what the first step explicitly should be in the process of getting this permit. She was also still very upset about the tone and language of the email from Czamanske.

(3) APPROVAL OF MINUTES

MOTION: Approve May minutes

Moved by Strichartz, seconded by Gagnon

The motion passed.

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

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- Connors attended the second Town Board meeting in which a Tompkins County web-based system for evaluating road conditions at intersections was discussed. This could help inform the Highway Department.

(5) SUBDIVISION CONFERENCE re correction of Melchen Subdivision Plat approved 1/19/2017

Planner Czamanske recounted the history of the subdivision, and the question of what to do now. Some land across Deputron Hollow Road had not been included in the original subdivision—only one new parcel was created rather than two. Some of the land is under conservation easement. Czamanske had reviewed

the Planning Board, Town Board, and Board of Zoning Appeals (BZA) actions, and suggested one option would be to take the September 2013 survey map, which Melchen's surveyor could use to do a subdivision plat that would show there is currently still land across the road that has not been subdivided. Hopefully this should be an easy fix that the Town Board and BZA would not need to review again; Czamanske will check with the Town attorney. He asked whether the Board was comfortable reviewing the surveyor's plat and having the public hearing in the same meeting, and said that this would come before the Board in July if it does not need to be reviewed by any other boards. The anticipated action would be to approve minor subdivision of 13 acres from land across Deputron Hollow Rd.

Rundle said that the Board should make sure that this is clear for the future. Gagnon said that clearly a mistake was made, and asked if it was a problem for the minor subdivision that it was not on a year-round road. Czamanske said that the BZA had originally granted a variance for this, and he hoped the way it was worded would mean they did not need to go through the process again. The Board agreed one meeting would be sufficient.

(6) SITE PLAN REVIEW - WHITE HAWK ECOVILLAGE

Czamanske asked Guy Krogh, the Town's attorney, to look at the offering plan, and it was agreed that White Hawk remains in unified ownership—it is not a subdivision. Regarding the offering plan, Czamanske asked that two notes be added to the plan and eventual resolution, one stating the lots are not separately conveyed lands but rather indicate the areas where members are able to build houses, and the second that the two tax parcels are consolidated. White Hawk does not need to show the line between these two parcels, but if they would like to subdivide in the future, a subdivision approval would be needed. Gagnon pointed out that this was again the issue of "consolidation for tax purposes" but in this case the lots would in effect be consolidated for all purposes, and confirmed that this was acceptable to White Hawk.

Czamanske passed out a double-sided printout detailing bullet points from an email he had sent to White Hawk listing what steps need to be taken. Rundle acknowledged that there has been some tension on both sides, but that it has culminated in this list of changes and additions, which Czamanske believes are fairly minor changes that can be done relatively quickly. Rundle asked if everyone was now in agreement, and whether any modifications were needed. The next step would be to hold a public hearing. Any changes should be made before then, as Rundle, as Chairperson, will need to be signing an accurate document. Czamanske added that the referral to County Planning needs to occur and be full and correct prior to the public hearing; the conditional approval relating to stormwater will be conveyed to the County. Before the County recommends an action, the Town cannot legally act. Czamanske hoped that this part of the process could be done in two weeks.

Regarding the conditional approval and the cost of an independent evaluation of stormwater management, Czamanske passed out a draft of the condition. He also had spoken with Dave Herrick at T.G. Miller to get a sense of the cost of evaluating the following: is the stormwater infrastructure constructed the way it was

designed, are there any deviations, what fixes are needed, what is the current status of the system, and what is a schedule for future maintenance. This would result in a written document without a lot of calculations and could be a few hours of an engineer's time. Czamanske said there is some money (\$845) in escrow that could be used for the rezoning fee (\$170), site plan review (\$120), and for the cost of the engineer. He added that the conditional approval would include both the engineer's report and acceptance of what it states.

Greg Nelson of White Hawk said that the bullet list seemed reasonable, and that they did not want any later additions. He also said that he had not previously been clear on the critical path with the County. Mark Pruce from White Hawk said that the draft condition was what he was expecting. However, regarding notes being added to the site plan, their engineer, Steve Maybee, expressed concern about adding many legal notes to the site plan he will be stamping. Could they perhaps go in a cover letter? Czamanske said it would be possible for the notes to go on a cover sheet, but it was customary for notes to be on the plan. Other suggestions included putting a note on the plan referencing another document (Rundle) or stating that the notes come from the Planning Board, not the engineer (Richards).

Richards clarified the points as he saw them---make the appropriate changes on paper, keep muddy runoff out of Buttermilk Creek (stormwater), make sure a fire truck can make it over the bridge (related to road and stormwater maintenance)---with nothing being too substantial and going by the laws in existence at the time.

Czamanske read a note from Board member Scott Davis who was not able to attend the meeting. It said that in the previous meeting someone had mentioned "it happens all the time" in relation to pipes and other things being discovered where they should not be. He does not think that that is the case. Also, Davis felt that, big picture, it is a large site and the difference in runoff between the site as a fallow field versus as White Hawk Ecovillage is negligible.

Regarding new construction, there is some question of whether White Hawk will fall under the stormwater management regulations that were in place at the time they began building or the new regulations. Czamanske has brought the issue to the Town attorney and Dave Herrick at T.G. Miller. Herrick thought that if the permit was open, the notice of intent was filed with the Department of Conservation (DEC), and then the permit was closed, any new activity would be under new regulations. If the notice of termination was not filed and the permit remained open, then White Hawk would be under the old regulations. Czamanske did not find anything in the vault pertaining to this question and will reach out to the DEC to investigate further. If White Hawk were to add, say, a bakery, they would need a Stormwater Pollution Prevention Plan (SWPPP) for that based on the current regulations.

Czamanske reviewed the additions that are not on the bullet-point list: (1) Lot 1 should be shown with a dotted line because it is in the offering plan; it could be labeled "former Lot 1," (2) Dave Herrick could review the engineer's (possibly Scott Gibson's) report on stormwater, (3) would White Hawk be alright showing outlines of a common house on Lot 1? This would be so they do not have to come in for site plan

review for that; it is shown on an early plan. In addition to this are the two notes regarding the offering plan that Czamanske mentioned at the beginning of the discussion.

Mark Pruce said he did not understand why Lot 1 needs to be back on the plan; it has gone back and forth a couple times now. Czamanske said it is because of how it is referred to in the offering plan. Gagnon asked Czamanske to clarify that he is not asking for a comparison between the current regulations and the old regulations in Dave Herrick's review of the engineer's stormwater report; Czamanske said he is not. Ted Crane asked about the possibility of printing out each layer that is currently in color in black on separate sheets of paper for clarity, with a master copy that has them all. Czamanske replied that it is particularly problematic currently because of a rendering error. Crane also suggested that perhaps, given the amount of work that has gone into this, the Town could find a way to say that if there are questions to be resolved in the future that are not initiated by White Hawk, they would be resolved at the Town's expense. That way once the Town accepts this, it would be taking responsibility for it rather than making White Hawk do it again.

Rundle brought the discussion to whether the Board would be ready to set a public hearing. Gagnon felt that if there is agreement on what needs to be done, then there is no reason not to set the hearing. Richards noted that the hearing would be for conditional approval, and wanted to make sure that White Hawk would have enough funds available to be able to perform on whatever the report recommends. He also wanted to be clear exactly whose responsibility it would be if something does not go right. Steven Woinoski from White Hawk addressed this, saying that any financial issues should be resolved now that White Hawk has their offering plan and can sell lots, and that he just purchased a tractor and can personally address a number of stormwater maintenance actions like clearing ditches. Pruce added that they have a line-by-line budget for maintenance with a mechanism to increase monthly fees for members if maintenance costs increase. Scriber said she remembered them saying that and that they had people waiting to build.

Czamanske said that White Hawk will send an engineer's report and commitment letter to the Town including a timeline. Then, after any necessary discussion and changes, the Planning Board will pass a resolution accepting White Hawk's commitment to do the work and deem the condition met. Pruce noted that the draft condition says they will have the report to the Planning Board in six months; he did not think they could commit to a timeframe in which the work will be completed until the report is done. Rundle and Czamanske then outlined the immediate process: next month will be the public hearing on the site plan with conditions, the draft conditions will be finalized (everyone can submit comments before then), Czamanske will send the site plan to the County and get comments back before the next meeting, and he will write up draft resolutions for the Board. Czamanske added that he also had the idea to separate the utilities from the site plan to help with legibility, but this is not critical. The Planning Board signature then would be on the plan without color. Nelson said he would discuss this with Steve Maybee.

Bergman wanted to make sure it was clear what everyone was agreeing on, and that there would be no further additions or extra changes; he wondered how to make that official. Czamanske said that a

consensus was shown by the Board in agreeing to the two-sided sheet with bullet points and what had been added during the course of the meeting, and that White Hawk also was okay with making those changes. Strichartz expressed that she is in favor of White Hawk, it seemed there would be plenty of time to get the needed information, the Town will be sufficiently protected, and if there are any objections the Town Board could be the next body to weigh in. She said she would be upset right now if she was living in White Hawk. She clarified what the legal entity is: White Hawk Ecovillage Community Inc., and they have an elected Board of Directors as spelled out in their offering plan.

MOTION: Set a public hearing for July 18, 2019 at 7:00pm

Moved by Strichartz, seconded by Gagnon

The motion passed.

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

(7) PLANNING AND ZONING REPORT

Town Planner Czamanske reported the following:

- He has been working on White Hawk, Earth Rhythms, Ted Melchen's subdivision, a BZA area variance, and with Ric Dietrich (Town Supervisor) and Jack Shawley (Highway Dept.) on the CMC subdivision and the stormwater situation there.
- There are no new applications to the Planning Board.
- In response to a question from Gagnon about progress on the zoning audit and revisions to the ordinance, Czamanske said thus far he has been making notes, having conversations, and looking to see if everything is current in the ordinance, which Leslie Connors is assisting with. It would be great to have a zoning ordinance structure to adopt as a template that Boards could then customize with zones and uses rather than trying to fix things here and there. While Czamanske did take the civil service test so he could work into January, he will not be here next year, and a new person will need to be hired.

This means considering the job description. Gagnon wondered if the time of hiring matters, but Czamanske said he thought the pay and job description were most important. He mentioned the issue of defining a zoning officer and squaring away the zoning language with the administrative end. He agreed that there should be a full-time planner. He added that when there is not clear definition of where all the laws are and what the processes are, it can be a frustrating situation; it would be great if the zoning was fixed, processes in the zoning were clear and everyone could see what they are, employees had clear job descriptions and responsibilities, forms were updated and

tied to ordinances, and, even though a lot of good work has been done, further recordkeeping systems were in place to make order moving forward easier to create.

Scriber said, imagining the Town had the money, she thought it would take a full-time person with experience to address the zoning. She also said that it seemed like a road map was needed to work from, and that right now, with day-to-day needs and without the personnel or a clear plan, it was not really possible to move forward. Czamanske agreed and thought that something further than just a full-time position would be needed to help with tackling zoning. He said that there is both the Comprehensive Plan and the laws and regulations to consider. There are models that can be used for the ordinances and regulations, but the policies would need to be customized for Danby. There are also companies that help Towns pull together laws and regulations to create a code. It should be clear: these are our laws, they are known, they are posted. There are also information management systems for planning and zoning—companies with software platforms built for this purpose.

- Secretary de Villiers asked what Czamanske would specifically recommend doing to not lose momentum on the zoning audit. Czamanske said the Board could give him a deadline to do something, which he could then spend a limited amount of time on. There are heavy-lift, policy-oriented, and political items, and there are some easy targets. Connors is looking at the local laws to make sure changes made by the Town Board were faithfully edited into the Ordinance. Czamanske could work with Guy Krogh to draft some edits for light-lift items. Richards said that the first step would be to identify the resources—through town associations, software platforms, and consultants; deferred maintenance is expensive.

(8) ADJOURNMENT

The meeting was adjourned at 8:55pm.

Alyssa de Villiers – Recording Secretary