

Town of Danby Planning Board
Minutes of Regular Meeting
August 15, 2019

PRESENT:

Ed Bergman
Scott Davis
Joel Gagnon
Bruce Richards
Jim Rundle (Chair)

ABSENT:

Jody Scriber
Naomi Strichartz

OTHER ATTENDEES:

Town Planner	John Czamanske
Town Board Liaison	Leslie Connors
Recording Secretary	Alyssa de Villiers
Public	Greg Colucci, Ted Crane, Ric Dietrich (Town Supervisor), Matt Ulinski (Town Councilperson)

The meeting was opened at 7:05pm.

(1) CALL TO ORDER / AGENDA REVIEW

Because there were no representatives for the retail variety store (Dollar General) present, number five was removed from the agenda. A discussion of the possibility of a moratorium and interim changes to the zoning ordinance was added as number five, and review of the agricultural districts as number six.

(2) PRIVILEGE OF THE FLOOR

Ted Crane commented that, regarding agricultural (ag) districts, he is not against farms and is happy with those in Danby. However, he is not for the idea of all of Danby being part of an ag district. Because he feels the Department of Agriculture and Markets Law supersedes the Town's laws, he suggested removing properties that are not actively being farmed from the ag districts. Davis commented that his impression was that application of the ag district rules is not autocratic—that both sides of any issues would be heard. Further discussion was held off until the agenda item.

(3) APPROVAL OF MINUTES

As there was not a motion on the table for approval of the June minutes before the vote at the previous meeting, the June minutes were voted on.

MOTION: Approve June minutes

Moved by Gagnon, seconded by Richards

The motion passed.

In favor: Bergman, Davis, Gagnon, Richards, Rundle

In the July minutes, under agenda item eight, "Construction on Sand Bank Rd.," it was agreed to add "...in the location that the person had previously proposed a second dwelling" to the end of the first sentence. The final sentence would then end at "utility trailer."

MOTION: Approve July minutes

Moved by Gagnon, seconded by Davis

The motion passed.

In favor: Davis, Gagnon, Richards, Rundle

Abstain: Bergman

(4) TOWN BOARD LIAISON REPORT

Leslie Connors shared the following information:

- The Town Board had a discussion about the possible moratorium and took the request very seriously. She said there was reluctance due to there being no full-time planner, the potential impact on current residents' businesses, and advice from the Town Attorney, Guy Krogh. She added that Krogh had said Section 805 offers provisions to influence aesthetics during site plan review. She read this section of the Zoning Ordinance. The Comprehensive Plan also has some things to keep in mind regarding site plans for businesses, including employment opportunities and stocking responsiveness. There was a brief discussion about signage.
- The Town Board began talking about the transition plan for January (as the Town Supervisor will be changing).
- A Town Board discussion of ag districts has not yet taken place.

(5) MORATORIUM AND INTERIM CHANGES

Gagnon recounted that a recommendation of a moratorium had been made by the Planning Board at the previous meeting, and that he had transmitted this to the Town Board. He found that Town Supervisor Dietrich was strongly opposed, and that the Town Board wanted to hear from the Town's attorney.

Supervisor Dietrich explained some of his reasons for being opposed to a moratorium. He mentioned that moratoriums have come up in the past and have not worked out. He understands there are problems with the zoning laws, but he would rather concentrate on finalizing getting a Planner on board. He felt a moratorium would be a distraction and asked the Planning Board to explain their reasoning in suggesting one. He said it would be possible to quickly put in some language regarding store fronts if desired.

Davis explained that it has been a long-term goal of Danby to develop the hamlet center. Commercial establishments now interested in locating might not be congruent with the Town's long-term objectives. A moratorium on commercial construction would allow the Town to thoroughly look at form considerations. A parallel consideration is that certain zoning issues keep coming up; it might be worth dealing with these begging-to-be-addressed zoning concerns rather than holding off for the whole zoning rewrite, which could be a few years. Dietrich questioned how this would work with current commercial activity. He asked how the moratorium would be limited without targeting, who would write it, and how many people would be hurt. He said he thought a fair number could be affected. Davis said that it would not be easy, but the goal is worth consideration. Even when something does not succeed, it could be a learning experience. He does not want to burden residents who want to subdivide or current commercial endeavors. Dietrich said the Town's agenda is full, key employees are part-time, and priorities are set—get a planner on board, get the code officer on board, and get things functioning. Davis said that, without knowing what was on the Town's plate, it was a proposal, and it was presented to the Town Board as such.

Richards said that he thought the proposal for a moratorium was not very well thought through—it did not limit time and scope nor lay out what the Board was trying to accomplish. When Gagnon mentioned changing lot sizes, he felt that that was too far. In his mind the Planning Board was saying, these are our concerns, what is the Town Board's position on this, and will the Town Board support us. He is satisfied that there will be a full-time planner. He understands the lack of enthusiasm on the Town Board's part.

Gagnon said that, regarding a moratorium specifically focused on commercial zones, the design standards are currently very vague. It would be better if they were prescriptive and clear—what does the Town want retail to look like? The moratorium would give the Town time to try to agree on what it wants. Rundle added that there was a feeling that proposals frequently come before the Board in which the zoning laws are not adequate to do what the Board would like to do. The Board never gets to the larger issue, which is a building frustration on the part of the Planning Board. Gagnon noted that the Planner's hours are limited, and the Town would not be well positioned to undertake the proposed changes in three months. Attorney Krogh, however, had said that one year would not be unreasonable, and Gagnon thought that would be doable; if the changes were complete sooner, the moratorium could end early. He did not think many businesses would be caught by this; customary agricultural activities, which include farm craft beverages, are exempt.

Czamanske mentioned he thought the moratorium was refined to only those proposals requiring site plan or special permit approval. Rundle asked Dietrich if thus limited the moratorium would still be onerous for existing businesses. Dietrich replied that he is personally looking at what is going on now: vetting planners and onboarding by January first, having a part-time planner currently, Beardsley Lane flood mitigation work, work with the Highway Department, and the budget. Many items need public hearings. A moratorium may lead to time-consuming and uncomfortable meetings. He also stated that he does not support an increase in minimum lot size, which had been talked of being attached to the moratorium's goals. He wants to bring closure to current agenda items and get things stabilized. He asked what the Planning Board wants to get from the moratorium, and he added that the Code Officer is supplying the Town with valuable information on where help is needed in the zoning. There are limited resources now, and it may make more sense to reconsider what is already on the books.

Gagnon spoke to the question of adding anything else to the moratorium. He said that the motion made by the Planning Board was broader than just commercial. The Board has been talking for years about quick changes that would happen before a zoning rewrite. He proposed adjusting frontage and lot size in the low density zone as being one way to have a time out while doing a revision. If that is not what is wanted, what interim changes are wanted? Former Planner Randall and Attorney Krogh said to wait on interim changes for the wholesale rewrite, but the Town does not seem to be getting to that quickly. In the meantime, the Town is lining the roads with houses. There is no plan for encouraging development in the hamlets or preserving special areas in the Town. What should Danby look like in 40 years? The Town needs time to get its act together and to have agreement on what it wants businesses to look like.

Davis asked if maybe the Town does have some leeway based on current language. Czamanske said the ordinance is vague; it is not nothing but it is not defined, thought-through standards. Dietrich said that the moratorium is like a crutch, and that the Town should go for the law. To rewrite the zoning, consultants would likely need to be hired through a grant. He asked Dryden to share their information on comprehensive planning; it will likely need to be a three year commitment, with time for outreach and public interface. He agrees the Town does need to look at the comprehensive plan and zoning ordinance.

Town Councilperson Ulinski said the moratorium was interesting, but he was worried about collateral damage and residents' subdivision and purchasing plans. He mentioned that C.J. Randall has a white paper about this issue talking about setbacks, facades, road access, parking, and tree shields. Gagnon asked if the Town could do some of the things mentioned in the white paper within the context of what is already on the books, to which Ulinski said he thought the Town would have to adopt it. He noted it has good language. Czamanske said that it has descriptions of what you can do and examples, and could be a resource for discussions with applicants. If aspects were incorporated into the Zoning Ordinance, it would give more strength, but the Town would need to come to an agreement about what the standards and aesthetics should be, which may not be easy. Gagnon thought that this would not be a quick process, as the conversation has not really been had yet. He felt that without having an internal discussion, the Board is not in a good position to have a discussion with an applicant.

Ted Crane said that is unfortunate that the catalyst is now when the problem has been present for years. The proposal is to cease issuing permits of certain kinds. People may not like it, but they do not like anything that is a change. Would one quick fix be to incorporate a reference to the white paper? He said that there is time during meetings to do things, and a public hearing is not going to hurt anyone; if the Town Board wants to do something, they could. Another way to look at the limited staff time would be to see the moratorium as easing pressure on staff rather than being an additional task.

Gagnon said that, as is, he is uncomfortable negotiating with any applicant without a clear idea of the Town's standards, which would be the impetus for doing the moratorium. Davis asked if the moratorium could be constructed so it would have minimal collateral damage; this needs to be figured out. Gagnon said site plan review and special permits would limit the scope, and that not many have come before the Board in the commercial zone. It would not affect farm craft beverage operations as those are customary agricultural activity. Bergman asked about current applicants, to which Czamanske said there are currently two potential applicants; neither has yet applied. He has advised them to participate in sketch plan conferences with the Planning Board.

Rundle brought up scope beyond commercial site plan and special permit approval, to which Gagnon said he had proposed adding one specific item: subdivisions in order to temporarily change lot size and frontage requirements. Czamanske pointed out that this would be politically harder. Gagnon acknowledged it is a flash point, but the point of the change would not be to get to where the Town wants to end up, just to act as a placeholder before an actual fix. In principal, he does not support large lot zoning as it cuts up more land faster and can be elitist or create mansion districts. It is not easy for him to propose, but what would be done if not that? Subdivision, in order to make this or another change, does not need to be included as part of this moratorium, it could be a separate proposal, but he had thought that if a moratorium was happening, it could makes sense to include it. Instead of a moratorium, the Town could also just make a specific change, which could be done quickly. He recommended against talking about doing a moratorium for months.

Dietrich expressed that the Planning Board has access to the Town Attorney, and advised checking in with him before major decisions to fully understand the legal implications. Ulinski mentioned that as Chair of the Conservation Advisory Council he feels authorized to contact Mr. Krogh and does so with some frequency.

Gagnon summarized the options to propose to the Town Board: (1) a moratorium specific to commercial, (2) a broader moratorium, (3) hope there is enough in the Zoning Ordinance currently, and (4) pass a law in a timely fashion. He said that where he thinks the Town should go is what he proposed last month, but he felt that was not necessarily where the rest of the group was.

On urging from Davis, Richards read Section 805 aloud to the group. The consensus of the Board was that it was indeed vague, although Connors pointed out that bullets three and four talk about design and landscaping. Crane said this is where a lawyer could answer what is possible with this language. Bergman

mentioned figuring out the look of “Danby.” Gagnon said that without discussion of what the Board wants to see, it is not in a good position for asking applicants to do something other than what is proposed.

Davis suggested crafting a moratorium targeted at commercial development with minimal collateral damage. Rundle asked again if a moratorium limited to site plan review and special permits would have a negative impact on existing businesses. He thought not. Dietrich suggested talking to Code Officer John Norman as he interfaces a lot with the public. Czamanske said that site plan and special permit applications go through the Planning Board, and added that special permits for second dwellings could be excluded.

Rundle felt the discussion was in support of a limited moratorium, and suggested proposing that. The Town Board could then further consult whomever they felt appropriate. Supervisor Dietrich questioned making that recommendation before talking to Attorney Krogh; his advice could affect the Planning Board’s decision. Czamanske said the Board could invite Mr. Krogh to a special meeting to discuss this. Davis said that the suggested proposal is based on sound thought and felt it was not necessary to talk to the Town Attorney when the Town Board could follow up with that. Gagnon said that the logic behind a moratorium is that the Board needs time to find agreement on design standards. Rundle added that he wanted to look at the white paper and discuss it amongst the Board before a commercial enterprise applies. Bergman suggested distributing the white paper and discussing it, but Ulinski said that permission from Randall would be needed. Bergman asked if the Board should get advice from Krogh on the strength of the current language in the zoning; Gagnon felt the Board could ask him to share what he shared with the Town Board.

MOTION: We meet as soon as possible with the Town Attorney to discuss legal issues concerning a moratorium on commercial site plan and special permit approval, and we decide at the meeting what recommendation, if any, to make to the Town Board.

Moved by Rundle, seconded by Gagnon

The motion passed.

In favor: Bergman Davis, Gagnon, Richards, Rundle

Planner Czamanske committed to contacting Attorney Krogh, scheduling the meeting, and putting out the meeting notice.

(6) AGRICULTURAL DISTRICTS

Czamanske passed around maps of the current agricultural districts in Danby (District 1 and District 2), a summary of the Agricultural Districts Law, a brochure put out by the Department of Agriculture and Markets, and a 2018 memorandum from the Department. He read the bulleted points of the summary document. He explained that District 1 (generally the east side of Danby) is up for review now. It is a 300-day review process. Districts are reviewed every eight years, and while land can be added yearly, it can only be removed during the review. The District should include viable agricultural land; over 50% of the land included should be agricultural. The definition of what is a farm has expanded, and, for instance, confined

animal feeding operations (CAFOs) now can be a protected practice. The Town can work with the County on what should be included. Individuals can suggest something as late as the public hearing. Monika Roth, who works for Cornell Cooperative Extension, has said she would be happy to meet with the Town next month.

Gagnon noted that state forest was not included, and Czamanske pointed out that it is not commercial. Ulinksi asked where the line between the districts is, particularly for properties that are not included currently—which district would they fall under? He also commented that, regarding conservation easements, many people view their property as agricultural and want to preserve it for potential future agricultural use. He would be concerned about throwing land out just because it is not currently in agricultural production. Crane wondered how many properties in the agricultural districts are in use versus might be in use in the future versus are unlikely to ever be involved in agricultural activity.

Czamanske pointed out that potential residential home buyers are alerted if the property is in an ag district. If there are areas where the Board does not want agricultural activity, they should consider where. Supervisor Dietrich suggested that certain areas of wetland should possibly not be farmed. Czamanske said that even within an agricultural district, the Town can impose reasonable restrictions, for example basic site plan review for farm craft beverage operations. Gagnon suggested an internal discussion about whether and how to interact with the County and landowners about what is appropriate to have in agricultural districts. Czamanske reviewed the County and Town's review process with the Board.

(7) PLANNING AND ZONING REPORT

Town Planner Czamanske reported the following:

- There are currently 15 applications for the position of Planner; the deadline is Friday. Interviews will begin soon after. Gagnon explained that the way the process has come together the first pass will be by Planner Czamanske and Code Officer Norman. Then a small group will select the finalist(s). If there are two or three strong candidates, that would be when members of the Planning Board may be involved if they are at all.
- Two sketch plan conferences are likely for the September meeting. There will also be one to two subdivisions, one of which was possibly a lot line adjustment but has over a half acre of land to be moved.

(8) ITEMS FOR NEXT MEETING

Discussions of agricultural districts, interim changes to the zoning, and the structure on West King Rd. at Sandbank Rd. were added to next month's agenda.

(9) ADJOURNMENT

The meeting was adjourned at 9:29pm.

Alyssa de Villiers – Recording Secretary