

Town of Danby Planning Board
Minutes of Regular Meeting
April 21, 2020

PRESENT:

Ed Bergman
Scott Davis
Kathy Jett
Bruce Richards
Jody Scriber
Jim Rundle (Chair)

ABSENT:

Elana Maragni

OTHER ATTENDEES:

Town Planner	Jason Haremza
Town Board Liaison	Leslie Connors
Recording Secretary	Alyssa de Villiers
Public	Sylvia Allinger, Kevin Feeney, Joel Gagnon (Town Supervisor), Kari Krakow, Rick Lazarus, Jared Parlett, Larry Parlett, Sam Parlett

This meeting was conducted virtually on the Zoom platform.

The meeting was opened at 7:08pm.

(1) MEETING WITH STAFF

Planner Haremza said that Rick Lazarus would be speaking during privilege of the floor in regard to a written request prepared by the Howland Road Neighbors addressing the Howland Rd. hemp operation.

(2) CALL TO ORDER / AGENDA REVIEW

Following the discussion during privilege of the floor, the Howland Rd. hemp operation was added as item number ten.

(3) PRIVILEGE OF THE FLOOR

Howland Rd. hemp operation

Rick Lazarus said the group calling themselves the Howland Road Neighbors has been speaking with Bruce Richards, who suggested appointing a spokesperson and preparing a list of what action(s) they would like to see from the Planning Board or Town Board. Mr. Lazarus prepared this, and the letter was sent out to members of the Planning Board by Planner Haremza just prior to the meeting. Mr. Lazarus said they are now prepared to say what they want and how they would like the Town and Planning Boards to proceed. He said he would be happy to answer questions about the document.

Scott Davis said it would be helpful to get as much information and data as possible, particularly pertaining to the running of the plant, in order to get the most complete and detailed picture of what the situation is. Jody Scriber agreed with this. He noted this was not a critique, and he is sympathetic to the situation.

Bruce Richards said he had asked them to create this document. He said these citizens have had their entire neighborhood changed due to noise and activity. The drying only occurs after the harvest, it is not year-round. The operation concentrates material from four different authorizations. He said the question is what the Town is going to do for the people. The Planning Board can possibly look at a site plan if it is considered light industry; it is a different story if it is considered agriculture. Based on his conversations with the Department of Agriculture & Markets (Ag & Markets), it could be considered light industry because it is a custom drying operation with most of the material grown off site. This would be more like a sawmill than a big farm. In that case, it would not be an allowed land use, and the Town could bring the operators to the table to get some real dialogue going. Richards said he felt the Town ought to do something.

Chair Rundle asked what the next step was to decide whether the hemp operation was light industry or agriculture. Richards said he thinks it is light industry, and the Town can say so. The operation can then respond. He pointed out the growers are not a well-defined entity, and it is not clear the Town has a good contact person for the operation. Davis agreed the Town should be proactive and the burden of proof should be on the operation to prove that it is not light industry.

Haremza said the Town was hoping to get in writing information Chris Lowe at Ag & Markets had given to Richards at a seminar earlier in the year. This would support the determination of light industry. Haremza said he had repeatedly tried to contact Mr. Crispell (of the hemp operation) to follow up with him, but he has not been communicative. In response to a question from Rundle about the next step, Haremza said he, as the Zoning Officer, would issue a statement in writing that the Town found this activity to be light industry, which requires a use variance and site plan review. He said he would like the Town Board to be on record supporting this course of action before proceeding.

Supervisor Gagnon said that, from the Town's perspective, he had pursued the legal context for asserting it is light industry, and there does not seem to be a lot of legal precedent in this case. One can draw an analogy between hemp drying and corn drying and reach one conclusion, or hemp drying and a sawmill or dairy processing plant and reach a different conclusion. He said the Town would be aggressively asserting this is an industrial and not an agricultural activity in Danby, an action the Town Board may be willing to do

in the interest of protecting the neighborhood. That conversation has not yet happened at the Town Board level.

Kathy Jett asked if the hemp operation came to the Planning Board initially for anything. The answer was no, and she asked why this was given there are semis bringing stuff in. Haremza said they did not need to because it was agriculture related. If it is a customary agricultural activity, there is wide latitude. He added that agriculture evolves and changes over the years, and hemp is brand new—although also very old, but it was done differently 150 years ago. Rundle said the broad issue of “what is agriculture” is up for grabs right now, and the Town does not have a quick enough decision process for determining this. This is emerging as a big problem as new things get to be called agriculture. Gagnon added there is an inherent problem in that agriculture is a commercial activity that is dealt with differently than other commercial activities. Agriculture has to occur where the soil conditions permit and so is spread all over the landscape. There is a question of how the Town should regulate agriculture outside of Ag Districts. Right now, the Town’s regulations say agriculture is a permitted activity. Jett asked if the Town knows where the product is coming from, and Gagnon answered that maybe 10% theirs. Jett said she felt that was key—if they are contracting with other growers in the region, that puts it in a different category.

Rundle said a lot of the trouble seems to be in getting responses, and he suggested announcing a tentative conclusion of light industry and asking for a response within a certain timeframe. Gagnon said the Town could also simply assert that it is light industry. Scriber said she felt they should go ahead and make a statement and ask them (the hemp operation) to respond. She said they could not keep ignoring the problem and need to move forward. Rundle said that he agreed, and as a Planning Board they could pass a resolution urging the Town Board to take action. He asked Gagnon about this step, and Gagnon said it could not hurt as it paints the picture of a community that is upset with this type of thing being foisted on it as something it should be okay with when it does not feel it is okay. Richards said agriculture is one thing, but when the activity makes so much noise and disruption, it makes it different than just growing. Richards said he was willing to propose a resolution by the end of the meeting. This was added to the agenda as item number ten.

Mr. Lazarus noted that if it was ruled that the hemp operation was not light industry, the Howland Rd. Neighbors have written in the document what they would like in lieu of the site plan review process. He added that they do not want to deprive anyone of using the land and growing things.

(4) APPROVAL OF MINUTES

MOTION: Approve March 31st minutes

Moved by Bergman, seconded by Scriber

The motion passed.

In favor: Bergman, Jett, Richards, Scriber, Rundle

Abstain: Davis

(5) TOWN BOARD LIAISON REPORT

Leslie Connors (Town Councilperson) shared the following information:

- There will be a special meeting Monday to talk about three policies and procedures: email, appointments, and rules and procedures for Town Board meetings.
- There are little blue pods appearing around Town—one at the Danby Gathery, one at the Danby Community Church, and they are working to get one in West Danby. These are food cupboards that will be stocked and anybody can have access. It is put on by a group of volunteers in connection with Mutual Aid Tompkins. Other possible locations were briefly discussed.

(6) PUBLIC HEARING

Case #1, SUB-2020-05 Consider Minor Subdivision Approval

Project: Parlett Subdivision

Location: 107 Gunderman Road; Tax parcel 9.-1-9.52

Zoning: Parcel is split between Medium Density (MD) and Low Density (LD) Residential Zone

Applicant: Larry Parlett

Anticipated Board action(s) this month: Public hearing, Subdivision approval

Project Description: The Applicant proposes to subdivide a 10.087 acre parcel into Parcel A (5.087 acres) that will contain the existing single family dwelling. Parcel B (5 acres) will contain a proposed single family dwelling. The proposed parcels meet the minimum requirements of the LD District, which is the more restrictive of the two zoning classifications

SEQR: Unlisted action, Planning Board is Lead Agency

Ag District: Tompkins County Agricultural District #2

County 239 referral: NA

The public hearing was opened at 7:43 p.m.

No comments were made by the public.

As lead agency for the State Environmental Quality Review Act (SEQR), the Board went through the Short Environmental Assessment Form (SEAF) parts two and three. For part two, all questions were answered, "No or small impact may occur." For question 7, regarding the impact on water supply, Haremza added that the County requires water is supplied but does not care how it is provided; if groundwater was insufficient, you could pay to have it trucked in, as in another recent case. For question 9, regarding adverse change to natural resources including wetlands, the Board looked at a map supplied by Haremza that showed a small oval of federally identified wetlands. This was not where the proposed house or driveway would be. Mr. Larry Parlett added that the new house site is sloped so it will likely have a walkout basement; it is a high

and dry slope. Information agreement between Part 1, which is filled out by the applicant, and Part 2 of the SEAF was briefly discussed.

The public hearing was closed at 8:00 p.m.

MOTION: The proposed action will not result in any significant adverse environmental impacts.

Moved by Richards, seconded by Scriber

The motion passed.

In favor: Bergman, Davis, Jett, Richards, Scriber, Rundle

MOTION: Approve the subdivision (Resolution No. 9 of 2020)

Moved by Bergman, seconded by Davis

The motion passed.

In favor: Bergman, Davis, Jett, Richards, Scriber, Rundle

(7) PRELIMINARY REVIEWS

a) Minor Subdivision

Location: 1562 Coddington Road, Tax parcel 6.-1-28.1

Zoning: Low Density (LD) Residential Zone

Applicant: Katherine Krakow

Proposal: The Applicant proposes to subdivide a 12.8 acre parcel into Parcel B (2.97 acres) to for a future single family dwelling. Parcel A (9.83 acres) will retain the existing pole barn. The proposed parcels meet the minimum requirements of the LD District.

SEQR: Unlisted action, Planning Board is Lead Agency

Ag District: NA

County 239 referral: NA

The applicant, Kari Krakow, explained that she is buying land from Gary Burgess, whose land runs from Coddington Rd. along E. Miller Rd. She will be buying three acres on E. Miller Rd. She is not sure when she will build on it.

Rundle said the maps provided seemed clear, but he asked about getting a map of the whole parcel with the subdivision shown on it. Planner Haremza thought what was provided was adequate. Ms. Krakow said it has now been surveyed. She thought she had what Rundle asked for, and it was left that she would discuss this further with Haremza.

Richards confirmed that the property drops off steeply as it moves away from the road. He said it was a pretty unique area, almost like a hollow, that runs parallel to E. Miller. He asked if it will be a viable building lot. Ms. Krakow said she thought so. She said it has a lot of road frontage, and she did not think the

topography was insurmountable. Haremza pointed out where she had talked about possibly building, an area that could meet the setback requirements of the zoning and be away from the steepest part of the slope. Richards asked if she could show the general location of the proposed house (at the next meeting). He said he was trying to get his head around how it lays with the gully.

No one objected to holding a public hearing on the subdivision at the next regular meeting.

(8) PLANNING GROUP UPDATE

Planner Haremza reported that the four working groups have been holding meetings online. There have been some very good discussions.

Tax policy working group

Planner Haremza said Ted Crane is chairing this group. They have researched other towns in New York that have offered tax breaks for people who record conservation easements, and the model that has been looked at most is that of Bethlehem, NY in Albany County. In Bethlehem, they have a system of temporary conservation easements where the tax break is tied to the length of the easement. Danby would need legislation at the State level to do this. The way the current legislation is written, it includes only a handful of towns. Danby would be asking the legislature to amend the existing State law to include criteria that Danby could fit into. Danby would have the smallest population and be the most rural, which he felt would add diversity to the towns that are trying this approach.

Gagnon added that he was really pleased the group had come around to a consensus on the matter. He thought Danby was in a good position to enact something because they are already doing conservation easements. What the Town would be adding is the ability to do temporary conservation easements. He said the group's idea will now go back to the Planning Group to see if it finds support there, and then it would move to the Town Board to pursue with the State legislators. He noted that it will take time to move through the legislature, and two legislators are retiring at the end of the year.

Conservation working group

Planner Haremza said this group is wrestling with big questions like how to define rural character, which means different things to different people. One exercise they did was to look at the Natural Resource Inventory (NRI) as a starting point to prioritize what criteria should be used to protect land in Danby. Members of the group were asked for their top three criteria, and he compiled these into a chart. Habitat emerged as one of the most important ways to prioritize land. However, this too is difficult to define. Haremza will now be creating a refined map.

Gagnon said that this group faces a challenging task because the descriptions of what people thought was important to protect covered almost everything in the Town. This needs to be narrowed down as well as needing to dovetail with hamlet planning.

Rundle asked if the idea is to identify critical habitat areas and then the zoning would be different there, to which Haremza responded yes, that is the hoped-for end result, be it changes to the zoning, the

subdivision law, or both. These areas would have some enhanced level of review or restriction in terms of developing, such as an overlay zone. Gagnon said this identification would also inform the process for approaching landowners for conservation easements. It could be a tool to help landowners recognize that what they own is a special part of Town that the Town's people value. Rundle noted that right now the Planning Board might not like something but still have to approve it under the existing zoning. Haremza said that one example would be that in these identified areas all development would need site plan review, and the Planning Board would then have criteria to approve, deny, or steer a project.

Public outreach working group

Planner Haremza said that this group has been talking about ways to engage the public. He will try recording a few video clips in Danby, they are planning to put a blurb into the Fire Department's email, and they are reaching out to the churches in Town with the goal of engaging as diverse a cross-section of Town as possible.

Hamlets working group

Planner Haremza said that this group is looking at land where development would be beneficial. They are using the 2009 Sustainable Hamlets Plan as a starting point, which still has a lot of good information in it.

(9) PLANNER'S REPORT

Planner Haremza reported the following:

- Regarding Beardsley Lane drainage, he is following up with Laura Shawley about the process of transferring the deeds of two parcels for the drainage district to the Town.
- Regarding the Municipal Housing Affordability Grant, he thinks the hamlet working group will be helpful in reviewing the request for qualifications (RFQ)/request for proposals (RFP) as well as the work of the grant itself. This is a \$10,000 grant from Tompkins County for consultant services to explore and identify not just engineering and physical solutions to handling water and wastewater on small parcels but bureaucratic and legal ones.
- The Howland Rd. hemp operation had already been talked about. The next step could be the Town coming out and making a determination or issuing a warning statement.

(10) HOWLAND ROAD HEMP OPERATION

Richards read out his thoughts on what should be in a resolution regarding the hemp operation, and Gagnon also read his. These both covered the same points, and the following motion was voted upon. Scriber said that it was really good to work with people who get things done and move forward, and she thanked the group. Connors asked how soon the Town Board could address the issue, and that was briefly discussed.

MOTION: Approve Resolution No. 10 of 2020, worded as follows:

1. Whereas the hemp operation on Howland Rd. is processing hemp grown by several growers; and
2. Whereas the operation has qualities of an industrial rather than an agricultural activity, including noise, odor, and traffic of a scale not typical of a residential neighborhood, significantly affecting the quality of life; and
3. Whereas industrial activity is not allowed in the Low Density Residential zone,
4. Now therefore, be it resolved that the Planning Board recommends that the Town Board pursue enforcement of the Zoning Ordinance in finding that, as currently operating, the hemp processing facility is an industrial activity not permitted in a Low Density Residential zone.

Moved by Richards, seconded by Scriber

The motion passed.

In favor: Bergman, Davis, Jett, Richards, Scriber, Rundle

(11) ADJOURNMENT

The meeting was adjourned at 8:43pm.

Alyssa de Villiers – Recording Secretary

**Town of Danby
Planning Board Resolution Number 9 of 2020
April 21, 2020**

**Preliminary and Final Approval, Minor Subdivision SUB-2020-05
107 Gunderman Road, Tax Parcel 9.-1-9.52**

1. **Whereas** an application has been submitted for review and approval by the Town of Danby Planning Board for a Minor Subdivision of 107 Gunderman Road, tax parcel 9.-1-9.52 by Lawrence and Cindy Parlett; and
2. **Whereas** the Applicant proposes to subdivide the existing 10.087 acre property into two parcels:
 - a. Parcel A, measuring 5.087 acres, containing the existing single family dwelling on the south side of Gunderman Road
 - b. Parcel B, measuring 5 acres, for a proposed single family dwelling on the south side of Gunderman Road with additional frontage on Comfort Road
3. **Whereas** the parcel is split between Medium Density (MD) and Low Density (LD) Residential Zone, however both proposed parcels meet the requirement of the LD District, the more restrictive of the two, requiring a lot area minimum of 2 acres, frontage of 200 feet, and lot depth of 300 feet; and
4. **Whereas** this is considered a Minor Subdivision in accordance with the Town of Danby Subdivision and Land Division Regulations, Article II, Section 201 B.2. Minor Subdivision, Option #2 – A small-lot minor subdivision is permitted, where the division results in a lot or lots of less than 8 acres, provided that the following criteria are met:
 - a. No other division(s) or subdivision(s) involving the parcel being divided except for Land Annexation have taken place within the previous three (3) consecutive years;
 - b. The subdivision results in no more than two lots, including the parcel being divided;
 - c. Both lots resulting from the subdivision have frontage on a public road maintained year-round;
 - d. Both lots resulting from the subdivision meet all other pertinent zoning requirements;
 - e. No extension or improvement of an existing, or creation of a new public road, significant public utility infrastructure, or significant stormwater improvements, or extension of public benefit districts is involved;
 - f. Compliance with the Stormwater Local Law, if applicable, has been demonstrated, including, but not limited to, the preparation and approval of SWPPPs, the obtaining of Stormwater Permits, and the design, planning, installation, construction, maintenance, and improvement of temporary and permanent Stormwater Management Practices, as each and all of such capitalized terms are used within such Stormwater Local Law; and

5. **Whereas** this is an Unlisted Action under the Town of Danby Environmental Review of Actions and the State Environmental Quality Review (SEQR) Act and is subject to environmental review; and
6. **Whereas** legal notice was published and adjacent property owners within 500 feet notified in accordance with the Town of Danby Subdivision and Land Division Regulations, Article VI, Section 601 II.H. Hearing and Notices; and
7. **Whereas** the Planning Board held the required Public Hearing on 4-21-2020; and
8. **Whereas** this Board, acting as Lead Agency per the State Environmental Quality Review (SEQR) Act, did on April 21, 2020 review and accept:
 - a. A Short Environmental Assessment Form (EAF), Part 1, submitted by the Applicant
 - b. A survey map entitled “Subdivision Map No. 107 Gunderman Road,” prepared by T.G. Miller, P.C., and dated 1-14-2019; and
9. **Whereas** the Planning Board did carefully consider Part 2 of the EAF and on April 21, 2020 make a Negative Declaration of Environmental Significance for the project; and
10. **Whereas** the Planning Board recognizes that information received and reviewed for this Subdivision indicates the resultant parcels conform to area requirements in the Low Density Residential Zoning District.
11. **Now Therefore, be it Resolved** that the Town of Danby Planning Board does hereby grant Preliminary and Final Subdivision Approval to the proposed Minor Subdivision of 107 Gunderman Road, tax parcel 9.-1-9.52, by Lawrence and Cindy Parlett, Owner and Applicant, subject to the submission of the final approved plat, having a raised seal and signature of a registered licensed surveyor, filed with the Tompkins County Clerk within six (6) months.

Approved April 21, 2020

James R. Rundle, Chairperson

**Town of Danby Planning Board
Resolution Number 10 of 2020
April 21, 2020**

Howland Road Hemp Operation

- 1. Whereas** the hemp operation on Howland Road is processing hemp grown by several growers; and
- 2. Whereas** the operation has qualities of an industrial rather than an agricultural activity, including noise, odor, and traffic of a scale not typical of a residential neighborhood, significantly affecting the quality of life; and
- 3. Whereas** industrial activity is not allowed in the Low Density Residential zone.
- 4. Now therefore, be it resolved** that the Planning Board recommends that the Town Board pursue enforcement of the Zoning Ordinance in finding that, as currently operating, the hemp processing facility is an industrial activity not permitted in a Low Density Residential zone.

Approved April 21, 2020

James R. Rundle, Chairperson