

Town of Danby Town Board
Regular First Monthly Board Meeting
Monday 12 July, 2021 at 7:00 PM
via In-Person AND Zoom Video Conferencing
<https://zoom.us/j/98085159868?pwd=cDJmU2xVeGw2KzN3T1d1dnJZRTFIQT09>

Meeting Minutes

Roll Call :

Town Board	Joel Gagnon, Supervisor Leslie Connors Jim Holahan Sarah Schnabel Matt Ulinski (late arrival)
County Legislator	Dan Klein
Town Justice	Garry Huddle
Town Planner	David West
Town Code Enforcement Officer	Steve Cortright
Town Bookkeeper	Laura Shawley
Recording Secretary	Janice R. Adelman, Town Clerk

Guest Presenters: Marnie Kirchgessner, Danby Rep to Tompkins County Youth Advisory Board, and the Tompkins County Recreation Partnership

1. Call to Order at 19:10 by Supervisor Gagnon
2. Public Hearings
 - 2.1. Van de Bogart request for waiver from the Moratorium on Subdivisions in the Low Density Residential Zone
 - 2.1.1. Hearing opened at 19:11

All those who spoke in favor	All those who spoke against
Ray VanDeBogart Jennifer Bryce Ted Crane	Ronda Roaring
 - 2.1.2. Hearing closed at 19:17
 - 2.2. Napierski request for waiver from the Moratorium on Subdivisions in the Low Density Residential Zone
 - 2.1.1. Hearing opened at 19:17

All those who spoke in favor	All those who spoke against
	Ronda Roaring
 - 2.1.2. Hearing closed at 19:22
3. Additions/Deletions to Agenda
 - 3.1. Town Board members requested updates on the status ARPA funds
 - 3.1.1. Supervisor Gagnon responded that we have applied and are awaiting next steps.
 - 3.1.2. The Town Board requested more deliberate updating on all of the information related to receiving and spending these funds with the further request to have it added to the next meeting's Agenda.

- 3.2. Revisit masking
 - 3.2.1. A request to discuss this issue at this point in the meeting led Gagnon to comment that he seems to have misunderstood what the previous discussion had been and that with the re-opening guidelines we would not require masks of those who were vaccinated.
 - 3.2.2. Gagnon noted that the discussion would continue under old business.
4. Privilege of the Floor
 - 4.1. Katharine Hunter commented that she can't hear what anyone is saying.
 - 4.2. Ted Crane offered an AV suggestion.
 - 4.3. Ronda Roaring added that she cannot hear; cannot see Councilperson Connors on camera. Wished to point out some of these issues so that they could be corrected.
 - 4.4. Councilperson Ulinksi offered a suggestion that anyone speaking say their name.
 - 4.5. Clerk Adelman noted the high need for multitasking if the Clerk is to continue taking minutes, recording votes, working the Zoom meeting, and handling the camera and audio functions.
5. Correspondence - none
6. Announcements - none
7. Reports & Presentations
 - 7.1. Marnie Kirchgessner, TC Youth Advisory Board & Recreation Partnership Rep
 - 7.1.1. Tompkins County has begun its budgeting process now which impacts all of the towns in various ways; Kirchgessner attended the TC budget process meeting to be better able to advocate for youth in Danby—and all of Tompkins County—so that kids are not being lost in this process following the difficulties and challenges that the pandemic brought with it.
 - 7.1.2. Danby has also faced numerous challenges with the position of Coordinator of County Youth Services for Danby.
 - 7.1.2.1. The newly assigned coordinator is Megan Rivera Lyons. Danby needs to match funds for a 40-hour work week for this position.
 - 7.1.2.2. There is legitimate concern around the about the fact that the individual assigned to the Town of Danby—who did an outstanding job during COVID—left right before summer programming was about to start leaving nothing planned for this year. Members of the community feel that we've been shortchanged.
 - 7.1.2.3. Cooperative Extension hopes that the increase in hours will make the position more attractive and influence incumbents to stay longer.
 - 7.1.2.4. Danby Community Council is very concerned about the lack of programming. Megan Lyons met via zoom with the DCC and others; Megan listened and came up with list of issues that she was going to work with the DCC to achieve the desired goals Cooperative extension.
 - 7.1.2.5. Councilperson Ulinksi noted that being the Danby Youth Coordinator is not a plum job. Speaking from personal connections with previous coordinators, it

is really hard to be the Youth Coordinator in Danby and doesn't think that 40 hours will be the sole factor in getting someone who will stick around.

7.1.2.6. Kirchgessner noted that any help Danby can give the professionals in helping the volunteers is a priority for her; she hopes that the Town will consider that in this year's budget appropriations.

7.1.4. Recreation Partnership — Danby's numbers for participating in this program are comparable to Dryden's numbers.

7.1.4.1. Even during COVID, Danby still had the highest participation numbers with 80 individual youth participating in the first quarter.

Caroline had 13;

Dryden 56,

Enfield 21;

Lansing 37.

7.1.4.2. Moreover, Danby has no "third place" for kids to go.

7.1.4.3. There is a question for tomorrow night's Rec Partrenship Budget meeting is whether they go on numbers averaged over the years 2018, 2019, and 2020, or, if they go with the more typical previous 3 year range (2017–2019).

2017–2019 Danby contribution = \$14,109

2018–20 Danby contribution = \$14,892

7.1.5. Gagnon noted that the Town Board fully supports Kirchgessner's work in these committees as well as supporting the increases in Youth Services Coordinator time (equating to a \$2000 request in additional funds).

7.2. Town Planner

7.2. [Code Enforcement](https://onlyo.co/3dUol1p) (<https://onlyo.co/3dUol1p>)

7.3. [Town Clerk](https://onlyo.co/2T3L9Ks) (<https://onlyo.co/2T3L9Ks>)

7.4. County Legislator

7.4.1. State of Emergency lifted on 7/3/2021

7.4.2. Seeing a rise in sales tax revenue the last couple of monhs

7.4.3. Regarding the ARPA funding, TC sent out surveys regarding how to spend the money. Although 2000 surveys were returned, the results were inconclusive.

7.4.4. At the TC Budget meeting, the legislators received a lot more detail on how this would work out.

7.4.4.1. It is not going to be quick, easy, money like most anticipated, but rather is coming with lots of stipulations, reporting requirements, etc.

7.4.4.2. TC may have to hire people specifically for the role of submitting all of the reporting requirements.

7.4.4.3. Every expenditure must be accounted for for as long as the expenditure continues. If a program runs for 4 years, this translates to 22 reports because a program that receives a yearly amount would need to report each quarter for each year in place.

7.4.4.4. An alternative route for some of the money may be to use it for building which only requires one report. This would then free up money assigned to

the Capital program by using the ARPA funds in that place thereby making it easier to do what the county wants to do with the additional influx of funds.

7.4.5. Klein read a statement from Jay Fraklin the Head of the Department of Assessment regarding the Assessment Law that the Town of Danby successfully passed in the NY State Legislature (although the law has not yet passed with governor’s signature). Franklin’s statement:
 “This is a confusing piece of legislation, and I wish that the town of Danby had contacted me prior to proposing this legislation at the state level. This legislation will also allow Tompkins County and the school districts located in Danby to allow an exemption for properties that have transfer development rights to the town of Danby. This is not good practice for the county to allow an exemption in one municipality, and not the rest of them. in addition, this legislation will create subdivided parcels that are not in zoning compliance.”

8. Consent Agenda

8.1. Approval of Minutes

- 8.1.1. 14 June 2021 - Board Meeting
- 8.1.2. 21 June 2021 - Zoning update
- 8.1.3. 23 June 2021 - Board Meeting

8.2. Warrants

- 8.2.1. General Fund No 12 Vouchers 211–226 for \$8,056.82
- 8.2.2. Highway Fund No 12 Vouchers 149 –163 for \$18,464.17
- 8.2.3. Trust & Agency Voucher #6 for \$5,872.50

Resolution 112 of 2021 To Approve Consent Agenda

Moved By: Connors **Seconded By:** Schnabel

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

Resolution 112 approved

9. Old Business

9.1. Revisit Masking

- 9.1.1. Some Board Members remain concerned with rise in Delta variant, the increase in the virus passing between vaccinated persons.
- 9.1.2. There were differences of understanding among Board members about what it meant to follow Tompkins County guidelines with respect to re-opening and

requiring masks coupled with the Court’s guidelines for re-opening and mask requirements.

9.1.2.1. Clerk Adelman clarified that the TC guidelines require those who are not vaccinated as well as those who do not wish to disclose their vaccination status be masked inside the building. She also commented that since Danby will not be checking vaccination status, the assumption is that all individuals should be masked while inside Town Hall.

Resolution 113 of 2021 To Require Masks Inside Town Hall Regardless of Vaccination Status Whenever Officials, Staff, and Public are In the Building—A Policy To Be Revisited At Least Every Month

Moved By: Connors **Seconded By:** Ulinski

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon		X	

Resolution 113 approved

10. New Business

10.1. Van De Bogart waiver request

Resolution 114 of 2021 To Grant the VanDeBogart Waiver to Land Use Moratorium

Moved By: Ulinski **Seconded By:** Connors

Whereas, The Town Board of the Town of Danby did adopt a land use moratorium prohibiting subdivisions in the Low Density Residential Zone in March of 2021: and

Whereas, The Land Use Moratorium requires specific findings by the Town Board in order to grant waivers as defined in the moratorium local law; and

Whereas, The Town Board held a public hearing on July 12, 2021, duly advertised as required by the moratorium local law; and

Whereas, The Town Board has considered the application for waiver and makes the following findings:

Whereas, The Town Board held a public hearing on July 12, 2021, duly advertised as required by the moratorium local law; and

1. The failure to grant a Waiver will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public welfare resulting from the Waiver (if granted in whole or in part). In considering this factor, the Town Board has considered the unique nature of the land in question, including whether the site of

the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Waiver.

2. The granting of a Waiver will have no clear, adverse effect upon the goals or objectives being now undertaken by Comprehensive Planning and community-wide efforts to protect and preserve the essential character and important resources of the Town, including potentially deleterious or irreversible impacts to open spaces, agricultural resources and farming, and wildlife corridors and other significant ecological resources.
3. The Waiver is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be, harmonious with neighboring uses and the community planning efforts currently underway.
4. The extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in interest, and that such alleged hardship has not been self-created. In considering this factor, the Town Board may consider whether the need for a Waiver is based in whole or in part upon a lack of maintenance or repair of the property or improvements thereupon, including consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.
5. The impact and harm to applicant in denying a Waiver will be outweighed by the benefit to the community in preserving the status quo pending completion of its Comprehensive Planning and Zoning Update, and in considering this factor the Town Board may consider the applicant's or land owner's vested rights and monetary investment "in the ground", but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken by the Town Board in consideration of this finding and factor. The costs and expenses of a Waiver application shall not be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships.
6. The application for a Waiver is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the Town Board had a full and fair opportunity to consider the facts, bases, and arguments upon which the Waiver application and any Waiver approval was based. In evaluating this factor, the Town Board may consider whether the applicant advanced new theories, facts, or arguments not set forth in the application as may have unduly and adversely impacted the Town Board's ability to conduct a full and fair hearing, as well as the rights of

participants and witnesses to prepare evidence and address the application and Waiver request as submitted.

- 7. No relief granted in respect of the Waiver is greater than the relief requested by the applicant in the petition, and no such relief is greater than the minimum amount of relief necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.

Whereas, This is a Type 2 Action under SEQR, as it does not grant approval for the project to be built, the subdivision will require further review by the Planning Board including environmental review.

Resolved, that a waiver from the Moratorium on Subdivisions in the Low Density Residential Zone is hereby granted to the applicant Ray Van de Bogart at 100 Van De Bogart, and the applicant may move forward with the Planning Board in consideration of the merits of a subdivision application.

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

Resolution 114 approved

10.2. Napierski waiver request

Resolution 115 of 2021 To Accept the Napierski Waiver Request

Moved By: Ulinski **Seconded By:** Schnabel

Whereas, The Town Board of the Town of Danby did adopt a land use moratorium prohibiting subdivisions in the Low Density Residential Zone in March of 2021: and

Whereas, The Land Use Moratorium requires specific findings by the Town Board in order to grant waivers as defined in the moratorium local law; and

Whereas, The Town Board held a public hearing on July 12, 2021, duly advertised as required by the moratorium local law; and

Whereas, The Town Board has considered the application for waiver and makes the following findings:

Whereas, The Town Board held a public hearing on July 12, 2021, duly advertised as required by the moratorium local law; and

- 1. The failure to grant a Waiver will cause the petitioner extraordinary hardship, and such hardship is substantially greater than any harm to the general public welfare resulting

from the Waiver (if granted in whole or in part). In considering this factor, the Town Board has considered the unique nature of the land in question, including whether the site of the proposed Action is affected by an exceptional topographic or other naturally occurring conditions as supports a Waiver.

2. The granting of a Waiver will have no clear, adverse effect upon the goals or objectives being now undertaken by Comprehensive Planning and community-wide efforts to protect and preserve the essential character and important resources of the Town, including potentially deleterious or irreversible impacts to open spaces, agricultural resources and farming, and wildlife corridors and other significant ecological resources.
3. The Waiver is sought for an Action that is, or which by imposition of conditions or voluntary land covenants and restrictions can be, harmonious with neighboring uses and the community planning efforts currently underway.
4. The extraordinary hardship is not the result of any delay, action, or inaction by the applicant, the property owner, or any predecessors-in interest, and that such alleged hardship has not been self-created. In considering this factor, the Town Board may consider whether the need for a Waiver is based in whole or in part upon a lack of maintenance or repair of the property or improvements thereupon, including consideration of the extent to which the existing improvements are aged, decrepit, obsolete, run-down, outmoded, or in a state of disrepair, and further including whether financial hardship has been materially promoted by such lack of maintenance, repair, or the property condition and causes thereof.
5. The impact and harm to applicant in denying a Waiver will be outweighed by the benefit to the community in preserving the status quo pending completion of its Comprehensive Planning and Zoning Update, and in considering this factor the Town Board may consider the applicant's or land owner's vested rights and monetary investment "in the ground", but such rights or investments shall be only one factor in the balancing test of hardships and harms undertaken by the Town Board in consideration of this finding and factor. The costs and expenses of a Waiver application shall not be considered as, or be a part of, any monetary investment arguments, calculations, harms, or hardships.
6. The application for a Waiver is and was substantially complete at the time of filing and at the time the notice of public hearing was posted, such that all parties and the Town Board had a full and fair opportunity to consider the facts, bases, and arguments upon which the Waiver application and any Waiver approval was based. In evaluating this factor, the Town Board may consider whether the applicant advanced new theories, facts, or arguments not set forth in the application as may have unduly and adversely impacted the Town Board's ability to conduct a full and fair hearing, as well as the rights of participants and witnesses to prepare evidence and address the application and Waiver request as submitted.
7. No relief granted in respect of the Waiver is greater than the relief requested by the applicant in the petition, and no such relief is greater than the minimum amount of relief

necessary to alleviate any extraordinary hardship, should a Waiver be granted in whole or in part.

Whereas, This is a Type 2 Action under SEQR, as it does not grant approval for the project to be built, the subdivision will require further review by the Planning Board including environmental review.

Resolved, that a waiver from the Moratorium on Subdivisions in the Low Density Residential Zone is hereby granted to the applicant Napierski at 204 Nelson Rd and the applicant may move forward with the Planning Board in consideration of the merits of a subdivision application.

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

Resolution 115 approved

10.3. Potential authorization of town hall use for fire training

This practice has already occurred at the Highway Department.

Resolution 116 of 2021 To Authorize Danby Fire District to Do A Practice Drill at Town Hall

Moved By: Gagnon **Seconded By:** Holahan

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

Resolution 116 approved

10.4. Staff Proposal for Library Use of Town Hall

The Library Volunteers would like to offer additional hours for the Library to be more accessible to the public. The building staff is not comfortable having the Library open without Library Volunteers present.

Resolution 117 of 2021 To Allow the Library Staff To Set Its Own Hours During Daylight With a Volunteer Present Whenever the Library is Open

Moved By: Gagnon **Seconded By:** Connors

10.4.1. Discussion

10.4.1.1. Ulinski noted that this proposal might be in conflict with the forthcoming workplace violence report and recommendations. He offered a friendly amendment that the Library staff only have the library open during daylight hours (rather than at any time).

10.4.1.2. Marnie Kirchgessner questioned what it would mean for the public computers and the community desk for public access.

Vote:

Councilperson	Aye	No	Absent
Connors	X		
Holahan	X		
Schnabel	X		
Ulinski	X		
Gagnon	X		

Resolution 117 approved

11. Discussion of Next Meeting Agenda

11.1. Use of ARPA Funds

11.2. Highway energy upgrade

11.3. Solar Billing process with Danby Fire District

12. Adjourn at 20:56.

Submitted by Janice R. Adelman
Town Clerk