

**RECORD OF PROCEEDINGS  
Danbury Township Zoning Commission**

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held

**June 2,** 20**21**

The Danbury Township Zoning Commission was called to order at 6:30p.m. at the Danbury Township Meeting Room by Chair, Mr. Michael Brown. The pledge of allegiance was recited. The roll call showed the following present: Mr. Michael Brown, Ms. Susan Dress, Ms. Jodi Kopanski, Mr. Robert Strauss, Mr. John Basilone. Alternates, Mr. Vito Kaminskis and Barbara Singer were excused. Kathryn Dale, Zoning and Planning Administrator was also present. Visitors present were Trustee Dianne Rozak and Brenda Calderhead.

**Approval of the May 5, 2021 Minutes**

Mr. Brown asked if all the Commission Members had had an opportunity to review the minutes from last month. All indicated they had. Mr. Brown asked if there were any corrections or modifications. There were none. Mr. Strauss made a motion to approve the minutes for the May 5, 2021 meeting. Ms. Kopanski seconded the motion. All Ayes. The motion carried.

**Public Hearing**

There was none.

**Old Business**

There was none.

**New Business**

**Map Amendment Study from "R-C" to "R-3".**

Mr. Brown stated that they left off from last month at the Bar Harbor/Gravel Bar neighborhood. Mr. Brown shared that Ms. Dale took Mr. Basilone back into the neighborhood. Mr. Brown asked Mr. Basilone for his thoughts. Mr. Basilone said it was the first time he has ever been back there. It is a gated community, primarily made up of single-family homes, couple of condominiums and lots of boat houses and one clubhouse. Mr. Basilone said that unless the boathouses are being rented out, which he said they were led to believe they were not, then it's truly a residential area. Ms. Kopanski said the clubhouse concerns her because they do sell memberships. She asked if that would put them in a commercial category. Ms. Dale said yes, but she went on and introduced the guest, Brenda Calderhead who is the Secretary to the Bar Harbor /Gravel Bar Homeowners Association. Ms. Dale said she was apparently contacted by Ms. Singer about this Commission's discussions, which isn't a huge problem since we aren't trying to hide any of this, but that she & Mrs. Calderhead had a very nice, informative discussion over the telephone earlier in the week and Ms. Dale said she encouraged Mrs. Calderhead to attend tonight's worksession. Ms. Dale shared that some things learned during the conversation with Mrs. Calderhead that this Commission wasn't sure about and was part of the reason why discussions are continuing tonight is that some people do own multiple dock's back there, without necessary owning a home there, and they are allowed to rent them out to family or friends for the season, but according to the association rules, they are not allowed to rent to commercial charter captains. Ms. Dale said that it would be best for the dockage to remain in a commercial zoning district even though they are not operating in a traditional commercial marina fashion so there is never any question about the legality of renting dockage in a residential zoning district. Ms. Dale said she will let Ms. Calderhead share here shortly the operations of the neighborhood but said if the clubhouse is indeed selling memberships, for a fee, to people outside the gate of the neighborhood, whether they have a liquor license or not, then it too would be best to have the "R-C" commercial classification for the property that building sits on. Ms. Dale said she wanted to go back to the dockage topic for just a second. She said she explained to Mrs. Calderhead that if the dockage remained "R-C" recreational commercial, the zoning code is not going to prevent the use of a dock by a charter captain and that would strictly have to be enforced by the homeowner's association and their private deed restrictions.

Ms. Dress said there seems to be an implied restriction that the neighborhood has to prevent charter captains from occupying the docks in this neighborhood, so her question is, if they can prevent that, why would they not be able to prevent a hotel/motel use in a large home? Ms. Dale said they could, but what her experience is, is that most association rules don't address commercial activity because they would have never expected it since they are a residential neighborhood, or the association has gone defunct and there is no one to enforce the regulations anymore and they strictly put their trust into the Township to protect them. Ms. Dress said but if they wanted too, they could create their own restrictions. Ms. Dale said yes.

Trustee Rozak was present and stated that having fought for years living on Johnson's Island, what happened with zoning when the island was still part of the Township, was that there were homeowner's association rules that said condominiums couldn't go in, but it was ruled that zoning, which allowed condominiums preempted the HOA documents. Trustee Rozak said there would have to be really strong HOA operation and rules & regulations to prevent it. Ms. Dress said there seems to be two different things being said now.

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Mr. Brown said that one thing bothers him, and it bothered him at the last meeting as well, we are in effect taking comments and it feels as though we are approaching a hearing without having a hearing. He said there are a lot of owners who this Commission is not hearing from, and we are only hearing from those in favor of rezoning. Mr. Brown said he feels like they are headed down a dangerous path here. He said if the HOA wants to come and apply for a rezoning, that would be appropriate, but this feels far beyond what their work project is. He said he would like to make a motion to disregard any further consideration of Bar Harbor/ Gravel Bar in this study. Ms. Dress seconded the motion. Ms. Kopanski said she thinks that might be a good idea because they will likely end up with pieces and parts. He said there are a lot of owners back here and they have heard a lot of lobbying from someone who is not an owner back here and now representation from the HOA. He thinks it would just be more appropriate for the association to file a rezoning request if that is what they really want.

Mrs. Calderhead stated that in general their homeowners are not even aware this discussion before this Commission is even taking place. She said she was approached by Ms. Singer about what the Commission is reviewing and "she was pretty sure we would want it to residential". Mrs. Calderhead said part of the reason she reached out to Ms. Dale and came this evening is that she just wanted to be in the know of what is being studied, how any changes might or might not affect properties in their neighborhood and so she had the information first-hand.

Mr. Brown reiterated that he just feels like they are in a zoning hearing when they aren't supposed to be in a zoning hearing. He said he thinks since the neighborhood would have the right to initiate a change on their own, he thinks that would be best right now. Mr. Basilone said he thought it was their duty threw this, not because of any approaches by an Alternate Member or an HOA representative, was to review the whole township, which includes this area, to decide if recreational commercial was appropriate for these residential properties. Mr. Basilone does not feel like they are responding to Ms. Singer or Ms. Calderhead at all, but rather the request of the Trustees to do this study. Mr. Basilone said that in regard to renting out dockage for a season, he says it doesn't matter if it's to friends or family, he said he views that the same as what any of the marina's do around here, so that should stay commercial. Mr. Basilone said he does not think they should 'spot zone' and pick this place apart.

Mr. Brown said the recommendation is no recommendation. Mr. Basilone asked if that means to leave it as it is. Mr. Brown said yes.

Trustee Rozak said their reason for requesting the Commission to do something like this is very simple. She said there was a very precarious hearing last year that left them all frustrated because they questioned if they made the correct decision or not, which she thought they ultimately made the right decision, but there were circumstances that would have allowed them to vote in the opposite way also. Trustee Rozak said the ultimately feel they have a duty to protect property owners who are in a "R-C" zoning district and put them in the appropriate residential zoning district - IF appropriate. Trustee Rozak said she would disagree with the discussion on "spot zoning". Mr. Brown said he completely understands what they have been directed to do by the Trustees but feels they have been lobbied pretty hard on this particular neighborhood by an Alternate Member and up to this point, there is no due process to hear from those who may not want the property rezoned. Trustee Rozak said that that will come though, and this is an opportunity for this Commission to bring forth a recommendation that can then be made public for open houses, advertisements in the newsletter and Beacon and other ways letting people know this is what we would like to do and then get some feedback. Ms. Dress said what he is suggesting is to not touch that neighborhood for now because there is so much drama around it right now, and if the homeowners want to get together and make an application on their own, then they can or can at the hearing. Trustee Rozak said that is fine, but their main concern is to protect property owners from what could happen.

Mrs. Calderhead said that she just wants to make it clear that she hopes no one was lobbying on their behalf because no one has been authorized to do that. In fact, our homeowners have not even discussed this and to her knowledge there is maybe only one homeowner who is aware of this study because he also brought it to my attention after being contacted by Ms. Singer. She said she too was contacted by Ms. Singer, but did not respond to her. Mrs. Calderhead said that she just wants to make it clear that the association did not lobby or ask anyone to lobby on their behalf. She said she wanted to be here just to get an understanding of what is being considered.

Mr. Brown asked Mrs. Calderhead about a sale notification in the newspaper for \$30,000 and was wondering if that was a dock or a house lot. He said the name was Finger. Mrs. Calderhead said that was likely a dock. Ms. Dale said that it could have also been property on the south side of Northshore because that is also Gravel Bar Road and there is at least one property she knows of that is owned by someone with that same last name.

Mr. Brown withdrew the previous motion and made a new motion that no recommendation or decision was reached for the Bar Harbor/ Gravel Bar neighborhood. Ms. Dress 2<sup>nd</sup> the motion. Mr.

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Basilone clarified that the motion is essentially saying to do nothing and leave it zoned as is, as "R-C". Mr. Brown said that would be correct.

Mr. Basilone asked if the Trustees have a position or opinion on spot zoning. Trustee Rozak stated she does not feel that term is being correctly used here in this scenario. Ms. Dale said spot zoning is something illegal and done basically for financial gain and there is usually no other similar or like zoning or uses adjoining or near it or it is flagrantly against the Land Use Plan. As an example, she said, lets throw a dart at the zoning map and more than likely it's going to land in the middle of the Township that is predominately "A" Agricultural. Spot Zoning would then be to rezone a random property to "C-2" or "M-1" with no rhyme or reason because it's surrounded by agricultural land or because the property owner wants to try to sell it for more than it would otherwise be worth as agricultural land.

Mr. Basilone asked for the motion to be re-read. Mrs. Dale did so, Mr. Basilone said he thought the motion was to leave it as it is. Mrs. Dale said that is essentially what no recommendation would do. Mr. Brown said he thinks there should be a roll call vote on this one. Mr. Basilone - yes; Mr. Strauss - yes; Ms. Kopanski - yes; Ms. Dress - yes; Mr. Brown - yes. Recommendation passed.

Mr. Brown said they would move on to the last page of their handout. Ms. Dale said the maps are too small to cover the whole area, but she was going to begin at the intersection of SR 163 (E. Harbor Road) and SR 269 N. (N. Buck Road) and work their way east.

The first area for consideration is Harbor's End and Harbor Cove Condominiums. She said these are both essentially across the street from the Mickey Mart gas station. Ms. Dale explained that even though the Condominiums were developed under "R-C", they follow the exact same standards and density requirements as Condominiums in the "R-3" zoning district because it is a Conditional Use. The point is, there would be no negative impact to rezoning Condominiums to "R-3" if the Commission thinks it would be more appropriate. Ms. Kopanski asked if there was any remnant land that could be used for Commercial purposes. Ms. Dale said she did not think so by the looks of it because some of the land that is open would have been part of their required open space. Ms. Dress asked if they had dockage. Ms. Dale said the one neighborhood for sure does. Ms. Dress asked if they rent them out. Ms. Dale said she did not know and there is no way of knowing for every neighborhood. Ms. Kopanski expressed she thought that could be problematic. Mr. Basilone said he could also see the problem if it is something common practice now and would have to change, but it begs to question how it ever was "R-C" to begin with. Mr. Basilone said he has certainly learned through this that before purchasing a property, you want to know what it's zoned and what will be allowed or not allowed. Mr. Brown said that this is one thing that bothers him about this area is that the zoning designation, appropriate or not doesn't seem to make a difference to lenders and can exacerbate the situation. Ms. Dale asked if they wanted to think about these Condominiums some more before deciding. Mr. Brown reminded the Commission that last month they did recommend Condominiums in the Harbor Bay/ Marblehead Estates development become "R-3". Mr. Brown made a motion and Mr. Strauss 2<sup>nd</sup> the motion to recommend changing the Harbor's End and Harbor Cove Condominiums from "R-C" to "R-3". Voice vote, all Ayes, no Nays. Recommendation passed.

The next neighborhood would be the new Regatta Subdivision. Ms. Dale said that there is still a substantial amount of property that is undeveloped, so she would recommend leaving that portion as "R-C". She said the sign the developer had out indicated this area was to be further subdivided into 3 or 4 more lots, but since this is along a major thoroughfare, she thinks it would be better to leave them the option on the part that is currently not being built for single-family homes. There was discussion on ownerships of submerged land and a question was had on how much physical land was present in this development. Mr. Basilone made a motion and Mr. Strauss 2<sup>nd</sup> the motion to recommend changing only the platted lots of Regatta Subdivision from "R-C" to "R-3". Voice vote, all Ayes, no Nays. Recommendation passed.

Continuing east, the next neighborhood was Snug Harbor across the street from the former Train-O-Rama, near Church Road. It was discussed that the manufactured home parks and campgrounds would remain "R-C" since the campgrounds especially are Conditional Uses in the "R-C" zoning district and not really built out for traditional residential living. Ms. Dale shared that Snug Harbor was formally used as a campground that was eventually cleared out, the owners did not renew any of the licenses and eventually was sold to the new, current owners. She shared that there was a 19-lot subdivision that had been approved and recorded back in the 1950's and that's why there are now new single-family homes being built there. She said there is a 4 acres portion that would have to remain "R-C" because of the clubhouse, pool, maintenance building and Class A RV sites. Mr. Brown made a motion and Ms. Kopanski 2<sup>nd</sup> the motion to recommend leaving the Snug Harbor Subdivision and property to remain as "R-C" due to the mix of uses and the fact that it would be surrounded by other "R-C" property. Voice vote, all Ayes, no Nays. Recommendation passed.

The Commission moved on to the Tibbels Allotment Subdivision on Tibbels Drive. Ms. Dale said there were approximately 16 lots on this street, not all have homes on them, but there are all

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single-family homes, or cottages on the west side of the street. Trustee Rozak asked Ms. Dress if she knew if any of these homes were year-round. Ms. Dress said some of them were. Ms. Dale cautioned that if they recommended a change, it would be surrounded by "R-C" Recreational Commercial. She said this would be a prime example of due to the proximity of being between 2 commercial marinas, it may make more sense to leave it as is. Ms. Kopanski said it seems pretty obvious that any owners would know they were buying in a commercialized area. Ms. Kopanski made a motion and Mr. Strauss 2<sup>nd</sup> the motion to recommend leaving the Tibbels Allotment Subdivision and those properties on Tibbels Drive to remain as "R-C". Voice vote, all Ayes, no Nays. Recommendation passed.

The Commission discussed those houses that were in a different part of the Tibbels Allotment Subdivision along Elizabeth Drive. Ms. Dress said she would recuse herself from the discussion on this because she lives in this area. Ms. Dale said this one could involve more discussion since some of these lots adjoin an "R-3" zoning district. Mr. Basilone said his concern is that the goal of this is to protect the homes and homeowners and if the Commission leaves these alone, then they aren't accomplishing the goal. Ms. Dale pointed out that when driving down this street, there are Tibbels Marina buildings along SR 163 and then at the north end of the street is part of the actual marina. The question was asked at how many of the homes along this street were owned by the marina or family members. Ownership was reviewed on the GIS map program Ms. Dale had available and many of the lots were owned by someone in the Tibbels family. Ms. Dale said her guess would be that if they ever wanted to expand, they would start by using the lots they already own. Ms. Kopanski said she can only speak for herself, but her marina owns lots that are attached to the marina, and she would prefer that they remain the same zoning as the marina. She said obviously it would be up to Tibbels to express their own opinion, but she would be hesitant to change it based on her own situation. Mr. Brown asked if she was indicating that the residential lots are an extension of the marina. Ms. Kopanski said they may or may not be for the Tibbels family, but for her family marina, they are. She said there are some properties around the marinas where there are 1<sup>st</sup> Right-of-Refusals on properties should they sell. Ms. Dale clarified that those would usually be contiguous lots, not necessarily random lots within a neighborhood. Ms. Kopanski agreed that was accurate. Mr. Brown made a motion and Mr. Strauss 2<sup>nd</sup> the motion to recommend leaving the Tibbels Allotment Subdivision and those properties on Elizabeth Drive to remain as "R-C". Voice vote, all Ayes, Ms. Dress Abstained, no Nays. Recommendation passed.

The next streets were Bedford and Lexington which are part of the Harbor View A & B subdivision consisting of approximately 40 parcels. Discussion was had about Marine City operations along SR 163 and along the harbor/ waterfront. Mr. Brown said he felt this was similar to Skippers where it's a bit of a hodge-podge. Mr. Strauss asked if there is "R-C" on either side. Ms. Dale said yes and described what was also further down the street. Ms. Dress made a motion and Mr. Strauss 2<sup>nd</sup> the motion to recommend leaving the Harbor View A & B Subdivision and those properties on Bedford and Lexington to remain as "R-C". Voice vote, all Ayes, no Nays. Recommendation passed.

The last area along SR 163 (E. Harbor Road) to discuss before heading up Northshore Blvd. was the west side of Channel Grove Subdivision. This area includes the streets, Steele, Downend, Paul, Crabtree, Alpine and Channel Grove on the west side. Ms. Dale stated that marina is already zoned "R-C" and would have to remain as is. Dave's Drive Thru would also have to remain commercial. The east side of the subdivision where all of the homes are located on Worthy, Sackett & Everett is zoned "R-3". Mr. Brown inquired about the marina buildings along Roanoke. Ms. Dale stated that those are also zoned "R-C" and adjoins other "R-C" property which is the funeral home out on 163. Mr. Brown expressed he felt that was spot zoning. Ms. Dale explained why she disagreed, but that whatever they decide to do, how the homes are treated in Channel Grove should be all the same and not some "R-C", some "R-3". Mr. Basilone made a motion and Ms. Kopanski 2<sup>nd</sup> the motion to recommend changing the west side of Channel Grove 1<sup>st</sup> Addition Subdivision, except for the property that Dave's Drive-Thru sits on from "R-C" to "R-3". Voice vote, all Ayes, no Nays. Recommendation passed.

The Commission moved on to Northshore Blvd. starting at 163. The first property zoned "R-C" was Rocky Point Marina & Campground, which would need to remain as "R-C" and then Little Ted's Cottages which would also need to remain as "R-C". The first residential area zoned "R-C" includes Port Ann and Otts Subdivisions. This would include the streets Gravel Bar Road before the gated part, Willowdale, Meadowbrook and Perryview. Ms. Kopanski said that her Marina owns Willowdale, Meadowbrook, Perryview and Florence streets, so she will stay out of, or abstain, from the decision for this area. Ms. Dale highlighted on a computer screen the lots for the area she wanted them to discuss which included approximately 100 lots. She reviewed again that Little Ted's was to the west, LakeVue Marina was to the north and as they start to head east, they really begin to run into a mix of uses. Trustee Rozak asked if the lots she has highlighted are all SF homes. Ms. Dale said yes, the majority of them are, but as Ms. Kopanski shared earlier in the Tibbels discussions, they own some the lots personally, also with the intention to possibly make them part of the Marina if

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need-be. Ms. Dale said they had previously discussed very early on in this process, about considering whether a certain distance back from a Marina would make sense to remain commercial and the rest be changed to "R-3", but she's not sure that there is a natural "drawing line" for that here. Ms. Dale reiterated this is the Commission's recommendation to make, she's just wondering if in this particular area if there is some sort of balance that can be done that would allow the marina to expand, if need be, yet protect the rest of the residential neighborhood. Ms. Dress and Mr. Strauss expressed that it may make things very complicated to list certain lots within a neighborhood one zoning district over another. Mr. Brown agreed that there does not seem to be an E/W dividing line to separate the north part of this area from the south part. Mr. Basilone asked if there are any vacant lots in this area. Ms. Dale said yes. Ms. Kopanski & Ms. Dale openly discussed which lots were vacant. Mr. Basilone made a motion and Ms. Dress 2<sup>nd</sup> the motion to recommend leaving the Gravel Bar, Willowdale, Meadowbrook, Perryview, Williams and Billings Streets to remain as "R-C". Voice vote, all Ayes, Ms. Kopanski Abstained, no Nays. Recommendation passed.

Mr. Brown asked what the "R-C" zoned properties are on the south side of Northshore Blvd. Ms. Dale said that they are the LakeVue Marina storage buildings, the former Bomba's fish cleaning business and part of Camp Runinmuck.

The next area is where Majestic Motel is located, Marblehead Harbor, and Shrock's Marina. Streets include Florence, Miley, Shrock & Hidden Beach. Ms. Dale highlighted residential lots, which showed the disconnect between them with Commercial along Northshore Blvd and commercial uses along the waterfront. Mr. Basilone made a motion and Ms. Dress 2<sup>nd</sup> the motion to recommend leaving this area to remain as "R-C". Voice vote, all Ayes, Ms. Kopanski Abstained, Mr. Brown Abstained, no Nays. Recommendation passed 3-0.

The last area to discuss was Holiday Drive and the Blue Water Condominiums. Ms. Dale shared that Mazurek Landing next door is zoned "R-3". Initial discussion was that these two neighborhoods should change to "R-3" until Ms. Kopanski shared that Blue Water does rent out boat docks in their Marina. Mr. Strauss and Mr. Brown agreed that they saw signage indicating the same. Ms. Dale said it wouldn't make any sense then to consider rezoning the few homes on Holiday Drive then to "R-3" and have it completely surrounded by "R-C". Mr. Strauss made a motion and Ms. Kopanski 2<sup>nd</sup> the motion to recommend leaving Holiday Drive and Blue Water Condominiums to remain as "R-C". Voice vote, all Ayes, Ms. Kopanski Abstained, no Nays. Recommendation passed.

Ms. Dale reviewed the Zoning Map to make sure there were no other areas that needed to be discussed. Ms. Dale said she will begin to prepare the maps for review and public input. Their meeting for July will be determined later if they need to meet or not.

**Other Business**

There was none.

**Reports and Communications from Members and Staff**

There was none.

**Public Comments Regarding Zoning Items Not on the Agenda.**

There was none.

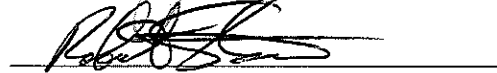
**Adjournment**

The Chair asked for a motion to adjourn. Mr. Strauss moved to adjourn the meeting and Mr. Basilone seconded the motion. All Ayes. The motion carried.

The meeting was adjourned at 8:42 p.m.

  
RECORDING SECRETARY

  
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ZONING COMMISSION

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