

AGENDA

MEETING OF THE TOWN OF ALLEGANY PLANNING BOARD

**Monday, October 6, 2014
at 7:00 p.m.
Allegany Town Hall
52 W. Main Street, Allegany, NY**

Salute to the Flag

Minutes

September 8, 2014

Old Business

Community Bank (#21-14)
Revised Landscaping Plan

Nicholas Porcello DBA Valley View Dental Clinic (#87-14)
Expansion of building and parking lot (site plan approval)

New Business

None

Other Business

Zoning Amendment to add "commercial recreation" in the I-1 District: status update

Zoning ordinance update:

- Article XII: Amendments
- Section 5.23: Townhouses
- Article III: Establishment of Districts
- Article I: General Provisions

Correspondence

None

**Next Planning Board Meeting:
Monday, November 10, 2014**

**Town of Allegany Planning Board
Meeting Minutes**

Monday, **October 6, 2014** at 7:00 P.M.
Allegany Town Hall, 52 W. Main Street, Allegany, NY

APPROVED November 10, 2014

Present:

Frank DeFiore, Chairman
Pete Hellier
Helen Larson
John Sayegh

Also Present:

John Hare, Town Supervisor; Carol Horowitz, Town Planner; Steve Mountain, Town Engineer; John Moshier, Town Highway Superintendent; Dick Burt, Community Bank N.A.; Tom McElheny, Clark Patterson Lee; Kyle Duggan, Duggan & Duggan; Nick Porcello, Valley View Dental; Don Sue; Lynette Semsel, Secretary

Chairman DeFiore opened the meeting with the Pledge to the Flag at 7:00 PM.

Minutes

Chairman DeFiore asked for corrections, additions, deletions to the minutes of the September 8, 2014 Planning Board Meeting.

Mr. Hellier made the motion to approve the minutes of the September 8, 2014 meeting as written. 2nd by Mrs. Larson. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Old Business

Community Bank (#21-14)

Revised Landscaping Plan

Chairman DeFiore informed the Board that he, Mrs. Horowitz, Supervisor John Hare, John Moshier, and Steve Mountain met with Mr. McElheny at the site earlier in the day. Their purpose was to look at the berm and how the water will flow from it and where the tree plantings will be placed. They came up with nine conditions for approval which Mrs. Horowitz presented to the Board.

Since this is an amendment to the Site Plan, the Board needs to determine if the proposed amendment meets the criteria in Section 9.09 of the Town's Zoning Ordinance for a minor (*de minimus*) amendment to the Site Plan. These criteria include minor changes to the landscaping plan. If it is determined the amendment is a minor action, the Board can act on the amendment without the need for a public hearing or referral to the Cattaraugus County Planning Board.

Mr. Hellier indicated his opinion is that the berm is not a minor change and asked if it had been on the original plans. Mrs. Horowitz answered no, the original plans did not show a finished grade in that area on the site plan that was approved. Verbally, the applicant had stated

they were going to take some of the material they were excavating on the front part of the site and put it on the back part of the site.

Mr. DeFiore said they had looked at the berm today because of its height and expanse. All the residents that live on the exact opposite side of it have foliage and trees that block the view and no one has expressed any complaints. The gentleman who lives off the east side of the berm can see over the portion by his house. The way the berm is sloped, the majority of the runoff is going to come into the site. The small amount that will go the other side has a natural grade where it will percolate down into the ground.

Mr. Hellier asked what will keep the water from coming off the berm onto the property to the north (Roberta Morgan-Shawley residence.) Mr. DeFiore answered there is a natural swale through there and the water percolates into the ground. On the east side, there is a small reservoir. Mr. McElheny suggested the natural swale could be cleaned and brought around in order to get as much of the water as possible that comes off the north slope to go into the bank's drainage system. There is the possibility that, during the winter when the ground might be frozen, a quick slush storm might cause some flooding. Mr. McElheny said they would work with St. Bonaventure to resolve this as it directly involves their property.

The Town Highway Superintendent would like a hammerhead turnaround at the end of Castle Drive and the question was raised if the bank would provide some land. The Planning Board decided to make a recommendation that the Town approach the bank for an agreement rather than making it a condition of approval as the bank would be giving up some of their land. The Board is hopeful the bank will agree.

Mr. Hellier made a motion that the proposal for the Revised Landscaping Plan for Community Bank Project #21-14 is a de minimus amendment to the site plan and, therefore, a public hearing and referral to the Cattaraugus County Planning Board are not required. 2nd by Mr. Sayegh. Mr. Hellier – aye, Mrs. Larson – aye, Mr. Sayegh – aye, Mr. DeFiore – aye. Carried.

The Board went over the conditions of approval. Mr. McElheny questioned the third condition regarding the requirement that any trees that die before maturity would have to be replaced. Mrs. Horowitz said that the condition of approval is needed in the possibility that something the applicant plants does not take for whatever reason, such as the fact that the soil is very rocky. Mr. Mountain stated the landscaping plan usually stays with the approval. For example, if the bank has proposed something and takes it out in five years, the Planning Board would still have the right to ask them to replant. That brought up the question as to what size would the replanting have to be. Mrs. Horowitz thought they would need to replant with something such as a healthy 2" tree which seemed to be acceptable to everyone. Mr. McElheny asked what the Board considered the definition of "before maturity." For example, sometimes new trees have a two or a five year warranty. Also, some trees take longer to grow to their full maturity such as sugar maples. It was decided to delete the words "before maturity" in the condition rather than indicate a specific time or size.

In condition No. 6 concerning the requirement to camera the main sanitary sewer line, Mr. McElheny asked if that stretch of sewer line had been videotaped before and, if not, what will be the basis for determining when and who caused any damage. Mr. Moshier said he did not think it had ever been videotaped and the Town would have to make the determination whether any damage found was due to the construction activity. Mr. Hellier asked how deep the line is and

Mr. McElheny answered it was 12-14 feet when they started the project and it is probably deeper now. Mr. Hare thought, if the sewer line was videotaped now, it would seem the Town would be able to tell if it is recent damage or some that had been there for quite some time. Mr. Mountain also said, with the equipment available today, it should be possible to tell. The general consensus was that common sense would have to be used in judging.

Chairman DeFiore made a motion to approve the revised Planting Plan, dated 9/19/14, prepared by Clark Patterson Lee, as an amendment to the Site Plan approval of May 12, 2014, with the following conditions of approval:

1. *All the conditions of the May 12, 2014 approval remain in effect, unless specifically modified by this amendment.*
2. *Prior to planting, the location of the 12 maple trees to be planted on the berm shall be discussed with the Highway Superintendent and adjusted to his satisfaction, in order to provide an adequate separation at maturity between the trees and the Town's easements and rights-of-way.*
3. *The trees planted on the berm at the rear of the property are intended as mitigation for the mature trees that were removed on site and are also intended to serve as a visual screen and to aesthetically soften the impact of the berm. Therefore, Community Bank or any subsequent property owners will replace any trees that die.*
4. *Some of the fill material for the berm is located within the right-of-way of Castle Drive and within the Town's Sanitary Sewer easement. In the event that the Town needs to excavate or otherwise disturb the berm in either the easement or the right-of-way, Community Bank or any subsequent property owners will be responsible for repairing any disturbed areas.*
5. *Community Bank will provide the Town with an additional 10 foot wide easement on the uphill side of the current sanitary sewer easement, running the length of the easement through the Bank's property. This additional easement is needed due to the new slope that has been created, where previously the easement was located on flat ground. The easement shall be provided prior to the issuance of a Certificate of Occupancy for the Bank Operations Center.*
6. *Community Bank will camera the main sanitary sewer line running through the site, to ensure that no damage was caused by construction vehicles, prior to the issuance of a Certificate of Occupancy for the Bank Operations Center. The results of this test shall be provided to the Town Highway, Water and Sewer Superintendent. If necessary, Community Bank shall be responsible for the cost of any repairs.*
7. *Prior to the issuance of a Certificate of Occupancy for the Bank Operations Center, Community Bank will provide the Chair of the Planning Board with a letter from St. Bonaventure University, acknowledging the berm on the University's property.*
8. *Next spring Community Bank will examine the health of the cherry tree in the northeast corner of the site; if unhealthy, the tree will be removed.*
9. *Next spring the berm shall be examined for any areas of erosion, and repaired and reseeded as needed.*

2nd by Mr. Hellier. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried

Chairman DeFiore made the motion to recommend the following to Community Bank:

- 1. The Planning Board recommends that the Bank work with St. Bonaventure University to re-grade a portion of the area on University property in the vicinity of the berm, in order to ensure that water does not pond to the north of the berm, but instead flows around the berm into the Bank's drainage system.*
- 2. The Planning Board recommends that the Bank and Town Highway Superintendent work together to accomplish a hammerhead turnaround for the Town's snow plows at the end of Castle Drive; the Bank would provide some land that appears to be excess to the Bank's needs and the Town would construct the turnaround.*

2nd by Mr. Sayegh. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried

Nicholas Porcello DBA Valley View Dental Clinic (#87-14)

Expansion of building and parking lot (site plan approval)

This project needed several variances; for the side setback for the building, the side setback for the parking lot, and the front yard setback for the parking lot. The County Planning Board met on September 25 and determined the site plan application had no significant county-wide or inter-community impact and they have no problem with the Town Planning Board approving the site plan. For the one variance on the front yard setback, they had a stipulation about not installing landscaping between the parking lot and the edge of right-of-way, which is five feet, as it might affect the sight distance. The Zoning Board of Appeals met September 27 and did approve all the variances, granting a 35 foot front yard setback variance making a five foot separation between the right-of-way and the parking lot with the condition that any landscaping from the parking lot should not obstruct visibility at maturity.

Mrs. Horowitz informed the Planning Board that the public hearing on the site plan is optional; however, she did attend the public hearing the Zoning Board of Appeals held and no one from the community came. The Board must make a SEQR determination of significance as this is an Unlisted Action.

Mr. Sayegh made the motion that a public hearing on the Valley View Dental Clinic Expansion, #87-14, application is not warranted, due to the size and scale of the project.

2nd by Mr. Hellier. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

In terms of the SEQR review, Dr. Porcello had previously provided the three-page short environmental assessment form. The location of the Clinic is in an area that is not listed as archeological sensitive.

Chairman DeFiore went over Part 2 – Impact Assessment with the Board:

- 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? NO*
- 2. Will the proposed action result in a change in the use or intensity of use of land? NO*
- 3. Will the proposed action impair the character or quality of the existing community? NO*
- 4. Will the proposed action have an impact on the environmental characteristics that caused*

- the establishment of a Critical Environmental Area? NO*
5. *Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? NO*
 6. *Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? NO*
 7. *Will the proposed action impact existing:*
 - a. *public/private water supplies? NO*
 - b. *public/private wastewater treatment utilities? NO*
 8. *Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? NO*
 9. *Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? NO*
 10. *Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? NO*
 11. *Will the proposed action create a hazard to environmental resources or human health? NO*

Part 3 – Determination of significance.

Since all questions were answered “No, or small impact may occur,” it was determined, based on the information and analysis and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts and the appropriate box will be checked.

Mr. DeFiore made the motion that, based on the information and analysis of the Short Environmental Assessment Form, the Nicholas Porcello DBA Valley View Dental Clinic (#87-14) expansion will not result in any significant adverse environmental impacts. 2nd by Mr. Hellier. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Mrs. Horowitz wanted to clarify the site plan shows a dumpster pad; however, the dumpster is not on a pad but on gravel. She asked Dr. Porcello if his intention still was to have the dumpster only on the ground and he answered, “Correct.” The Planning Board had approved this change at their October 7, 2013 meeting.

Mr. DeFiore moved to approve the application for site plan review, to allow the additions to the Valley View Dental Office as shown on the Preliminary Modified Site Plan dated 09/08/14 and on the floor plans and elevations, Sheets A1, A2 and A3, dated 08/07/14, prepared by Clark Patterson Lee, with the following conditions of approval:

1. ***All areas of the site that are not devoted to the building footprint, driveway, and parking areas shall be landscaped. Areas of the site that are not devoted to foundation plantings and other decorative planting shall be planted in approved vegetation in order to achieve runoff reduction.***
2. ***The site shall be maintained as required by the stormwater and drainage plan that was approved in 2011, including periodic mowing as required, and reseeding of areas as needed.***
3. ***The foundation planting in front of the building shall be maintained and replaced as needed.***

4. *Any landscaping in front of the parking lot shall not obstruct visibility for drivers on Buffalo Road.*
5. *The expanded area in the basement can be used only for a garage and/or storage. As previously approved, the currently existing basement can only be used for the ancillary basement office space for administration of the practice and storage and other ancillary activities associated with a dentist office. The main floor of the building shall be used as a dental office/dental clinic. Any additional use or change in use may require an application to the Planning Board for an amendment to the Special Use Permit issued in 2011 and/or an amendment to the Site Plan.*

In taking this action the Planning Board finds that the site plan complies with all the Findings for Approval in Section 9.06(C)(5) of the Town of Allegany Zoning Ordinance.

2nd by Mr. Hellier. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Other Business

Zoning Amendment to add "commercial recreation" in the I-1 District: status update

Mrs. Horowitz informed the Board that the referral to the Planning Board to add “commercial recreation” in the I-1 District by the Town Board at their September 9, 2014 meeting was rescinded by the Town Board at their September 23, 2014 meeting. Their motion stated “the review is no longer necessary for that parcel.” The property was purchased by someone else and the go-kart project seems to be dead, at least at that location.

Aspen Dental Application

On September 19, 2014, Supervisor John Hare, Frank DeFiore, Carol Horowitz, Code Enforcement Officer Jerry Dzuroff, John Moshier, and Town Engineer Thomas Swift met with Mike Liyeos, Quattro Development LLC, who is a preferred developer for Aspen Dental, to discuss their proposal to construct a new dentist office on Route 417, on land adjacent to Tim Horton's Restaurant. Quattro Development would purchase the land from Living Waters Church, construct the building, and lease it to Aspen Dental. The meeting was set to review the Guidelines and Checklist for applicants. Mr. Liyeos indicated that they would try to make the deadline for the Planning Board's November meeting. Along with the items listed during the review of the Checklist, the applicant needs to provide:

- Part 1 of the Short Environmental Assessment Form.
- Site Plan application form and filing fee of \$250.
- A letter from Living Waters Church giving Quattro Development permission to make the application.

Guidelines for Applicants to the Planning Board Form

Mrs. Horowitz mentioned that she made a few minor changes to the Guidelines form by numbering the checklist and also adding the web link to the SEQR forms. The numbers will make it simpler to indicate which items in the checklist are needed by the applicant.

Zoning ordinance update:

Article XII: Amendments

Section 5.23: Townhouses
Article III: Establishment of Districts
Article I: General Provisions

The Board continued working on updating the ordinance. They also discussed including the Wellhead Protection in the Zoning Update. Mrs. Horowitz asked Mr. DeFiore to contact the Town Board and Supervisor Hare to ask them their preference and let them know the updating would take a month or two longer if the Wellhead Protection was included.

Mr. DeFiore made the motion to close the meeting. 2nd by Mr. Hellier. Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,



Lynette K. Semsel

Secretary