

**AGENDA**  
**MEETING OF THE**  
**TOWN OF ALLEGANY PLANNING BOARD**

**Monday, November 10, 2014**  
**at 7:00 p.m.**  
**Allegany Town Hall**  
**52 W. Main Street, Allegany, NY**

**Salute to the Flag**

**Minutes**

October 6, 2014

**Old Business**

Community Bank (#21-14)

Landscaping Plan: amend conditions of approval

**New Business**

Aspen Dental

Site Plan Review

**Other Business**

Zoning ordinance update:

Discussion of possible revisions to Wind Energy (Commercial WECS,  
Section 5.25) regulations, per Town Board referral

Article VII, Administration

Article X, Enforcement, Penalties and Other Remedies

Article VIII, Special use permit

Article IX, Site Plan Review

**Correspondence**

None

**Next Planning Board Meeting:**  
**Monday, December 8, 2014**

**Town of Allegany Planning Board**  
**Meeting Minutes**  
Monday, **November 10, 2014** at 7:00 P.M.  
Allegany Town Hall, 52 W. Main Street, Allegany, NY

**APPROVED December 8, 2014**

**Present:**

Frank DeFiore, Chairman  
Pete Hellier  
Rick Kavanagh  
Helen Larson  
John Sayegh

**Also Present:**

Carol Horowitz, Town Planner; Richard Burt, Community Bank N.A.; Nicholas DiCerbo, Community Bank N.A.; Michael Haigh, Quattro Development; Kathy Boser; Don Sue; Lynette Semsel, Secretary

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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 October 6, 2014 Planning Board Meeting.

*Mr. Hellier made the motion to approve the minutes of the October 6, 2014 meeting as written. 2<sup>nd</sup> by Mrs. Larson. Mr. Kavanagh – abstained; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.*

**Old Business**

**Community Bank (#21-14)**

Landscaping Plan: Amend conditions of approval

At the request of representatives of Community Bank, Chairman DeFiore stated he, Town Supervisor John Hare, Town Attorney Wendy Tuttle, and Mrs. Horowitz met with the representatives to discuss some concerns about the language of some of the conditions of the Planning Board's approval of Oct. 6, 2014. Following are the recommended changes:

Condition #3 should have included the size of any trees replaced on the berm. The trees being planted (shown on the approved revised site plan) were listed as 2 inch caliper. If any tree needs to be replaced in the future, it should also be 2 inch caliper. The amended wording will correct the omission.

Condition #4 addresses any future possibility of excavation within the sanitary sewer easement. The bank representatives and the highway superintendent discussed this and proposed the following change: The Town would rough grade the site after any repair work and the property owner would be responsible for the finish grading and re-seeding. Mr. DiCerbo, said

the cost of the particular seed the NYS DEC required them to use could be an undue burden to the Town. The bank has agreed to do any reseeded.

Bank officials have directed their surveyor to start work on the legal description for the additional 10 foot wide easement for the sanitary sewer line; however, there is some concern that this work might not be completed by the time the bank would like to occupy the building. Since they are on a tight time frame to get into the building, they have requested removal of the portion of Condition #5 requiring this to be completed prior to the issuance of a Certificate of Occupancy.

Other conditions of the approval have already been accomplished:

1. Condition #2, the Highway Superintendent and the bank's landscaper met on site and approved the locations of the maple trees and they have been planted.
2. Condition #6, the sanitary sewer line was videotaped and no damage from construction was detected. The Town's highway superintendent was present during this test.
3. Condition #7, the Town has received a letter from Phil Winger regarding the berm and the satisfactory completion of grading.
4. Condition #8, the cherry tree in the northeast corner of the site has been inspected, found to be diseased, and removed from the site.

***Chairman DeFiore made the recommendation to follow the revised conditions of approval dated November 5, 2014 for the Community Bank Operations Center (#21-14) as written for conditions 3, 4 and 5 as follows:***

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. Replacement trees shall be a minimum of 2-inch caliper in size.***
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, the Town will rough grade the area that was excavated or disturbed and Community Bank or any subsequent property owners will fine grade and re-seed the excavated or disturbed area.***
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.***

***2<sup>nd</sup> by Mr. Kavanagh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

#### **Aspen Dental Application (#116-14)**

Chairman DeFiore introduced Michael Haigh representing Quattro Development, a third party developer, Aspen Dental being one of their preferred clients. Mr. Haigh's first comment indicated there was a drafting error on the application. They will have two façade wall signs and one freestanding pole sign; therefore, they will not need to apply for a zoning variance on the signs as originally planned. They will, however, be applying for a zoning variance for the rear

yard parking lot as it does not meet the necessary setback. Mrs. Horowitz asked that they get the information to her as soon as possible as the information must go to the County Planning Board. Due to the Thanksgiving holiday, the County Planning Board will not be meeting until December 4, 2014 and they won't meet again until late January so it is critical that the project be on the December 4 agenda.

The proposal for the Aspen Dental is to have one driveway off Route 417. This complies with the Route 417 East Overlay District. There will be more than ample parking, some of which will be on property owned by Living Waters Church. There will also be an exit onto Independence Drive. Mrs. Horowitz said the applicant needs an agreement with Living Waters Church for use of the parking lot on their property and also something from either Living Waters Church or Tim Horton's that allows Aspen Dental to use the exit driveway on Tim Horton's property.

Mr. Haigh clarified that Aspen Dental prefers to have 30 parking spaces. They usually have approximately 10 people on site. He also stated Living Waters definitely wants this project to go through and; therefore, he feels they should easily be able to have the necessary agreements. The easement is between Living Waters and Tim Horton's; however, they will work together to ensure the necessary agreement is in place.

The front of the building will be facing Tim Horton's. Mr. Hellier asked why there are no windows in the rear of the building. Mr. Haigh answered that he wasn't sure. They usually have windows on the sides and front but none in the rear possibly due to the types of rooms in the back of the building.

For the overlay district, the ordinance requires that all four sides of the building should be treated as a "façade." The back of the building will be facing the brown house which is owned by Living Waters Church. The landscaping plan shows a line of evergreens which would be 6' tall at planting. This line of evergreens would provide a screen between the house and the rear of the building. The front setback would be lawn area. There will also be a sidewalk that goes from the front of the building to the sidewalk on Route 417.

The sign will be an illuminated sign with Aspen Dental's logo on either side. The sign is 40 sq. ft. and 8 ft. tall. Since it will be located in the lawn area, the height should be acceptable. It will be set back 29' from the edge of the pavement which would be at least one car length back allowing for clear vision turning out onto the highway. The two façade signs will probably be on the east and the south sides of the building.

Mrs. Horowitz gave Mr. Haigh a copy of the information the Town Engineer, Tom Swift, would like on the drainage plan. Mr. Haigh said he would have their Engineer get in touch with the Town's Engineer to resolve any questions.

This is an Unlisted SEQR action and there is only one other involved agency, NYSDOT, as the project is on Route 417. A public hearing on the site plan is optional; however the Zoning Board of Appeals will have a public hearing on the zoning variance.

Mrs. Horowitz explained the sequence for the approval process. The County Planning Board has to issue its recommendation first. Then the Zoning Board of Appeals has to make a decision. Finally the Town Planning Board can make their decision. She will coordinate the process with the Zoning Board of Appeals.

***Mr. Kavanagh made a motion that there is no need for a coordinated SEQR review. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

***Chairman DeFiore made the motion that a public hearing on the Aspen Dental (#116-14) application is not warranted, due to the size and scale of the project. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye. Mr. DeFiore – aye. Carried.***

The Board decided to table the SEQR review in the possibility that some issue might come up at the ZBA public hearing.

Mrs. Horowitz informed the applicant that they still need to address the concerns of the Town Engineer regarding drainage and the two agreements for the use of the Church parking lot and the use of the access road behind Tim Horton's.

On the detailed lighting plan, the only information on the poles is that they are 25 feet tall. There is nothing as to what the poles would look like. Mr. Haigh said they could have their engineer spec it out for the Board.

Mr. Sayegh had a concern that the applicant could encroach lighting on the neighboring house. Mr. Haigh said that it would be simple to address that concern.

Mrs. Horowitz asked if the applicant is going to have any mechanical equipment on the roof. Mr. Haigh answered there will be an HVAC unit and asked if it would need to be screened. Mrs. Horowitz thought that the arched feature would probably screen anything on the building from the front; however, there is no parapet on the back side of the building which is the side that faces the house. Mr. Haigh assured the Board it will be screened if necessary to meet the zoning code.

***Mr. DeFiore made a motion to table the Aspen Dental #116-14, project until the December 8, 2014 Planning Board Meeting. 2<sup>nd</sup> by Mr. Kavanagh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye. Mr. DeFiore – aye. Carried.***

## **Other Business**

Zoning ordinance update:

### ***Discussion of possible revisions to Wind Energy (Commercial WECS, Section 5.25) regulations, per Town Board referral***

Chairman DeFiore informed the Board that they will discuss the possibility of revisions to Wind Energy at the December 10 meeting. The Board has been provided with a staff report and documents from previous discussions, along with a November 5, 2014 letter from Kathy Boser, Concerned Citizens of Cattaraugus County.

Mr. Kavanagh expressed his concerns about the time and cost of revisiting this issue as no current project exists. Chairman DeFiore and Mrs. Horowitz both answered that the Town Board has asked the Planning Board to look at the regulations. Mr. Kavanagh stated the Board's answer should be, "don't waste Town money and time on something that doesn't exist." Chairman DeFiore said they will discuss that next month.

***Article VII, Administration:*** Mrs. Horowitz said she will set up a meeting with Code Enforcement Officer Jerry Dzuroff and Town Attorney Wendy Tuttle and the three of them would go through this section and update it.

**Article X, Enforcement, Penalties and Other Remedies:** Mrs. Horowitz' goal is to take all the Penalties information out of Article VII and move them back to Article X or completely get rid of Article X and make one Enforcement subsection of the administration chapter. There is so much overlap and either of these changes would get rid of the duplication.

Chairman DeFiore brought up the discussion from the last Planning Board meeting regarding whether the Wellhead Protection should be included in the current zoning update or done separately in the future. He and Mrs. Horowitz spoke with Supervisor Hare regarding the Town Board's opinion. Based on that conversation, Mrs. Horowitz' impression is that Supervisor Hare wants the Planning Board to get the Zoning Ordinance update done as soon as possible and; therefore, he does not want them to look at Wellhead at the present time. Mr. DeFiore agreed.

The Board continued working on updating the ordinance.

**Mr. DeFiore made the motion to close the meeting. 2<sup>nd</sup> by Mr. Hellier. Mr. Kavanagh – aye; 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