

AGENDA

MEETING OF THE TOWN OF ALLEGANY PLANNING BOARD

**Monday, December 8, 2014
at 7:00 p.m.
Allegany Town Hall
52 W. Main Street, Allegany, NY**

Salute to the Flag

Minutes

November 10, 2014

Old Business

Aspen Dental: Site Plan Review (to be tabled to January 12, 2015)

New Business

None

Other Business

Meeting Schedule for 2015

Zoning ordinance update:

Discussion of possible revisions to Wind Energy (Commercial WECS,
Section 5.25) regulations, per Town Board referral
Article IV, District Regulations and Zoning Map
Article VIII, Special use permit
Article IX, Site Plan Review
Article VII, Administration (starting at Section 7.07 ZBA)

Correspondence

Letter from C. Horowitz to M. Liyeos, Quattro Development, 11-20-2014

**Next Planning Board Meeting:
Monday, January 12, 2015**

Town of Allegany Planning Board
Meeting Minutes
Monday, **December 8, 2014** at 7:00 P.M.
Allegany Town Hall, 52 W. Main Street, Allegany, NY

APPROVED January 12, 2015

Present:

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

Also Present:

Carol Horowitz, Town Planner; Don Sue; Lynette Semsel, Secretary, Residents: Kathy Boser, Paula Vance

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 November 10, 2014 Planning Board Meeting.

Chairman DeFiore made the motion to approve the minutes of the November 10, 2014 meeting as written. 2nd by Mr. Kavanagh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. DeFiore – aye. Carried.

During the next discussion, Mr. Sayegh entered the meeting.

Old Business

Aspen Dental Application (#116-14)

Since the County Planning Board did not meet until December 5, 2014 and the Town's Zoning Board of Appeals won't meet until December 15, 2014 to address the rear setback, the Planning Board could not take any action on this project and tabled it until the January 12, 2015 meeting.

Mrs. Horowitz had sent a letter on November 20, 2014 to Michael Liyeos of Quattro Development, LLC summarizing the additional information the Planning Board will need from them. She asked the Board members if they had any other items they would like to request from the applicant.

Mr. Kavanagh requested manufacturer's specs re the noise/decibels for the air conditioning/heating unit that will be placed on the building. There will be three sides (parapets) to the rooftop of the building which could make a natural funnel for the sound. This could funnel the noise toward the house to the rear of the building on the west side. As the unit

may be less than 100' from the bedroom window of the house, noise could be an issue; however, the hours the dental office will be open should limit the sound.

Other Business

Meeting Schedule for 2015

The Board had a chance to look over the proposed meeting schedule for 2015.

Mr. Kavanagh made a motion to adopt the draft 2015 Meeting Schedule as written. 2nd by Mr. Hellier. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Zoning ordinance update:

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

Currently the ordinance reads the noise level from a wind turbine cannot exceed 3 decibels over ambient measured within 2500 feet of the turbine and/or at other sensitive receptor points. Gordon Reusing, CRA, who was consulting with the Board in 2010 on the issue, had serious reservations about this measurement:

1. How to define ambient, as noise measurements can vary from day to day, season to season, hour to hour and;
2. Plus 3 decibels over ambient per the DEC document on noise mitigation is basically negligible; between 3-6 dB may be an issue; over 6 dB is definitely a concern that should be addressed.

Mr. Reusing then came up with the standard of 40 dB(A) which is more stringent than other places in New York State where 50 dB(A) is a common ceiling noise limit. At that time the consensus from the experts the Town was using (consultants and lawyers) was that 40 decibels would be both stringent and enforceable, or legally supportable in the event it was challenged.

Mrs. Horowitz stated, in 2010, the Planning Board accepted that recommendation and forwarded it to the Town Board. The Town Board adopted every other recommendation but took the noise change out.

Mr. Kavanagh agreed with the opinion in the 2010 discussion that the 40 dB is defensible. Mr. Hellier would like a higher figure such as 45. In contrast to the 3 decibels over ambient which requires designating sensitive receptors at 2500 feet, Mrs. Horowitz said the 40 decibels is measured at the exterior of any non-participating house.

There was some discussion on the additive effects from different noise sources. Mrs. Horowitz said she would find the link to the NYS DEC document, *Assessing and Mitigating Noise Impacts*, and email it to the Board.

Mrs. Horowitz stated the criteria in the current law, (5.25(C)(1) for setbacks will remain the same unless the Board decides to change them. All commercial WECS shall comply with the setbacks of (a) 1.5 times the height of the structure, including to the tip of the blade; (b) 2500' from the boundaries of any R-1 or R-2 Zoning District; (c) 1000 or 2.25 times the tower height, whichever is greater, from any year round residence; (d) 1.5 times the height of the tower to the tip from any structures and buildings; and (e) 1.5 times the height to a public road. All of these

setbacks were set for safety reasons and not for the noise level. The possible changes pertaining to the noise setbacks would be to Section (3).

Chairman DeFiore asked for opinions on whether the noise requirement should be changed from 3 above ambient to 40 decibels or left as it is at present.

Mr. Kavanagh: I have no problem with the 40. I made that motion before the [Town] Board decided not to act on it.

Mr. Hellier: I think you need to look at both the noise level and the limits of distance because it makes a difference.

Chairman DeFiore: But those are two different things in our ordinance. One deals with the setbacks and one deals with the noise limits.

Mr. Hellier: I think the noise limits will be contingent on the setback.

Mrs. Larson: I will go with the 40.

Mr. Sayegh: I am looking at Dan Spitzer's memo and it says it would be unenforceable and unconstitutional to set unreasonable restrictions. Based on his letter and Carol's recommendation, I would have to trust the advice of individuals who have been involved.

Mr. Kavanagh: Later on in that memo that John is reading from says all of this can be reopened at SEQRA.

Mrs. Horowitz: If there were a project, then the SEQRA review would be very intense and that gives the Board an additional mechanism for imposing other conditions which is what happened the last time around. The mitigations in the SEQRA were folded into the Conditions of Approval.

Since the Town Board's request was for the Planning Board to review the current Wind Energy in the Zoning Ordinance, it is not necessary for the Planning Board to make a motion on any revisions but to fold them into the entire Zoning Ordinance update. Mrs. Horowitz needed some type of consensus as to whether it would be appropriate to go with the language of the motion from 2010. (The plan still is to be able to have a public hearing early in 2015 on the entire updated Zoning Ordinance.)

Chairman DeFiore asked if the Board wanted to consider the setbacks again. Mr. Kavanagh indicated the Board had thoroughly worked on the setbacks the first time and they are the toughest in the state.

The Board did discuss the height limit which currently is set at 497 feet. Mr. Sayegh suggested the wording of "not to exceed 500 feet." Chairman DeFiore asked the Board their opinion and general consensus was that adding three feet to round out the number was agreeable and immaterial.

The next section the Board discussed referred to the non-commercial wind energy. Mrs. Horowitz said the current regulations have the same standard of 3 over ambient for noise. If the Board is changing this standard to 40 decibels for the commercial wind energy, Mrs. Horowitz' opinion is that the Board should be consistent and the non-commercial should also be changed to the 40. The setbacks are a little different.

Mr. Hellier said he still disagrees with the 40 decibel.

Article IV, District Regulations and Zoning Map

Mrs. Horowitz rewrote Section 4.11 Planned Development District (P-D) and the Board went through each Section.

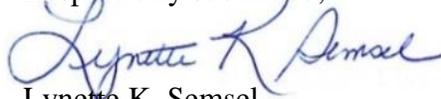
Planning Board Chairman for 2015

Mr. Kavanagh made the motion to recommend to the Town Board that Mr. DeFiore be reappointed as Chair of the Planning Board for 2015. 2nd by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

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

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,



Lynette K. Semsel
Secretary