

AGENDA

MEETING OF THE TOWN OF ALLEGANY PLANNING BOARD

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

Salute to the Flag

Public Hearings

7:00 P.M. DDR: Temporary Special Use Permit for Motor Vehicle Sales

7:10 P.M. Beichner Waste Disposal: Special Use Permit

Minutes

March 10, 2014

Old Business

DDR (#06-14):

Temporary Special Use Permit for Motor Vehicle Sales

Beichner Waste Disposal (#07-14):

Special Use Permit

New Business

None

Other Business

Zoning ordinance update:

Section 5.12: Sign Regulations

Correspondence

None

**Next Planning Board Meeting:
Monday, May 12, 2014**

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

APPROVED May 12, 2014

Present:

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

Also Present:

John Hare, Town Supervisor; Carol Horowitz, Town Planner; Lynette Semsel, Secretary; Jeffrey Levy, DDR; Jay Christopher, Transitowne; Eric Firkel, Kehoe & DeRose; Randy King, Kevin Stives, Shults Resale; Terry Brairton, Paul Brown Motors; Matt Peters, Mastel Ford Lincoln; Tom Steigerwald, Team Chevrolet; John Mallery, Mallerys Auto Body; Rick Bokman, Matthew Derx, Rick Bokman, Inc; Jim Burgeson, Olean Class Cars; Terry Leahy, Terrys Automotive; Trevor Horsley, Dr. Ross Horsley; Sean Dixon, Beichner Waste

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

Public Hearing: DDR: Temporary Special Use Permit for Motor Vehicle Sales

Mr. DeFiore called the Public Hearing to order on DDR Application for Temporary Special Use Permit for Motor Vehicle Sales and asked for comments:

Terry Brairton: Concerned that salespeople are not employees of the car dealer, Transitowne, but independent contractors which can cause a slew of problems. Town should have more responsibility to the local businessmen to keep dollars in the community.

Eric Firkel, Kehoe & DeRose, representing some of the local auto dealers and some local banks: He presented a letter from Brian Snyder, CEO Olean Federal Credit Union, which describes some of the problems the transient auto sales companies have caused the Credit Union, their members and other banking institutions. Mr. Firkel was also concerned about the salespeople not being employees of Transitowne.

Rick Bokman: Concerned about the car dealer (Transitowne) hiring transient salespeople who he feels are the "slickest of the slick" and prey on people.

Matt Peters: Would like the Town of Allegany to put a temporary moratorium on transient auto sales like Springville has done.

Terry Leahy: Small dealer and losing 2 car sales a month is a big percentage of his sales.

Randy King: Shults hires the best people and he is concerned about the type of salespeople hired by the transient auto dealer. Are they drug tested?

Tom Steigerwald: Concerned about the condition of the cars brought in to the sales. The Town should protect the citizens and businesses.

Mr. Kavanagh made a motion to close the Public Hearing on DDR Application for Temporary Special Use Permit for Motor Vehicle Sales at 7:25 PM. 2nd by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Chairman DeFiore went over the new zoning ordinance 2-step process of the transient car sales. The Planning Board approves the property owner's Temporary Special Use Permit which is good for one year. The motor vehicle dealer's Temporary Vehicle Sales Event Permit is obtained from the Code Enforcement Officer and is good for one event for a maximum 30 consecutive days. Mrs. Horowitz reminded everyone that the Zoning Ordinance is on line. She also said she would email it to anyone who requested it.

Public Hearing: Beichner Waste Disposal: Special Use Permit

At 7:35, Chairman DeFiore called the Public Hearing to order on Trevor Horsley's application #07-14 for Special Use Permit Beichner Waste Disposal. He then stated only one letter was received: Mike and Mary Peck dated April 7, 2014 stating, as long as containers and trucks are clean at all times, they have no objection. He then asked if anyone had any questions.

Board members asked:

Are the trucks and dumpsters are cleaned on site?

Mr. Dixon: The trucks would be dumped at the Chautauqua County Landfill and they can be washed there.

Mr. Horsley: There is no washing facilities on site.

How early would they be on site?

Mr. Dixon: 5:30 AM.

How many trucks will be on site?

Mr. Dixon: Currently there are only two trucks.

Mr. Kavanagh made a motion to close the Public Hearing on Special Use Permit Beichner Waste Disposal at 7:49 PM. 2nd by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Minutes

Chairman DeFiore asked for corrections, additions, deletions to the March 10, 2014 Planning Board Meeting. There were none.

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

OLD BUSINESS

Beichner Waste Disposal (#07-14): Special Use Permit

Mrs. Horowitz stated the Board reviewed the short EAF submitted by the applicant and made several changes at the Planning Board's March meeting. The Board now has a revised copy. The narrative in Part 3 explains why there is no expected impact to archaeological and other resources that the NYSDEC's mapping function identified as possible factors. The EAF also discusses the family cemetery. Prior to taking action on the application, the Board must make a SEQR determination of significance.

Mr. Sayegh made the motion that the Planning Board has determined there is no significant environmental impact from this application. 2nd by Mr. Hellier. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Mr. Kavanagh asked Mrs. Horowitz about the cemetery. Apparently the graves were moved a number of years ago with the exception of one. She has made the recommendation that all the storage occur behind the fence that goes across the front to avoid any encroachment on any potential graves that may or may not be there.

Mr. Hellier made the motion to approve the application for Special Use Permit, as described in the Letter of Intent dated January 29, 2014 from Beichner Waste Services, to allow the storage of clean, empty containers and trucks, with the following conditions:

- 1. All equipment (trucks, dumpsters, and other containers) shall be clean and empty. No trash, waste, recyclable materials or similar materials will be stored on the site, even temporarily.*
- 2. No equipment (trucks, dumpsters, and other containers) shall be washed out on site. All cleaning of equipment shall occur off-site.*
- 3. All equipment (trucks, dumpsters, and other containers) shall be stored within the existing fenced area.*

In taking this action, the Planning Board finds that the project complies with all relevant criteria in Section 8.04 of the Town's Zoning Ordinance.

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

DDR (#06-14): Temporary Special Use Permit for Motor Vehicle Sales.

Mr. Hellier asked if the Planning Board can only regulate the owner. The Planning Board deals only with the Temporary Special Use Permit for the owner of the property; the Temporary Vehicle Sales Event Permit is issued by the Code Enforcement Officer (CEO). In case of any violations of the permits, the Code Enforcement Officer has the ability to deal directly with the lead person on site, (the representative of the company having the sale) to resolve the problem. If said problem persists, the CEO can then go to the owner of the property, in this case DDR.

The Planning Board can only do what the Town Board has authorized within the limits of the Zoning Ordinance. The Ordinance has a set of criteria for approval of the Special Use Permit in Article VIII. None of those criteria address economic competition. The Planning Board can only regulate the physical activity itself using the criteria set up in the Zoning

Ordinance, such as safety, emergency vehicle access and also nuisance concerns such as trash and noise. The Planning Board does not have the authority to impose a moratorium.

Chairman DeFiore made the motion to approve the application by DDR for a Temporary Special Use Permit to allow temporary vehicle sales events, as described in the application, with the following conditions of approval:

1. *The Temporary Special Use Permit shall be valid for one year from the date of issuance by the Planning Board.*
2. *The permit holder or his/her agent may conduct up to four (4) Temporary Vehicle Sales Events during the duration of this Temporary Special Use Permit. Prior to each event, the person/firm conducting the event shall apply for and obtain a Temporary Vehicle Sales Event Permit from the Town's Code Enforcement Officer, pursuant to Section 5.02(C)(3) of the Town's Zoning Ordinance.*
3. *All Temporary Vehicle Sales Events shall comply with all standards of conduct contained in Section 5.02(C)(4), except as modified below:*
 - a. *Hours of operation shall be limited to between 9 AM and 8 PM.*
 - b. *No temporary lighting may be installed on site.*
4. *All Temporary Vehicle Sales Events shall be conducted so as not to affect pedestrian or vehicular traffic in the Wal-Mart Plaza. No activities shall encroach into the main drive aisle in front of the cinema (the drive aisle immediately south of the temporary sales site) or into the main driveway to the BJ's store (the drive aisle immediately east of the temporary sales site).*
5. *The drive aisle enclosed by the temporary sales area shall be temporarily blocked off during sales events, in order to prevent vehicles travelling through the Plaza from entering this area.*
6. *All activities associated with the temporary sales event, except for customer parking, shall be accommodated within the temporary sales area depicted on the site plan. Facilities in the temporary sales area shall be limited to those described in the application for the temporary special use permit, which are: two portable bathrooms, one trailer not to exceed 8 x 17 feet, and one tent not to exceed 20 x 40 feet. No more than 90 vehicles available for sale may be accommodated on the site at any one time. All vehicles that are traded in as part of a sales agreement shall also be accommodated within the temporary sales area; trade-in vehicles shall be removed from site as necessary to avoid spilling over into other areas of the Plaza.*
7. *In order to ensure that there will be adequate customer parking for permanent businesses, no Temporary Vehicle Sales Events shall be permitted between November 1, 2014 and January 6, 2015.*
8. *Any loudspeakers, music, or similar sound-producing equipment shall comply with the regulations in Local Law 1 of 2005, The Excessive Noise Control Law of the Town of Allegany.*
9. *During and after each event, the temporary special use permit holder and the temporary Vehicle Sales Events permit holder shall be responsible for maintaining the area clean of trash and debris. All trash and debris shall be picked up, including items that may blow or be dropped into near-by areas.*

In taking this action, the Planning Board finds that the project complies with all relevant criteria in Section 8.04 and Section 5.02(C) of the Town's Zoning Ordinance."

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

New Business

Community Bank/Olean Physical Therapy Project

Chairman DeFiore brought the Board up to date on the proposed new Community Bank Building and the expansion of the Olean Physical Therapy on the old Castle property. He, Mrs. Horowitz, Town Supervisor John Hare, Highway Superintendent John Moshier, Code Enforcement Officer Jerry Dzuroff, and Town Engineer Steve Mountain met with representatives of the Community Bank project to go over the plans and documents needed to present to the Planning Board.

Mrs. Horowitz mentioned she had one particular concern about the project plans presented so far. The detail seems to show the Olean Physical Therapy two-story addition would be a metal building and, in her opinion, that would not fit in with the character of the overlay district. The Board concurred.

Mr. De Fiore stated the representatives for the Bank and Mr. Dronney wanted to do the project as one application; however, they have been informed they need to do them separately. In that way, one project isn't dependent on the other for completion.

Mr. DeFiore asked the Board if they could meet for a special meeting on April 23, 2014 to help move the project along. Mrs. Horowitz stated it would help in that they could then set the Public Hearing for the regularly scheduled May meeting.

Mr. DeFiore made a motion to schedule an additional Planning Board meeting Wednesday, April 23, 2014 at 7 PM here at the Town Hall. 2nd by Mrs. Larson. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

OTHER BUSINESS

Zoning Ordinance update


The Planning Board continued their work on updating the Zoning Ordinance:

Mrs. Horowitz took the current sign regulations and reorganized them. She added some standards for digital signs of which there are a few different types and they are explained in the definitions. Signage must be content neutral. The Board can control the size, height, location, setbacks, etc.; however, the Board cannot control the message.

Mr. DeFiore 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 8:55 p.m.

Respectfully submitted,


Lynette K. Semsel
Secretary