

AGENDA

MEETING OF THE TOWN OF ALLEGANY PLANNING BOARD

**Monday, June 16, 2014
at 7:00 p.m.
Allegany Town Hall
52 W. Main Street, Allegany, NY**

Salute to the Flag

Minutes

May 12, 2014

Old Business

None

New Business

Referral from Town Board:

Zoning Map Amendment to rescind Wind Energy Overlay District in the Chipmonk Rd. area

J. Scott Brook (# 54-14)

Special Use Permit to keep horses in an R-1 Zoning District

E. Peter Hellier

Special Use Permit for a home occupation in an R-1 Zoning District

Other Business

Zoning ordinance update:

Section 5.12: Sign Regulations

Correspondence

None

**Next Planning Board Meeting:
Monday, July 14, 2014**

**Town of Allegany Planning Board
Meeting Minutes**

Monday, **June 16, 2014** at 7:00 P.M.
Allegany Town Hall, 52 W. Main Street, Allegany, NY

APPROVED July 14, 2014

Present:

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

Also Present:

David Koebelin, Town Board Member; Carol Horowitz, Town Planner; Lynette Semsel, Secretary; Donald Sue, Kay Palmer, Scott Brook, Kathy Boser, Mary Burns, Bridget Bertoldo, Town Residents

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 May 12, 2014 Planning Board Meeting. There were none.

Mr. Kavanagh made the motion to accept the minutes of the May 12, 2014 meeting as written. 2nd by Mrs. Larson. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

New Business

Referral from Town Board:

Zoning Map Amendment to rescind Wind Energy Overlay District in the Chipmonk Rd. area.

The Town Board has asked the Planning Board to review and then recommend rescinding the wind overlay district created on August 29, 2011. The Planning Board discussed the request. Mr. Kavanagh stated the Planning Board's responsibility is to the people of Allegany. He recommended respectfully declining stating, "If the Town Board wants to rescind the overlay district, they can do it without the Planning Board's approval. Mrs. Larson agreed.

Mrs. Horowitz stated the request from the Town Board is to deal physically with the overlay district that is on the zoning map, not with the text that is in the Zoning Ordinance. The text in the Zoning Ordinance requires, as part of the review process for any wind project, that it receives special use permit and site plan approval from the Planning Board. In addition, the parcels that would be part of the project need to receive approval from the Town Board to be put in an overlay district. That has already occurred for the project the Planning Board approved so

the Town Board established the overlay district which was the final piece. The request for review before the Board is not to change what is in the Zoning Ordinance which gives the Town Board the authority, if there were future projects, to establish an overlay district. Since there currently is an overlay district in place, if a project were to come in that met the requirements in the Zoning Ordinance, no additional Town Board review would be necessary.

Mr. Hellier asked: "If we rescinded the overlay district but left all the verbiage in the Ordinance, what would be the procedure of somebody coming in and wanting to put in a new wind farm project?"

Mrs. Horowitz: "The current overlay district is specific to the project that did receive approval. For purposes of illustration, if you wanted to start a new wind farm out on the Five Mile Road on your property, the project would have to go through the process. There would be an application for a special use permit, site plan approval, a SEQR review. If it went through all of those hurdles, then it would go to the Town Board for consideration of whether or not to approve an overlay district in that area. That is the procedure as it is set up now in the Zoning Ordinance."

"The motion (from the Town Board on May 13, 2014) specifically says the Board does not want to change anything in the text of the Zoning Ordinance so the process would stay in place. Given the fact that the special use permit and the site plan approval (Allegany Wind Project) the Planning Board approved has expired under our ordinance, and that expiration was upheld by the courts, there still is an overlay district on the map for a project that appears, based on the statements of the project proponent, that they don't have an interest in pursuing."

"If the wind overlay district in the Chipmonk area remains, then potentially a developer could come in and use those same parcels for a project and they would not have to go to the Town Board for approval because that overlay district is already in place. At that point they would only need special use permit and site plan approval from the Planning Board."

Mr. Kavanagh: "But the only way that could actually happen is if they went with Nordex 100s and place them in the same place."

Mrs. Horowitz: "No, because the overlay district currently is enacted by the Board. Someone could come in with a different project and if, after SEQR review and going through the process, the Planning Board determined that a special use permit could be issued, then there would not be additional Town Board review in that circumstance because the overlay district is already in place. How likely is it that someone could do a project using just the parcels that have been approved, I don't know. If they had to pick up other parcels, then it would go back to the Town Board."

Mrs. Larson: "Why do we have to make a recommendation anyway?"

Mrs. Horowitz: "The Zoning Ordinance requires the Town Board to refer any proposed zoning amendment to the Planning Board for its review and recommendation. The Planning Board can recommend either yes or no to rescinding or can respectfully decline to make a recommendation."

Mr. Hellier: "This just gets another group of eyes looking at the project. Instead of one group (Town Board), you have two groups. It's not bad to have two different groups look at a major project change."

Mr. Sayegh: "I see it as a support mechanism from this Board to the Town Board. This request must have come from the Town Board and they are asking for our support because we are the planning arm of the Town. So, when the arm is supporting that entity, it carries a bit more weight than just 'no action.'"

Mr. Sayegh made the motion to recommend to the Town Board to rescind the Wind Energy Overlay District in the Chipmonk area. 2nd by Mr. Hellier. Mr. Kavanagh – no; Mr. Hellier – aye; Mrs. Larson – no; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

J. Scott Brook (#54-14)

Special Use Permit to keep horses in an R-1 Zoning District

The applicant, Mr. Brook, is the intended purchaser of the property; he now owns three horses and he wants to be able to keep them at his new residence.

The 16-acre site has access on both Klice Cross Road and South Nine Mile Road (County Road 60). The site contains a single family home which is accessed from Klice Cross Road. The bulk of the parcel is located behind single family homes on Klice Cross Road and South Nine Mile Road; this portion of the parcel has historically been used for cropland.

Mr. Brook presented a site plan sketch, showing a barn for the horses on the southeast corner near the current house and potential fence lines. The manure storage area would be away from the houses. Very little manure would be on site as he has farmers who want the manure. He said that they use a product called Predator Flies which eat the larvae of the flies that are annoying to horses and humans. They have had horses at their present location with no complaints from their current neighbors. They now have three horses but in the future they may have between 2-5 horses. The land is in the flood zone. He and his family will be living in the house; therefore, they will be on site controlling the use.

This is a Type II SEQR action, pursuant to Section 617.5(c)(3), which exempts "agricultural farm management practices, including constructionand land use changes consistent with generally accepted principles of farming." No SEQR review is required.

Mr. Kavanagh made the motion to set a Public Hearing for the J. Scott Brook Special Use Permit application #54-14 on June 30, 2014 at 7:00 PM here at the Town Hall. 2nd by Mr. Hellier. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

E. Peter Hellier (#55-14)

Special Use Permit for a home occupation in an R-1 Zoning District

This is an application for a special use permit to allow a home occupation (Resident Professional Office) to be conducted from the applicant's residence. The 59-acre parcel is located in both the R-1 and A-F zoning districts, but the house is situated in the R-1 frontage area; therefore a special use permit is required.

The home occupation will be a Professional Office, which will primarily consist of designing homes using a computer-based AutoCAD system. No clients will come to the office. The office will not occupy more than 25% of the floor area of the home. There will be no signage.

This is considered a Type II SEQR Action, pursuant to Section 617(c)(10), which states: "construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds, or other buildings not changing land use or density." No SEQR review is needed.

Since this application is for Planning Board member E. Peter Hellier, he recused himself.

Mr. Kavanagh made the motion to set a Public Hearing for the E. Peter Hellier Special Use Permit application #55-14 on June 30, 2014 at 7:05 PM here at the Town Hall. 2nd by Mrs. Larson. Mr. Kavanagh – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.

Zoning ordinance update:

Section 5.12 Sign Regulations

The Board continued their work on the regulations.

The Board decided to make the sign regulation measurements consistent in each category. This would eliminate the need for a spreadsheet.

Animated signs: Mrs. Horowitz used a 2007 memo from the US Federal Highway Administration (FHWA), “Guidance on off-premise Changeable Message Signs” for some of the regulations.

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

The meeting was adjourned at 9:00 p.m.

Respectfully submitted,



Lynette K. Semsel

Secretary