

AGENDA

MEETING OF THE TOWN OF ALLEGANY PLANNING BOARD

**Monday, June 8, 2015
at 7:00 p.m.
Allegany Town Hall
52 W. Main Street, Allegany, NY**

Salute to the Flag

Public Hearings

7:00 P.M. Horvath Communications: Telecommunications Tower

7:10 P.M. Nolan: Agricultural Use (Keeping of horses) in an R-1 District

Minutes

May 11, 2015

Old Business

Horvath Communications: Telecommunications Tower
Special Use Permit and Site Plan Review

Nolan: Agricultural Use (Keeping of horses) in an R-1 District (26-15)
Special Use Permit

New Business

None

Other Business

Aspen Dental: status update

Zoning ordinance update:
Section 5.12, Sign Regulations

Correspondence

None

**Next Planning Board Meeting:
Monday, July 13, 2015**

Town of Allegany Planning Board
Meeting Minutes
Monday, **June 8, 2015** at 7:00 p.m.
Allegany Town Hall, 52 W. Main Street, Allegany NY

APPROVED

Present:

Frank R. DeFiore, Chair
Peter Hellier

Helen Larson
John Sayegh

Absent: Rick Kavanagh

Also Present:

Carol Horowitz, Town Planner
(Don Sue, Allegany Town Zoning Board member)
Steven Lingard, Wireless Site Manager, Smartlink
Jerry Dzurhoff, Town Code Enforcement Officer
Town Supervisor, John Hare
Townspeople

Chairman Frank R. DeFiore opened the meeting with the Pledge to the Flag at 7:00 p.m.

PUBLIC HEARING:

A) Application for Special Use Permit and site plan for cell tower construction on the West Five Mile Road in the Town of Allegany.

Steven Lingard displays his proposal to the public. Mr. Lingard states he has been granted approval of his proposal by the Town of Allegany Zoning Board with the exception that the equipment on the extreme top of the tower (i.e. lightening rod) is not to exceed 200 feet. Further Mr. Lingard explains to the public that there would be room for other cell phone service providers and at the 130 foot mark and below on this particular tower it could be used by local fire and EMS services at no charge.

Chairman DeFiore addresses the public to see if anyone present has inquires on the proposed tower.

Nancy Hefti – questions the location of the tower and whether or not that is the best location for “coverage”. She graciously offers property that she owns, for tower construction and/or consideration; noting that she has property that is approximately 1 to 1-1/2 miles further that could be a good location. Duly noted by Board and by Mr. Lingard.

Town Planner, Carol Horowitz, notes that we have received two e-mails from Mercy Flight with their “suggestions” for lighting on the Tower, which have been provided to Mr. Lingard and will become part of this record.

Motion at 7:08 p.m. to close the Public Hearing on Horvath Tower construction/File 0815 17-15. Motion made by John Sayegh and 2nd by Pete Hellier. Ayes: Chairman DeFiore, P. Hellier, H. Larson, J. Sayegh. Motion carried.

PUBLIC HEARING (commencing at 7:10 p.m.)

B) Application for special use permit to allow an agricultural use of housing horses on her property in an R-1 Zoned District.

Applicant Valerie Nolan of 2585 Five Mile Road has applied for a permit to house two full-size horses and two miniature horses on her property which is then being sold to individuals who will continue to house the horses on said property.

Chairman DeFiore notes to public that the Board has 62 days to make a formal decision on said Special Use Permit Application.

Public produce a Petition in opposition to the Special Use Application. Petition is signed by twenty residents within the vicinity of the 2585 Five Mile location.

Letter from Brian and Courtney Ramire of 3655 Buffalo Road is present, Letter from Mike Kessler is presented, Letter from Robert Harris, Sonya Harris and Bradley Messer is presented; all in opposition to the Special Use Application.

Robert Harris - 2596 Five Mile Road speaks of the degradation of the grass in the area in question and the excess dust that the horses will stir up; smell of manure; toxicity of manure; devaluation of residential homes in the area due to animals being housed in R1 zoned district.

Valerie Nolan – gives her point of view in favor of her Application for Special Use stating she will improve the property, properly house the horses, protect the land and environment with timely removal of manure, and that she would ensure the upkeep of the property when sold to new owners.

Ray Paladino – 38 year resident of 2576 Five Mile Road, not in favor of project does not wish to reside next to horse farm, purchased property where he is located to specifically stay away from agricultural areas of Allegany, New York. Wants his property to remain R-1 with no special use being granted to house farm animals/horses.

Brian Ramire – 3655 Buffalo Road, contends area is “not large and spacious enough to house four horses” suggests Board should review this carefully.

Jim Reynolds – 2629 Five Mile Road, expresses his concern for devaluation of property. He put considerable amount of money into his location, wants it to remain R-1 zoned. Concerned with Board granting one Special Use Permit and multiple neighbors following suit perhaps requesting Special Use Permits for their properties as well.

David Nolan – 2585 Five Mile contends horse manure smell dissipates quickly, unlike pig or cow manure. He contends they will increase the value of the houses in the neighborhood as excellent property managers with good property upkeep. Wants neighbors to co-exist peacefully; is upset at this outpouring against the Application.

Grace Nolan – 1523 Four Mile Road, in favor of Application. Family member of Applicant stressing Applicants ability to maintain property upkeep with little smell. Stresses property valuation would most likely improve area.

Anthony Kopko – 3615 Buffalo Road, against the Application, states his research with a “professor” and relays that horse manure is hazardous waste, brings additional swarms of flies to the area, property fencing for horses does not always keep horses contained, states calculation should be 10 acres for four horses.

Ann Ramire – 3657 Buffalo Road, against Application, states she is afraid neighborhood will turn into everyone want to house animals, not what a R-1 district is supposed to have. Expresses her strong opinion that this is not what neighborhood wants.

Francis Clark – 3752 Archibald Crossing, against Application. Spoke with neighbors who will also want animals if this proposal goes through.

Courtney Ramire – 3655 Buffalo Road, no horses should be allowed. An approval would set the ground rules for others to also request permits to house animals.

Gail Hammond – 2337 Five Mile Road, wants Board to make their decision timely and to not postpone decision due to sale of residence.

Alicia Bockmier – 3349 Smith Hollow, these are her horses. She will maintain property, manure waste, upkeep of fencing, etc. Property value will increase as her home and property will be well maintained. Familiar with horse upkeep and proper care. During the summer the horses will be out to pasture on another lot.

Melissa Torrey – 2612 Five Mile Road – Asks if permit stays with homeowner or is it carried through to each person that buys the home.

Bob Phillips – Buffalo Road, Inquires if Board is aware of NYS requirement on disposal of manure. What is proper area requirement for housing of horses? What is minimum of fenced in area needed for four horses. States he believes one acre for first horse and ½ acre for each additional horse is required.

Town Planner, Carol Horowitz, states to public that if the Application is granted it is for ONLY 2 full size horses and 2 miniature horses, nothing more. Town Planner further states that special use permits expire after one year if not in use for what the original Application was intended for. She also stated that the Special Use Permit goes with the land, not the applicant, so that the use of the property for horses could continue, unless there was an interruption in the use of the property for one year.

Motion at 7:40 p.m. to close the Public Hearing on Nolan Special Use Application /File 26-15. Motion made by Pete Hellier and 2nd by John Sayegh. Ayes: Chairman DeFiore, P. Hellier, H. Larson, J. Sayegh. Motion carried.

Minutes:

Chairman DeFiore asked if there were any comments on the May 11, 2015 Planning Board Minutes.

Chairman DeFiore made the motion to approve the minutes of the May 11, 2015 Planning Board Meeting as written. Seconded by Peter Hellier. Ayes: Chairman DeFiore, P. Hellier, H. Larson, J. Sayegh. Carried.

Old Business:

Horvath/Verizon Cell Tower - Special Use Permit and Site Plan Review:

Board asks Town Planner if “bat” issue is taking care of, referring to the nesting of bats in the area of the proposed construction for cell tower and the disturbance of their habitat during the summer months. Town Planner advising that issue is handled in the tree removal restrictions imposed by US Fish and Wildlife Service, in their letter of April 8, 2015.

Environmental Assessment sheets are passed out and the Board goes over questions.

Motion by chairman DeFiore that the Planning Board determines based on the information and analysis above that the proposed action will not result in any significant adverse environmental impacts. Seconded by Peter Hellier. Ayes: Chairman DeFiore, P. Hellier, H. Larson, J. Sayegh. Carried.

Chairman DeFiore makes motion to approve the Special Use Permit & Site Plan for Horvath Cell Tower construction with the following Conditions of Approval:

1. A minimum of one light shall be installed on the tower for aviation safety. The light shall meet FAA standards, and shall not consist of strobe lights unless specifically mandated by the FAA.

2. Pursuant to Section 5.22(D)(2)(f) of the Town's Zoning Ordinance, no commercial advertising signage is allowed on the tower. Signs at ground level identifying various carriers and other informational and/or safety signage for the facility's caretakers are allowed.
3. Additional antennas and ground level equipment may be added to the telecommunications tower without the need for an amendment to this approval, provided that the height of the tower is not increased and provided that an engineer licensed in the State of New York certifies that the tower is structurally adequate to support such additional equipment. All additional structures, including antennas, shall require issuance of a building permit from the Town.
4. The tower owner, at its own cost, shall periodically inspect the tower, at intervals that conform to industry standards. A copy of the report on the tower's condition shall be provided to the Town of Allegany Code Enforcement Officer. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspections indicate structural deficiencies, the deficiencies must be remedied within a reasonable time, and a report indicating that the repairs have been made shall be filed with the CEO.
5. When the signed Notice of Intent (NOI) for SPDES General Permit # GP-0-15-002 is filed with NYSDEC, the applicant will provide the Town's Code Enforcement Officer with a signed copy of the NOI. In addition, the applicant will provide the name and contact information for the person/firm that will be conducting the required weekly inspections during construction.
6. All mitigation measures listed in the letter of April 8, 2015 from the US Fish and Wildlife Service shall be complied with, unless those conditions are waived or revised by USFWS.

Motion 2nd by Pete Hellier. Ayes: Chairman DeFiore, P. Hellier, H. Larson, J. Sayegh. Motion carried at 8:05 p.m.

Nolan Special Use Permit:

Motion by Chairman DeFiore to table the decision on the Nolan Special Use Permit until July 13th meeting.

Seconded by John Sayegh. Ayes, Chairman DeFiore, J. Sayegh, H. Larson, P. Hellier. Carried.

New Business: Mike Droney is present requesting to speak with the Board regarding the obscuring of his HVAC equipment from the public view and the issues that this requirement, in his condition of approval, has created financially and construction-wise. He states that there is a one foot high parapet wall, but this does not obscure all the HVAC equipment, because his property is lower than Route 417. He cannot add anything that screws into the rubber roof because that will

void his warranty for the roof. He presented photo-simulations showing the HVAC equipment if it were to be painted white.

The Board generally was receptive to Mr. Droney's request for relief from that condition of approval.

Ms. Horowitz noted that the Board had made a similar adjustment to the same condition of approval for Community Board.

The Board directed the Town Planner to discuss this issue with the Town Attorney and to draft some amendment language for the Board's review at next meeting.

Motion by Chairman DeFiore to table the decision on the Droney project until July 13th meeting. Seconded by John Sayegh. Ayes, Chairman DeFiore, J. Sayegh, H. Larson. Nay, P. Hellier. Motion Carried.

Aspen Dental Continuing Discussions:

Discussion was had on three easements that have yet been recorded for Aspen Dental.

Correspondence:None

Motion to adjourn meeting at 9:15 p.m. by Chairman Mr. DeFiore, 2nd by P. Hellier. Ayes: P. Hellier, H. Larson, J. Sayegh, Chairman DeFiore. Motion Carried.

Respectfully submitted:

Donna G. Stady, Secretary to Planning Board