

**Town of Allegany Planning Board**  
**Meeting Minutes**  
Monday, July 17, 2017  
Allegany Town Hall, 52 W. Main Street, Allegany NY

APPROVED

**Present:**

Frank R. DeFiore, Chairperson  
John Sayegh  
Rick Kavanagh

Peter Hellier  
Joseph Chamberlain (absent)

Meeting is opened with a pledge to the flag at 7:00 p.m.

New Business: IA Construction (Lippert Gravel Pit Modification) Town of Allegany, Catt Co.  
Tax map numbers: 93.001-1-8, 93.001-1-13, 93.001-1-14, 93.001-1-59.1 and 93.001-1-63.1  
DEC ID No.: DEC ID#: 9-0420-0054/00003

Multiple discussions were had with board members regarding this potential modification that has been presented to the DEC. Board members agree the DEC will be the lead agency on this potential project. Board members R. Kavanagh and P. Hellier question the “actual location” of this proposed modification as the paperwork to date is not clear where the modifications will take place.

The following letter was drafted and will be submitted to the NYS DEC:

Following a special Town of Allegany Planning Board meeting held on July 17, 2017 and in consideration of NYS Department of Conservation notices dated July 7, 2017 as well as Town of Allegany Planning Board's Notice of Decision dated July 11, 2016, Town of Allegany Planning Board Meeting Minutes from August 13, 2007, Town of Allegany Planning Board's February 11, 2008 letter regarding NYS DEC regarding lead agency status Town of Allegany Planning Board, (#93-07) Special Use Permit, and Site Plan Review Dated June 9, 2008, Frank R. DeFiore, Town of Allegany Planning Board Chairman, stated that the DEC issued a negative declaration under SEQR. Since this is a Type I action, the Planning Board has to issue its own Findings Statement. Chairman DeFiore referenced the draft Findings Statement and the Planning Board discussed the document and made appropriate adjustments as follows:

A Motion was made by Frank R. DeFiore and seconded by board member Peter Hellier to adopt the SEQR Findings if approved by the New York State DEC, with any adjustments as noted as follows:

**WHEREAS**, the Town of Allegany Planning Board has issued a SEQR findings statement for this Type I action, but cannot compare it to the Department of Environmental Conservation's SEQR findings until it is completed, with proper mitigation measures, there will be no significant impacts to the environment from this project, and

**WHEREAS**, The NYS Department of Environmental Conservation has issued a Mined Land Reclamation, ID#: 90019 subject to various conditions, and

**WHEREAS**, the Town of Allegany Planning Board did not hold a public hearing, but rather considered previous comments on previous applications from IA Construction Corp. regarding previous expansions, and

**WHEREAS**, the Town of Allegany Planning Board has referred this application to the Cattaraugus County Planning Board pursuant to Section 239-m of General Municipal Law. The results of the Cattaraugus County Planning Board referral have not returned prior to this writing, and

**WHEREAS**, the Town of Allegany Planning Board has considered the criteria contained in Article VIII, Special Use Permit, and finds that the application for Special Use permit for a gravel mine meets all the criteria for approval as specified in that section, based on these findings:

- (1) Mining is consistent with the Town's Planning and Development policies. The proposal is consistent with the provisions of Article IX., Zoning Ordinance III. The application is also consistent with the provisions for site plan review and approval contained in Article 9.04 of the Zoning Ordinance.
- (2) The project site is located in an area that contains a mix of industrial, agricultural and residential uses. The area includes an existing gravel mine, which has expanded periodically. With the proposed mitigation measures, the project would be in harmony with other surrounding uses and will not be detrimental to near-by residents.
- (3) The project will not impair the productive use of non-residential districts.
- (4) Based on the analysis in the SEQR findings, it appears that all potential impacts to the public and the environment can be mitigated by the conditions that are contained in the mine permit, which will be attached as Planning Board conditions of approval.

NOW THEREFORE BE IT RESOLVED THAT the application by IA Construction for Special Use Permit and Site Plan Review and Approval to allow an existing gravel mine on the South Nine Mile Road to be expanded, is approved, subject to the following conditions of approval:

- (1) All mining shall be conducted in accordance with the DEC permit, currently in force.
- (2) Dust Control: as stated in the permit, water or other approved dust palliatives must be applied to haulage ways and other parts of the mine, as often as necessary, to prevent visible dust from leaving the mine property.
- (3) Hours of operation shall be as restricted in the Mined Land Use Plan, dated January 2008, which are: From April 1st through November 30th hours of operation will be from 6:00 A.M. to 9:00 P.M. (business hours end at 5:00 P.M.), Monday through Saturday. From December 1st through March 31st hours of operation will be from 8:00 A.M. to 5:00 P.M., Monday through Friday. No mining will occur on New Years' Day, Easter, Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas.
- (4) All haul roads should be gated and locked during non-business hours.
- (5) The existing stop signs where the haul road crosses South Nine Mile Road shall be maintained.
- (6) Within the first 25 feet from a property line of any 100 foot setback, no mining activity will occur.
- (7) Within the remaining 75 feet of the 100 foot set back requirement, berming and sloping activities will be allowed for safety and reclamation purposes only and that no extraction of aggregate materials be conducted anywhere within the 100 foot setback requirement. An earthen noise mitigation berm not less than 14 foot high shall be located along the south mine perimeter of the expansion area north of the South Nine Mile Road. Said berm shall have side slopes not steeper than 1.0', (vertical) to 3.0', (horizontal). Said berm shall be seeded with a perennial cover crop and mulched to prevent erosion. The berm cannot be within 500' of any residence because then it would be considered a stockpile.
- (8) The noise mitigation berm shall be removed during reclamation of the expansion area.
- (9) No extraction shall occur within 300 foot of the Alleghany River.
- (10) No stockpiles shall be located within 500 foot of the Alleghany River.

Ayes for this motion are : R. Kavanagh, J. Sayegh, P. Hellier, F. DeFiore. Motion passed.

Board member R. Kavanagh makes a Motion that there are no negative declarations with regard to the proposed IA Construction (Lippert Gravel Pit Modification) Town of Allegany, Catt Co. Tax map numbers: 93.001-1-8, 93.001-1-13, 93.001-1-14, 93.001-1-59.1 and 93.001-1-63.1 DEC ID No.: DEC ID#: 9-0420-0054/00003 and the motion is 2<sup>nd</sup> board member J. Sayegh.

Planning Board members give Chairman Frank DeFiore permission to execute the letter to the DEC. Said motion being made by R. Kavanagh and 2<sup>nd</sup> by P. Hellier. Ayes: R. Kavanagh, J. Sayegh, P. Hellier, F. DeFiore. Motion passed.

Motion to adjourn meeting at 7:35 p.m. by P. Hellier and 2<sup>nd</sup> by R. Kavanagh. Ayes. R. Kavanagh, J. Sayegh, P. Hellier and Chairman DeFiore. Carried.

Next Meeting – August 14, 2017.

Respectfully Submitted:  
Donna G. Stady, Secretary to Planning Board