

MINUTES – TOWN OF ALLEGANY REGULAR BOARD MEETING TUESDAY, MAY 14, 2013 7:00 PM TOWN HALL

PRESENT WERE: Supervisor Hare Councilman Koebelin
Councilman O'Dell Councilman Hitchcock
Councilman Allen Attorney W. Tuttle
Hwy Superintendent Moshier Comptroller C. Hemphill
Town Clerk M. Peck

ALSO PRESENT: G.Ayers, D.Sue, B.Nolan, F.Defiore, Jordans, B.Bosers, K.Boser, C. Horowitz,
Burns, Ladds, E. Peck, J.Dzuroff, H.Larson.

Salute to the Flag at 7:00 pm opened the meeting.

AUDITED CLAIMS

Gen A	\$21,854.99	Hwy DA	\$10,417.55
Gen B	\$10,213.77	Hwy DB	\$56,456.87
Sp Dist	\$16,308.37		

MONTHLY REPORTS

Town Clerk	Building & Zoning
Highway Department	

Town Justice D. Porter – report for April 2013 – amount of check \$6275.00.

Town Justice A. Spears – report for April 2013 – amount of check \$4035.00.

#103-MOTION TO APPROVE MINUTES

Motion by Allen to approve the minutes from the 4/23/13 Public Hearing & Regular Board Meeting as written. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#104-MOTION TO APPROVE MINUTES

Motion by O'Dell to approve the minutes from the 5/3/13 Special Board Meeting as written. 2nd by Hitchcock. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

CORRESPONDENCE

1. Time Warner Cable – notice of programming changes
2. NYMIR – Proposed Rate Adjustments for 2013
3. NYMIR – Handbook – General Liability issues
4. Request from Allegany Engine Company to participate in Parade on June 29th
5. NYMIR – subscriber accounting statement covering fiscal year 2012

UNFINISHED BUSINESS

1. Amendments to the Zoning Ordinance II – Section 5.02 (temporary uses & structures)
2. Budget Status Report – Town of Allegany (as of 4/30/13)
3. Emergency Services Contract with Village of Allegany *****To be discussed with Village *****

#105-MOTION TO NEGATIVE DECLARATION THE AMENDMENTS TO THE ZONING ORDINANCE II

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Motion by Hare to formally agree that there will be no impact with the proposed changes to the amendments to the Zoning Ordinance II. 2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#106-MOTION TO APPROVE THE AMENDMENTS TO THE ZONING ORDINANCE II

Motion by Hare

NEW BUSINESS TOWN OF ALLEGANY
TOWN BOARD

**RESOLUTION ADOPTING AMENDMENTS TO THE TOWN OF ALLEGANY
ZONING ORDINANCE
May 14, 2013**

WHEREAS, the Town of Allegany has entered into an Agreement with the Cattaraugus County Planning Board to exempt certain types of applications from the provisions of Section 239-m of General Municipal Law, and

WHEREAS, one of the exemptions relates to minor (*de minimus*) site plan amendments, and

WHEREAS, the Town of Allegany has experienced issues relating to certain types of temporary motor vehicle sales, and

WHEREAS, the Town of Allegany Zoning Ordinance currently has no provisions for either minor amendments to approved site plans or temporary vehicle sales, and

WHEREAS, the Town of Allegany Planning Board recommended amendments to the Town Board to address these issues on April 8, 2013, and

WHEREAS, the Allegany Town Board held a public hearing on the proposed amendments on April 23, 2013 and no one appeared in person or by letter to address the Board on this issue, and

WHEREAS, the Allegany Town Board referred the proposed amendments to the Cattaraugus County Planning Board pursuant to Section 239-m of General Municipal Law, and the County Planning Board considered the referral at its meeting of April 25, 2013 and recommended approval,

NOW THEREFORE BE IT RESOLVED:

That Section 5.02, Temporary Structures or Uses of the Town of Allegany Zoning Ordinance is hereby amended to read in its entirety as follows:

Section 5.02 Temporary Structures and Uses

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(A) Construction Trailers

Temporary trailers, used for construction equipment storage and/or project management offices, are permitted in any zoning district during the period that the construction work is in progress pursuant to a valid building permit. The trailers shall be removed upon the completion of the construction work.

(B) Temporary residential buildings

- (1) Subject to the issuance of a Temporary Special Use Permit by the Planning Board pursuant to Article VIII of these regulations, temporary buildings or trailers for living purposes may be permitted in any zoning district in which single family homes are permitted, during the period that the construction work is in progress pursuant to a valid building permit. The temporary structure shall be removed upon the completion of such work.
- (2) The Temporary Special Use Permit shall be valid for a period of one year from date of issuance, and may be renewed by the Planning Board for up to one additional year.
- (3) Prior to the issuance of the Temporary Special Use Permit, the applicant shall provide documentation that adequate potable water supply and sanitary sewage disposal systems will be provided to serve the temporary residence.

(C) Temporary Motor Vehicle Sales

- (1) Permits Required
 - (a) This section shall apply to all sales of motor vehicles by dealers that are held as a special event on a premises that is not otherwise permitted for such use.
 - (b) No temporary motor vehicle sales event can be conducted within the Town of Allegany unless and until both a Temporary Special Use Permit and a Temporary Vehicle Sales Event Permit have been issued by the Town of Allegany.
 - (c) For purposes of this section, "premises" shall be construed to mean an entire site in one ownership. A shopping plaza shall be considered to be one premises.
 - (d) For purposes of this section, a "dealer" shall be anyone who meets the standard in NYS Department of Motor Vehicles, *Part 78, Motor Vehicle Dealers & Transporters Regulations*, which is: "Any person who sells, or offers for sale more than five motor vehicles, motorcycles or trailers, other than mobile home trailers, in any calendar year or who displays or permits the display of three or more motor vehicles, motorcycles or trailers, other than mobile home trailers, for sale at any one time or within any one calendar month upon premises owned or controlled by him, if such vehicles were purchased, acquired or otherwise

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obtained by such person for the purpose of resale, will be regarded as a dealer."
(*Section 78.1 Introduction*)

- (e) For purposes of this section, a "motor vehicle" will include automobiles, boats, campers, recreational vehicles, mopeds, motorcycles, snowmobiles, trucks, and similar vehicles.

(2) Temporary Special Use Permit

- (a) No temporary motor vehicle sales event shall be held without first obtaining a Temporary Special Use Permit from the Planning Board pursuant to Article VIII of these regulations.
- (b) The Temporary Special Use Permit shall be valid for a period of no more than one year. Subsequent Temporary Special Use Permits may be issued, following the procedures in Article VIII of these regulations.
- (c) Each Temporary Special Use Permit will allow the permit holder or his/her agent or designee to apply for up to four (4) Temporary Vehicle Sales Event Permits per premises over the duration of the Temporary Special Use Permit.
- (d) A Temporary Special Use Permit shall be required for each premises on which temporary motor vehicle sales are proposed.
- (e) Application requirements for a Temporary Special Use Permit
 - i. Applications shall be in writing and shall contain sufficient information to evaluate the proposed temporary vehicle sales event's compliance with the requirements of this Section.
 - ii. Evidence of either property ownership or written authorization of the owner of the property.
 - iii. Contact information (name, address and phone numbers) for (a) the applicant and (b) the person(s) having the management or supervision of the event during the time that it will be conducted. The capacity in which such person(s) will act (that is, whether as proprietor, agent or otherwise) and the name and address of the person, firm or corporation on whose behalf the event will occur shall be provided.
 - iv. A site plan showing (a) all existing structures and other site improvements, (b) the location of the sales event, (c) any temporary structures (buildings, tents, etc.) that may be used for a temporary sales office or other purpose, and (d) location of proposed parking area for customers attending the sales event. The building setback lines required by the zoning ordinance shall be designated. Ingress and egress to the site shall be shown. The site plan shall be legible, drawn to scale, and accurate.

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- v. The number of vehicles for sale expected to be on site.
- vi. Hours of operation and a lighting plan for hours of operation after sunset, if any.
- vii. Information regarding any music, loudspeakers, and similar sound-creating equipment that will be used during the sales event.
- viii. Any other information reasonably required by the Planning Board to make a determination on the application.
- ix. Non-refundable application fee for Special Use Permit
- x. It is the responsibility of the applicant to apply for the Temporary Special Use Permit in a timely manner. It is recommended that the application be made a minimum of three months prior to the first intended sales event.

(f) Criteria for issuance of Temporary Special Use Permit

The Planning Board may issue a Temporary Special Use Permit for temporary Motor Vehicle Sales, with a duration not to exceed one year, for a premises located in the C-1, C-2, I-1 or I-2 Zoning Districts, upon a finding that the proposal will not conflict with neighboring businesses or residents. In making this determination, the Planning Board shall consider the following factors, in addition to the criteria in Article VIII:

- i. The site is adequate to support the level of activity that is proposed.
- ii. The proposal conforms to the standards in Section 5.02(C)(4), Standards for the conduct of a Temporary Motor Vehicle Sales Event.
- iii. Traffic: There is adequate ingress and egress to the premises for automobiles and pedestrians, traffic flow on area streets will not be significantly impacted, and the event will not adversely affect emergency response to the site or neighborhood.
- iv. Parking: There is adequate, paved space on the premises to accommodate parking for both the temporary event and the regular use of the site.
- v. The effect of the event on surrounding properties. The event shall not create a nuisance that would be detrimental to adjacent and nearby properties. Nuisance factors shall include, but not necessarily be limited to, noise, odor, smoke, glare, excessive lighting, dust, and/or vibrations.

The Planning Board may impose any conditions it deems appropriate, including but not limited to:

- i. Limiting the size of the event
- ii. Modifying the location of the event on the premises.
- iii. Limiting the hours of operation
- iv. Limiting the number, size and location of any temporary lighting and/or signs

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If the Planning Board denies the Temporary Special Use Permit, the Board shall issue a written determination that lists the reasons for the denial, pursuant to Article VIII of this Ordinance.

- (3) Temporary Vehicle Sales Event Permit
- (a) No temporary motor vehicle sales event shall be held without first obtaining a Temporary Vehicle Sales Event Permit from the Town of Allegany Code Enforcement Officer (CEO). All Temporary Vehicle Sales Event Permits shall be issued pursuant to a Temporary Special Use Permit granted by the Planning Board.
 - (b) Each Temporary Vehicle Sales Event Permit shall be valid for one event only, and shall only be issued if the Planning Board has issued a Temporary Special Use Permit for the premises. The Temporary Vehicle Sales Event Permit shall be valid for a maximum of thirty (30) consecutive days, which shall include set-up on the site and removal of the event from the site. The exact time period for which the Permit is valid shall be specified in the Temporary Vehicle Sales Event Permit.
 - (c) Application requirements for a Temporary Vehicle Sales Event Permit
 - i. A copy of the Notice of Decision of the Temporary Special Use Permit under which the Temporary Vehicle Sales Event Permit is being requested.
 - ii. Written permission from the holder of the Temporary Special Use Permit to make the application and conduct the event, if the Temporary Vehicle Sales Event Permit applicant is not the person to whom the Temporary Special Use Permit was issued. In addition, the written consent of the owner(s) of the lot or parcel on which a sale or event is conducted shall be required, if the property owner is not the holder of the Temporary Special Use Permit.
 - iii. Contact information (name, address and phone numbers) for (a) the applicant; (b) the person(s) having the management or supervision of the event during the time that it will be conducted and the capacity in which such person(s) will act (that is, whether as proprietor, agent or otherwise); (c) the on-site manager(s), if different from those listed in (b) above; and (d) the name and address of the person, firm or corporation on whose account the event will occur, if any. The application shall provide the names of all persons who, at any time, will have the management or supervisory role on site.
 - iv. Days of the week the event will occur, hours of operation for each day, and duration of the event. Lighting plan for hours of operation after sunset.

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- v. A site plan showing the location of the sales event and temporary sales office, all existing structures, and other site improvements. The site plan shall show the proposed parking area for customers and any proposed temporary buildings, including tents. The building setback lines required by the zoning ordinance shall be designated. Ingress and egress to the site shall be shown. The site plan shall be legible, drawn to scale, and accurate. The site plan shall be substantially consistent to the site plan approved by the Planning Board.
- vi. The number of vehicles for sale expected to be on site.
- vii. Information regarding any music, loudspeakers, and similar sound-creating equipment that will be used during the event, if any. This equipment shall only be permitted if it was included in the Temporary Special Use Permit granted by the Planning Board.
- viii. Non-refundable Temporary Vehicle Sales Event Permit fee
- ix. It is the responsibility of the applicant to acquire all needed permits in a timely manner. Applications for a Temporary Vehicle Sales Event Permit shall be submitted to the CEO a minimum of forty-five (45) calendar days prior to the first day of the event.

(d) Criteria for issuance of Temporary Vehicle Sales Event Permit

The CEO shall issue the Temporary Vehicle Sales Event Permit if he/she determines that (1) the event is allowable under the Temporary Special Use Permit and (2) the application is substantially consistent with the approved Temporary Special Use Permit, including any conditions or modifications and (3) the event will conform to the standards in Section 5.02(C)(4).

(4) Standards for the conduct of a Temporary Motor Vehicle Sales Event

- (a) Each temporary sales event shall have a maximum duration of thirty (30) consecutive days. Duration shall include the time to set up before the sale and clean up the site after the sales event. The duration of each event shall be specified, by date, in the Temporary Vehicle Sales Event Permit.
- (b) Hours of operation shall be limited to between 9:00 a.m. and 9:00 p.m. In its Temporary Special Use Permit approval, the Planning Board may impose shorter hours of operation in order to reduce impact to the neighborhood.
- (c) There shall be no more than four (4) events per premises per year. Sales events on a premises shall be a minimum of fifteen (15) days apart and there shall be no more than one (1) sales event per calendar month per premises. In its Temporary Special Use Permit approval, the Planning Board may prohibit sales events during certain times of the year, in order to ensure that there is adequate parking on site to accommodate the regular uses on a premises (for example, during the Thanksgiving and Christmas holidays).

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- (d) No more than four (4) Temporary Vehicle Sales Event Permits shall be issued to the same or affiliated applicant in any calendar year, regardless of the premises on which they occur.
 - (e) All sales event activity (location of vehicles for sale, temporary structures, and parking) shall conform to the minimum setbacks required by this Ordinance.
 - (f) All Temporary Vehicle Sales Events shall be conducted on a paved surface.
 - (g) The holder of the Temporary Vehicle Sales Event Permit shall be responsible for all trash removal during and after the event. Trash, including balloons, shall not be permitted to blow onto areas outside of the approved sales event location.
 - (h) As part of its Temporary Special Use Permit approval, the Planning Board shall set standards for the size and location of any temporary signage, including pennants, banners and flags. Temporary signs shall only be permitted for the same duration and same location as the event. The total area of temporary signage, including banners and pennants, shall not exceed 32 square feet. All temporary signage shall be securely installed.
 - (i) As part of its Temporary Special Use Permit approval, the Planning Board shall set standards for the size and location of any temporary lighting. Temporary lighting shall only be permitted if there is inadequate lighting on site for safety of staff and customers of the event. All temporary lighting shall be securely installed.
 - (j) As part of its Temporary Special Use Permit approval, the Planning Board shall determine if loudspeakers, music or similar noise-making equipment may be allowed. Any amplified sound from the event shall not be so loud that it causes an annoyance to any near-by residences. If permitted, all noise-producing equipment shall comply with the Excessive Noise Control Law of the Town of Allegany, Local law 1 of 2005.
 - (k) Vehicles for sale and the parking areas for customers shall be arranged so as not to impede sight lines for vehicles or pedestrians entering and/or exiting the site, or for vehicles and pedestrians travelling within the site.
 - (l) Vehicles for sale and the parking areas for customers shall not block aisles in a parking lot that will be used by through traffic.
- (5) Violations
- (a) Failure to comply with the terms and conditions of a Temporary Vehicle Sales Event Permit and/or the requirements of this Section 5.02(C) may be grounds for

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immediate suspension of the event until such time as the noncompliance is remedied. Initially, the CEO shall verbally inform the on-site event manager of the noncompliance and provide a reasonable opportunity for the noncompliance to be corrected. If the noncompliance has not been remedied within the timeperiod prescribed by the CEO, the CEO shall issue a written suspension order and shall also cite the on-site manager, the Temporary Vehicle Sales Event Permit holder, and the Temporary Special Use Permit holder with an appearance ticket for the violation.

- (b) If a Temporary Vehicle Sales Event Permit holder has been determined by the CEO to be non-compliant with the terms and conditions of the Permit, as evidenced by a written suspension order, that permit holder and the business entity represented by the permit holder shall be ineligible for another Temporary Vehicle Sales Event Permit for eighteen (18) months following the date of the suspension order.
- (c) The Town may also take other enforcement action pursuant to Article X of this Zoning Ordinance.

AND BE IT FURTHER RESOLVED:

That Article IX Site Plan Approvals is hereby amended to read in its entirety as follows:

**ARTICLE IX
SITE PLAN REVIEW**

Section 9.01 Purpose

The purpose of this Article is to ensure that any new development, substantial redevelopment, special permitted use or change in use in the Town will be in harmony with the character of the neighborhood in which it is proposed to be located. Another purpose is to minimize conflicts between proposed development and neighboring existing uses and natural features of the site, in order to ensure the optimum overall conservation, protection, preservation, development, design and use of natural and man-related resources in the Town. To accomplish these goals, this Article sets forth the applicability, process and standards for the review of Site Plans.

Section 9.02 Applicability and Exceptions

- (A) All new development; all redevelopment; all land use activities; all changes in use, regardless of whether or not construction activities are involved; and all special use permit applications shall require Site Plan review and approval prior to the issuance of a building permit and/or zoning permit, except the following:

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- (1) Construction of single family or two-family dwelling units and ordinary accessory structures, and related land use activities. Additions of any size to existing single family and two family dwelling units are also exempt from site plan review.
 - (2) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this Zoning Ordinance.
 - (3) Ordinary repair or maintenance to existing structures, in cases where the use remains the same.
 - (4) Interior structural alterations within any existing building, in cases where the use remains the same.
 - (5) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%, or additions of less than 5,000 square feet, whichever is the lesser, in cases where the use remains the same.
 - (6) Agricultural uses as defined in Article II of this Ordinance, including the construction of buildings and structures that are normally accessory to agricultural uses. Gardening uses not involving commercial use.
 - (7) The sale of agricultural produce and temporary structures related to sale of agricultural produce.
 - (8) Logging and timber cutting.
 - (9) Home Occupations
 - (10) Accessory structures, including fences, unless the fence or other accessory structure is part of a project that is subject to site plan review.
 - (11) Signs, except for signs that are included in projects that would otherwise require site plan review and except for billboards and other off-premises signs.
- (B)** Any person uncertain of the applicability of Site Plan Review to a given land use activity may apply in writing to the Planning Board through the Code Enforcement Officer for a written jurisdictional determination.

Section 9.03 Authority

- (A)** The power to approve, approve with conditions, or disapprove site plans is hereby vested in the Planning Board of the Town of Allegany.

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- (B) **Area Variances:** Where a proposed site plan contains one or more features which do not comply with the zoning regulations, an application may be made to the Zoning Board of Appeals for an area variance without the necessity for an application to and permit denial by the Code Enforcement Officer, provided that the application for site plan review is made simultaneous with or prior to the application to the Zoning Board of Appeals. The Zoning Board of Appeals shall act on the application for a variance prior to final Planning Board action on the application for Site Plan review.
- (C) **Integration of Procedures:** Whenever a proposed development requires either a Special Use Permit or other permits issued by the Town, in addition to Site Plan review, the Planning Board shall attempt to integrate, as appropriate, the Site Plan review process with the procedural and submission requirements for such other permits and procedures.

Section 9.04 Application Content

- (A) The application for Site Plan review shall be made in writing to the Planning Board by filing it with the Code Enforcement Officer. Where a pre-application conference was held with the Planning Board (See Section 9.06(A)), the application shall contain the material requested by the Planning Board at that time. The Site Plan that is submitted for approval shall be prepared by and show the signature and/or seal of a licensed engineer, architect, landscape architect, or surveyor. All maps shall contain a scale, north arrow, date, title, and the name and address of the preparer.
- (B) The application shall contain the following information and materials:
- (1) Name, address and contact information for the applicant and the applicant's representative(s), if any. In the event that the property owner is not the applicant, a letter from the property owner giving the applicant permission to make the application shall be required.
 - (2) A map, with north arrow and scale, identifying the site in relation to adjoining public roads and the neighborhood in which it is located. The address and tax map number of the project site shall be provided.
 - (3) A scaled map (or maps) of the site, with a north arrow and date, showing existing site conditions, prior to demolition of any existing structures and any grading. The map(s) shall be at a size and scale adequate to show site conditions. The map(s) shall show:
 - (a) The boundaries of the site and the lot size (area).
 - (b) Any easements of record or known prescriptive easements
 - (c) Topography with contours shown at intervals of not more than five feet
 - (d) Type and location of major trees or significant areas of vegetation
 - (e) One hundred year floodplain, known springs and seep areas, ponds, wetlands, and streams
 - (f) Existing roads, fences, and drainage facilities
 - (g) Location of public utility facilities and associated easements.

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- (4) Proposed Site Plan, on one or more scaled maps, with a north arrow and date. The map(s) shall be at a size and scale adequate to show proposed site features and structures. The site plan shall show:
 - a. Required yard setbacks, from the Zoning Ordinance.
 - b. Location and proposed use of all buildings and structures
 - c. Location of all proposed site improvements, such as plazas, tennis courts, pools, and similar facilities
 - d. Driveways, parking areas, new and existing roads and any other circulation features, including access to existing public roads
 - e. Pedestrian circulation system, including proposed sidewalks and crosswalks.
 - f. Proposed location of new (or existing) utility services or relocated utility services, including easements, if necessary.
 - g. Location of outdoor storage, if any.
 - h. Location of garbage dumpsters, loading docks, stacking lanes, and similar features.
 - i. Location and proposed use of open space and/or recreation areas, if any. The proposed ownership and the parties responsible for long-term maintenance of these areas shall be identified.
- (5) Drainage and Grading Plan showing existing and finished contours and grades, the location of any slopes of five (5) percent or greater, stormwater runoff management plan, and proposed erosion control measures (a Stormwater Pollution Prevention Plan prepared in accordance with NYSDEC regulations shall be adequate to meet this requirement).
- (6) Proposed water supply plan, including location of new waterlines, if proposed; location of tie-in to existing water system; design and construction materials of public facilities; and location of fire lanes and hydrants. A description and explanation of the system should be included, if necessary.
- (7) Proposed sanitary sewerage disposal system including location of new lines, if proposed; location of tie-in to existing system; and design and construction materials of public facilities. A description and explanation of the system should be included, if necessary.
- (8) To-scale floor plans and elevations of proposed buildings and structures, showing all architectural features, including design, colors, materials, and height. For large-scale projects the Planning Board may require renderings showing the proposed project in relationship to adjacent properties.
- (9) Landscaping Plan, including planting schedule. The Landscaping Plan shall show all proposed fences and/or retaining walls, including height and construction materials. The Landscaping Plan shall include proposals for buffer areas, if any.

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- (10) Lighting Plan, including the location, height and design of outdoor lighting features. The lighting plan shall include a description of the lighting level, (measured in footcandles or other standard approved by the Planning Board) at all locations on the site, through photometric drawings or similar mapping techniques.
- (11) Signage Plan, including the location, design, color, materials and size of all proposed signs.
- (12) Location, design and construction materials of all energy distribution facilities, including electrical, gas, oil, solar and wind energy, if any.
- (13) General description of proposed project, including the nature of the use, number of shifts, potential number of employees, hours of operation, etc.
- (14) A development schedule for the project, indicating phased development, if any, and the estimated start and completion dates for the project.
- (15) Part 1 of NYSEQRA Environmental Assessment Form.
- (16) All Application Fees.
- (17) Any additional information that may be required by the Planning Board as it deems necessary and pertinent to carry out its responsibility for a meaningful review of the Site Plan application, based on the nature of the project and/or site. The Planning Board may waive any of the above submission requirement(s) that the Board deems unnecessary for a meaningful review of a particular project.

Section 9.05 Criteria for Review of Site Plan

(A) General Standards

The Planning Board's review of the Site Plan shall include the following considerations:

- (1) Site Layout
 - (a) The location and size of the site is adequate to accommodate the proposed site layout.
 - (b) The site plan is compatible with the natural features of the site, such as topography and wetlands. In areas with susceptibility to ponding, flooding and/or erosion, the proposed structures, roadways and landscaping are designed to minimize impacts from those conditions.
 - (c) The location, arrangement, size, and design of buildings, lighting and signs provides a coherent, unified and consistent appearance.

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- (d) The location, nature, architectural characteristics and height of buildings, walls and fences will not discourage either future development of or current use of adjacent land and buildings, or impair their value.
 - (e) Adequate on-site parking is provided, both in terms of number of spaces and their arrangement on the lot in relationship to the buildings and/or uses that they are intended to serve.
- (2) Circulation
- (a) The internal vehicular traffic circulation system is adequate for the activities and uses proposed, and provides adequate access to parking areas and to abutting streets, taking into consideration intersections, road widths, pavement surfaces, and traffic controls mechanisms.
 - (b) An internal pedestrian circulation system is provided
 - (c) Access to and egress from the site for both pedestrians and vehicles is adequately provided.
 - (d) Loading and unloading zones are adequate for the anticipated delivery and service vehicles, and their location does not affect other vehicular or pedestrian traffic.
 - (e) Adequate access is provided for emergency service vehicles, including adequate pavement, turning radii and fire lanes.
- (3) Utilities
- (a) Storm water drainage facilities are adequate to mitigate anticipated runoff.
 - (b) The proposed water supply and sanitary sewage disposal systems meet the standards of the Town, NYS Department of Environmental Conservation and Cattaraugus County Health Department.
 - (c) The water supply system is adequate to provide fire flow and fire hydrants are provided, if needed.
- (4) Landscaping and buffering
- (a) The proposed Landscaping Plan complies with the standards contained in Article V of this Zoning Ordinance.
 - (b) Where a visual and/or noise buffer is required between the applicant's and adjoining lands, the type and arrangement of trees, shrubs and other landscaping features forms an adequate buffer to protect adjacent or neighboring properties against noise, glare, unsightliness or nuisances. The retention of existing vegetation to the maximum amount feasible is encouraged.
 - (c) Loading zones, trash receptacles and mechanical equipment areas are adequately screened from adjacent properties and from within the site.
 - (d) If adjacent or neighboring properties contain existing solar facilities, the proposed site plan will not adversely affect the solar access of those facilities.
 - (e) Where proposed in an apartment complex or other multiple dwelling, the open space for play areas and informal recreation is adequate.

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- (5) Lighting
 - (a) The location and design of the proposed site lighting is adequate for safety and has minimal impact to adjacent properties in terms of light spillage. Site lighting shall use the minimum amount of lighting needed for safety and convenience, without being excessively bright.
 - (b) The use of cut-off or dark sky compliant light fixtures is encouraged.
 - (c) The style of light poles and fixtures is consistent with the architectural design of the development.

- (6) Signage
 - (a) The size, design, number, placement and arrangement of signs is the minimum necessary to convey the required information.
 - (b) The signage plan is consistent with the overall architectural character of the development.
 - (c) Signage meets the requirements of Article V in terms of numbers, size and location of signs.

(B) Specific Standards for Shoreline Protection.

- (1) All construction on any shoreline lot shall be carried out in such a manner as to minimize interference with the natural course of such waterway, to avoid erosion of the shoreline, to minimize increased runoff of ground and surface water into the waterway, to remove only that vegetation which is necessary to the accomplishment of the project, and to generally maintain the existing aesthetic and ecological character of the shoreline.

- (2) Any marina, boat service facility or any storage of petroleum products within two hundred (200) feet or reasonable setback as determined necessary by the Planning Board, of the shoreline shall include adequate provisions for insuring that any leak, rupture or spill will be contained and not be introduced into or affect the adjacent waterway. In particular, a raised earthen or paved berm or dike shall be constructed in such a manner so as to afford adequate protection.

- (3) Any paved or otherwise improved parking, loading or service area within two hundred (200) feet of any shoreline shall be designed and constructed so as to minimize surface runoff and the entrance of any chemical pollutants or earthen silt into the waterway.

Section 9.06 Application Procedure

(A) Pre-Application Conference

A pre-application conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal Site Plan application. The purpose of the pre-application conference is to enable the applicant to inform the Planning Board of the proposal

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prior to the preparation of a detailed Site Plan. The Planning Board shall review the basic site design concept, advise the applicant as to potential problems and concerns, and generally determine the information to be required for the Site Plan application. In order to accomplish these objectives, the applicant should provide the following information:

- (1) A sketch showing the locations of principal and accessory structures, parking areas, and other existing and planned features. Anticipated changes in the existing topography and natural features should be identified.
- (2) A site location map that shows the location of the site with respect to nearby streets, major waterbodies, and abutting property.

(B) Optional Public Hearing

- (1) The Planning Board may conduct a public hearing on the Site Plan application. In determining whether a public hearing is warranted, the Planning Board shall consider issues such as: the size and scale of the project; the amount of traffic likely to be generated by the project; the possible impact on the surrounding area in terms of noise, light, and other nuisance and/or health factors; and whether or not the project would represent a significant change in the land use in the surrounding area. The Planning Board, by motion, shall make a formal determination of whether or not a public hearing is warranted.
- (2) If a public hearing is held, the Planning Board shall conduct such public hearing within sixty-two (62) days from the day the complete application is received.
- (3) **Public Notice:** Notice of the public hearing shall be provided in the following manner:
 - (a) The Town shall publish a notice of the public hearing in the official newspaper of the Town, at least five (5) days before the public hearing.
 - (b) The Town shall mail notice of the public hearing to the applicant, at least 10 days before the hearing.
 - (c) The Town shall mail notice of the public hearing to owners of all properties that are located within a 500 foot radius of the property line of the project site, at least 10 days before the hearing.
 - (d) If the application is subject to the referral requirements of Section 239-m of General Municipal Law, notice of the public hearing shall be sent to the Cattaraugus County Planning Board at least 10 days before the hearing.

(C) Decision

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- (1) If no public hearing is held, within sixty-two (62) days of receipt of a complete application the Planning Board shall render a decision to approve, approve with conditions or modifications, or disapprove the site plan application.
- (2) If a public hearing is held, the Planning Board shall render its decision within sixty-two (62) days after the close of the public hearing.
- (3) The time limit within which the Planning Board must render its decision may be extended by mutual consent of the Planning Board and the applicant.
- (4) When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan. The approval shall be conditional upon the satisfactory compliance with these conditions or modifications by the property owner and his/her agents. Any such conditions must be met in connection with the issuance of permits pertaining to the approval by the Code Enforcement Officer.
- (5) ***Findings of Approval:*** In making a determination to approve the Site Plan, the Planning Board shall find that the following standards are met:
 - (a) The Site Plan is consistent with the intent, objectives and specific requirements of this Article, including the standards contained in Section 9.05, and with all other applicable provisions of this Zoning Ordinance.
 - (b) The Site Plan is consistent with the intent and objectives of the Town of Allegany Comprehensive Plan.
 - (c) Adequate services and utilities will be available prior to occupancy.
 - (d) The Site Plan will not be detrimental to the public health, safety, or welfare of the community.
 - (e) If the site is located within a Planned Development Zoning District, the Site Plan is consistent with the Development Plan.

(D) Filing of Decision and Notice to the Applicant

- (1) Within five (5) business days after the Planning Board renders its decision, the decision shall be filed in the office of the Town Clerk.
- (2) Within five (5) business days after the Planning Board renders its decision, a copy of the decision shall be mailed to the applicant. If the application is denied, the notice of the decision shall include the reasons for the denial.

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- (3) Within five (5) business days after the Planning Board renders its decision, a copy of the decision shall be provided to the Code Enforcement Officer.

(E) Expiration of Approval

- (1) Except for site plans approved as part of the Planned Development process, if construction of the approved development has not commenced within one (1) year from the date of Site Plan approval, that approval shall be deemed revoked. Extensions may be granted by the Planning Board, upon written application to the Planning Board prior to the expiration of the site plan approval.
- (2) Site plans approved as part of a Planned Development (See Section 4.11 of this Zoning Ordinance) shall be valid for the term of the P-D District and Development Plan approval.

(F) Abandoned Application

- (1) If there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later, the Board shall deem the application to be abandoned and shall deny the application.
- (2) "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Zoning Ordinance or by the requirements of the State Environmental Quality Review Act (SEQRA).

Section 9.07 Consultant Review

In reviewing any Site Plan, the Planning Board may consult with other officials, including but not limited to, the Code Enforcement Officer, Fire Chief, Department of Public Works, County Planning Department, and other local or county officials, the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

In unique or large-scale cases, the Town Board, on the advice of the Planning Board, may retain private, expert consultants to assist in the review, the cost of which shall be paid by the applicant.

Section 9.08 Project Completion and Certificate of As-built Project

- (A)** The Code Enforcement Officer shall be responsible for the overall post-construction inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.
- (B)** No Certificate of Occupancy shall be issued by the Code Enforcement Officer until all improvements shown on the Site Plan are installed or a sufficient performance bond has

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been posted to guarantee completion of improvements not yet made. The sufficiency of such performance guarantee shall be determined by the Town Board after consultation with the Planning Board, Town Engineer, Town Attorney and other appropriate parties.

(C) Letter of Certification

- (1) In order to ensure that all site features of a project are completed as shown on the plans approved by the Planning Board, the Planning Board may require, as a condition of approval, that prior to the issuance of a Certificate of Occupancy, the applicant shall provide a Letter of Certification from a licensed professional engineer, surveyor, or architect, licensed in the State of New York. The Letter of Certification shall state that the project, as built, complies with the approved plans for the project. The certification shall be accompanied by "as-built" plans of the site. The certification shall include non-public features such as landscaping, lighting, storm sewers and basins, sidewalks, parking lots, private roads, screening and buffering features, fencing and any other site feature approved by the Board. Features of the site covered by the Building Code shall be exempt from this provision.
- (2) If required as a condition of approval, the Code Enforcement Officer shall not issue a Certificate of Occupancy until receipt of such Letter of Certification.
- (3) However, the Code Enforcement Officer may issue a temporary Certificate of Occupancy if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. The issuance of a temporary Certificate may be warranted, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases a performance bond is needed to ensure that the proposed development will be built in compliance with the approved site plan.

Section 9.09 Amendments to Approved Site Plan

- (A)** Any change to an approved Site Plan shall require the approval of an amendment to the Site Plan by the Planning Board. An application for an amendment to the approved site plan shall include, at a minimum, a revised site plan and a letter discussing the proposed change and the necessity for that change.
- (B)** Upon receipt of an application for an amendment to an approved Site Plan, the Planning Board shall determine if the amendment is a minor or major amendment. A minor amendment shall include the following and similar insignificant changes:
 - (1) minor changes to the Landscaping Plan, such as a change in the types of plantings, provided the amount of buffering or landscaping is essentially the same as the approved plan
 - (2) reconfiguration of the parking lot, where the number of parking spaces does not fall below the minimum requirement

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- (3) change in location of garbage dumpsters, light poles, or similar site features, where the overall level of service will not change
- (4) change in location of access driveway, provided that such driveway meets all the standards in the Zoning Ordinance and/or SEQR determination
- (5) minor realignments of water lines, sanitary sewer lines, and storm drainage facilities that may be necessary during construction, as approved by the Town Engineer.
- (6) minor changes in the locations of buildings or other site features, provided all required setbacks are maintained and there is not the potential for a greater impact to an existing neighborhood or abutters.

Any other change to the site plan, including new buildings or the expansion of existing buildings, shall be considered a major site plan amendment.

- (C) If the Planning Board determines that the requested change is minor (a *de minimus* action), the Board may approve the amendment administratively, without a public hearing or referral to the Cattaraugus County Planning Board. If the Planning Board determines that the requested change is major, the Board shall follow the review and approval process contained in this Article, as if it were a new application.

Section 9.10 Revocation of Site Plan Approval

The Planning Board shall have the authority to revoke the site plan approval, after a public hearing, if the current owner or operator fails to comply with any condition(s) of approval of the application. Prior to a public hearing on this issue, the Zoning Official shall pursue abatement of the failure to comply as a violation in accordance with Article X of this Zoning Ordinance. 2nd by Hitchcock. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#107-MOTION TO REFER TO PLANNING BOARD

Motion by Hare to refer Section d back to the Planning Board to sharpen the language. 2nd by O’Dell. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#108-MOTION TO SPECIFY AMOUNT AND TIME LIMIT OF TRANSIENT CAR SALES

Motion by Hare that transient car sales fee be \$500.00 per event and not to last more than 30 days. 2nd by Koebelin. Koebelin-aye, O’Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

1. Discussion of how to finance new town plow truck
2. Preliminary discussion of refinancing of “master B.A.N.” that matures this summer(Supervisor Hare & Comptroller Hemphill)
3. Update Employee Handbook regarding health insurance coverage for new employees.(Supervisor Hare & Councilman Koebelin)
4. Bond Resolution for new Accounting Software (Comptroller Hemphill)
5. Adopt Cash Management Procedures (Councilman Allen) ***TABLE***

#109-MOTION TO DISCUSS FUNDING PURCHASE OF NEW PLOW TRUCK

Motion by Hare to finance new plow truck by using \$24,000 which was budgeted in highway reserve fund, using the anticipated revenue of \$9,000.00 from being auctioned and then

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financing \$161,743.00 to pay for the truck. This borrowing will be added to the Town's master B.A.N. that comes due in July 2013. 2nd by Allen. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#110-MOTION TO REVISE SECTION 806 IN EMPLOYEE HANDBOOK

Motion by Hare to revise Section 806 in the employee handbook regarding the Health Reimbursement Account to: The Town has established a Health Reimbursement Account (HRA) for each full time employee or full time elected official (Town Clerk and Town Highway Superintendent). The Town will fund this account for \$4,000 per employee for family coverage and \$2,000 per employee for single coverage annually for full time employees and full time elected Officials hired or having taken office prior to January 1, 2013. The HRA annual contribution for full time employees for full time elected Officials hired or having first taken office on or after January 1, 2013 will be \$3,000 per employee for family coverage and \$1,500 per employee for single coverage and employees will be able to draw on it for all HRA-eligible expenses. For each individual employee's account, any monies remaining at the end of the calendar year will be rolled over. The roll over monies of each individual employee will be added to that employee's annual HRA account at the start of the incoming calendar year. It is understood that a change in an employee's marital status will not affect their HRA account contribution until the beginning of the calendar year following their marital status change. 2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#111-MOTION PURCHASE COMPTROLLER SOFTWARE

Motion by Hare to purchase Comptroller software at \$28,000 to be bonded with ½ out of General Fund, ¼ out of sewer fund and ¼ out of water fund. This borrowing will be added to the Town's master B.A.N. in July 2013. 2nd by O'Dell. Koebelin-aye, O'Dell-aye, Hitchcock—aye, Allen-aye, Hare-aye. CARRIED.

COMMITTEE REPORTS

- a) Senior Center generator (Supervisor Hare & Councilman Allen) *****met with Town Engineer and to meet with Chris Baker of Catt. Co. Emergency Services, Red Cross to see what exactly needs to be done to make this an emergency shelter.*****
 - b) Repairs to Town Hall Brick Work (Supervisor Hare & Councilman Allen) ***** rec'd proposal from a company to repair brickwork and it was approximately \$75,000.00 per side. Town Engineer to look into this matter also. *****
 - c) Town signs (Councilman O'Dell) ***** provided handouts of what new signs would look like. There is no money in budget at this time. To look for sponsors to help pay for the signs *****
 - d) Executive Session for personnel & legal advice
- Attorney Tuttle – is working on getting the money for the cemeteries released from the State.

From the Floor: **Kathy Boser:** had questions about Everpower being in the area. Any monitoring on the Town's part?

Supervisor Hare: no, we cannot go to patrol roads for them.

#112-MOTION TO ADJOURN TO EXECUTIVE SESSION ON PERSONNEL ISSUE AND LEGAL ADVICE

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Motion by Hare to adjourn to executive session to discuss a personnel issue and for legal advice.
2nd by Koebelin. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.
Regular portion of meeting adjourned at 8:35 pm.

#113-MOTION TO ADJOURN EXECUTIVE SESSION AND RE-ENTER REGULAR SESSION

Motion by O'Dell to adjourn executive session and re-enter regular session. 2nd by Koebelin.
Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

#114-MOTION TO ADJOURN ENTIRE MEETING

Motion by Allen to adjourn entire meeting. 2nd by Hare. Koebelin-aye, O'Dell-aye, Hitchcock-aye, Allen-aye, Hare-aye. CARRIED.

Meeting adjourned at 9:18 pm

Respectfully submitted,

Mary M. Peck, Town Clerk
5/15/13