

**AGENDA**  
**MEETING OF THE**  
**TOWN OF ALLEGANY PLANNING BOARD**

**Monday, November 4, 2013**  
**at 7:00 p.m.**  
**Allegany Town Hall**  
**52 W. Main Street, Allegany, NY**

**Salute to the Flag**

**Minutes**

October 7, 2013

**Old Business**

None

**New Business**

Carol Ozzella: Application for Special Use Permit for Home Occupation (Beauty Shop)

Referral from Town Board:

Rezoning Requests for former Castle Property (Bonaventure Square site)

- a. St. Bonaventure University
- b. Kinley Corporation

**Other Business**

Zoning ordinance update:

Section 5.22 Telecommunications Facilities (start at Section 5.22(B)(2) Exemptions)

Section 5.15 Performance Standards

Section 5.02(D) Transient Sales Events

Article II: Definitions (time permitting)

**Correspondence**

Letter to NYSDEC regarding Nichols Run Stone Pit

Letter to Snyder Bros., Inc, regarding Nichols Run Stone Pit

**Next Planning Board meeting:**  
**Monday, December 9, 2013**

**Town of Allegany Planning Board  
Meeting Minutes**

Monday, November 4, 2013 at 7:00 P.M.  
Allegany Town Hall, 52 W. Main Street, Allegany, NY

**APPROVED December 9, 2013**

**Present:**

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

**Also Present:**

John Hare, Town Supervisor; Wendy Tuttle, Town Attorney; Kinley Representatives: Michael Giardini, Charlene Rhodes, Rodney Gleason; St. Bonaventure Representative: Phil Winger; Carol Ozzella; Carol Horowitz, Town Planner; Lynette Semsel, Secretary; Townspeople: Kathy Martin, Sue Ford, Pat Gelen

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Chairman DeFiore opened the meeting at 7:00 PM with the Pledge to the Flag. The minutes of the October 7, 2013 meeting were the first item on the agenda.

*Mr. DeFiore made a motion to approve the minutes of the October 7, 2013 meeting as written. 2<sup>nd</sup> 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: Rezoning Requests for former Castle Property (Bonaventure Square Site)

**Kinley Corporation Zoning Request**

Kinley Corporation has petitioned the Town Board to amend the Town of Allegany Zoning Map to change the Zoning District for tax map parcels 94.061-1-31.4 and 94.061-1-40.2 from the Bonaventure Square P-D Zoning District to C-1 Commercial District. These are two small, non-contiguous parcels that, together with the larger parcel owned by St. Bonaventure University, comprise the Bonaventure Square P-D Zoning District. Parcel 94.061-1-31.4 is an interior lot located behind parcels that front on Cranberry Road. Parcel 94.061-1-40.2 has frontage on Cranberry Road. The Town Board has referred this to the Planning Board for their recommendation.

Mr. DeFiore informed the Planning Board that, in order to streamline the process, a few of the Planning Board and town officials met with Kinley regarding these two properties. Parcel 94.061-1-31.4 is an interior lot located behind parcels that front on Cranberry Road. This is marked as Parcel 2 on the map Kinley provided to the Board (copy attached). The proposed change in zoning district is consistent with the Town's Comprehensive Plan, which designates

this parcel for future commercial development. Parcel 94.061-1-40.2 (Parcel 1 on the map) has frontage on Cranberry Road and the parcels in the vicinity with the same frontage are currently zoned R-1. The Town's Comprehensive Plan currently designates this area as "residential;" therefore, rezoning this parcel to C-1 would not be consistent with the Town's Comprehensive Plan. The applicant was agreeable to zoning of that property as R-1.

After some discussion, the following motion was made:

***Mr. Kavanagh made a motion to recommend to the Town of Allegany Town Board that the property that is marked Kinley Parcel 1 on the provided map from Kinley (parcel #94.061-1-40.2 property with frontage on Cranberry Road) be reverted back to R-1 and the property that is marked Kinley Parcel 2 (parcel #94.061-1-31.4 interior property) be rezoned to C-1. 2<sup>nd</sup> by Mr. Hellier. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **St. Bonaventure University Zoning Request**

St. Bonaventure University has petitioned the Town Board to amend the Town of Allegany Zoning Map to change the Zoning District for tax map parcel 94.061-1-31.3 from the Bonaventure Square P-D Zoning District to C-1 Commercial District. The proposed change in zoning district is consistent with the Town's Comprehensive Plan, which designates this parcel for future commercial development. Commercial use of the property would also be consistent with the past use of the property.

***Mr. DeFiore made a motion to recommend to the Town of Allegany Town Board that they approve the proposal from St. Bonaventure University to change tax map parcel 94.061-1-31.3 from P-D to C-1. 2<sup>nd</sup> by Mr. Kavanagh.***

Discussion: Mrs. Martin asked if she might question the Board regarding the portion of the parcel that fronts on Castle Drive as to what it was zoned previously. Mrs. Horowitz stated, before the P-D district, that was a separate property and was zoned R-1; however, the C-1 district is more restricted in some ways than the P-D zoning district. The C-1 district, when abutting a residential zoning district, has a 40' buffer setback from the residential area. Mrs. Martin agreed that the C-1 zoning gives more protection to the neighboring properties than the P-D District.

***Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **Correspondence – Nichols Run Stone Pit**

At the October 7 Planning Board meeting, Mrs. Horowitz had indicated the Nichols Run Stone Pit application would require a special use permit from the Planning Board; however, upon talking more with NYS DEC, the applicant, and Town Attorney Wendy Tuttle, there is a provision in the Zoning Ordinance that states, if the applicant is mining and using the mineral resource on their same property, they are exempt from the Town's requirement to get special use permits. In the event that anything changes, they would need a special use permit.

### **Carol Ozzella: Application for Special Use Permit for Home Occupation (Beauty Shop)**

Mrs. Ozzella has applied for a Special Use Permit to allow a Beauty Salon as a Home Occupation and move her business, Perfections, which is currently located in the Village of Allegany, to her residence. The Beauty Salon would be located in a detached accessory building.

Four on-site parking spaces are proposed for clients. Mrs. Ozzella's letter of October 8, 2013 further describes the proposal.

The site currently contains an automobile repair shop. In 2005 the Planning Board issued a Special Use Permit to Mr. Ozzella to operate an auto repair shop on this parcel as a Home Occupation. In 2009 the Planning Board rescinded that Special Use Permit; however, the automobile repair shop continued to operate. Ms. Tuttle, Town Attorney, told Mrs. Ozzella, "per the Town Ordinance, the Town cannot issue a Special Use Permit for the beauty shop until the issues are resolved that led to the revocation of the previous Special Use Permit on the parcel." She further stated that the Board felt the best way to handle this would be for Mr. Ozzella to reapply for the Special Use Permit; however, Mrs. Ozzella stated their attorney advised them against this procedure as it could jeopardize the repair shop being in compliance with the State of New York.

Mrs. Ozzella indicated a letter from the Town stating what is still needed to bring the auto repair shop into compliance would be helpful. Ms. Tuttle said she will meet with Mrs. Horowitz and compose a letter listing the necessary conditions. In that way, Mr. Ozzella will know what he still needs to do and can also inform the Town on those things that have already been done. Once those issues are resolved, the Planning Board can then consider the new Special Use Permit for the beauty shop. Ms. Tuttle also requested, if Mr. Ozzella has an attorney, that the attorney would contact her, preferably in writing.

Regarding the special use permit for the beauty shop, Mrs. Horowitz stated the application is exempt from referral to the Cattaraugus County Planning Board, pursuant to Item #9 of the Referral Exemption Agreement between the County and the Town.

There was discussion on whether the application falls within the Type II Actions that are exempt from SEQR Review. Mrs. Horowitz read the exemption language from SEQR regulations. Ms. Tuttle indicated, in her opinion, that the application would be in this exclusion, provided that the State does not have any permit requirements for items such as chemicals used in the business. Mrs. Ozzella stated that there were no permits required by the State.

***Mr. Hellier made a motion that the Home Occupation is a Type II Action and no SEQR Review is required. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

Mrs. Horowitz asked how wastewater will be disposed since the salon will have a sink and bathroom. Mrs. Ozzella answered they have two septic tanks on the property. Ms. Tuttle recommended that Mrs. Ozzella contact the County Health Department to ensure the tank can handle the salon; and recommended to the Planning Board that, if and when the special use permit is granted, being in compliance with the rules and regulations of the County Health Department should be a condition of approval. There also seems to be a discrepancy between the building permit and the application on the actual dimensions of the building. Mrs. Horowitz will ask the Code Enforcement Officer to take a measurement.

**The Planning Board determined at this point, even though they may or may not need anything else, Mrs. Ozzella's application is not considered complete until the Board has had time to consider the documents that Mrs. Ozzella presented at tonight's meeting.**

### **Zoning Ordinance Update**

The Board continued their discussion on the Zoning Ordinance  
Section 5.22 Telecommunications Facilities

(B)(1)(b) & (c) – delete these two sections regarding exemptions as they are more residential and do not seem appropriate in the section.

(E)(5) – Mrs. Horowitz has added “the Planning Board may require tower lighting, even if not required by the F.A.A. to promote public safety for regional aircraft, such as medical evacuation helicopters.” (i.e. Mercy Flight)

(E)(9)(a)(b)(c)(d)(e) – delete all these as they will be covered in the use table under miscellaneous. Under use, the decision was to make it special use for all districts.

***Mr. DeFiore made a motion to adjourn. 2<sup>nd</sup> by Mrs. Larson. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

The meeting was adjourned at 9:04 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lynette K. Semsel". The signature is written in a cursive, flowing style.

Lynette K. Semsel  
Secretary

# Kinley Parcel Map presented by Mike Giardini to the Planning Board

Parcel #1 - 94.061-1-40.2 has frontage on Cranberry Road.

Parcel #2 - 94.061-1-31.4 is an interior lot located behind parcels that front on Cranberry Road.

