

# **AGENDA**

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

**Monday, December 9, 2013  
at 7:00 p.m.  
Allegany Town Hall  
52 W. Main Street, Allegany, NY**

### **Salute to the Flag**

### **Minutes**

November 4, 2013

### **Old Business**

Carol Ozzella (#68-13):

Application for Special Use Permit for Home Occupation (Beauty Shop)

### **New Business**

Tracy Karl-Lebrenz (#85-13):

Application for Special Use Permit for Home Occupation (Vintage clothing)

Referral from Town Board:

Rezoning of Route 417 properties

### **Other Business**

Meeting schedule for 2014

Zoning ordinance update:

Section 5.22 Telecommunications Facilities (start at Section 5.22(C) Co-location)

Section 5.15 Performance Standards (dated October 30, 2013)

Section 5.02(D) Transient Sales Events

Article II: Definitions (time permitting)

### **Correspondence**

None

**Next Planning Board meeting:  
Monday, January 13, 2014**

**Town of Allegany Planning Board  
Meeting Minutes**

Monday, December 9, 2013 at 7:00 P.M.  
Allegany Town Hall, 52 W. Main Street, Allegany, NY

**APPROVED January 13, 2014**

**Present:**

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

**Also Present:**

Pamela Olkosky; Nancy Phearsdorf; Brian Lebrezn; Tracy Lebrezn; Madison Carlson; Stephen Carlson; Mackenzie Both; Samantha Terhaar; Carol Ozzella

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Chairman DeFiore opened the meeting at 7:00 PM with the Pledge to the Flag. The minutes of the November 4, 2013 meeting were the first item on the agenda.

*Mr. DeFiore made a motion to approve the minutes of the November 4, 2013 meeting as written. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.*

**NEW BUSINESS (not on agenda)**

**Tax map number: 84.003-1-1**

**Applicant: Pamela Olkosky**

**2986 North Nine Mile Rd. Subdivision: Phearsdorf property**

This is an application to subdivide a 41 acre parcel into four lots. The lot is bisected by the North Nine Mile Road. Nine Mile Creek, which is a protected stream, flows through the eastern portion of the lot. The parcel contains a house and barn.

Mrs. Olkosky said the property is owned jointly by the four children; their father having life usage of the property with him paying the taxes. Now the father is deceased and the four siblings want to divide the property with one daughter living in the present house. They have no plans to sell their individual parcels for any other subdivision.

Because this is a subdivision, referral to the Cattaraugus County Planning Board is not required and; since the property is being divided into only four lots, it can be considered a minor subdivision.

The Board went over Part 2 – Impact Assessment of the Short Environmental Assessment Form:

1. *Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?* **No**
2. *Will the proposed action result in a change in the use or intensity of use of land?* **No**
3. *Will the proposed action impair the character or quality of the existing community?* **No**

4. *Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?* **No**
5. *Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?* **No**
6. *Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?* **No**
7. *Will the proposed action impact existing:*
  - a. *Public/private water supplies:* **No**
  - b. *Public/private wastewater treatment utilities?* **No**
8. *Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?* **No**
9. *Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?* **No**
10. *Will the proposed action result in an increase in the potential for erosions, flooding or drainage problems:* **No**
11. *Will the proposed action create a hazard to environmental resources or human health?* **No**

Part 3 – Determination of significance:

Although Nine Mile Creek is classified as a Protected Stream by NYS Department of Environmental Conservation, any potential impact that could result from future construction on the property will be mitigated by NYSDEC permitting requirements. No construction or site alteration is proposed as part of this action, which is simply the subdivision of land.

***Mr. Kavanagh made a motion to make a Negative Declaration on the subdivision for SBL #84.003-1-1 Phearsdorf/Olkosky property on the North Nine Mile Rd., D. Michael Canada Job Number 7497 plat. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

***Mr. Sayegh made a motion that the subdivision for SBL #84.003-1-1 Phearsdorf/Olkosky property on the North Nine Mile Rd., D. Michael Canada Job Number 7497 plat meets the criteria for a minor subdivision with no major potential impact. 2<sup>nd</sup> by Mr. Kavanagh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

Mrs. Horowitz informed the Phearsdorf family that, after the maps are recorded in Little Valley, the Planning Board will need one copy for the file.

### **OLD BUSINESS**

**Carol Ozzella (#68-13):**

#### **Application for Special Use**

Before the Board can deal with Mrs. Ozzella's application for a special use permit for a beauty salon, the outstanding rescission of Ozzie's Repair Shop special use permit must be resolved. Mr. DeFiore went to the Ozzella property and, with Mr. Dave Ozzella, did some measuring of the repair shop business to see if it meets the ordinance percentages. The garage Mr. Ozzella built is 2,400 sq. ft. After deducting the front lobby, the bathroom and the storage area, the total square footage of the work area is 632 sq. ft. which exceeds the 25% by 32 sq. ft.

Since the ordinance is unclear of whether the percentage should be of the residence or the actual building the home occupation is in, the square footage of the house was measured and is 3,468 sq. ft. This figure allows for 867 sq. ft. making the actual square footage of the shop well under the 25%.

Mr. DeFiore would like to postpone a decision on this matter until the January meeting allowing the Board to get an interpretation of the ordinance from the Town Attorney, Wendy Tuttle.

Mr. Sayegh stated his position would be to look at the overall size of the house as it is a home occupied business but agreed that the Board should wait for the Town Attorney's decision. Once the information is received, the Planning Board can set up a public hearing.

***Mr. Kavanagh made a motion to table the special use permit #68-13, for the Ozzella home occupation until the January 13, 2014 meeting. 2<sup>nd</sup> by Mr. Sayegh. Ayes all.***

Besides a public hearing on the new special use permit, Mr. Kavanagh's opinion is that there also needs to be a public hearing on the repair shop as the special use permit was rescinded. He stated there are too many complaints that have been made against the repair shop for the Board to bypass the process.

## **NEW BUSINESS**

### **Tracy Karl-Lebrenz (#85-13):**

#### **Application for Special Use Permit for Home Occupation (Vintage clothing)**

The applicant proposes to sell vintage clothing and other items from one room in her house which is located on the west side of Five Mile Road, immediately south of I-86. The house is a three-story Victorian-style structure which contains 2,444 sq. ft. of living area. The business would be located in the front parlor which is approximately 240 sq. ft.; therefore, the home occupation would occupy approximately 10% of the floor area of the house.

Since the home is located in the R-1 district, the Special Use Permit will need a public hearing; however, it is exempt from the county referral process due to Item #9 of the Referral Exemption Agreement between the County and the Town. The application is considered to be a Type II SEQR action.

***Mr. DeFiore made a motion to set a public hearing for Tracy Karl-Lebrenze's application for Special Use Permit for Home Occupation at 7:00 PM on January 13, 2014. 2<sup>nd</sup> Mrs. Larson. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **Referral from Town Board:**

#### **Rezoning of Route 417 properties**

The Town Board has made a request of the Planning Board to review the proposed rezoning of six parcels on Route 417 from R-1 Single Family Residential District to C-1 Commercial District and provide a recommendation to them. These properties will continue to be located in the CO-1 Route 417 East Corridor Overlay District. Five of the six parcels are owned by one individual. Both owners originally requested the Town Board consider the rezoning. The change in zoning would be compatible with the Town's Comprehensive Plan and has been approved by the Cattaraugus County Planning Board. The parcels are as follows:

Tax Map Number	Address
94.061-1-34	3204 W. State Rd.
94.061-1-35	3208 NYS Route 417
94.061-1-36	3210 W. State Rd.
94.061-1-37	3214 W. State Rd.
94.061-1-38	3218 W. State Rd.
94.061-1-39	3222 W. State Rd.

***Mr. Kavanagh made a motion to recommend to the Town Board to rezone six parcels, 94.061-1-34, 94.061-1-35, 94.061-1-36, 94.061-1-37, 94.061-1-38, 94.061-1-39, on Route 417 from R-1 Single Family Residential District to C-1 Commercial District. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **Planning Board Meeting Schedule for 2014**

The schedule was amended for the month of June, changing the meeting date from the second Monday to the third at the request of Mrs. Horowitz.

***Mr. Hellier made a motion to accept the amended schedule as presented. 2<sup>nd</sup> by Mrs. Larson. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **New term and Chair**

Mrs. Horowitz reminded the Board that Mr. DeFiore’s five year term is up at the end of December.

***Mr. Kavanagh made the motion to recommend to the Town Board that Mr. DeFiore be reappointed to a new term. 2<sup>nd</sup> by Mr. Sayegh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

***Mr. Sayegh made the motion to recommend to the Town Board that Mr. DeFiore be reappointed as Chair of the Planning Board for 2014. 2<sup>nd</sup> by Mr. Kavanagh. Mr. Kavanagh – aye; Mr. Hellier – aye; Mrs. Larson – aye; Mr. Sayegh – aye; Mr. DeFiore – aye. Carried.***

### **Zoning Ordinance update**

The Planning Board continued their work on updating the Zoning Ordinance:

#### **Section 5.22 Telecommunications Facilities**

5.22(F)(3) – change the word may to shall and move this section to (E)(1) Bonding and require the applicant to post the bond before getting the building permit.

Section 5.15(B)(2) Dust – add some wording that the facility should minimize dust to the maximum extent feasible.

5.22(B)(7) Buffer Yard – Add that the required plantings must be in place within a year and have a size requirement added to the landscaping chapter to add “teeth” to the requirement.

Definitions: Dwelling Unit, Auxiliary – Mr. Hellier had concerns that this could be misconstrued to include duplex housing; therefore, the board decided the definition needed a

reference to see section 5.11 where the criteria are clearly spelled out.

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

The meeting was adjourned at 9:05 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lynette K. Semsel". The signature is written in a cursive style with a large initial "L".

Lynette K. Semsel  
Secretary