

NEW YORK STATE OF OPPORTUNITY | Division of Local Government Services

JOINT BOARDS: VILLAGE/TOWN PLANNING BOARDS or VILLAGE/TOWN ZONING BOARDS OF APPEAL

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1

2

Course overview

- **Membership for local boards**
 - Age, residency, citizenship
 - Enough qualified and willing potential members in small municipalities
- **Quorum**
- **Addressing membership challenges**
 - Within the municipality
 - In partnership with other municipalities
- **Intermunicipal Agreements for joint boards**
- **Examples from around New York**

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2


3

Membership eligibility

PB or ZBA members are public officers who must be:

- resident of municipality unless properly exempted (village residents are also town residents);
- U.S. citizen;
- at least age 18.

Get involved! Board members needed!



The Town of Monroe is seeking candidates to serve on the following Boards:

- Planning Board (1 regular member, 1 alternate member vacancy)
- Zoning Board of Appeals (2 alternate member vacancies)

Those interested in filling any of these vacancies should submit a letter of interest and resume for consideration via email to the Town of Monroe Supervisor's Office at ajchama@townofmonroe.org by August 1, 2022. Interested individuals may also mail this information to:

Town of Monroe
Attention: Jennifer Schnaars, Secretary to the Supervisor
1465 Orange Turnpike
Monroe, New York 10950

*All Board Members must reside within the Town of Monroe.

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3

4



"I believe we have a quorum for the meeting."

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4

5

Boards need quorum to operate

Quorum: Majority of fully constituted Board (including any vacancies and/or absences) present to conduct business.

- Alternates are allowed to serve in the event of a conflict of interest.
 - For any other reason, State law must be superseded (see *Legal Memorandum LU06: Alternate Members of County and Local Planning Boards and Zoning Boards of Appeals*).
- Motions pass only if majority of full membership votes in favor
- For ZBA, motions for variances and interpretations without concurring majority usually results in "default denial"

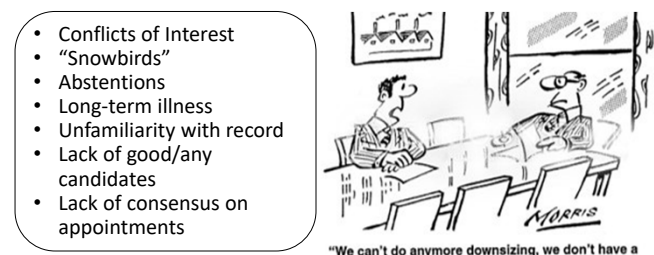
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5

6

Possible barriers to achieve quorum

- Conflicts of Interest
- "Snowbirds"
- Abstentions
- Long-term illness
- Unfamiliarity with record
- Lack of good/any candidates
- Lack of consensus on appointments



"We can't do anymore downsizing, we don't have a quorum."

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6

7

Tempted to eliminate both Planning Board and Zoning Board of Appeals in order to create a combined PB/ZBA?

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7

8

Combining a planning board AND a zoning board of appeals is not recommended!

But don't worry, there are some other options that may solve the dilemma of filling those review board seats.

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8

9

Options to address quorum issues

1. **Reduce board size**
 - PB can be 5 or 7 members (or potentially less using Municipal Home Rule Law)
 - ZBA can be 3 or 5 members
2. **Authorize use of alternates** for absences
3. **Member may serve on two boards**, but may not vote on each board for the same application
4. **Collaborate** with another municipality: joint PB or joint ZBA (GML, Article 15-J §119-4(2))

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9

10

Types of working together

<p>COORDINATION</p> <p>"Let's achieve a common activity"</p>	<p>COOPERATION</p> <p>"Let's improve something"</p>	<p>COLLABORATION</p> <p>"Let's create something new"</p>
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10

11

Benefits of joint boards

- Appointees used more efficiently
- \$\$ savings from shared staff, consultants, and enforcement
- Joint training sessions
- Greater regional/county coordination and consistency
- Coordination of economic development and conservation

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11

12

Reasons joint boards are opposed


- Loss of local control
- Loss of community identity
- Less influence over appointments
- Travel distance to meetings may increase

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12

13

Some options for collaboration



1. Joint village/town PB
2. Joint village/town ZBA
3. Joint board with 2 or more towns

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13

14

Authority to collaborate: General Municipal Law

Article 5-G:

...municipal corporations and districts shall have power to enter into, amend, cancel and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service...

Article 5-J

...the legislature seeks to promote intergovernmental cooperation that could result in increased coordination and effectiveness of comprehensive planning and land use regulation, more efficient use of infrastructure and municipal revenues, as well as the enhanced protection of community resources, especially where such resources span municipal boundaries.

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14

15

Joint PB or Joint ZBA members/terms

- **Number** of members: 5 or 7
 - Often municipality with more development activity appoints the additional member
- **Term length** for first appointed members: January 1 through December 31
 - Staggered terms
- **Chairman selection:** Often joint decision between local governing boards

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15

16

Joint PB or Joint ZBA appointments

Initial Appointments

- Town: 2 members for 1 and 3 years
- Village: 2 members for 2 and 4 years
- Joint Member: 1 member for 5 years

Renewals

- For 5 years
- By municipality that made initial appointment

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16

17

Village of Weedsport and Town of Brutus

"The Town Board of the Town of Brutus shall appoint three members, one each for terms of one, three and five years. The Board of Trustees of the Village of Weedsport shall appoint three members, one each for terms of two, four, and six years. The Town Board of the Town of Brutus and the Board of Trustees of the Village of Weedsport shall jointly appoint one member for a term of seven years.

Upon expiration of the terms of the original members, successors shall be appointed by the same Board, or jointly by the Boards, as appointed the original members for a term of seven years. Terms shall run from January 1 through December 31.

Vacancies shall be filled by the appointment of replacement members by the same Board, or jointly by the Boards, as appointed the member leaving office to fill the unexpired term of that member. [V. of Weedsport, LL 1, 2002]"

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17

18

Intermunicipal Agreement (IMA)

- Formal agreement, legally binding contract (not a memorandum of understanding)
- Arrangement between two or more governmental units to provide service or solve common problem
- Requires agreement approval by each participant's governing board

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18




19

Authority for land use IMAs

- NYS Constitution Article IX, §1(C)
- General Municipal Law Article 5-G

Possible uses

- Joint planning and zoning boards
- Joint comprehensive plans
- Intermunicipal overlay districts
- Contracting for administration and enforcement

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19

20

MOU vs IMA: what's the difference?

Memorandum of Understanding

- 2 or more parties work together on agreed upon project or objective
- Typically not binding

Intermunicipal Agreement

- Mutual understanding between 2 or more municipal parties
- Typically binding


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20

21

Legal steps

- Execute IMA to identify how appointments will be made, and other administrative details
- 5 year term; renewals require board approval (no automatic renewals)
- Should include provisions for termination
- Change local laws or ordinances to reflect joint board: indicate that wherever respective board is mentioned in other local laws, it shall mean JOINT board



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21

22

Logistics

- Which municipality holds hearings?
 - Consider room size, staff/equipment availability
- Where will records be filed?
- Where are fees deposited?
- Who assumes joint board costs?
 - Administration (enforcement, secretarial, etc.)
 - Legal Notices; Legal advice; Article 78
- How are agreements terminated early?
 - End of calendar year?
 - Written notice required?

"The Board shall give public notice thereof by publication in one of the official newspapers of the Village of Lake Placid or the Town of North Elba of the date thereof. . ."

V. of Lake Placid LL 2, 2000

Who gets fees?

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22

23

Transitioning to joint boards

What happens to pending applications?

After local law is adopted or IMA is created, pending ZBA applications go to the new joint board

"All applications pending before the Village ZBA at the time of adoption of this local law and execution of the intermunicipal cooperation agreement, whichever is later, shall then be immediately transferred to the consolidated ZBA and shall be decided by the consolidated ZBA."

Village of Highland Falls, LL 6, 1996

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23

24

Town and Village of Clayton

- Joint PB and Joint ZBA
- Administration by shared code enforcement officer
- Worked to make zoning laws consistent
- Worked on joint comprehensive plan update and joint LWRP
- Improvements: membership stabilized; paperwork improved

Suggestion from ZEO:

Candidate interviews for board membership should be by governing board, not joint board

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24

25

Town and Village of Livonia

- Joint comprehensive plan recommended joint PB
- Joint selection of chairman by governing boards
- Fees go to application's community
- Town provides CEO and Zoning Compliance Assistant through contract with village
- Town attorney gives legal advice (attends meetings when requested)
- Meetings held at town hall because it is larger space
- Information flows better

Encourages Other Joint Efforts

- Nearly identical zoning laws
- Joint comprehensive plan
- Consolidated sewer districts

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25

26

Town and Village of Lowville

- Joint Village/Town Planning Board and Joint Village/Town ZBA
- Joint boards elect chairman with consent of governing boards
- Town and Village each have ZEO, pays stipend to board members, provides legal services
- Town collects and tracks application fees and reimburses each municipality based on % office costs
- Town and Village already share building

"The fiscal agent for the joint planning board shall be appointed by the Town."

[Town and Village of Lowville IMA]


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26

27

Village of Lake Placid and Town of North Elba

- **Joint zoning:**
 - Functionally, village and town are one municipality for code and zoning administration
- **5 ZBA members**
 - At least 1 resides in village
 - At least 1 resides in town outside village
- **7 Review Board members**
 - At least 2 reside in village
 - At least 2 reside in town outside village



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27

28

Tug Hill Cooperative ZBA

Lewis Co. Towns of Florence, Montague, Osceola, Pinckney, and Turin

- 1 member per town; 5-year terms
- Option for towns to withdraw at end of year
- New towns can be added at beginning of year
- When even number of towns, a majority will equal 50% + 1 of board members
- Copy of application record on file in each town

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28

29

Tug Hill Cooperative's Circuit Rider

- Full-time local government advisor
- Attends municipal meetings
- Responds to questions/requests for assistance
- Skillful in knowing where to get answers using resources from county planning, NYS DOS, Office of the State Comptroller, Real Property Services, Cooperative Extension, Soil & Water Conservation, etc.

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29

30

River Area Council of Governments

- Cooperative ZBA – Intermunicipal agreement between the towns of Champion and Wilna and the villages of Carthage, West Carthage, and Deferiet
- Tug Hill Commission circuit rider assists members

Town of Champion
Town of Denmark
Town of Lowville
Town of Wilna
Village of Carthage
Village of Castorland
Village of Copenhagen
Village of Deferiet
Village of Lowville
Village of West Carthage




RIVER AREA COUNCIL OF GOVERNMENTS

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30


31



If you've exhausted those other options...then:

1. Supersede Statute to assign subdivision review to local governing board;
2. Delegate site plan review and special use permit review to ZBA;
3. Abolish planning board

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31

32

Conclusion

- Statutes encourage municipal cooperation
- Flexibility allows for many options for cooperation
- Suitable agreements = increased efficiencies
- Less overhead; sovereignty remains
- Additional examples available

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32

33

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Division of Local Government Services
518-473-3355
localgov@dos.ny.gov
<https://dos.ny.gov/training-assistance>

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33

Town/ Village of Livonia Joint Planning Board (from Town of Livonia Zoning)

Creation, appointment and organization of Joint Planning Board.

- A. A Joint Planning Board, pursuant to General Municipal Law Articles 5-G and 5-J is hereby created by the governing boards of the Town and Village of Livonia.
- B. Said Board shall consist of seven members who shall be appointed and serve in the following manner. The governing board of the Town of Livonia shall appoint four members of the Joint Planning Board, one member to be appointed for a one-year term, one member to be appointed for a three-year term, one member to be appointed for a five-year term and one member to be appointed for a seven-year term. The Mayor of the Village of Livonia, subject to the approval of the Board of Trustees of the Village of Livonia, shall appoint three members of the Joint Planning Board, one member to be appointed for a two-year term and one member to be appointed for a four-year term and one member to be appointed for a six-year term. Upon the expiration of the term of a member of the Joint Planning Board, that person or body which appointed the incumbent to the expiring term shall appoint his or her successor to a full seven-year term. If a vacancy occurs other than by expiration of a term of office, that person or body which appointed the member who filled such office prior to the vacancy occurring shall appoint a successor for the balance of the term.
- C. The Livonia Village Board of Trustees and the governing board of the Town of Livonia shall annually and jointly select the Chairperson for the Joint Planning Board from the membership thereof. In the absence of such selection by the governing boards, such joint board may select one of its members to serve as Chair.

SECTION 9

ADMINISTRATION AND ENFORCEMENT

9.1 REVIEW BOARD

- A. The Village of Lake Placid and Town of North Elba Review Board, to be referred to as "The Review Board", and sometimes referred to herein as "the Review Board", shall be appointed by Joint Resolution of the Lake Placid Village Board and the North Elba Town Board to carry out the duties prescribed for the Review Board under this Code.
- B. The Review Board shall consist of seven members, including the Chairperson. The Review Board shall consist of a minimum of two members who reside within the corporate limits of the Village of Lake Placid and a minimum of two members who reside within the Town of North Elba outside the corporate limits of the Village of Lake Placid.
- C. The Review Board members first appointed shall serve staggered terms as follows:
 - 1. One member appointed for one year
 - 2. Two members appointed for two years
 - 3. Two members appointed for three years
 - 4. One member appointed for four years
 - 5. One member appointed for five years

The successors to the original appointees shall be appointed for terms of five years, after the expiration of the respective terms of the members first appointed.

9.2 BOARD OF APPEALS

- A. The Village of Lake Placid and Town of North Elba Board of Appeals, to be referred to as "The Board of Appeals" and sometimes referred to herein as the "Zoning Board of Appeals", shall be appointed by Joint Resolution of the Lake Placid Village Board and the North Elba Town Board to carry out the duties prescribed for the Board of Appeals under this Code.
- B. The Board of Appeals shall consist of five members, including the Chairman. The Board of Appeals shall consist of a minimum of one member who resides within the corporate limits of the Village of Lake Placid, and a minimum of one member who resides within the Town of North Elba outside the corporate limits of the Village of Lake Placid.
- C. The Board of Appeals members first appointed shall serve staggered terms as follows:
 - 1. One member appointed for one year
 - 2. One member appointed for two years
 - 3. One member appointed for three years
 - 4. One member appointed for four years
 - 5. One member appointed for five years

The successors to the original appointees shall be appointed for terms of five years, after the expiration of the respective terms of the members first appointed.

9.3 PROCEDURES

9.3.1 General Board Procedures

The following procedures shall apply to the operations of both the Review Board and the Board of Appeals:

- A. The Village and Town Clerks shall administer the required oaths of office to members of each Board.
- B. Each Board shall elect, from its appointed members, one member to serve as the Chairman and one member to serve as Vice-Chairman. The Chairman and Vice-Chairman shall each serve a two-year term and each may be re-elected to serve as Chairman or Vice-Chairman.
- C. Any Board member may be appointed for one or more successive terms. If a vacancy shall occur otherwise than by expiration of a term, it may be filled by an appointment made by Joint Resolution of the Village and Town Boards for the unexpired portion of the term.
- D. Board members shall serve at the pleasure of the Village and Town Board and may be removed for cause, after a public hearing, by a majority vote of the Village Board and the Town Board, respectively.
- E. Each Board shall prescribe such rules for the conduct of its affairs as may be necessary to carry out its duties under the Code and its conduct shall be in accord therewith. In particular, each Board shall conduct itself according to the following:
 1. All Board meetings shall be held at the call of the Chairman and at such times as a majority of the members of the full Board may determine. All meeting shall be conducted in accord with "Robert's Rules of Order" and with any procedures established by the Chairman or, in his or her absence, the Vice-Chairman, in consideration of the matter at hand. All Board meetings shall be open to the public.
 2. Each Board shall keep minutes and records of all its proceedings, findings and official actions and shall record the vote of each member upon every question put to vote or, if absent or failing to vote, indicating such fact. All Board decisions shall be recorded in the minutes. A Clerk appointed by each Board shall keep the minutes of the Board, which minutes shall be subject to Board approval. An official copy of the approved minutes of each Board meeting shall be filed with the Village and Town Clerks.
 3. The concurring vote of a majority of the full membership of a Board, i.e. four votes for the Review Board and three votes for the Board of Appeals, shall be required to constitute an official action by that Board.

9.3.2 Public Hearings

- A. A public hearing shall be held by the Board of Appeals prior to any action by that Board other than as pertains to internal Board appointments and procedures.
- B. A public hearing shall be held by the Review Board on any preliminary subdivision plat application, and may be held, at the discretion of the Review Board, on any other matter which is subject to its jurisdiction. In cases other than a preliminary subdivision plat, the Review Board may decide, in cases in which no public hearing is held, to require the applicant to provide notice to neighbors on such terms as the Board may stipulate.
- C. The Board will place a notice of any public hearing in a newspaper of general circulation in the Village/Town at least 10 days prior to the date of such hearing, which shall specify the date, time, place and purpose of such hearing, including a summary description of the project to be

considered.

- D. The applicant shall send a copy of the public hearing notice, by certified mail return receipt requested, to all owners of land within 200 feet of the perimeter of the overall tract of land on which the applicant's project is proposed, except in cases involving an isolated portion of a large tract of land, in which case the reviewing Board may modify this requirement. The names and addresses used for these mailings shall be those set forth on the latest completed Final Assessment Roll for the Town of North Elba. Said mailings shall be made at least 14 days prior to the date of the public hearing, and proof of said mailings shall be provided to the Clerk of the Review Board or the Clerk of the Board of Appeals, as the case may be, at least seven days prior to the date of the public hearing.
- E. The applicant shall also post a conspicuous water-proof notice of public hearing at the site of the proposed project at least 14 days prior to the date of the hearing.
- F. The public hearing shall be conducted in accord with any procedures established by the appropriate Board or by the presiding officer for consideration of the matter at hand. Any person or party may appear at a public hearing in person or by authorized representative or counsel and shall be given an opportunity to be heard as is relevant to the proceeding.

9.3.3 Referral to County Planning Board

Any matter under this Code which is required to be referred to the Essex County Planning Board pursuant to Section 239 of the General Municipal Law shall be so referred, and no action shall be taken by any Board except in compliance with the terms of that section.

9.4 POWERS OF LEGISLATIVE BODIES

A. Amendment

This Code may be amended by the Village Board of the Village of Lake Placid and the Town Board of the Town of North Elba, following a public hearing, according to the procedures set forth in Section 7-708 of the Village Law and Section 265 of the Town Law. No amendment to this Code shall be effective until it has been enacted by both the Village Board and the Town Board.

B. Establishing Fees and Costs

The Village Board and Town Board may adopt by Joint Resolution from time to time a schedule of application fees and other fees for applicants under this Code. In addition, the Review Board and Board of Appeals may require any applicant to directly pay, or reimburse the Board for, the cost of services by any independent Board-appointed consultant deemed necessary by the Board to review and evaluate the work of the applicant's consultants or otherwise assist the Board in making its decision under the terms of the Code.

9.5 ENFORCEMENT

9.5.1 Duties of the Enforcement Office

- A. This Code and decisions of the Review Board and Board of Appeals shall be enforced by an "Enforcement Officer" designated by the Village and Town Board.
- B. Any resident or property owner or other person of legitimate interest may file with the Enforcement Officer a written, signed complaint against any alleged violation of this Code or a Board decision made under this Code. It shall be the duty of the Enforcement Officer to promptly investigate such alleged violation and to report thereon to the Village and Town Boards and, if the Enforcement Officer believes that a violation has occurred, he shall proceed according to the procedures of this section.

9.5.2 Procedures for Enforcement

A. Investigation / Notification

Any building and/or use which does not comply with this Code or a Board decision shall be investigated by the Enforcement Officer who shall file a report of his investigation with the Village and Town Boards. The Enforcement Officer shall also give written notice of any violation to the owner of the land on which the violation is occurring, as identified by the latest completed Final Assessment Roll of the Town of North Elba, or as otherwise known as the enforcement officer, as well as to any tenant, operator or contractor who is responsible for or involved in the apparent violation. The owner and such other responsible person(s) shall correct such noncompliance within 30 days from the date of notification, or such other period as the Enforcement Officer may provide.

B. Enforcement Actions

1. Administrative Stop Orders

In cases where construction or other activity in violation of the Code or any Board decision is ongoing, the Enforcement Officer may issue an Administrative Stop Order to the owner of land involved and other persons responsible for the violation, and in such case the persons upon whom such order is served shall immediately stop work on the project until there is an agreed process for correcting or resolving the violation and the Enforcement Officer has lifted the order.

2. Injunctive Action.

If a violation cannot be corrected or resolved under the foregoing procedures, the Town Board or Village Board, as the case may be depending upon the location of the violation, may institute legal action to prevent, restrain, correct or abate the violation by injunctive action and/or the seeking of penalties as provided in subparagraph c, below, and the Enforcement Officer is also authorized to seek monetary penalties under said subparagraph without Town Board or Village Board action by means of the issuance of Appearance Tickets pursuant to Article 150 of the Criminal Procedure Law of the State of New York and proceedings supplementary thereto.

C. Penalties

1. Criminal Penalties

A violation of this Code is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Code shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

2. Revocation of Permits

- a. Any permit or approval granted under this Code which is based upon or is granted in reliance upon any material representation, or failure to make material fact or circumstance known, by or on behalf of an applicant shall be void. This provision shall not be construed to affect the remedies otherwise available under this section or other applicable law.
- b. The Enforcement Officer may revoke a Building Permit in the following instances:
 - i. Where there has been a false statement or misrepresentation as to a material fact in the application, plans or specifications on which the Building Permit was based
 - ii. Where the Building Permit was issued in error and should not have been issued in accordance with the applicable law
 - iii. Where the work performed under the permit is not being performed in accordance with the provisions of the application, plans, specifications or approval
 - iv. Where the party to whom a Building Permit has been issued fails or refuses to comply with an Administrative Stop Order issued by the Enforcement Officer

CONSOLIDATION OF PLANNING & ZONING BOARD OF APPEALS DUAL MEMBERSHIP ON PLANNING & ZONING BOARD OF APPEALS

In circumstances where a planning board and zoning board of appeals perform their ordinary functions, there would not be an incompatibility in the offices and the same members could serve on both boards or a planning board and zoning board of appeals could be combined.

Several opinions of the Attorney General (AG) shed light on this murky area. On its face, Informal Opinion No. 88-41 opines that "The membership of a wife on a town planning board and her husband as chairman of the zoning board of appeals does not constitute a conflict of interests." In the opinion, Asst. AG James Cole wrote:

The town planning board has responsibility for the development of the master plan which forms the basis for development in the town (Town Law, § 272-a); if authorized by the town board, advises other town departments and officers prior to the taking of action (id., § 274); and may be given the responsibility to approve site plans (id., § 274-a) and subdivision plans (id., § 276).

The town zoning board of appeals reviews determinations made by administrative officials charged with enforcement of zoning regulations and hears other matters referred to it under the zoning regulations (id., § 267 [2]).

There are no general prohibitions on a husband and a wife serving as officers or employees of the same municipality.

In any event, assuming that the zoning board of appeals has no review authority over decisions made by the planning board, these offices are not incompatible even if held by the same person. The additional jurisdiction granted to the zoning board of appeals under your proposed regulations does not create any conflicts between the duties of the planning board and the zoning board of appeals should one person hold positions on both boards.

As a general rule, zoning boards of appeal do not have the authority to review decisions of the planning board and there will be no incompatibility of office. However, rare exceptions to the general rule exist. In another AG opinion, Informal Opinion No. 93-3, in a community where the zoning regulations actually gave the zoning board of appeals authority to review decisions made by the planning board, the AG opined that one person should not simultaneously hold the positions of planning board member and zoning board of appeals member.

Summary

In most communities, the ZBA and the Planning Boards can have dual membership, meaning that the same member may serve on both the planning and zoning boards. It is only in the unusual situation where, for example, the ZBA has a role in reviewing planning board decisions, that dual membership would be prohibited.

In cases where one board has an advisory role (different than authority to approve) in the process of the other board, a member may need to recuse himself or herself to avoid an incompatible situation. For example, if the planning board is required to make a recommendation to the ZBA for a variance¹.

Each municipality must carefully consider its individual circumstance when determining whether or not dual membership would cause an incompatibility in the offices.

¹Town Law § 277. Subdivision review; approval of plats; additional requisites

6. Application for area variance made to the zoning board of appeals

“...In reviewing such application the zoning board of appeals shall request the planning board to provide a written recommendation concerning the proposed variance.”

**RESOLUTION
TO JOINTLY ADMINISTER A ZONING BOARD OF APPEALS**

WHEREAS, The Town of _____ has adopted a zoning law pursuant to the provisions of Article 16 of the Town Law and Sections 2 and 3 of Municipal Home Rule Law of the State of New York, and

WHEREAS, Section 267 of Article 16 of the Town Law requires that each town adopting a zoning law shall also appoint a zoning board of appeals to hear and decide on appeals of such law, and

WHEREAS, The town is authorized pursuant to Article 5-G of the General Municipal Law and Section 284 of the Town Law to enter into agreements to undertake land use regulations in cooperation with other municipalities, be it

RESOLVED, That the Town of _____ shall enter into the attached agreement to jointly administer a zoning board of appeals constituting the towns of Florence, Montague, Osceola, Pinckney and Turin, and be it further

RESOLVED, That the town supervisor is hereby authorized to execute said agreement, and be it further

RESOLVED, That a copy of this resolution and a signed copy of this agreement shall be transmitted to the town clerk of each of the four other signatories of this agreement.

Adopted at a meeting of the _____ Town Board on _____.

_____ Town Clerk

A G R E E M E N T

Agreement made by and between the Town of Turin, with offices at PO Box 172 , Turin, New York 13473 (hereinafter referred to as "Turin"); and the Town of Pinckney, with offices at 956 Co. Rt. 194,, Copenhagen, New York 13626 (hereinafter referred to as "Pinckney"); and the Town of Osceola, with offices at 42 Ryan Road, Williamstown, New York 13493 (hereinafter referred to as "Osceola"); and the Town of Montague, with offices at 7106 Liberty Road, Copenhagen, New York 13626 (hereinafter referred to as "Montague"); and the Town of Florence, with offices at 11173 Taberg-Florence Road, Camden, New York 13316 (hereinafter referred to as "Florence").

R E C I T A L S

1. The towns of Turin, Pinckney, Osceola, Montague and Florence have duly enacted zoning laws governing land use within their communities.
2. Pursuant to Town Law of the State of New York, Article 16 and the zoning laws of the individual towns who are party to this agreement, a board of appeals is required to be established to provide for the interpretation of such zoning laws and other issues relating to variances from their laws.
3. Because of the size of the relative communities that are parties to this agreement, it is physically and fiscally difficult to maintain separate boards of appeals in each town in compliance with Section 267 of the Town Law of the State of New York.
4. Pursuant to Section 284 of the Town Law and Article 5-G of the General Municipal Law of the State of New York, the towns who are a party to this agreement wish to enter into an agreement to establish a cooperative zoning board of appeals.
5. It is the purpose of this agreement to provide rules and regulations for such cooperative zoning board of appeals.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable considerations, receipt of which is hereby acknowledged, it is agreed as follows:

1. The towns of Turin, Pinckney, Osceola, Montague and Florence hereby agree to establish and maintain a cooperative zoning board of appeals to be known as the Tug Hill Cooperative Zoning Board of Appeals.

2. Any town which is a party to this agreement may withdraw from the same on six months prior written notice to the other towns, which notice must be a minimum of six months prior to December 31 of each year. No town may withdraw from this agreement except at the end of a calendar year.
3. New towns may be added to this agreement with the consent of a majority of the other towns who are then a member, provided whoever, that such towns may only be added commencing on January 1 in any given calendar year and notice of a request to be added must be given a minimum of six months prior to the beginning of that year.
4. Representation on the Board.
 - a) Each town shall be allowed to select one representative from its town to be a member on the Cooperative Zoning Board of Appeals. Such person shall be appointed annually by their respective town board for a one year term.
 - b) In the event of a vacancy, the town whose member has been lost shall be allowed to replace that member with a new appointee who shall serve the unexpired balance of the vacated term.
 - c) Any new participating communities added at a later time shall appoint their initial representative to a one year term.
5. Term of Agreement.
 - a) Initial Term. This agreement shall be for an initial term of five years commencing on June 1, 2017 and ending on May 30, 2021.
 - b) Extension. This agreement shall be automatically extended for an additional five year period upon the same terms and conditions. If any community intends not to extend or renew this agreement, it must give notice to the other communities a minimum of six months prior to the expiration of the term of this agreement.
6. Duties.

- a) The Cooperative Zoning Board of Appeals shall be charged with hearing applications for interpretation of the zoning law of any of the communities which are a member of this agreement and/or the granting of use and area variances upon application for any of the communities that are a member of this agreement.
- b) The Board shall apply those standards for interpretation and granting of variances as are contained in Section 267-b of the Town Law of the State of New York as the same may be amended from time to time.
- c) Procedure. The procedure for granting or denial of a request for interpretation or variance shall be strictly governed by Section 267-a of the Town Law of the State of New York provided, however, that any hearings being conducted by the Cooperative Zoning Board of Appeals on any specific application, must be held in the town from which such request originated.
- d) Compliance with Other Laws. The Cooperative Zoning Board of Appeals shall comply in all respects with the requirements of Section 239-m of the General Municipal Law of the State of New York and provisions of the State Environmental Quality Review Act and the regulations adopted pursuant thereto which may apply to any application which is before it.

7. Officers.

The Cooperative Zoning Board of Appeals shall select its own chairman and secretary in January of each year by vote of a majority of the members. The Board shall also select an acting chairman to serve in the absence of the chairman. Each community shall have one vote through its member appointed to the Cooperative Zoning Board of Appeals in the selection of officers.

8. Voting.

A quorum of the Cooperative Zoning Board of Appeals shall be considered a majority of the members. If, in any given year the number of participating communities on the Cooperative Board of Appeals is an even number, a majority shall be considered fifty percent plus one. To successfully pass a resolution on interpretation or variance, a majority of all potential votes of

the board are required to reverse the determination of the zoning enforcement officer.

9. Records and Record Keeping.

- a) The Cooperative Zoning Board of Appeals may delegate certain ministerial tasks to others, such as the Cooperative Tug Hill Council.
- b) Location of Records. A copy of the minutes of all Board meetings shall be filed with the town clerk of each participating community. When applications are received from individual towns, a copy of all such applications shall be filed with the town clerk of that town. The application and any materials related to individual applications from a particular town shall be filed with the town clerk of that town and a record of that application shall be maintained in that town.
- c) Records shall be kept in accordance with provisions of the Public Officers Law.

10. Bylaws.

The Cooperative Zoning Board of Appeals shall periodically, as it deems proper, adopt, amend and revise bylaws for its internal operation. Such bylaws, when approved by the Cooperative Board of Appeals shall become binding. No such bylaws and proposed revisions to bylaws shall be adopted until first reviewed by each of the participating towns. Upon adoption by the Cooperative Zoning Board of Appeals, a copy of the bylaws shall be filed with the town clerk of each participating town.

11. Appeals.

Should any decision of the Cooperative Zoning Board of Appeals be appealed, the town from which the application originated shall be responsible for all legal costs associated with that appeal.

12. Amendment.

This agreement represents the entire agreement of the parties and all prior understandings or agreements are hereby merged herein. Specifically, this agreement supersedes and modifies the prior intermunicipal agreement of the parties duly executed in 1981 and 1997 and 2012. This agreement may not be amended or

modified except in writing, duly signed and acknowledged by the parties.

13. Interpretation.

The agreement shall be interpreted by and in accordance with the laws of the State of New York.

14. Severability.

If at any time any portion of this agreement is found to be void, voidable or unenforceable for any reason whatsoever, it shall not affect the validity or enforceability of any other provision of this agreement.

IN WITNESSS THEREOF, the parties have set their hands.

Town of Turin

By: _____

Town of Pinckney

By: _____

Town of Osceola

By: _____

Town of Montague

By: _____

Town of Florence

By: _____