
**NEW YORK**  
 STATE OF OPPORTUNITY

**Division of Local  
 Government Services**

## Skills That Make Great Board Members

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### Welcome! Rules of the Road

- You should hear us speaking. If not, check your audio settings in the dropdown at the top of the program window. If still not working, log out and log back in but try not to log in and out too many times
- We are not IT professionals and we're off site, which means we cannot assist with technical issues on your end
- To ask questions, please use the chat feature and choose **Host, Panelists and Presenters** (4<sup>th</sup> option down in the chat box) or **All Panelists**. We will try to answer as many questions as time permits. If we cannot, you can always email us for technical assistance at [localgov@dps.ny.gov](mailto:localgov@dps.ny.gov)
- Certificates will be emailed to participants in the next week. Beware: WebEx is watching! Those who log in late, leave early or don't pay attention may only receive partial credit!

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### Welcome to the Board!

- New York is a home rule state
- The power to regulate land is at the local level
- The decisions you make will have a long and lasting impact on your community



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### An Effective Board Member Knows

- The authority of the Board and its duties
- Standards for decision-making by the Board
- Legal aspects of Board conduct, including bylaws & rules of procedure
- Regulations, Laws and Plans applicable to your board
  - The Comprehensive Plan; Zoning law/ordinance; Subdivision regulations; Site Plan Review, Special Use Permit, etc.
- How to read and interpret plans, maps, conduct site visits, where to seek assistance
- Local planning and development trends

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### Land Use & Local Government

- Land use control is one of the most important functions of local government
- Can be highly controversial
- Heavily covered by local media

Halt to development in Albany called; supporters, opponents to visit City Hall

Dense development in Capital City continues to draw criticism from some

Who polices development in Colonie? Debate sparks tension at Town Board

Schodack zoning board taken to court over Stewart's project

Saratoga Planning Board OKs controversial zoning near hospital

Proposal to rezone a residential neighborhood now heads to City Council

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### The Local Government Team

- Municipal clerk:
  - Filing, posting of meetings, etc.
- Board secretary:
  - Receiving applications, checking for completeness, administrative support, etc.
- Code/Zoning Enforcement Officer:
  - Zoning and building code enforcement
- Planner/Planning Department:
  - Professional and technical support to boards
- Municipal counsel:
  - Legal support
- Municipal Engineer:
  - Plan/subdivision review
- Chief administrator
  - City Mayor
  - Village Mayor
  - Town Supervisor

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### Primary Functions of the Local Governing Board

Legislative	Administrative
<ul style="list-style-type: none"> <li>• Home rule authority</li> <li>• Police Power</li> <li>• Local Laws               <ul style="list-style-type: none"> <li>– Comprehensive Plan adoption</li> <li>– Zoning adoption</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Supervisory</li> <li>• Budgetary</li> <li>• Contractual</li> <li>• Appointive</li> </ul>

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### Primary Functions of a Planning Board

Advisory Functions	Regulatory Powers
<ul style="list-style-type: none"> <li>• Planning boards have the authority to advise on all planning-related municipal activities               <ul style="list-style-type: none"> <li>– Comprehensive Plan</li> <li>– Variance Requests</li> <li>– Additional powers assigned by governing board</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Authorized by the governing board to conduct               <ul style="list-style-type: none"> <li>– Subdivision Regulations</li> <li>– Site Plan Regulations</li> <li>– Special Use Permits</li> </ul> </li> </ul>

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### Primary Functions of a Zoning Board of Appeals

Appellate Jurisdiction	Original Jurisdiction
<ul style="list-style-type: none"> <li>• All ZBAs:               <ul style="list-style-type: none"> <li>– Interpret zoning regulations</li> <li>– Issue or deny appeals for variances</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Some ZBAs:               <ul style="list-style-type: none"> <li>– When delegated by governing board</li> <li>– Special Use Permits</li> <li>– Site Plan Review</li> </ul> </li> </ul>

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## Follow Your Rules of Procedure

To be binding, Rules must be adopted by governing board by local law or ordinance.

They cover such things as:

- Duties of officers or committees
- Agenda setting and calling meetings
- Conduct at public meetings and hearings
- Minutes
- Signature on official documents
- Referrals




tip

Don't have Rules?

Meet with your board chair to discuss how meetings are run

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## Be Ethical

- Promote confidence and trust when conducting the public's business
- Disclose any actual, apparent, or potential conflict of interest pertaining to any application or alleged Violation subject your jurisdiction



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
## Conflicts of Interest

Avoid conflicts of interest in your official duties: "the test to be applied is not whether there is a conflict, but whether there might be."

- Potential conflicts include business ties, personal connections, litigation, etc.
- Don't solicit or receive gifts, either directly or indirectly
- Alternates may serve for recused members



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### The Comprehensive Plan

- Expression of municipality's goals and recommended action to achieve those goals
- Outline for orderly growth, providing continued guidance for decision-making
- A statement of a municipality's policies, goals and standards
- Adopted by the governing board
- **It serves as the basis for all land use decisions**

- Town Law § 272-a
- Village Law § 7-722
- City Law § 28-a

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### Elements of a Comprehensive Plan

• Goals and policies	• Neighborhoods
• Existing conditions	• Community design
• Housing	• Social services
• Economic development	• Historic resources
• Natural and cultural resources	• Energy
• Open space and recreation	• Transportation/Walkability
• Services and facilities	• Sustainability
• Infrastructure	• Arts
• Implementation	• Environmental concerns
	• Other

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### Know Your Comprehensive Plan

- Base land use decisions on the plan's goals and community vision for the future – not on personal opinions
- Are applications in harmony with these goals?
  - If so, project may be a good fit
  - If not, deny, suggest changes, or impose conditions
- Zoning, site plan review, subdivision, design guidelines, etc are merely tools to drive your Comp Plan's goals

tip

Have a copy available at meetings for reference and guidance. Plans should not collect dust on a shelf!

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### Caring for Our Comprehensive Plans

- Comprehensive plans should have short, medium and long term goals
- Implement your plan with zoning and regulation changes, financing, etc.
- Evaluate on a regular basis to make sure you're achieving your goals
- Be an advocate for your plan
- Adjust the plan as necessary
- Revise and update your plan every 5-10 years
  - Demographic, economic, technological changes

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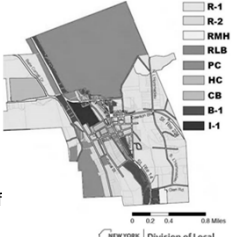
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### Zoning

- Goal: avoid incompatible land uses
- Divides municipality into districts
- Regulates:
  - Land use
  - Density
  - Placement of structures on site
- Optional
- Adopted by the governing board
- Should be updated after adoption of comp plan



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### Caring for Our Zoning Regulations

- Symptoms of sick zoning regulations include:
  - Many interpretations or variances being sought/granted
  - Outdated terms and language
  - New technologies available
  - Confusion on definitions, wording, etc.
- Like a comp plan, our zoning regulations need to be periodically reviewed to make sure they're still achieving the goals of the comp plan

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## Reading Maps, Plats and Plans

- Most applications include maps and plans, so boards need basic map and plan reading skills
- A map is a physical illustration of existing features, resources or uses on the ground surface
- In your service, you will examine many types of maps

**tip** Refer to maps by name and date



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## Planimetric Maps

Google Maps



- Planimetric maps show the horizontal position of features on the Earth's surface from above
- Features typically include:
  - Roads, sidewalks, streets, highways
  - Building footprints, etc

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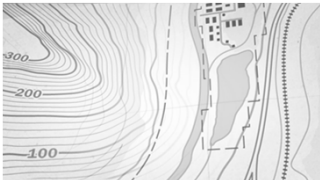
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## Topographic Maps



- Topographic maps show elevations depicted as lines
- The closer the lines, the steeper the slope

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## Municipal Zoning Map

- The zoning map shows how the community is divided into different use districts or zones
- Most common zones are residential, commercial, industrial, etc
- The zoning map must show the precise boundaries for each district

**Zoning Districts**

- GB-1 GENERAL BUSINESS DISTRICT
- GB-2 GENERAL BUSINESS DISTRICT
- LG LAND CONSERVATION
- PL PLANNED BUSINESS DISTRICT
- PI PLANNED INDUSTRY DISTRICT
- R-10 ONE-FAMILY RESIDENCE DISTRICT
- R-30 THREE-OR-MORE-FAMILY RESIDENTIAL
- R-7A ONE AND TWO-FAMILY RESIDENTIAL
- VC-B1 VILLAGE CENTER BUSINESS DISTRICT
- HO HISTORIC PRESERVATION OVERLAY



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## Site Plan Maps

Rendering, drawing, or sketch which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on plan



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## Subdivision Plats

Division of any parcel of land into a number of lots, blocks or sites as specified in local ordinance, law, rule or regulation with or without streets or highways for the purposes of sale, transfer of ownership or development



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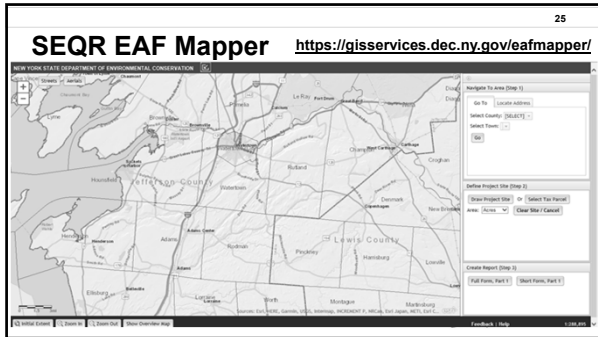
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### Other Mapping Resources

- NYS GIS Clearinghouse  
<http://gis.ny.gov/>
- DOS Office of Planning & Development GIS Gateway  
<http://opdqig.dos.ny.gov/#/home>

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## Preparing for Meetings

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## Quorum

- The number of members legally needed to conduct business
  - Convening meetings
  - Hearings
  - Voting
- At least a majority of a fully constituted board (including any absences or vacancies)
- Use alternates for conflicts of interest, or absences (as allowed by local law)



"Well, let's get started now we've got a quorum."

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## Before the Meeting

- Comply with Open Meetings Law noticing for all meetings, including agenda setting meeting
- Chair should prepare agenda and decide order of applications (new vs old business, complexity, media attention, etc.)
- Chair should ensure a quorum (use alternates if needed); invite and confirm appropriate staff, consultants, attorney, etc.
- Schedule appropriate venue
- Ensure any technology is up and running when needed
- Post your meeting materials including applications, maps, etc online prior to the meeting so the public can review the proposals before the board

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## How to Support the Review Process

- Know the first person an applicant will go to
  - Ex) Planner, ZEO, clerk, secretary
- Shared permit tracking
  - Some permits require 2 or 3 different departments to review
- Understand each board's roles and responsibilities
- Staff sharing

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### Know What You're Working With

- Be familiar with your municipal land use applications
  - ZBA: Interpretations, Variances
  - Planning Boards: Subdivision, Site Plan, Special Use Permit
  - Include SEQR EAF in application materials
- Are your applications clear and precise? Do you have a FAQ section or guide for new applicants?
- Use checklists to keep track of submissions
  - Checklists for applicants and
  - Checklists for municipal staff/board members
- Incorporate timelines: be aware of default approvals on subdivision applications

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### Reviewing Application Materials

- Board members cannot reach a fair & impartial decision without a firm understanding of the matters before them
- Board members should receive applications and meeting materials at least a week before the meeting
- Before the meeting, set aside time to review all the materials submitted
- Prepare a list of questions or concerns about each application
- Visit the property to understand the application

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### Agenda Setting Meeting or Workshop

- Subject to OML
- Rules of procedure should cover who sets agenda. In most cases, it's the chair
- Ensures applications are complete and ready for board review
- Determines if there is a conflict of interest/need for alternates



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### Working with Planning & Enforcement Staff

- Reviews applications and coordinates land use review
- Understands land use plans and regulations
- May assist with updating regulations
- Advises land use boards
- Meets with developers, residents, property owners
- Can be the voice of planning and land use in City/Village/Town Hall
- Maintains office records
- Applies for funding
- Educates and assists the public

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### Conducting Site Visits

- The purpose is to observe an application site
- Refrain from talking about the application, offering suggestions or opinions about the application
- If you are noticed by neighbors, ask them to make their comments at the public hearing to include in the record
- Subject to OML with a board quorum. Go alone or with one other to avoid OML violations



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### Conducting Site Visits

- Divide site visit considerations into two categories
  - On parcel
  - Adjacent uses, views, impacts



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### On Site Considerations

- Is the property a lot wetter or drier than you thought?
- Are there areas of poor or good drainage? Unusual gradients or slopes?
- Is the neighboring building surprisingly close or far away?
- Did you smell, see, or hear something unusual?
- Do the proposed locations of new structures, roads or drives make sense?

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### Site Visits: A Larger Perspective

- Is there common vegetation or trees in the community?
- Are there good views?
- Was the nearest public road intersection easy or hard to get through?
- Are cars parked in odd places? Is there a lot of traffic?
- Are there sidewalks? Are they in good condition?



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### Ex-Parte Communications

- When board member is contacted outside a meeting concerning a pending issue
- Avoid discussions with applicants outside the public realm to preserve your integrity
- Disclose contact on the record
- Don't discuss applications via email with outsiders or fellow board members



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## In the Meeting

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### Open Meetings Law

Public Meeting	Public Hearing
<ul style="list-style-type: none"> <li>The official convening of a public body for the purpose of conducting public business</li> <li>Meetings allow the public to listen and observe, not comment</li> </ul>	<ul style="list-style-type: none"> <li>An official proceeding of a governmental body or officer during which the public is accorded the right to be heard</li> <li>Required for all ZBA matters</li> <li>Required for some Planning Board matters – subdivision, special use permits, site plan (when required locally)</li> </ul>

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### Open Meetings Law: COVID-19

- Executive Order 202.79:** Allows remote public meetings until 1/1/2021
- Best practice: If you have the ability to hold meetings both in person and online, continue to do both so people who aren't comfortable attending in person can still participate
- If you can't, allow written comment that can be read into the record
- Keep up to date on EO extensions through the Committee on Open Government: <https://www.dos.ny.gov/coog/>

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## Conducting Public Hearings

- Put the rules of the road on the back of the agenda so everyone knows what to expect
- Be courteous and careful of your body language
- You can ask speakers to identify themselves but you cannot force people to provide the information



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## Working with Consultants

- Consultants can include:
  - Planners
  - Engineers
  - Architects
  - Surveyors
  - Attorneys
- These professionals are sometimes available to answer questions from the review board



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## Working with Consultants

Remember that consultants work for you. They can help guide the review board:

- Establish a lead contact and check in regularly
- Evaluate work at several intervals, not just at the final stage
- Notice red flags (missed deadlines, poor quality, contact avoidance, etc.) and address any issues sooner than later



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## Professional Project Review Services

Office of the  
State Comptroller  
Opinion 90-14

- Review costs may be charged to applicant, if locally authorized
- Local regulations can specify pre-established fees
  - Possible municipal budget item
  - Staff training

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## Don't be Afraid to Ask Questions

- Many board members are not land use experts and may need legal or land use assistance
- It's your responsibility to ensure that projects are a good fit for the community. It's better to ask than to approve a project you don't understand.
- Municipal staff and consultants can help board members understand the technical complexities of applications

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## Be Clear and Direct

- Applicants will appreciate it even if your regulations hold applicants to a high standard
- If an application has little chance of passing, most applicants prefer the law to be clear and local officials to be up front with them about what the project needs to comply, rather than dragging it out to ultimately say no anyway

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## Working with the Media

- Decide on a media response plan
  - Call
  - Press release
  - News conference
- Pick a spokesperson to be the official point of contact
- Place controversial issues at the top of agenda



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## Making Your Decisions Stick

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## Voting Considerations

- A quorum is needed to take a vote
- Votes must take place at meetings: no emails, call-ins, faxes, etc.
- If a member is recusing, they should leave the room and the record should note why they are recusing
- Make sure alternates are available to vote on the application in their absence



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### Findings

- Findings are based on the analysis which applies law to facts, leading to conclusions
- They are usually drafted by a municipal attorney, especially for complex matters
- Findings should specify how the standards are met; otherwise state in the findings if no evidence was presented by applicant to meet necessary standards
- Relate these facts to conditions imposed
- Supports the decision if challenged in court
- Insert these findings into the record and application file

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### The Record

The record is a collection of all the evidence presented to the board during proceedings. It includes:

- The application
- Plans, drawings, photographs, deeds, surveys and any consultant/expert reports
- Any correspondence between the applicant and town/village/city staff
- Public hearing notice
- Written comments submitted by members of the public
- Municipal records or any other documents submitted during proceedings
- Decision and findings

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### Practical Advice for Board Members

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## The Basics

- Attend meetings & be on time!
- Read application materials and minutes before the meeting
- Seek staff assistance before the meeting
- Be familiar with sites and projects



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## In Meetings



- Know your comprehensive plan and zoning law
- Focus on facts, not opinions
- Share information
- Participate in discussion
- Be probing, but not argumentative
- Stick to the schedule and the agenda

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## In Meetings

- Be practical
- Respect your associates
- Be a problem-solver, not a problem-maker
- Be conscious of body language
- Treat everyone equally



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### Words of Wisdom

- Be patient with applicants, the process and the public
- Be persistent and respectful
- Don't make it personal
- Be transparent: follow the spirit of the OML
- Know the law
- Be passionate for your community
- Have fun

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### Sources of Assistance

Locally	Regionally
<ul style="list-style-type: none"> <li>• City/village/town staff</li> <li>• Previous board members</li> <li>• Plans and reports</li> <li>• Maps, rules of procedure, local laws and ordinances</li> <li>• Consultants</li> </ul>	<ul style="list-style-type: none"> <li>• County planning agencies</li> <li>• Regional planning agencies</li> <li>• Metropolitan planning agencies</li> <li>• Colleges and universities</li> </ul>

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A Division of New York Department of State



Division of Local Government Services

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# First on the Agenda is the Agenda!

by Elaine Cogan

Who sets the agenda for your planning board meetings? How are decisions made about the order, public comment, and other important matters? Do you allot specific times or just go with the flow? In other words, does your agenda work for you as well as it should?

If your planning board uses its agenda as a tool to efficient and productive meetings, these questions may seem elementary and even foolish. But if you are one of many whose agenda is either inadequate or even an impediment to effective meetings, it may be wise to consider how it can be improved.

The agenda is the template for your meetings. It should be developed thoughtfully so that the planning board has adequate time for matters that require attention and/or decisions and less time for “housekeeping” or more routine subjects. It should delineate plainly when public comment is invited and the actions expected of each item (review only; action; referral, etc.).

Many commissions leave the agenda writing to staff and may see it for the first time when they come to the meeting. This does not serve you or the public well. The best approach is for the chair, or a committee of your board, to review the agenda before it is final and for commissioners to receive it and any backup materials several days in advance.

Upcoming meeting agendas should also be posted in public places, such as public libraries and town or city halls. A growing number of communities also are posting agendas on their Web sites.

Other helpful procedures:

- Allow ample and early time for issues which most concern the public. Too often, planners still put them last or next to last on the agenda even though they are well aware of one or more matters certain to attract a big crowd. It is no

wonder that people get restless and cranky if they have to sit through several hours of deliberations that do not concern them. Put the contentious or controversial issues on the agenda early, and give them the time they deserve. Do not be offended if most of the crowd leaves as soon as you turn to other matters.

- Consider setting aside a general comment period where people can talk to you about any planning items that concern them. Fifteen minutes at the beginning of the agenda usually is adequate and can serve as a “safety valve” for testing the pulse of the community.

- Place together routine items that require little or no discussion on the agenda and consider them in a group. Some bodies call this the “consent agenda” and require one motion and one vote to approve them all. But be careful that they are, indeed, routine items and not anything controversial you can be accused of “sneaking through.”

- Print the allotted time for each item on the agenda...7-7:05, Roll Call; 7:05-15, Correspondence; 7:15-7:45, Major item # 1, Public Comment, etc. ... and follow the schedule as much as you can.

- Do everything possible to make the public comfortable. Print sufficient agendas for all to have one, with the aforementioned time allotments. Also, make sure there are sufficient copies of any graphics or explanatory material.

- At the start of the meeting, ask people who wish to speak on specific agenda items to sign up. This allows the chair to control the agenda and perhaps ask the board to extend the time if it is obvious the stated comment period is not sufficient for all the people who wish to be heard.

- Make sure the agenda is written in words and phrases easily understood by the public. How long did it take you, as a layperson, before you finally understood

planning jargon? Put yourself in the shoes of the citizen who is attending her first meeting. You probably need to use legal terminology when you are actually voting, but that should not preclude an explanation on the agenda that is in plain English.

- Are you expecting a turnout of non-English speaking people? Translate the agenda into one or more other languages beforehand and engage interpreters to be available at the meeting.

- Provide a simple explanation of the board's procedures on each agenda or on a separate handout. What is the purpose of a first reading? Second? Do you require simple majorities or unanimous votes? What general rules of procedure do you follow?

- Keep to your schedule, unless there are extenuating circumstances. The public and the board will be appreciative.

All planning boards and commissions have some form of agenda. By treating it seriously, you will find it is an important tool toward orderly and productive meetings. ♦

*Elaine Cogan, partner in the Portland, Oregon, planning and communications firm of Cogan Owens Cogan, is a consultant to many communities undertaking strategic planning or visioning processes. Her column regularly appears in the PCJ.*



*Editor's Note:* We received a number of thoughtful replies from our “online reviewers” concerning Elaine's article. Because we do not have the space to include this feedback here, we are posting it on our PlannersWeb site at: [www.plannersweb.com/agendas.html](http://www.plannersweb.com/agendas.html) – along with other information related to meeting agendas.

# Recusal and Abstention from Voting: Guiding Principles

By Lester D. Steinman

Counsel to planning boards are often asked to address whether board members should recuse themselves from consideration and voting on an application or abstain from voting on an application. Set forth below are general principles which may be helpful in advising planning board members regarding the propriety of recusal or abstention in a particular case.



## I. Abstention from Voting

Discharging the duties of a planning board member requires a member to vote on all applications that come before the board, assuming no conflict of interest or appearance of impropriety exists requiring recusal.<sup>1</sup> Indeed, a persistent refusal to vote on applications could constitute grounds for removal from office.

Applicants before the planning board have the burden of proof to support their applications. Thus, where a planning board member determines that the record contains insufficient information to satisfy the legislative criteria for granting a permit or approval, that member should vote to deny the application. Where a member has missed certain meetings on an application, the member should review the minutes and/or recordings of those meetings and discuss the issues with other board members at a public meeting to enable the board member to make an informed decision when voting on the application.<sup>2</sup>

In *Taub v. Pirnie*,<sup>3</sup> the board member in question had been a resident of the village for twenty-five years, a zoning board member for twelve years and a village trustee and was fully familiar with the neighborhood in question and its zoning problems. Before voting on the application, the member had thoroughly discussed the arguments presented at the public hearing with other members. The fact that the member in question neither attended the public hearing nor read the hearing minutes was not outcome determinative. Rather, it was sufficient that the member had the opportunity to make an informed decision by virtue of his knowledge of the neighborhood and familiarity with the issues raised at the public hearing.

Failure to vote is not a benign act of neutrality toward an application. Rather, abstention has significant consequences for the planning board's decision making. Every motion or resolution adopted by the planning board requires the affirmative vote of a majority of all the members of the board.<sup>4</sup> An abstention is not an affirmative vote in favor of the application,<sup>5</sup> and, to the extent that it cannot be counted as an affirmative vote, its effect is akin to a negative vote for purposes of compliance with statutory majority voting requirements.<sup>6</sup>

## II. Recusal Based upon Conflicts of Interest

Where a member of the planning board has a conflict of interest affecting the consideration of an application, that member must recuse him or herself from participating in any discussion of the matter and from voting on that matter.<sup>7</sup> Conflicts of interest may be defined by statute,<sup>8</sup> local law [municipal code of ethics]<sup>9</sup> or common law. Planning board members should familiarize themselves with the provisions of these rules.

Courts have held public officials to a high standard of conduct and have invalidated certain actions which, while not violative of the literal provisions of GML Article 18 or a local code of ethics, are tainted by the votes of members which "violate the spirit and intent of the statute, are inconsistent with public policy or suggest self interest, partiality or economic impropriety."<sup>10</sup> For example, in *Zagoreos v. Conklin*,<sup>11</sup> the court annulled the votes of two zoning board members, who were employees of the applicant, to grant variances on a controversial application to convert oil burning generating units into coal burning units. In *Tuxedo Conservation and Taxpayers Ass'n v. Town Board of the Town of Tuxedo*,<sup>12</sup> a town board member who was an officer of an advertising firm was disqualified from voting on a zoning application by a subsidiary of one of the firm's clients. Also, in *Conrad v. Hinman*,<sup>13</sup> the Court annulled a village board vote to grant a rezoning application where the deciding vote was cast by the co-owner of the property that was the subject of the rezoning petition.

Whether a member has a disqualifying conflict of interest "requires a case-by-case examination of the relevant facts and circumstances."<sup>14</sup> "Public officials must perform their duties solely in the public interest, and avoid circumstances which compromise their ability to make impartial judgments on any basis other than the public good."<sup>15</sup>

Indeed, where circumstances, viewed objectively, could reasonably be deemed to compromise a member's impartiality, avoidance of even the appearance of impropriety is essential to maintaining public confidence in the integrity of government.<sup>16</sup> Thus, the Attorney General has opined:

'It is critical that the public be assured that their officials are free to exercise their best judgment without any hint of self-interest or partiality, especially if a matter under consideration is particularly controversial.' *Matter of Byer v. Town of Poestenkill*, 232 A.D.2d 851, 852-53 (3d Dep't 1996). Thus, where a public official is uncertain about whether he should undertake a particular action due to an actual or potential conflict, he must recuse himself entirely from the matter in question unless he procures an advisory opinion from a local ethics board that concludes otherwise. *See* Op. Atty. Gen. (Inf.) No. 98-38; *see also* Op. Atty. Gen. (Inf.) No. 99-21 (recusal requires the official in question to avoid 'taking any actions with respect to that matter.')

Often, conflicts of interest arise out of familial relationships [recusal of planning board chairman required where his son had a pending employment application with the attorney for the applicant before the planning board];<sup>18</sup> prejudgment of the issues attendant to a specific application;<sup>19</sup> opposition to an application as a neighbor [often a neighbor acts out of their own self-interest and concerns about their own property values and families and may not be capable of measuring the merits of an application in light of the overall public interest];<sup>20</sup> or ongoing business relationships [where two board members were employed by the applicant, the board members must recuse themselves because "the likelihood that their employment . . . could have influenced their judgment is simply too great to ignore."].<sup>21</sup> However, not every private business relationship between an applicant and a board member is sufficient to require recusal. For example, in *Ahearn v. Zoning Board of Appeals of the Town of Shawangunk*,<sup>22</sup> the fact that one zoning board member had purchased insurance from an applicant and the spouse of another zoning board member had received a Christmas gift for teaching the applicant's daughter piano lessons was deemed to be so insubstantial that no common law conflict or appearance of impropriety was created when those members voted to grant the applicant a special use permit to construct a planned unit development.

Nor is recusal required where the interest of the member in the matter under review is not a personal or private one, but rather "an interest he has in common with all other citizens or owners of property" in the community.<sup>23</sup> Thus, where most of the property in a village met the acreage requirement for reclassification to a cluster residence floating zone under a proposed zoning amendment, village board members who owned qualifying property were not disqualified from voting on that zoning amendment.<sup>24</sup> Similarly, in *Segalla v. Planning Board of the Town of Amenia*,<sup>25</sup> the court refused to annul the vote of a planning board member to adopt a new master plan where the value of that member's property and the value of nearly every other property owner in the town would be similarly affected by the adoption.

Where recusal is required, the board member in question must refrain from deliberating and voting on the application or matter:

We have stated that members with conflicts of interests must recuse themselves from participating in any deliberations or votes concerning the application creating the conflict. Op. Atty. Gen. (Inf.) No. 90-38. The board member's participation in deliberations has the potential to influence other board members who will exercise a vote with respect to the matter in question. Further, we believe that a board member with a conflict of interests should not sit with his or her fellow board members during the deliberations and action regarding the matter. The mere presence of the board member holds the potential of influencing fellow board members and additionally, having declared a conflict of interests, there would reasonably be an appearance of impropriety in the eyes of the public should the member sit on the board.<sup>26</sup>

Obviously, this article cannot address every potential situation in which recusal and/or abstention becomes an issue. However, by adhering to the general principles which guide those decisions, planning board members will be better able to discharge their responsibilities.

## Endnotes

1. *See Cromarty v. Leonard*, 13 A.D.2d 275, 216 N.Y.S.2d 619 (2d Dep't 1961), *aff'd*. 10 N.Y.2d 915 (1961).
2. *See Taub v. Pirmie*, 3 N.Y.2d 188 (1957), holding that even where a board member has not attended the public hearing and not read the transcript, he may nevertheless vote on an application

where he has the means available to him to make an informed decision.

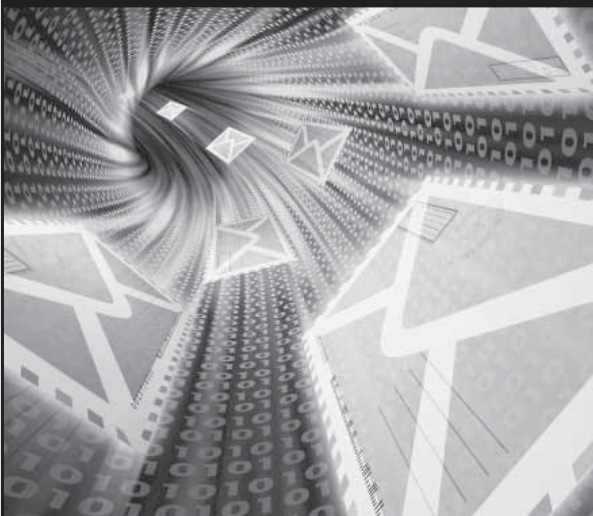
3. *Id.*
4. Village Law § 7-718(17); Town Law § 271(16); General City Law § 27(17).
5. See *Rockland Woods, Inc. v. Village of Suffern*, 40 A.D.2d 385, 340 N.Y.S.2d 513 (2d Dep't 1973).
6. Cf. *Pinnacle Consultants Ltd. v. Leucadia National Corporation*, 94 N.Y.2d 426 (2000).
7. 1995 Op. Atty. Gen. 2.
8. Article 18 of the General Municipal Law contains provisions of law pertaining to conflicts of interest arising out of direct or indirect financial interests of municipal officers and employees in contracts with their municipality. For purposes of Article 18, "contract" is defined broadly to include any "claim, account or demand against or agreement with a municipality, express or implied." GML § 800(2). With certain exceptions, a municipal officer or employee is deemed to have an interest in the contract of a spouse, minor children and dependents and an entity of which the person is an officer, member or employee. GML § 800(3). Such interest is prohibited, with myriad exceptions [GML § 802], where the officer or employee, individually, or as a member of a board, has the power or duty to negotiate, prepare, authorize or approve the contract or authorize or approve payment or audit bills or claims under the contract, or appoint an officer or employee who has any of those powers or duties. GML § 801. Regardless of whether the interest is prohibited, the officer or employee having an interest in a contract with his or her municipality must publicly disclose that interest, in writing, to the governing body of the municipality. GML § 803. Applicants for a broad spectrum of land use permits and approvals must identify the name, nature and extent of the interest of any municipal officer or employee in the application. GML § 809. A willful and knowing violation of Article 18 constitutes a misdemeanor. GML § 805.
9. Local codes of ethics typically establish standards of conduct to ensure that municipal officers and employees maintain high standards of morality and faithfully discharge their duties, regardless of personal consideration, in an independent and impartial manner. A board of ethics is established to render advisory opinions to municipal officers and employees

requesting same regarding their own conduct. Among other sanctions, a knowing and willful violation of the code of ethics constitutes a violation punishable by fine and could result in disciplinary action.

10. 1991 Op. Atty. Gen. 48.
11. 109 A.D.2d 281, 491 N.Y.S.2d 358 (2d Dep't 1985).
12. 69 A.D.2d 320, 418 N.Y.S.2d 638 (2d Dep't 1979).
13. 122 Misc. 2d 531, 471 N.Y.S.2d 521 (Sup. Ct., Onondaga Co. 1984).
14. *Parker v. Town of Gardiner Planning Board*, 184 A.D.2d 937, 585 N.Y.S.2d 571 (3d Dep't 1992), *lv. denied*, 80 N.Y.2d 76 (1992).
15. 2002 Op. Gen. 8; see *Tuxedo*, *supra* note 12 at 325 ["It is the policy of the law to keep the official so far from temptation as to ensure his unselfish devotion to the public interest."].
16. 2002 Op. Atty. Gen. 8; *Tuxedo*, *supra* note 12 ["The test to be applied is not whether there is a conflict, but whether there might be]."
17. 2002 Op. Atty. Gen. 8.
18. 1989 Op. Atty. Gen. 50.
19. 1988 Op. Atty. Gen. 60.
20. 1988 Op. Atty. Gen. 59.
21. *Zagoreos*, *supra* note 11.
22. 158 A.D.2d 801, 551 N.Y.S.2d.392 (3d Dep't 1990), *lv. denied*, 76 N.Y.2d 706 (1990).
23. *Tuxedo*, *supra* note 12.
24. See *Town of North Hempstead v. Village of North Hills*, 38 N.Y.2d 334, 344 (1975).
25. 204 A.D.2d 332, 611 N.Y.S.2d 287 (2d Dep't 1992).
26. 1995 Op. Atty. Gen. 2.

**Lester D. Steinman is the Director of the Edwin G. Michaelian Municipal Law Resource Center of Pace University and serves as Counsel to the law firm of Wormser, Kiely, Galef & Jacobs LLP in White Plains, New York.**

## Request for Articles



If you have written an article you would like considered for publication, or have an idea for one, please contact the *Municipal Lawyer* Editor:

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Articles should be submitted in electronic document format (pdfs are NOT acceptable), along with biographical information.

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# Planning Board Process





## Welcome to the Planning Board.

This document outlines the planning board process and applicants are strongly encouraged to read it in its entirety before completing an application.

### 1.0 Overview

The Board meets on the fourth Tuesday of each month with a summer recess in August. Submission dates for applications are in the month preceding the scheduled hearing. The Planning Board calendar is available on [www.newrochelleny.com](http://www.newrochelleny.com) and includes meeting deadlines. DOZ applicants are encouraged to present their projects to the Planning Board for an administrative review at the meeting preceding the formal hearing.

### 1.1 Application Review Report (Denial Letter)

A Bureau of Buildings Application Review Report must accompany all Planning Board applications.

To receive this report:

- Complete a Building Permit application through the Property Portal on the City of New Rochelle website at <http://www.newrochelleny.com/>. Submit the drawings and the application to the Bureau of Buildings for zoning and planning board review and pay the associated fees.
- Complete the DOZ pre-application review process form available on the City's website at [Departments/development/developing](#) in the DOZ. Submit the completed form with the application to Buildings. **Note:** Section B of the pre-application form MUST also be printed on one page of the submitted plans.

### 2.0 Upon receipt of the Bureau of Buildings' Application Review Report referring applicant to the Planning Board:

- Review relevant section of the Municipal Code, City of New Rochelle website.
- Review application documents on Planning Board pages of the New Rochelle City website.
- Complete the steps under the New Application section in the Planning Board Module of the Property Portal (use same log in as used for applying for a Building Permit).
- Call 914-654-2185 to schedule an appointment with the Planning Board Clerk to submit the application.
- Compile the Planning Board Application Package (available on the City of New Rochelle website) and submit the required number of copies (two copies of the application **AND** eight sets of plans made up of six full size sets for internal reviewers and two 11x17 sets with color renderings for the Professional Architectural Review Committee to Department of Development with the relevant fee(s) per the Planning Board Application Checklist, and the Planning Board Fee Calculation Sheet. Section B of the DOZ pre-application form must be printed on the plans.

**TO AVOID DELAYS PLEASE ENSURE APPLICATIONS ARE COMPLETE BEFORE SCHEDULING A SUBMISSION APPOINTMENT**

Once a completed application has been logged in the Portal and the required application documents and fees have been submitted via scheduled appointment to the Planning Department at City Hall, 515 North Avenue, New Rochelle; an internal review of the application is undertaken.

### 3.0 Internal Review Process

#### 3.1 Application Review

- The Legal and Planning Departments review the application package upon receipt.

#### 3.2 Plan Review

The Planning Department reviews the submitted plans, focusing on compliance with the relevant sections of the code. This review is scheduled once a month in the same week as the Application Deadline. Sets of plans are then sent to:

- Bureau of Buildings
- Department of Public Works
- Traffic
- Fire
- Police
- Planning
- PARC members (see below for explanation)

Departments complete a first review and then meet together with Planning and Legal to discuss findings.

### 4.0 Professional Architectural Review Committee (PARC)

All DOZ applications undergo two PARC reviews. The applicant's architect is required to attend these meetings. Other members of the applicant's team and the applicant are encouraged to attend. The first is during the first internal review period and the second is during the revised plan review (explained below). The purpose of this Committee is 'to assist and serve as an adjunct to the Planning Board in its review of the architectural features and physical details of applications'.

Dates for PARC meetings are coordinated by the Planning Department based on the availability of the PARC architects. Applicants will be kept informed of the proposed dates and times.

### 5.0 Application Amendments

The Planning Department collates all comments and recommendations from the various reviews and provides these to the applicant along with Plan Amendment instructions. This process is usually completed before the end of each calendar month **HOWEVER** review may take longer depending on the complexity of the project and the completeness of the plans received. All comments will be uploaded to the Property Portal Planning Module. Automated comment notification emails are sent to the applicant when comments are available.

Applicants are expected to amend plans based on the review comments and recommendations. When amendments are made, new plans **MUST BE SUBMITTED WITH A COVER LETTER OUTLINING THE CHANGES. Bubble notes on the plans are recommended for ease of review.** Amended plans must be signed and sealed by the appropriate design professional. Amended plans will then undergo a second review by the same departments outlined above and a second PARC review meeting will be scheduled during this period.

Updated plans must be submitted in an 11x17 format for the board and key staff (10 copies in total) in time for distribution to board members on the Monday of the week of the technical meeting, see Planning Board calendar for dates.

## **6.0 Public Notice**

Once the review process is completed and final amended plans have been received by the Planning Department the application will be scheduled for a public hearing. Legal notice **MUST** follow the steps outlined below for an application to be heard.

- **The City**

The City places the meeting agenda on its website and in the Journal News pursuant to New York State Open Meeting Law.

Signs for posting on the property are made available to applicants to be picked up from the Planning Department on the date specified on the Planning Board calendar.

The City will notice adjacent municipalities when the proposed land use concerns property within 500 feet of a municipal boundary.

Westchester County and/or various State Departments will also be notified when applicable. For example, where a project requires access from a State Road.

- **The Applicant**

Signs for posting are available for pickup between 1pm and 4pm at City Hall Development Department for applicants 15 days before the PB meeting based on submitted final plans (see the City website for calendar giving pickup days). Signs will not be issued until final plans are received, reviewed, and deemed complete. An affidavit of posting is required to be completed (available on the City website) and returned to the Planning Department along with a photograph of the sign posted on the property prior to the Planning Board Public Hearing.

Notification to abutting property owners (all properties within 250 feet of the boundary) is required to be mailed no less than 10 days before the meeting. This must be by certified mail, return receipt requested. Return receipt cards must be submitted to the Planning Department prior to the Planning Board Public Hearing. See City website for approved wording of notification letter. A list of abutting property owners can be obtained from the Assessor's Office (914-654-2052).

## **7.0 The Planning Board Meeting**

### **Pre-application informal presentation.**

Applicants of DOZ projects are strongly encouraged to make an informal presentation to the Planning Board in the month prior to the formal hearing. This familiarizes the Board with the project and provides helpful feedback to the applicant.

**Formal hearing**

Applicants and/or their representatives are required to attend the Planning Board meeting to present the project to the Board and the Public, and to answer questions posed by the Board, followed by questions and comments from the Public. Conditions of approval are commonly placed on the applicant when approval is granted and agreement to these conditions will be requested at the meeting. Most conditions are drafted ahead of the meeting based on the review comments and shared with the applicant. The applicant will receive all reviewer comments via the portal prior to the meeting. The Planning Department will also determine any required tree fund, open space, and/or bicycle facilities fees after the meeting and before the signing of the mylar (see Municipal Code §331-118G [site plans]; A361-9L [subdivisions]; and §331.126 [bicycles] for criteria).

**8.0 After the Meeting**

The Planning Board Clerk draws up the meeting resolutions, these are reviewed by the Legal Department and signed by the Planning Board Clerk and City Clerk.

A copy of the relevant site plan / subdivision resolution(s) will be sent to the applicant by email. Certain fees are assessed and collected at this time as required (as per 7.0 above).

The applicant must then copy the resolution conditions onto one page of a final updated signed and sealed set of mylars containing the applicable signature block, and including the original signature of the applicant or authorized agent. The applicant submits this set to the Planning Department for signature by the Planning Board Clerk, Building Official, City Engineer, Commissioner of Development, and other signatories as required on the applicable signature block. This set becomes the official record of the City.

The applicant is notified of any additional planning fees. These must be paid before the signed mylar is released to the applicant to make four (4) hard copy sets of plans and one CD copy. These are then returned with the original signed mylar to the Planning Department.

The signed set of mylars is held in perpetuity by the Planning Department as the official record of the agreed plans. One set of hard copies is held in the Planning Board files, the remaining three sets are distributed to Buildings, DPW, and Traffic for their files.

Once all necessary originals and copies have been received the applicant can return to the Building Department to continue the permitting process.

**9.0 Resources**

All documents listed below are available at: <http://www.newrochellyny.com/639/Planning-Board-Application-Instructions>

**9.1 Municipal Code (see link on City of New Rochelle home page)**

- Chapter 178 - Impervious Surfaces
- Chapter 215 - Illicit Discharges
- Chapter 301 - Trees
- Chapter 331-175 Downtown Overlay Zone
- Chapter 331-119 Site Plan Requirements
- Chapter 331-117 Professional Review
- Chapter 331-126 Off-Street Parking
- Chapter 331-152 Affordable Housing

**9.2 Planning Board Calendar**

**9.3 DOZ Application Flow Chart**

**9.4 Application Form**

**9.5 Property Portal**

**9.6 Planning Board Fee Calculation Sheet**

**9.7 Planning Board Plans Schedule**

## **Town of New Paltz Planning Board**

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Adele Ruger, Chair

The purpose of this Information Sheet is to guide you through the application process.

The Planning Board is a board of review to which the Town Board and the State of New York have delegated powers by law to review a project which involves land use and development, including but not limited to site plans and subdivisions. There are seven Planning Board members who are appointed by the Town Board for a term of 7 years each on rotating schedules, at no remuneration. They are residents of the New Paltz community. The Planning Board ordinarily meets twice per month: the second and fourth Monday of each month.

When first visiting the Planning Board office you will receive an application packet, the contents of which are described below. You may have already visited the office of the town's code enforcement officer and building inspector and received relevant information on code and building regulations regarding your project. In that instance, the Building Inspector will have also forwarded a transmittal notification to the Planning Board office on her findings. This information will be included in the board's review process. The Municipal Code Officer and building inspector will be involved throughout the Planning Board's review by having material referred to him/her for their opinions and recommendations. This facilitates your process through their department when you are ready for a building permit.

### The Intake Process

*NOTE:* It is permissible to appear once before the board informally for a free Conceptual Review on a large, complex, or unusual project PRIOR to making a formal application. This is the exception rather than the rule and requires advance approval of the Chair. This would give you the opportunity to obtain direction from the board as you prepare your formal application material. This conceptual plan review takes place at the beginning of a regularly scheduled Planning Board meeting.

**The formal application packet contains the following:**



1. Application form with a list of the necessary documents (e.g., application fee, photocopy of your deed, letter of intent form, letter of agent form if someone else will represent you, survey map or site plan or subdivision plat of the subject property depicting your proposed project and the existing features).
2. Site Plan or Subdivision Checklist which must be completed and returned with the completed application packet for in-house review.
3. Environmental Assessment Form (short or long version - depending on the size or complexity of your project), an Agricultural Data Statement, and Stormwater Management Plan and Report).

You should be aware that the board might require you to supply additional information after reviewing your application material with you at your first appearance. In these instances, specific instructions to assist you will be provided.

Upon completing the application packet it will be returned to the Planning Board office and it will be reviewed by the Secretary for completeness. This does not constitute acceptance. The Chair and the board will then review the packet. When they accept it as complete, the application will begin movement through the process. If there are significant deficiencies in the packet, you may be required to correct them before the application can be accepted and scheduled for a meeting appearance.

### The Actual Review Process

#### **First Review Session:**

Your first meeting with the board is to familiarize the members with your project by direct discussion with you and/or your agent. At this time you may use visual, narrative, or written material to support your presentation.

#### **Referral to Board Consultants/Escrow Accounts:**

Some projects require consultant review by the town's engineers, environmental planner, or attorney. In this instance, the reasons will be explained to you or your agent by the board, and the process of establishing an escrow account to cover the additional costs will be initiated. Essentially, the consultants will be asked to do a preliminary review and develop comments in writing which will be relayed to you. You will receive monthly statements showing the status of your account. The account will be reconciled during the review process and prior to final approval. All fees must be paid prior to the Chair signing the maps. Referrals will be made for comment from the relevant town and other jurisdictional agencies: county planning, highway, water, sewer, fire, etc.

#### **Public Hearing:**

If everything is in order and all questions of the board are satisfied, the board will direct their Secretary to schedule a public hearing for your project for the next regular monthly meeting. If the Planning Board determines that additional matters need to be addressed before a public hearing can be scheduled, the application will be tabled as incomplete to allow you time to develop the responses to the board's questions and return to a subsequent meeting. The PB office will remain in contact with you during this period. If

you take no action or do not make responses to inquiries on the status of your return to the board with the requested information within three months, the PB may require that the board consider denial or abandonment of your project, and make an entry as such into the record. Alternatively the board may discuss with you the option of withdrawing the project without prejudice until you are ready to proceed.

At the public hearing, abutting property owners may appear pursuant to a notice sent to them by the board office; other members of the public are also allowed by law to attend and may introduce information to the record, or simply request information about the project. If there are additional matters to address pursuant to the opening of the public hearing, discussion will be tabled and the hearing will be extended to allow you time to address the matters and return to the board at a subsequent meeting.

If no adverse environmental impacts or other impediments are discovered, the board will close the public hearing and a vote will be taken.

#### Post-approval process:

If your application is approved, the approval by the Planning Board may contain conditions which need to be met either prior to the signing of the maps by the Chair or issuance of a building permit, or issuance of a C.O.

Some conditions might be: payment of all fees to include escrow or recreation fees, County Health Department or other jurisdictional agency approvals (e.g. highway curb cuts).

When the conditions have been met, your maps will be accepted for the Chair's signature and processing. Specific directions will be supplied to you relevant to your particular project. If the conditions pertain to the construction phase, the building department will receive a written copy of those conditions for inclusion in their site inspections. If the nature of your application has been a subdivision (including lot line revisions), you are required to file the approved signed maps with the County Clerk, and the board office will supply you with a guide sheet to help you gather the documents you need for this filing.

If the nature of your application has been a site plan, signed maps are required for in-house use only, and you will receive specific instructions after the approval at the time you prepare your final maps. No filing at the county is required.

#### Denial of application:

A denial is also possible if conditions for approval cannot be met. Every alternative will be examined, and every opportunity given to you to provide substantive data to address the prevailing circumstances. If the application still cannot be approved at this time, an opportunity to withdraw the application **without prejudice** will be offered to you, rather than have it receive a denial pursuant to a vote: the advantage to you here is that you might be able to return at some future time prepared to respond sufficiently to the difficulties encountered, and an approval at that time will require only a majority vote of the board. A denial with the current application would require a **unanimous** vote by the board, first to be able to appear, and then also to achieve approval, pursuant to NYS Town Law.

**Assessment Information:**

If you file approved subdivision maps at the county clerk's office before March 1st, it will be identified as subdivision on the roll for the forthcoming year. If not filed before March 1st it will be apportioned. If you have any further questions on this matter, please feel free to contact our Town Assessor at 255-0103. Additionally, if one or several of the subdivided lots are to be sold, you will need specific figures for your closing settlement. We hope this brief summary helps you to understand the process. If at any time during the process you have questions, you are invited to contact the Planning Board office. We will do our best to assist you.

**Initial Site Plan/ Special Use Permit Applications Shall Include the Following:**

1. Site Plan/ Special Use Permit Application Form: completely filled out. **(3 copies)**
2. Site Plan Drawings: Depending on the type of approval being applied for, the Site Plan drawings must adhere to the requirements set forth within the Town of Bethlehem Zoning Code adopted by the Town Board. **(3 copies)**
3. Fee: as indicated in the Fee Schedule adopted by the Town Board. Checks should be made payable to the Town of Bethlehem.
3. Short or Long Form Environmental Assessment Form. **(3 copies)**
4. Letter to the Chairman of the Planning Board: Requesting to be placed on the agenda for consideration. **(3 copies)**

After submission of the above items, staff will conduct an initial review of the materials for completeness. Upon submission of all required materials, additional copies will be requested for distribution to the Planning Board.

During the review it could be determined that additional information is required from the applicant. That additional information could include the following: Approvals from New York State Department of Transportation and/or Albany County Highway Department, permit or license relating to freshwater wetlands, an Environmental Impact Statement or any other such drawings, maps, documents, reports or data which the Board may require for proper consideration of the application.

When the project is on the Planning Board Agenda, the applicant or their representative is required to be present. The applicant is required to be present at the meeting in which the Complete Application is accepted by the Planning Board and at the Public Hearing.

The application is considered a Complete Application when EITHER the Planning Board has filed a Negative Declaration OR when a notice of completion of a Draft Environmental Impact Statement has been filed in accordance with the provisions of the State Environmental Quality Review Act. If it is determined by the Planning Board that a Public Hearing will be held, it will then be scheduled.

**TOWN OF BETHLEHEM  
PLANNING BOARD  
Site Plan/ Special Use Permit Application Form**

APPROVAL REQUESTED FOR: (Check all that apply)

Site Plan \_\_\_\_\_ Special Use Permit \_\_\_\_\_  
Site Plan Amendment \_\_\_\_\_

Name of Site Plan: \_\_\_\_\_

Type of Special Use Permit: \_\_\_\_\_

Location of Project/ Street Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Tax Map Number of all Parcels: \_\_\_\_\_

\_\_\_\_\_  
*(Attach a copy of the current deed and any easements affecting property)*

Zoning District(s): \_\_\_\_\_

\_\_\_\_\_

Detailed Description of Proposed Activity: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name, Address and Telephone # of Applicant(s): (REQUIRED)

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Name, Address and Telephone # of Property Owner(s): (The owner must complete the attached affidavit) (REQUIRED)

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Name, Address and Telephone # of Responsible Person for Billing Purposes: (REQUIRED)

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Name, Address and Telephone # of Professional Engineer: (IF APPLICABLE)

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Name, Address and Telephone # of Licensed Land Surveyor: (IF APPLICABLE)

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Name, Address and Telephone # of Attorney: (IF APPLICABLE)

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Current land use of the site: \_\_\_\_\_

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Character of surrounding lands: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Total acreage involved in project: \_\_\_\_\_

\_\_\_\_\_

Total contiguous acreage controlled by applicant/owner: \_\_\_\_\_

\_\_\_\_\_

*(This shall include lands owned by family members of the applicant, and any corporation(s), partnership(s), limited liability company(ies) or other entities in which the applicant has an interest.)*

Type of construction or activity proposed: (Check all that apply)

New Construction:	Residential _____	Commercial _____	Institutional _____
Expansion:	Residential _____	Commercial _____	Institutional _____
Home Occupation	_____		
Change in Use	_____		
Other	_____		

Total square footage of all new construction: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Total number of parking spaces \_\_\_\_\_

The signature of the Owner or Agent of the Owner below shall mean that the applicant is familiar with and will comply with the requirements of the Town Zoning Law, the Town Subdivision Regulations and any additional amendments therein and other appropriate Town ordinances and regulations with regards to this project.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**AFFIDAVIT**

**TO BE COMPLETED BY OWNER OF THE FOLLOWING PROPERTY:**

(ADDRESS) \_\_\_\_\_  
\_\_\_\_\_

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }      ss:

\_\_\_\_\_ being duly sworn, deposes and says:

1. That he/she resides at \_\_\_\_\_ in the County of \_\_\_\_\_ and the State of \_\_\_\_\_. That he/she is the Owner of the within property as described in the foregoing application for Site Plan / Special Use Permit approval(s) and that the statements contained therein are true to the best of his/her knowledge and belief.
2. That we hereby authorize \_\_\_\_\_, of \_\_\_\_\_, to act as our representative in all matters regarding the application that may come before the Town of Bethlehem Planning Board.
3. That he/she has the legal right to make or authorize the making of said application.
4. That he/she understands that the Town of Bethlehem Planning Board intends to rely on the foregoing representation in making a determination to issue the requested applications and approvals and that under penalty of perjury he/she declares that he/she has examined this affidavit and that it is true and correct.
5. In the matter of Special Use Permits, the owner swears that the proposed use will be constructed and operated in accordance with the standards and qualifications hereinafter set forth in the Zoning Code of the Town of Bethlehem.
6. That he/she understands that the approval or disapproval of this site plan/ special use permit by the Planning Board does not constitute express or implied support for any required expansion of the sewer or water district.

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Notary Public



## Site Plan Drawings Checklist

### THIS COMPLETED CHECKLIST MUST BE SUBMITTED WITH YOUR APPLICATION

The site plan shall be prepared at a scale of not more than fifty (50) feet to the inch, shall depict all proposed improvements, all elevations shall be based on USGS Datum and shall be prepared by a licensed land surveyor, a professional engineer, a landscape architect, or an architect licensed by the State of New York and shall include the following information:

- \_\_\_ 1. A location map, at a convenient scale, showing the applicant's entire property and all boundaries and streets within five hundred (500) feet thereof.
- \_\_\_ 2. The location, size and use of all existing and proposed buildings and structures.
- \_\_\_ 3. The location of all property lines and structures within two hundred (200) feet of the property boundary, with topography extended fifty (50) feet outward from the site property boundary and two hundred (200) feet outward along existing roads.
- \_\_\_ 4. Any proposed division of buildings into units of separate occupancy.
- \_\_\_ 5. Existing and proposed easements.
- \_\_\_ 6. The names of the owners of land abutting the project site.
- \_\_\_ 7. The boundaries of applicable zoning district(s) and water and/or sewer district boundaries.
- \_\_\_ 8. The architectural design of all proposed buildings and structures including the color and material proposed for use on exterior surfaces.
- \_\_\_ 9. Existing topography and proposed grade elevations at a contour interval of not more than two (2) feet, unless waived by the Planning Board, wetlands and watercourses, one hundred (100) year flood plain area, bedrock outcrops, slopes in excess of ten (10) percent, and the location of trees with a diameter of ten (10) inches dbh and greater.
- \_\_\_ 10. The location of all existing and proposed roads, driveways, parking and loading areas, including access and egress drives.
- \_\_\_ 11. A table stating the number of parking and loading spaces required under this Chapter and the number proposed.
- \_\_\_ 12. The location of outdoor storage areas.
- \_\_\_ 13. The location of fire access roads and fire protection features.
- \_\_\_ 14. The location, description and design of all existing and proposed site improvements, including pavement, walkways, curbing, drains, culverts, retaining walls, fences, parks, open spaces, and recreation areas.
- \_\_\_ 15. The location, design and description of water supply and sewage disposal facilities.
- \_\_\_ 16. The location, design and description of storm water management facilities including proposed grading plan.
- \_\_\_ 17. The location, height, size and design of all signs.
- \_\_\_ 18. The location, height, caliper and species of all proposed landscape plantings on a landscape plan.
- \_\_\_ 19. The location and design of building mounted and freestanding lighting and communication facilities.
- \_\_\_ 20. The location, type and design of all waste and refuse storage and handling facilities.
- \_\_\_ 21. The character and type of all power distribution and transmission lines.
- \_\_\_ 22. The location and description of all subsurface site improvements and facilities.
- \_\_\_ 23. The extent and amount of cut and fill for all disturbed areas, including before and after

profiles of typical development areas, parking lots, driveways and roads.

- \_\_\_24. Adequate provisions for the handling of storm water run-off, including retention/detention, piping or channeling to existing or proposed drainage systems during and after construction.
- \_\_\_25. Phasing of development, if any.
- \_\_\_26. A signature block for Planning Board endorsement of approval.
- \_\_\_27. Date, north arrow and tax identification numbers of all parcels included in the application.
- \_\_\_28. The name and address of the owner of the property proposed for development.
- \_\_\_29. The name and address of the applicant, if different than owner.
- \_\_\_30. Any other information as may be deemed by the Planning Board as necessary to determine and provide for the proper enforcement of this Chapter.