

# PLANNING BOARD BASICS

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**THIS IS A NEW PRESENTATION – THANKS FOR BEING A PART OF IT!**

Inspiration from NY Planning Federation and NYS Department of State

**QUESTIONS AFTER** – if we can't answer, will research and send an answer out to the group

**TRAINING CERTIFICATES** – will send to Zoom participants

**THANKS FOR YOUR SERVICE!**



# WHY DO WE NEED PLANNING BOARDS?

**Planning Board functions are determined by each municipal board (none are mandated by the NYS)**

**Most Typically :**

**comprehensive plan development**

**site plan review**

**special use permit review**

**subdivision plat approval**

**advisory role in amending zoning and ZBA variances**

**T/V Boards can retain power to approve all of the above EXCEPT SUBDIVISION REVIEW**

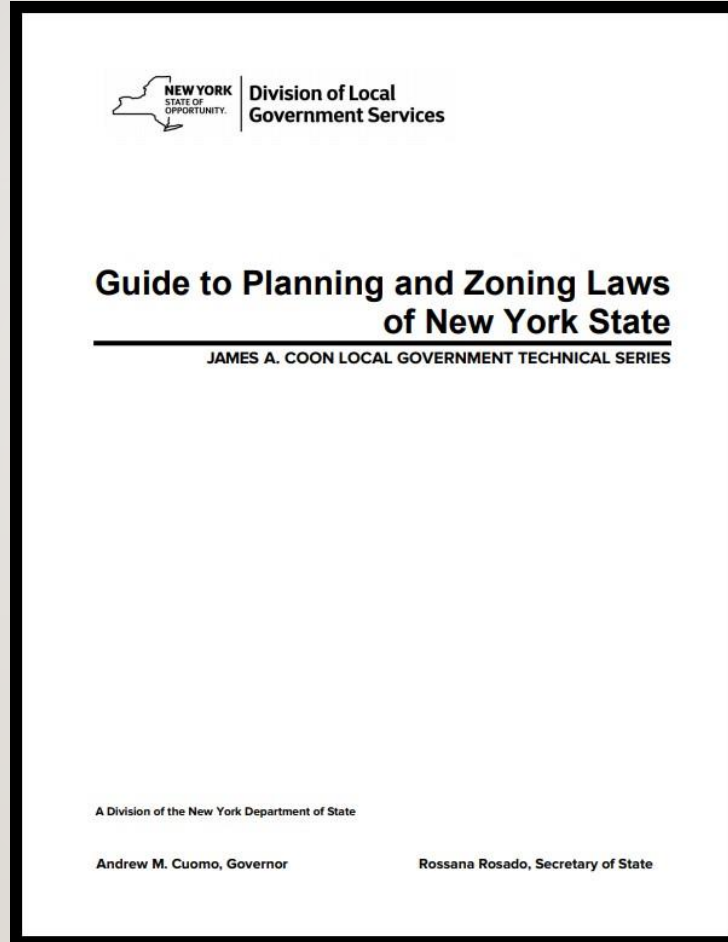


## **STATUTORY AUTHORITY**

- **Town Law Section 271**
- **Village Law Section 7-718**

# Great resource from NYSDOS...

[www.dos.ny.gov/lg/publications.html](http://www.dos.ny.gov/lg/publications.html)



## **MAKE UP OF PLANNING BOARDS**

**Five or seven members – Town/Village Board appoints by resolution and designates a chairperson**

**Board itself can also may designate a chair if TB/VB does not**

**Can (and are encouraged to) employ a secretary**

**Town/Village Board members CANNOT serve on planning boards**



## **TERMS**

**Terms are five or seven years and expire at the end of the municipal year**

**Terms are staggered so that one member's term expires every year**



## **ALTERNATE MEMBERS**

- **Town/Village Board may establish alternate PB member positions by local law or ordinance. Alternates serve if a member is unable to participate because of a conflict of interest**
- **Can also be established by local law to fill absences**

## **WHO CAN SERVE?** (NYS Public Officers Law)

**Must be 18 years old and a United States citizen**

**Must be a resident of municipality - where are you registered to vote, what is drivers license address?**

**Village residents can serve on town PB –  
TOV residents can't serve on village PB**

## **TRAINING**

**Must complete at least four hours of training per year - can carry over to succeeding years  
Training is approved by TB/VB (this should count!)**

**TB/VB can waive or modify by resolution**

# **OATH OF OFFICE**

**Members must take oath of office within 30 days of the beginning of each term**

***"I do solemnly swear (of affirm) that I will support the Constitution of the United States, and the Constitution of the State of New York, and that I will faithfully discharge the duties of the office of planning board member according to the best of my ability."***

**Oath must be filed by town/village clerk**

# **REMOVAL OF MEMBERS**

**TB/VB can remove PB members for cause after public hearing**

## **Some reasons...**

- **"repeated ethical transgressions - conspiring to conceal substantial private interests in applications before the board**
- **criminal conviction involving activity bearing on a member's public integrity**
- **a substantial number of absences**
- **continual failure to perform duties"**

*\*The Short Course: A Basic Guide for Planning Boards and ZBAs*

## **ETHICS**

**PB members are prohibited from receiving gifts of \$75 or more "when it could be reasonably expected that the gift was intended to influence him or her"**

**GML Section 809 disclosure - "Do yourself and your board a service: if you have any interest at all in an application-even if the applicant is a personal friend or neighbor of yours-remove yourself from the board during all discussions and votes on the application, and take absolutely no part in the procedure concerning it."**

*\*The Short Course: A Basic Guide for Planning Boards and ZBAs*

# OPEN MEETINGS LAW (PUBLIC OFFICERS ARTICLE 7 §§ 100-111)

## EVERY MEETING SHALL BE:

- **open to public, except executive session;**
- **held in handicap-accessible spaces; and**
- **videoconferencing must offer an opportunity for the public to participate wherever a member is present.**

## PUBLIC NOTICE SHALL:

- **Include time, date, and place of meeting,**
  - **if scheduled 1 or more weeks in advance, then post with news media and in at least one public location not less than 72 hours before meeting**
  - **if scheduled <1 week in advance, then post with the news media and in at least one public location to the extent practicable;**

**If videoconferencing, inform the public that it will have an alternative to an in-person meeting and identify the locations where officials will be meeting—the public has the right to participate in any of these locations**

# EXECUTIVE SESSION IS ACCEPTABLE WHEN ADDRESSING:

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- 1. Matters which will imperil the public safety if disclosed;**
- 2. Any matter which may disclose the identity of a law enforcement agent or informer;**
- 3. Information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement;**
- 4. Discussions regarding proposed, pending, or current litigation;**
- 5. Collective negotiations pursuant to Art. 14 of Civil Service Law;**
- 6. The medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation;**
- 7. The preparation, grading, or administration of examinations; and**
- 8. The proposed acquisition, sale, or lease of real property or the proposed acquisition of securities, or sale/exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.**



# A SITE VISIT IS NOT SUBJECT TO THE REQUIREMENTS OF OPEN MEETINGS LAW IF...

THERE IS LESS THAN A QUORUM  
OF THE FULL BOARD OR A  
COMMITTEE OF THE BOARD

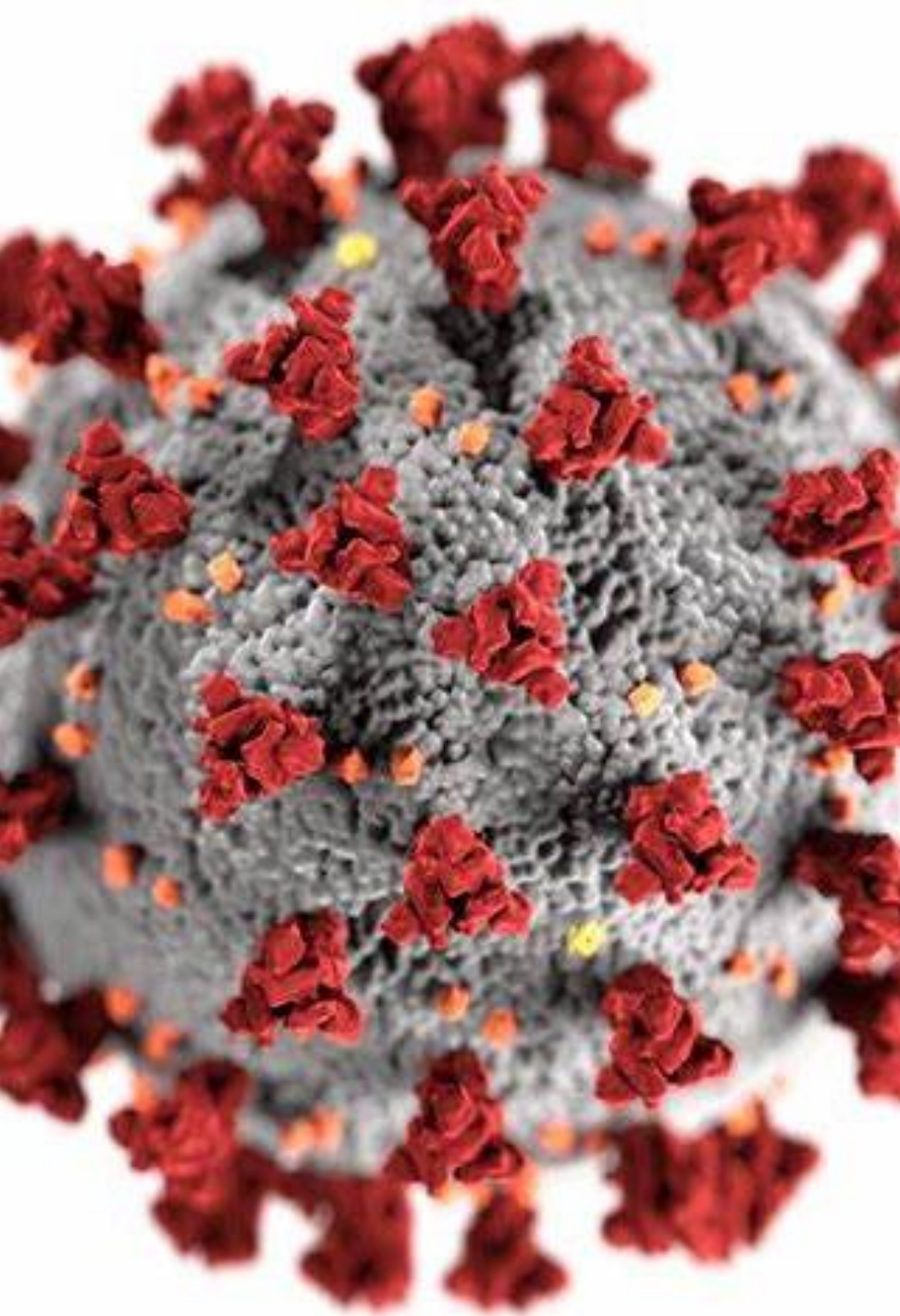




**IF BOARD MEMBERS  
MEET TO SOCIALIZE  
AND DO NOT DISCUSS  
MATTERS OFFICIALLY  
BEFORE THE BOARD  
FOR REVIEW...**

**THEN IT IS NOT SUBJECT TO OPEN  
MEETINGS LAW**

**BUT... BE CAREFUL ABOUT EX-PARTE  
COMMUNICATION...IF UNAVOIDABLE,  
IT SHOULD BE DISCLOSED AT THE  
NEXT BOARD MEETING**



# COVID-19 & PUBLIC MEETINGS



# COVID-19 EXECUTIVE ORDERS IMPACTING PUBLIC MEETINGS

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- **Suspension of law that now allows the attendance of meetings telephonically or by other similar service**
  - **Authorizes public meetings to be held remotely by conference call or similar service, provided that the public can view or listen to such proceeding and that such meetings are recorded and later transcribed**
  - **Minutes, as always, are important for these meetings**
  - **Public agencies should be prepared to provide recordings and transcriptions if they're requested, but there is no requirement that such information be published online**
  - **Still need public notice of meetings**
  - **Gatherings of 50 or fewer individuals that do not exceed 50% of the maximum occupancy for a particular indoor area and that include social distancing, face covering, and cleaning and disinfection protocols required by the Department of Health are allowable**
  - **Violations of occupancy limits can be enforced by local code enforcement officials and fire marshals**

# PUBLIC HEARINGS

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## WHEN YOU NEED TO HOLD:

- **comprehensive plan and amendments to that plan;**
- **Issuance of a land use approval including subdivision applications and special use permits;**
- **Any matter that the board believes requires participation.**

## NOTICE:

**Notice requirements differ depending on type of approval**

## PROCEDURE:

- 1. Give public and special notice (legal notice in the paper, posted to bulletins, shared with local media, notification to appropriate entities, etc.)**
- 2. Registration of persons wishing to testify**
- 3. Open the hearing**
- 4. Accepting testimony**
- 5. Adjournment (if necessary)**
- 6. Close the hearing**

# BEST PRACTICES FOR PUBLIC HEARINGS

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01

Determine hearing notice requirements ahead of time AND determine the need for expert witnesses

02

Collect information (e.g., maps, applications, and other records), even designate a contact person to do so.

03

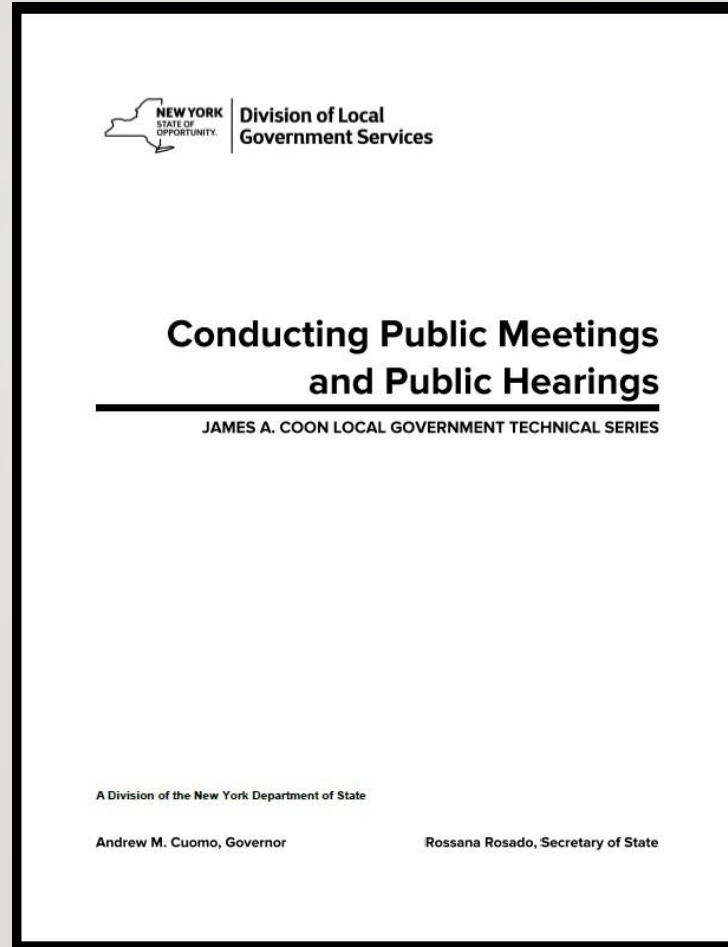
When in doubt, utilize your municipal attorney.

04

Establish ground rules for participation (e.g., time limits, line formation, etc.) AND setup the room for public comments

# Great resource from NYSDOS...

[www.dos.ny.gov/lg/publications.html](http://www.dos.ny.gov/lg/publications.html)



## **MEETING CONDUCT**

**PBs may adopt bylaws and rules**

**Need a quorum (of the fully constituted board) to officially convene**



# BEST PRACTICES FOR MEETING CONDUCT

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01

Include logistics  
at meetings  
place

02

Follow an  
agenda

03

Have the zoning  
enforcement  
officer serve as  
gatekeeper

04

Have good  
forms and  
checklists

## **MEETING CONDUCT**

**"Any board member, including the chairperson, may make or second motions, may take part in discussion, and may, of course, vote. Contrary to popular misconception, the chair is not required to abstain from voting except to break a tie. The chair may vote on any motion, at any time."**

**Voting - every motion or resolution shall require a majority affirmative of the fully constituted board**

*\*The Short Course: A Basic Guide for Planning Boards and ZBAs*

## MEETING CONDUCT

**"...a failed motion to approve does not, however, constitute a disapproval. It is simply a "no action." If the board wishes to then issue a disapproval, it must introduce and vote on a new motion to disapprove."**

*\*The Short Course: A Basic Guide for Planning Boards and ZBAs*

# MINUTES

## SHALL BE TAKEN AT:

- all open meetings and include a record/summary of all motions, proposals, resolutions, any matter formally voted upon, and the result of the vote
- executive sessions when any action is taken by a formal vote, and include a record/summary of the final determination, the date, and the result of the vote

## SHALL BE MADE AVAILABLE:

- in the case of all open meetings, to the public within two weeks of the date of the meeting; or
- in the case of executive sessions, within one week of the date of the meeting.

**MINUTES MUST BE IN WRITING!**

**MINUTES DON'T NEED TO BE APPROVED,  
BUT IT IS COMMON PRACTICE**

# BEST PRACTICES FOR MEETING MINUTES

## ASK YOURSELF...

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01

Are the minutes complete?

02

Are the minutes organized?

03

How soon should they be completed and presented to the board for approval?

04

Are the minutes transparent, including who voted and abstained from motions?

## **MINUTES/RECORDS RETENTION**

**Written minutes and land use decisions must be retained FOREVER**

**Recordings must be retained for four months after a written record is made of them or after the minutes or proceedings have been approved**

**ALWAYS HAVE ON HAND...**

**ZONING MAP**

**AGRICULTURAL DISTRICTS MAP**

**SEQR TYPE I LIST**

**MAP OF 239m AREAS IS ALSO NICE TO HAVE**

# **RECORD KEEPING/NUMBERING SYSTEMS**

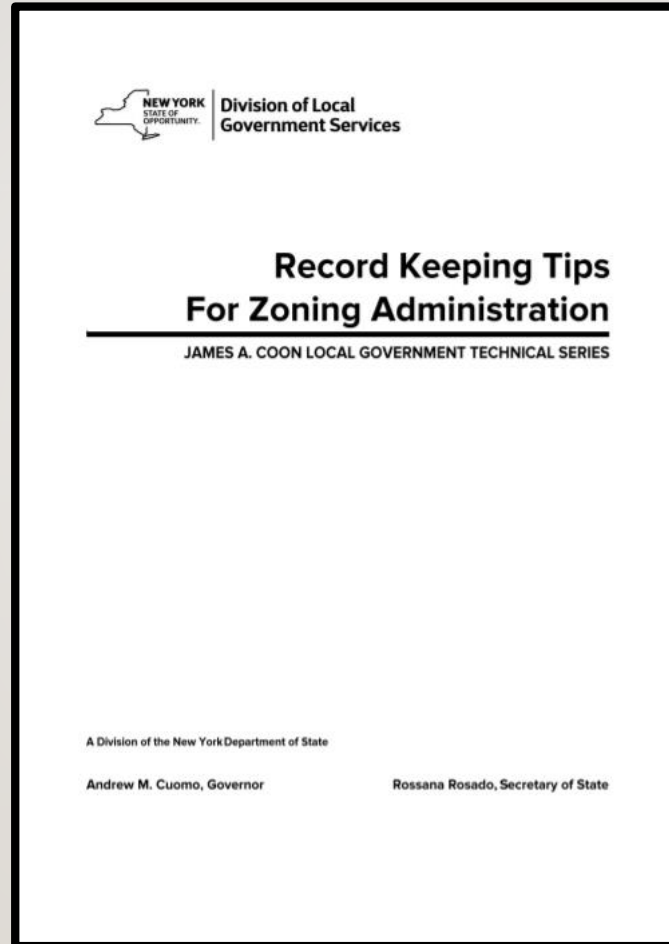
**Use tax parcel identification number for land use approvals – these rarely or never change, unlike addresses**

**This also helps assessor track value of improvements and allows use of GIS**



# Great resource from NYSDOS...

[www.dos.ny.gov/lg/publications.html](http://www.dos.ny.gov/lg/publications.html)



Tax Parcel Number: Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_ Log No.: \_\_\_\_\_

**TOWN OF \_\_\_\_\_**  
**SITE PLAN REVIEW/SPECIAL USE PERMIT PROCEDURE**

<b>Project Name</b> _____ _____ _____	<b>Applicant Name and Address</b> _____ _____ _____ <b>Phone (    )</b> _____ <b>Email:</b> _____
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<b>Event (as applicable)</b>	<b><u>Date</u></b>
------------------------------	--------------------

- |  |       |
|--|-------|
| Application accepted as complete/fee paid                                | _____ |
| EAF form filed   | _____ |
| Type of SEQRA action determined to be:                                   | _____ |
| <input type="checkbox"/> Type I  | _____ |
| <input type="checkbox"/> Type II   | _____ |
| <input type="checkbox"/> Unlisted  | _____ |
| SEQRA determination  | _____ |
| <input type="checkbox"/> Positive (EIS required)                         | _____ |
| (Note: Positive determination will initiate steps not on this checklist) |       |
| <input type="checkbox"/> Negative  | _____ |
| <input type="checkbox"/> Conditional negative                            | _____ |
| Application referred to county planning agency                           | _____ |
| Application referred to other agencies/officers                          | _____ |
| County planning agency response received                                 | _____ |
| Resolution to hold public hearing  | _____ |
| Notice of hearing published in paper                                     | _____ |
| Notice of hearing mailed to applicant                                    | _____ |
| Other agencies/entities notified of hearing                              | _____ |
| Public hearing opened  | _____ |
| Public hearing closed  | _____ |
| Determination made   | _____ |
| <input type="checkbox"/> Approval  | _____ |
| <input type="checkbox"/> Approval with modifications                     | _____ |
| <input type="checkbox"/> Disapproval                                     | _____ |
| Resolution addressing county planning agency review                      | _____ |
| Report filed with county planning agency                                 | _____ |
| Determination mailed to applicant  | _____ |
| Determination filed with town clerk                                      | _____ |
| Zoning permit issued   | _____ |
| Certificate of occupancy issued  | _____ |

## **LAND USE DECISION FILING**

**Decisions must be filed with the town/village clerk within five business days and a copy mailed to the applicant**

**This starts the 30-day Article 78 clock**

**NYSDOS suggests a letter sent to an applicant, or a standard “decision document” stating the motion made, any conditions imposed, and the vote of each member**

# ARTICLE 78 OF CIVIL PRACTICE LAW AND RULES



The board can be challenged within 30 days of filing meeting minutes or decisions with the municipal clerk if it is believed that the board:

1. Acted upon insubstantial evidence (i.e., to request a judicial review of a board's determination);
2. Failed to perform a duty required of it by law (i.e., to compel the board to perform its duty); or
3. Acted outside its jurisdiction (i.e., to prohibit an action of the board).

# **COMPREHENSIVE PLANS**

**the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the municipality.**

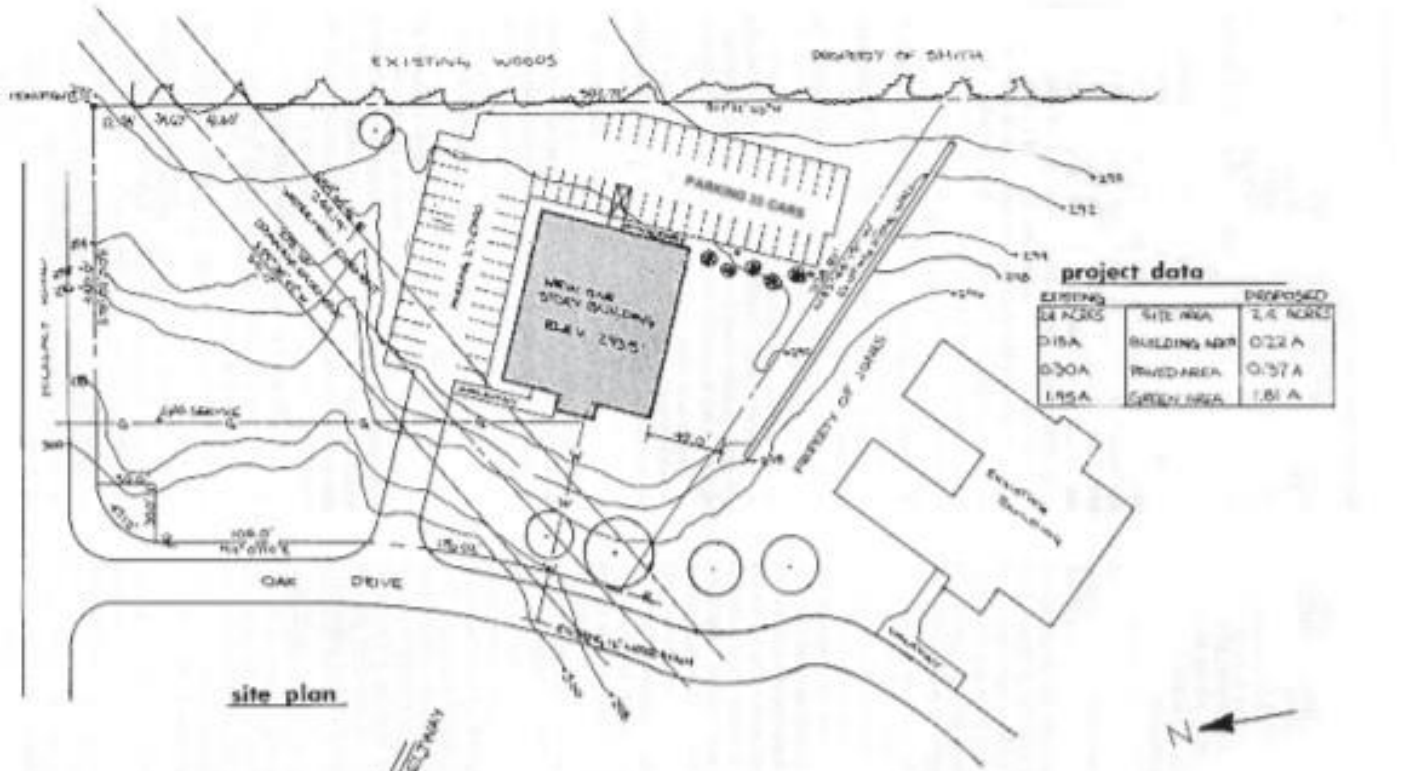
# ZONING

- **Protects public health, safety, and welfare**
- **Regulates use, density, placement of structures on lots**

# **SITE PLAN REVIEW**

**Site plans shall show the arrangement, layout and design of the proposed use of the land on said plan. The required site plan elements which are included in the zoning ordinance or local law may include, where appropriate, those related to parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses.**





**project data**

EXISTING	PROPOSED
0.4 ACRES	SITE AREA 2.4 ACRES
0.15A	BUILDING AREA 0.22 A
0.00A	PAVED AREA 0.37 A
1.95A	GREEN AREA 1.81 A



**ILLUSTRATIVE SITE DEVELOPMENT PLAN**

SITE PLAN	
DESIGNED DATE 1966	ACME COMMERCIAL OAK ROAD, WYTHAM, N.Y.
<p>SCALE 1/4" = 1'-0"</p>	
DRAWN BY: <b>GEORGE CAMPBELL</b> DATE: <b>1966</b>	

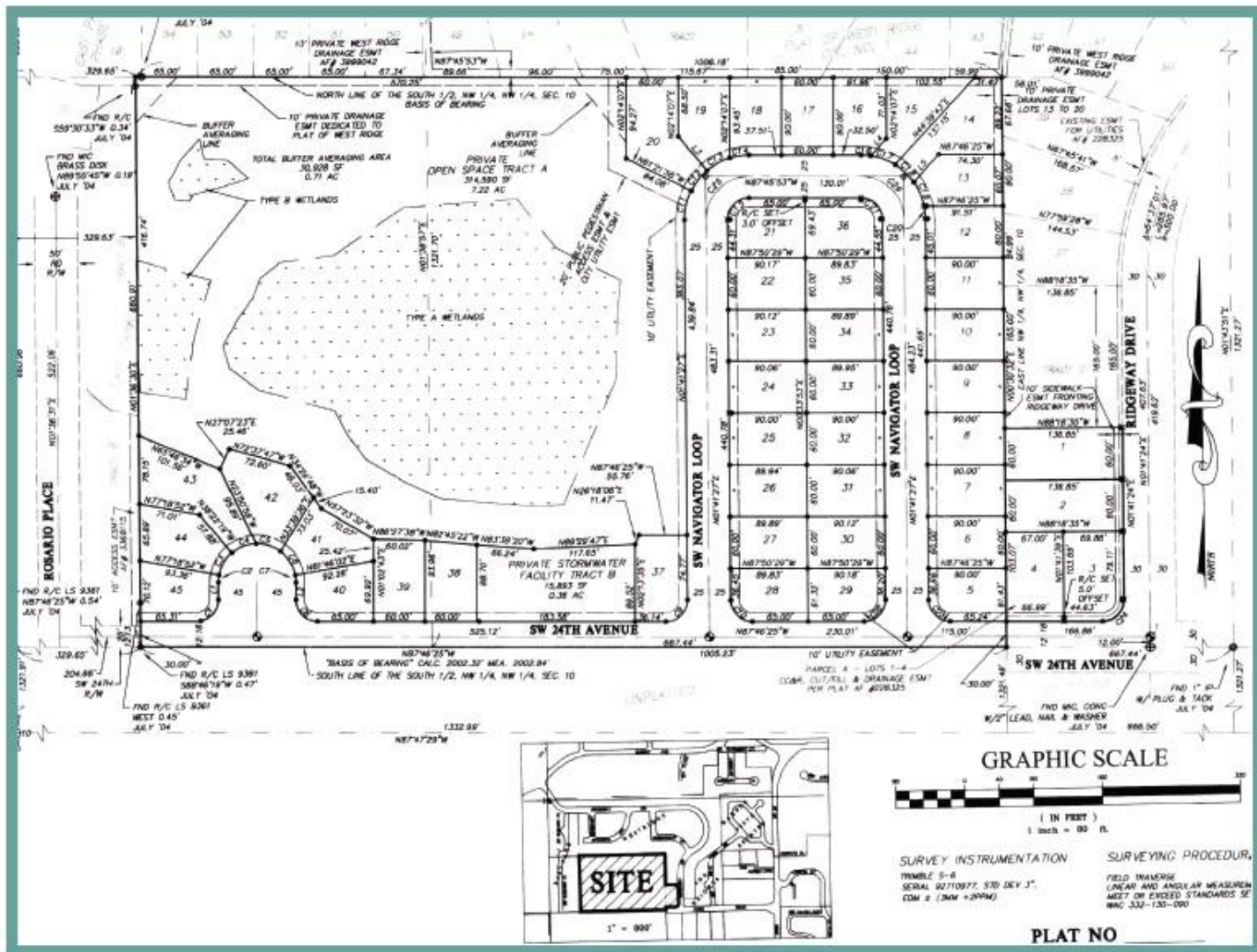


## **SPECIAL USE PERMIT REVIEW**

**an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and **will not adversely affect the neighborhood** if such requirements are met.**

## **SUBDIVISION PLAT REVIEW**

**For the purpose of providing for the future growth and development of the town/village and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population, the town/village board may, by resolution, authorize and empower the planning board to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways.**



Source: Ethan Spoo

## 239-m REVIEW

### County Planning Department reviews:

- adoption or amendment of a comprehensive plan;
  - adoption or amendment of a zoning ordinance or local law;
  - issuance of special use permits;
  - approval of site plans;
  - granting of use or area variances;
  - other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.
- 
- **SUBDIVISION PLATS IN ONEIDA COUNTY**
  - Some projects may be exempted by your county

<https://co.jefferson.ny.us/Planning>

<https://www.lewiscounty.org/planning>

<https://ocgov.net/oneida/planning>

[https://www.oswegocounty.com/departments/comm\\_dev.php](https://www.oswegocounty.com/departments/comm_dev.php)

## **239-m REVIEW**

**If the applications mentioned involve property within 500 feet\* of the following geographic triggers, they are subject to county referral:**

- **A municipal boundary**
- **The boundary of a state or county park or recreation area**
- **The right-of-way of a state or county road**
- **The right-of-way of a county-owned stream or drainage channel**
- **A boundary of state or county land on which a public building is located**
- **A boundary of a farm operation that is located in a state agricultural district**

**\*threshold is 250 feet in Lewis County**

## **239-m REVIEW**

**A full statement must be sent to the county planning agency at least ten days prior to a public hearing on the site plan or special use permit, and a subdivision plat if authorized by the county legislative body. If no public hearing is needed for a site plan, the referral must be sent before final action can be taken by the local Planning Board.**

**The planning board has jurisdiction to take final action when the earlier of the following occurs: it receives the recommendations of the County Planning Agency, OR thirty days have passed since the county's receipt of the full statement. The time period may be extended if agreed to by both the county and local planning bodies.**

**PB can override with majority plus one vote. Must notify county of decision.**

## SEQR – State Environmental Quality Review

**SEQR applies to all state or local government agencies including districts and special boards and authorities whenever they must **approve** or fund a privately or publicly sponsored action. It also applies whenever an agency directly undertakes an action.**



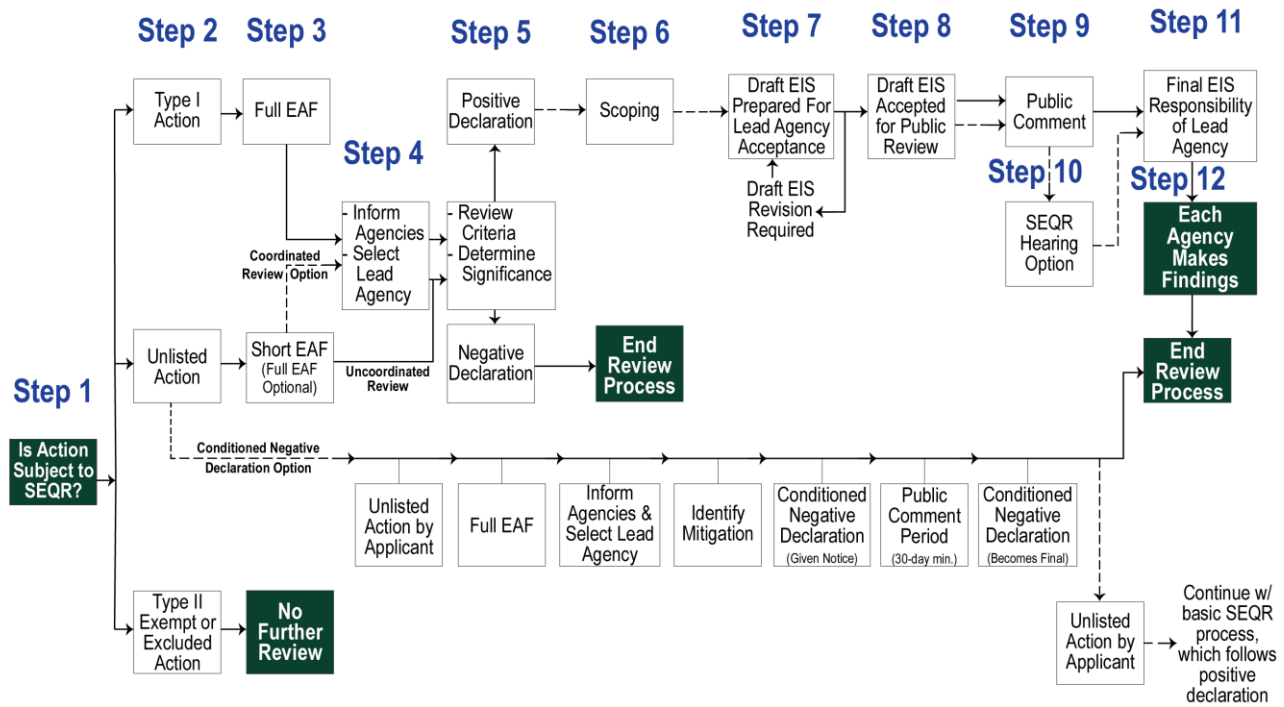
# **SEQR – State Environmental Quality Review**

**Type I, II, or unlisted action**

**Short or Long EAF**

**Determination of Significance**

**NEGDEC or DEIS required as part of  
complete application**



Source: SEQR FLOW CHART (NYSDEC Division of Environmental Permits 2019)

# Great resource from NYSDEC...

[www.dec.ny.gov/permits/6188.html](http://www.dec.ny.gov/permits/6188.html)



Department of  
Environmental  
Conservation

## The SEQR Handbook

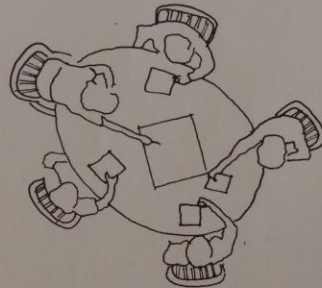
FOURTH EDITION, 2020

DIVISION OF ENVIRONMENTAL PERMITS

Andrew M. Cuomo, Governor | Basil Seggos, Commissioner

# THE SHORT COURSE

A BASIC GUIDE  
FOR PLANNING BOARDS  
AND ZONING BOARDS OF APPEALS  
IN NEW YORK STATE



by Harry J. Willis, David Church & James W. Hotaling

Published by The New York Planning Federation  
1996

PROPERTY OF  
TUG HILL COMMISSION

# THANKS AGAIN!!

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