



Spot Zoning

What it is and how to avoid it

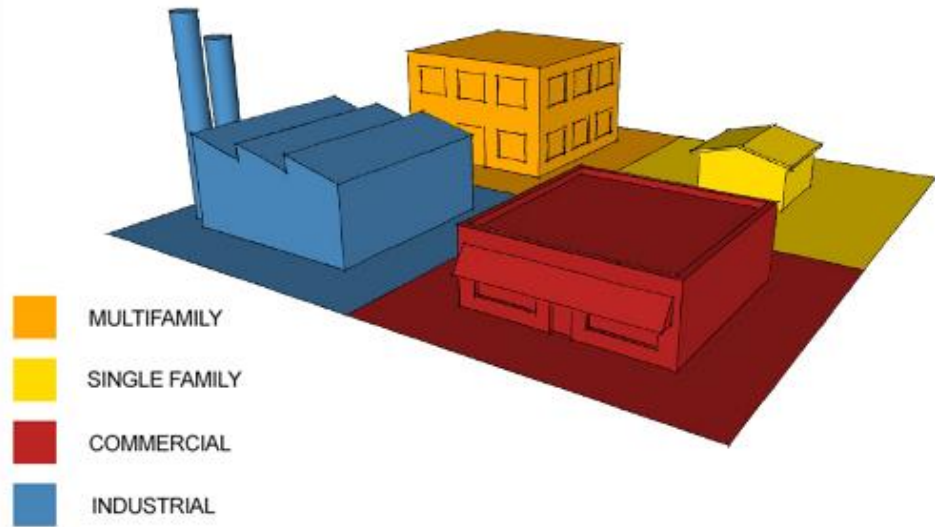
What is spot zoning?

- Isolated zoning districts
 - Singling out a small parcel of land for a use totally different from that of the surrounding area
- Allows uses inconsistent with those allowed in the surrounding area
- “Antithesis” of Euclidean zoning

Euclidian Zoning

- Euclid v. Ambler (1926)
- Controls land use by separating land into districts with set boundaries
- Three types of controls:
 - Use restrictions
 - Height restrictions
 - Minimum lot sizes

Single Use Zoning (aka, "Traditional" or "Euclidean" Zoning)



Benefits to One Single Property Owner

- One or more parcels zoned out of place? ☐
- Rezone intended to benefit one land owner instead of the community as a whole? ☒
- Special benefit in and of itself does not invalidate the action

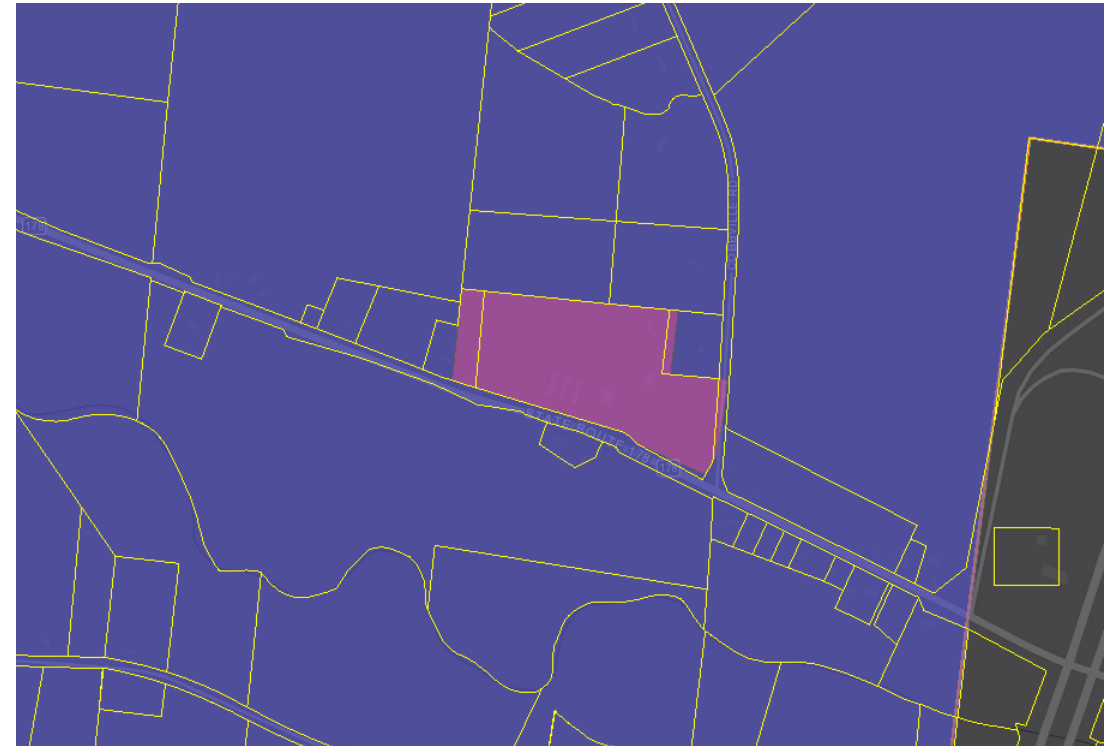


Spot Zoning in the Courts

- **Rodgers v. Tarrytown (1951)**
 - Established that zoning should be in accordance with a “comprehensive zoning plan”
 - If a zone change complies with a municipal comprehensive zoning plan, it can not be considered spot zoning
- **Save Our Forest Action Coalition, Inc. v. City of Kingston (1998)**
 - So long as a zone change is for the benefit of the community, it is not spot zoning
 - “Sufficient forethought” must be given; evidence should reveal the community benefit was considered

Example #1

- Ag. Residential ➡ Light-Industrial
- Property owner wants to operate a mining quarry in an area surrounded by residences
- Stone mined at this quarry would be shipped out of state
- Town rezones a single parcel to allow this, despite pushback from residents
- Comprehensive plan:
 - “Expand industrial footprint in appropriate areas surrounded by like uses, isolated from the population to the maximum extent practicable.”



Spot Zoning?

- The courts would **MOST LIKELY** determine this to be spot zoning
- Does not provide a clear benefit to the community
- Does not conform to the comprehensive plan
- Benefits one single landowner

Example #2

- Single-Family Residential →
Downtown-Commercial
- Property owner requested a rezone to operate a daycare facility
- Large residential area without childcare access
- Comprehensive plan:
 - “Promote childcare through zoning in areas with limited access.”



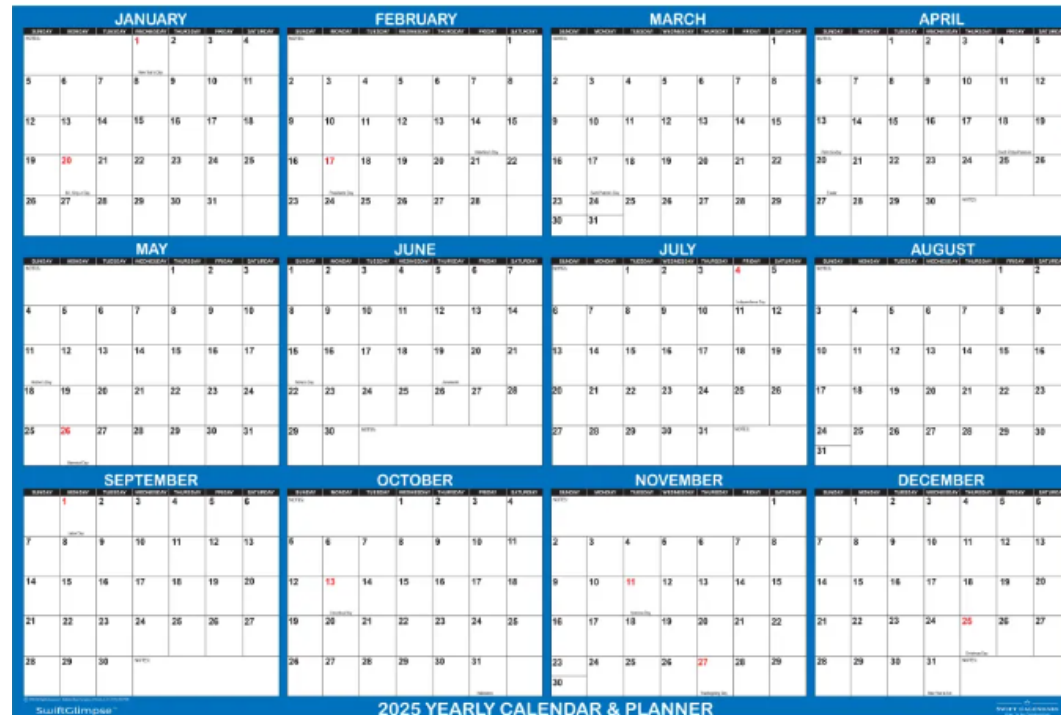
Spot Zoning?

- The courts would **MOST LIKELY** determine this to not be spot zoning
- Despite the zone change differing from the surrounding uses, it would benefit the greater community
- Conforms to the comprehensive plan
- Even if this zone change benefited one single landowner, it would **MOST LIKELY** not be spot zoning

Thank You!

Any Questions?

Approval (or denial) Timing: *hearing and decision dates*



Approval (or denial) Timing: *hearing and decision dates*

- The calendar can be a pain when reviewing a project – get it right and things move along – get it wrong and you could be in for a long ordeal
- We'll look at the notice timing for site plans, special use permits, subdivisions, use and area variances, County referral, Article 78s, and SEQR
- Many dates will be the same or similar, but some are different and require special attention

¹⁴5 10

30

2

60

62

120

Site Plan Review Timing

- Action required **62** days after application received, or
- **62** days after a public hearing has been held for the project*. The public hearing must be held with **62** days of receipt of the application.
- If a hearing is held, it must be noticed at least **5** days before the hearing, mailed notice must go out at least **10** days before the hearing
- After the decision is made, it must be filed with the Municipal Clerk, within **5** days.

*Time can be extended by mutual consent

Special Use Permit Review Timing

- A public hearing must be held within **62** days of an application being received,
- A decision must be rendered within **62** after the public hearing*
- Hearing must be noticed at least **5** days before hearing, mailed notice must go out at least **10** days before the hearing
- After the decision is made, it must be filed with the Municipal Clerk, within **5** days.

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Subdivision Review Timing

- Subdivisions can be broken into preliminary and final submissions
- A public hearing must be held within **62** days after a final plat is submitted,
- Hearing must be noticed at least **5** days before hearing, mailed notice must go out at least **10** days before the hearing
- The hearing must be closed within **120 days** of the opening of the hearing,
- A decision must be rendered within **62** after the public hearing*
- If the Planning Board fails to take action within the specified time, the subdivision will be automatically approved (default approval)
- After the decision is made, it must be filed with the Municipal Clerk, within **5** days.
- The subdivision must be filed with the County Clerk within **62 days** of final approval or approval expires

*Time can be extended by mutual consent

Use and Area Variance Review Timing

- Use or Area Variances must be forwarded to the Zoning Board of Appeals within **60 days** of filing,
- A hearing must be scheduled “**within a reasonable time**”
- Hearing must be noticed at least **5** days before hearing, mailed notice must go out at least **10** days before the hearing
- A decision must be rendered within **62** after the public hearing*
- After the decision is made, it must be filed with the Municipal Clerk, within **5** days.

*Time can be extended by mutual consent

Other referrals to consider

- County Planning Board:
 - CPB has **30** days to take action on locally referred projects
 - Local boards can act after **30** days have passed, but if County decision is received within **2** days of local meeting, County decision holds same weight as if received within the **30** day window (supermajority required to overrule County decision)
- Article 78 Proceeding:
 - Aggrieved party has **30** days after decision filed with local clerk to file grievance in Supreme Court
- SEQR hearings:
 - If an EIS is required, public hearings can be combined, but notice must be out **14** days in advance

Planning Humor interlude --

LULU – Locally unwanted land uses

YIMBY – Yes in my backyard

NIMEY – Not in my election year

NOPE – Not on planet earth

BANANA – Build absolutely nothing anywhere near anything

CAVEs – Citizens against virtually everything

Elements of a Good Site Plan

What is Site Plan Review?

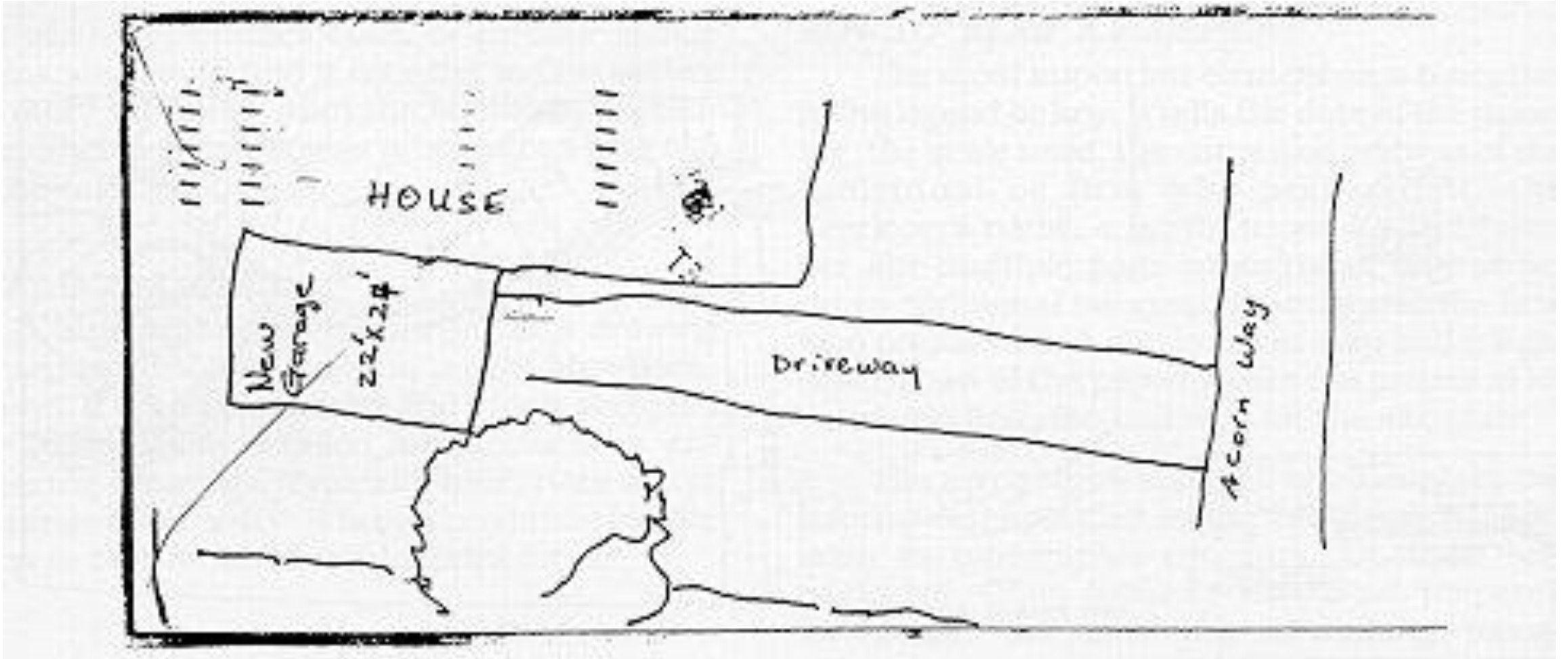
- Review by a local board of specified elements related to the development of a single parcel of land
- Local boards are authorized by the municipality to implement site plan regulations

Why is Site Plan Review Important?

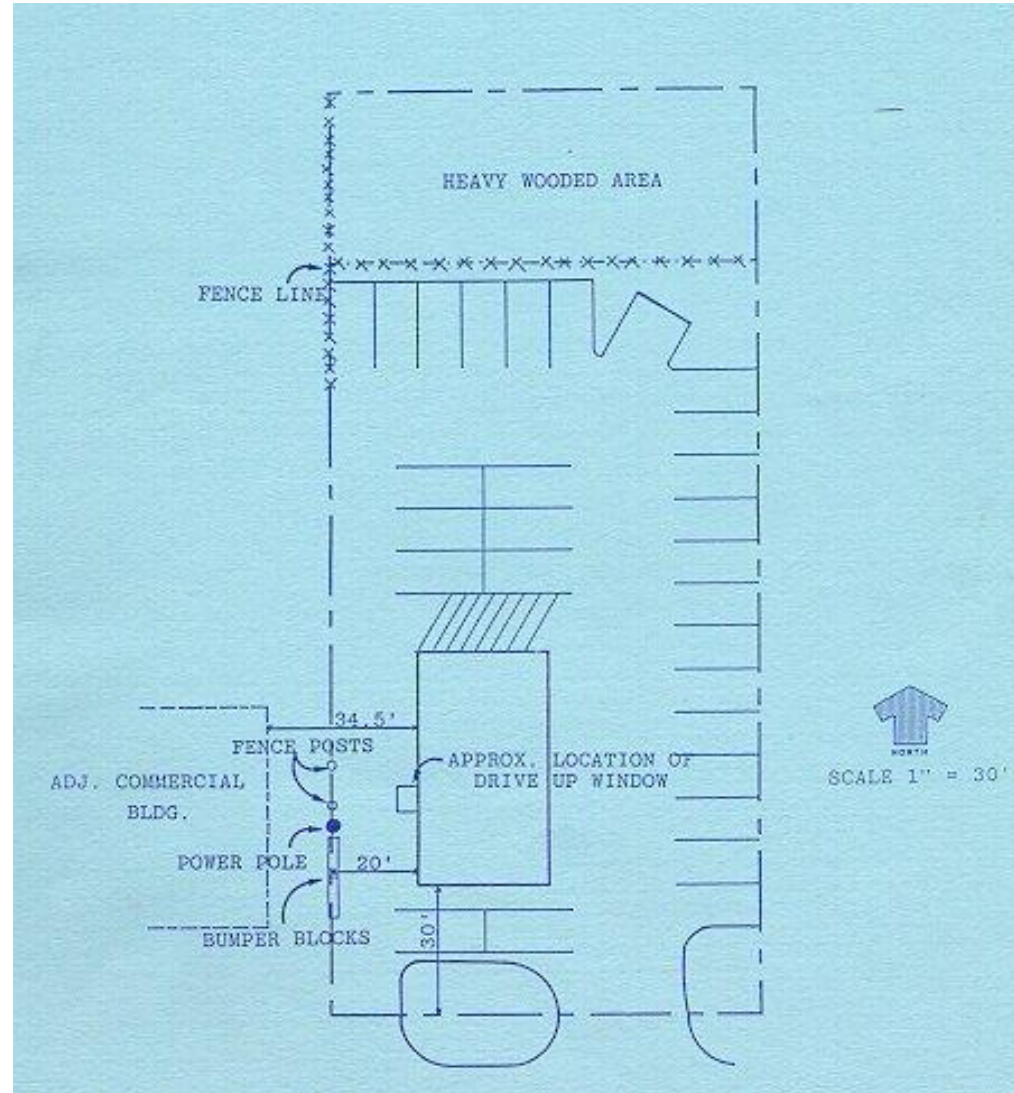
- Ensures that the development of individual parcels are compatible with adjacent land uses
- Gives a municipality the ability to ensure that development is consistent with the goals of its comprehensive plan

Typical Site Plan

Back-of-the-envelope plan



Typical Site Plan



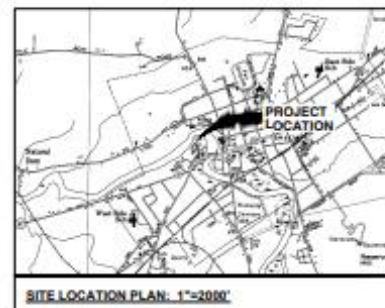
More informative; need not be professionally done



[illegible]

VILLAGE OF GOVERNOR - ST. LAWRENCE COUNTY
TAX MAP SUBPARS: 15.052-4-10, 15.052-4-11 & 112, 15.052-4-111
ZONING DISTRICT: CENTRAL BUSINESS (B-1)

PROPERTY		ADDRESS	OWNER
PROPERTY LOT 100	100	100	100
PROPERTY LOT 101	101	101	101
PROPERTY LOT 102	102	102	102
PROPERTY LOT 103	103	103	103
PROPERTY LOT 104	104	104	104
PROPERTY LOT 105	105	105	105
PROPERTY LOT 106	106	106	106
PROPERTY LOT 107	107	107	107
PROPERTY LOT 108	108	108	108
PROPERTY LOT 109	109	109	109
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PROPERTY LOT 111	111	111	111
PROPERTY LOT 112	112	112	112
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PROPERTY LOT 114	114	114	114
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PROPERTY LOT 179	179	179	179
PROPERTY LOT 180	180	180	180
PROPERTY LOT 181	181	181	181
PROPERTY LOT 182	182	182	182
PROPERTY LOT 183	183	183	183
PROPERTY LOT 184	184	184	184
PROPERTY LOT 185	185	185	185
PROPERTY LOT 186	186	186	186
PROPERTY LOT 187	187	187	187

1. NAME _____



	PROJECT NAME/PROPERTY NO. WEST GOUVERNEUR - 231		PROJECT NO.	
	40 MAIN STREET - GOUVERNEUR, NY 10642			
	DATE	NO.	REVISIONS	
APPROVED BY: SK			DIVISION: SPRINKLING	DRAWING NO.: 5-1
TITLE: PROPOSED SITE PLAN				

Site Plan Elements

- May vary by municipality; but should include:
 - Scale and north arrow
 - Title and date
 - Property owner name
 - Project applicant name
 - Existing structures
 - Location and dimensions of new development

Site Plan Elements

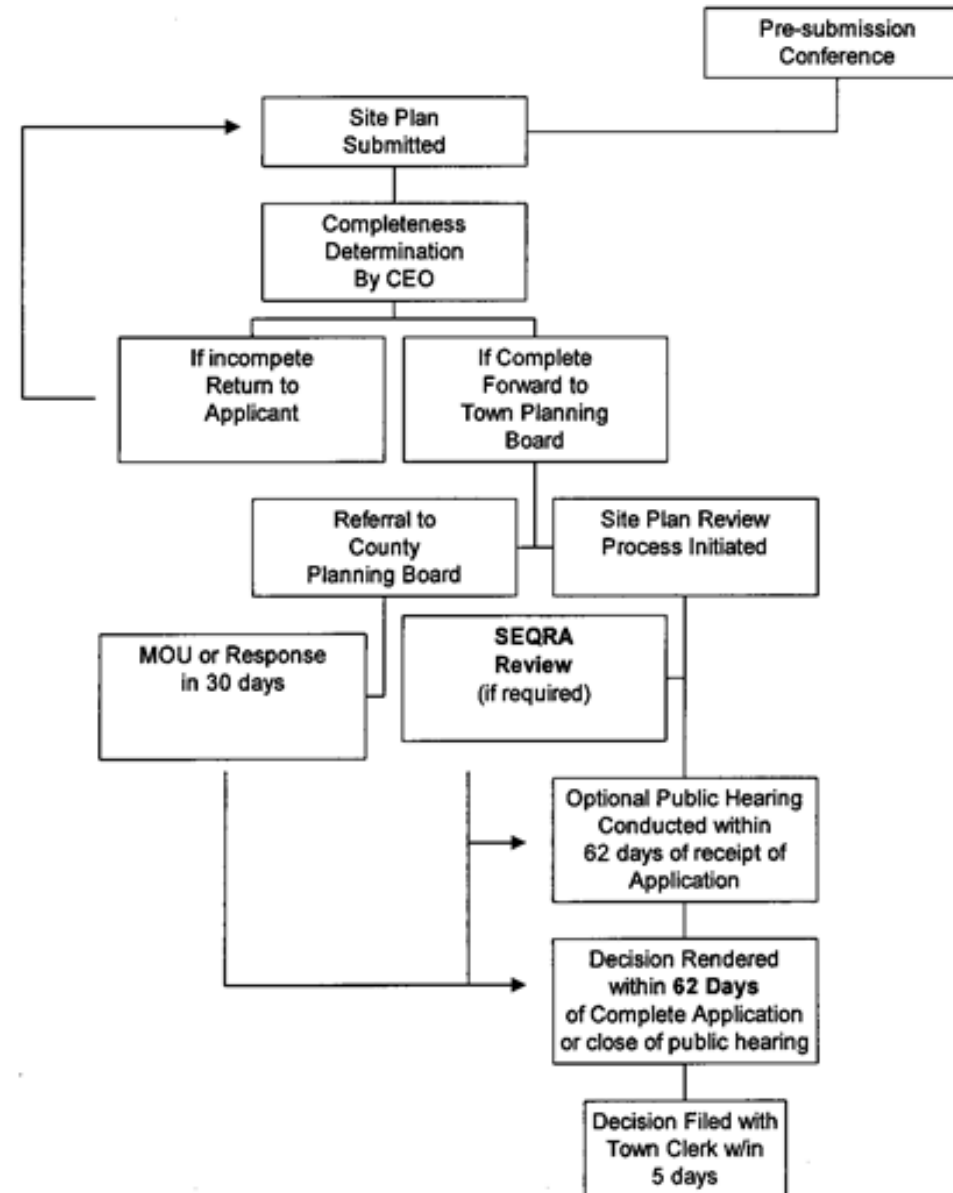
- May vary by municipality; can include:
 - parking
 - access; traffic flow into and within site
 - Screening and landscaping
 - Signs and lighting
 - architectural features
 - Tax identification number
 - Location of natural features (streams, wetlands, topography)
 - Storm water management
 - Existing and proposed infrastructure

County Referral

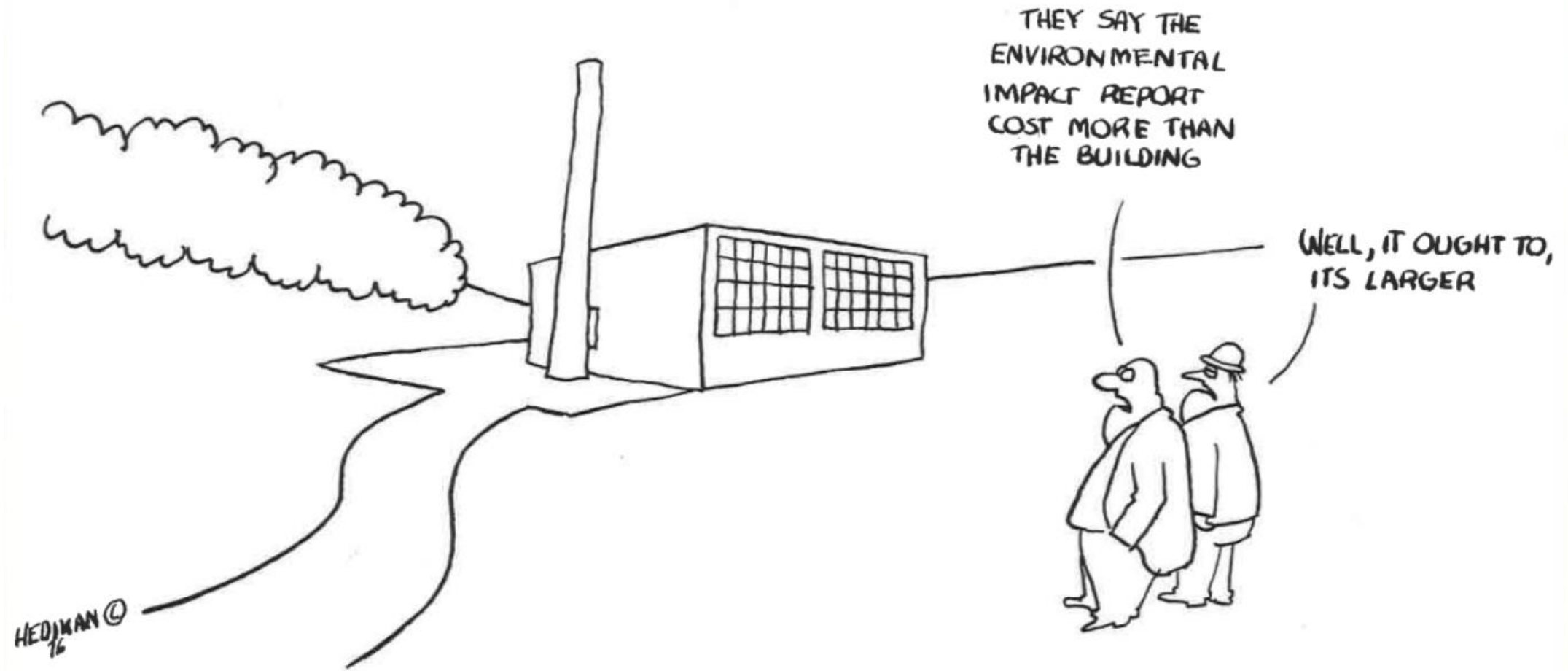
Site plans must be referred for County review if site is within 500 feet of:

- municipal boundaries
- county or state park boundaries
- rights-of-way of county or state roads
- rights-of-way of county or state waterways
- boundaries of county or state-owned land with public building
- boundary of farms within an agricultural district

SITE PLAN FLOWCHART



Planning HUMOR Interlude --



Running Local Planning and Zoning Board Meetings

Fall Land Use Training 12/3/2024

Presentation content from Mark Schachner, Esq.

Municipal Obligations vs. Acceptable Practices

Obligations

- Allow:
 - Applicant to address the board
 - All board members to discuss the application
 - Anyone to comment at a public hearing
- No Obligation to:
 - Allow public comment if it is not a public hearing
 - Allow for open comment

Acceptable Practices

- A board may wish to allow open comment if they would like
 - Can create respect for local board
 - Does lengthen meetings
- If a board over-complies”, it should be consistent

Meeting Rules

- Establish ground rules
 - State these rules, put them on the agenda
- Possible rules include:
 - Only speak if you “have the floor”
 - Identify oneself before speaking
 - Address all comments to the board, not the applicant or public
 - Speak slow, loud, and clear (helps with minutes)
 - One person speaks at a time (applies to the public and board members)
 - Sign in if one wishes to speak
- Comments from the public:
 - Time limit (usually ~5 minutes)
 - Limit the number of times someone can speak
 - No aggregation of time from one person(s) to another
 - On-topic, keep comments related to the application

Meetings Without Rules:



Meeting Rules continued

- ENFORCE THE RULES
- Be consistent, and ensure the rules are reasonable
 - These rules do not necessarily have to be applied to every application
- Do NOT engage with “difficult” speakers
- Focus *solely* on land use implications. Not personal connections, not reputation, not the applicant in question
 - Personal circumstances are legally irrelevant
- Boards do NOT have to let the public speak while they deliberate

Chairperson

- In charge of running the meeting, establishing the ground rules, and enforcing compliance with those rules
- An important balance must be met with any chairperson
 - Control the room when it is necessary to do so
 - Maintain civility and respect for the board



"In order to expedite this meeting, I'm putting you all on mute."

Making a Decision

- Apply the relevant criteria to the application
- Educate on the appropriate procedure
 - Notices for public hearings, SEQRA, etc.
- Discuss the project in a meeting that is open to the public
 - In other words, Open Meetings Law
- Make a final decision with a formal motion
 - Include reasons for the decision based on the criteria

Decisions Continued

- Understand where to look for relevant criteria
 - Site Plan Review, Subdivision, Use & Area Variance in State City, Town, or Village Law; specific criteria can be found in local zoning or local laws
- The main goal is to “avoid successful legal challenge”
- Some of this may seem redundant, but covering all of your bases, even when it seems unnecessary, is best practice



Making a Motion

- Motions should be made after a public hearing, and discussion by board members.
- Should be formal, and clearly state what the motion is for
- After a motion is made, and it is seconded, the board should deliberate further and modify the motion if necessary
- Individual board members may provide explanation for their decision, but it is not required. It may be best to simply provide a reason for the full board decision

Order of Business

- Call to order, roll call
- Approve the agenda and previous meeting minutes
- Old Business
- New Business
- Reports from committees
- Adjourn



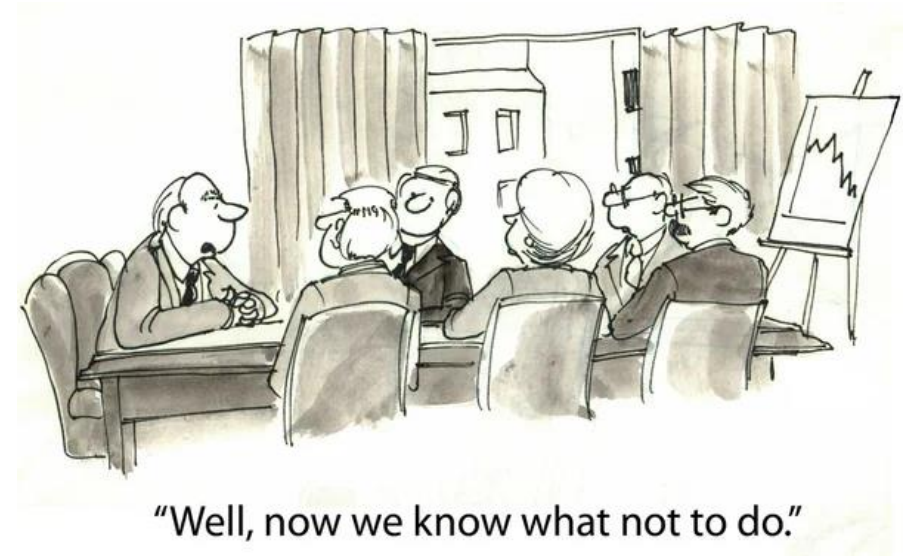
"I, for one, do not enjoy these BYO agenda meetings."

Complex Applications

- Should require a greater level of formality
- Feel free to prepare a decision in writing in advance
 - Can be before the meeting in which the decision takes place
 - Can NOT be before the public hearing and some deliberation by the board
- This does not apply to applications that take only one meeting on which to review and make a decision
- You may seek assistance from municipal legal council, but they can not make the decision for you

Precedent

- Best practice = stick with precedent for situations that are either the same as or similar to past situations
 - Make the same decision
- You do not have to stick with precedent
- But if you rule against precedent, clearly state why



Questions?