



**Division of Local
Government Services**

Skills That Make Great Board Members

A Division of New York Department of State

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



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

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

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

Primary Functions of the Local Governing Board

Legislative

- Home rule authority
- Police Power
- Local Laws
 - Comprehensive Plan adoption
 - Zoning adoption

Administrative

- Supervisory
- Budgetary
- Contractual
- Appointive

Primary Functions of a Planning Board

Advisory Functions

- Planning boards have the authority to advise on all planning-related municipal activities
 - Comprehensive Plan
 - Variance Requests
 - Additional powers assigned by governing board

Regulatory Powers

- Authorized by the governing board to conduct
 - Subdivision Regulations
 - Site Plan Regulations
 - Special Use Permits

Primary Functions of a Zoning Board of Appeals

Appellate Jurisdiction

- All ZBAs:
 - Interpret zoning regulations
 - Issue or deny appeals for variances

Original Jurisdiction

- Some ZBAs:
 - When delegated by governing board
 - Special Use Permits
 - Site Plan Review

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

Be Ethical

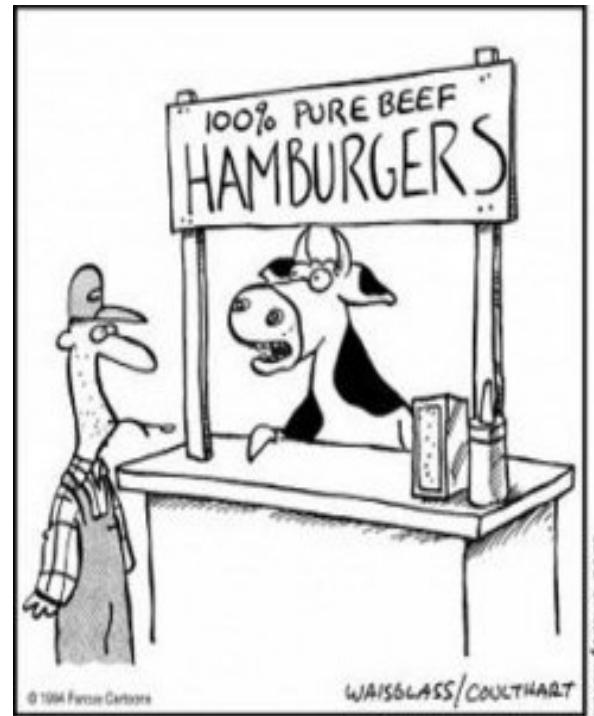
- Promote confidence and trust when conducting the public's business
- Disclose any actual, apparent, or potential conflict of interest pertaining to any application or alleged Violation subject your jurisdiction



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



“What conflict of interest?!
I work here in my spare time.”

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

Elements of a Comprehensive Plan

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

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

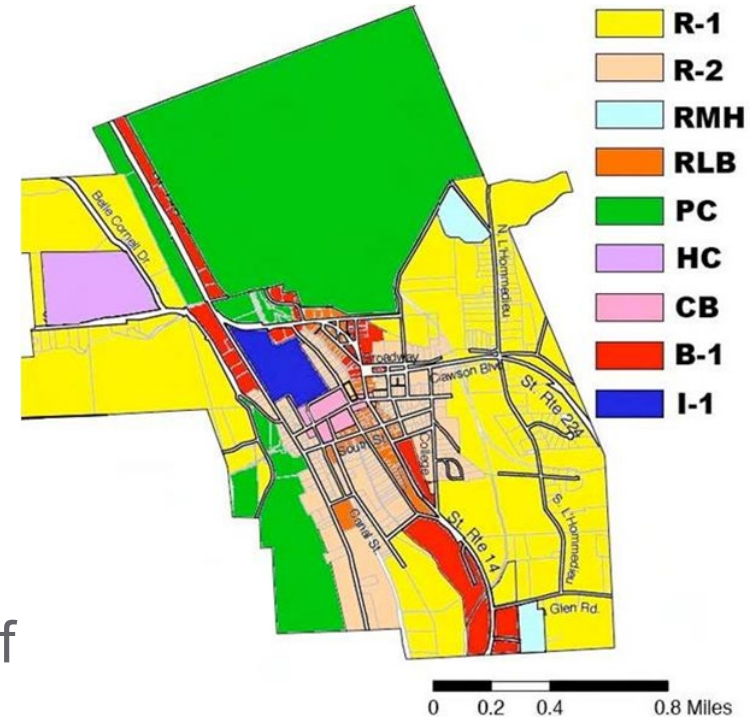
Have a copy available at meetings for reference and guidance. Plans should not collect dust on a shelf!

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

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



Caring for Our Zoning Regulations

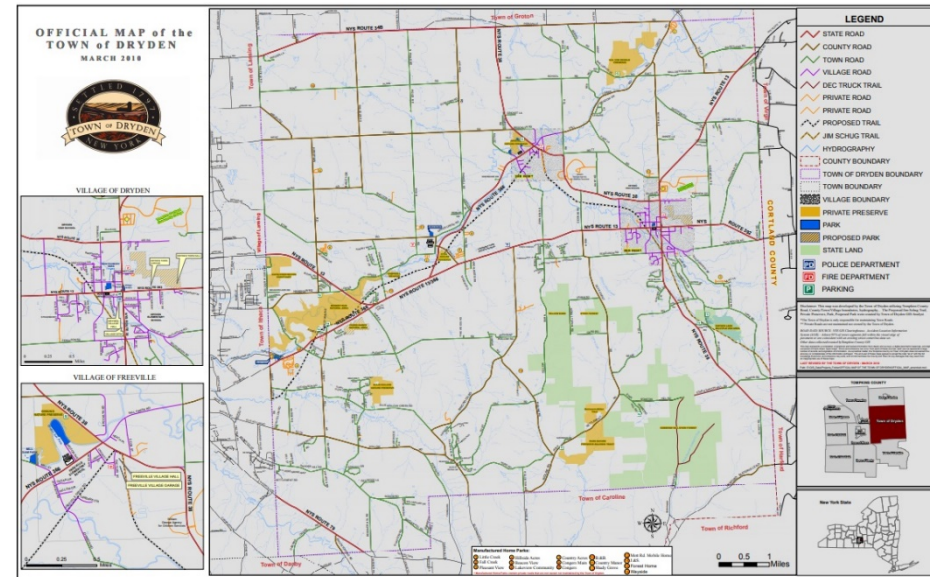
- Symptoms of sick zoning regulations include:
 - Many interpretations or variances being sought/granted
 - Outdated terms and language
 - New technologies available
 - Confusion on definitions, wording, etc.
- Like a comp plan, our zoning regulations need to be periodically reviewed to make sure they're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

Reading Maps, Plats and Plans

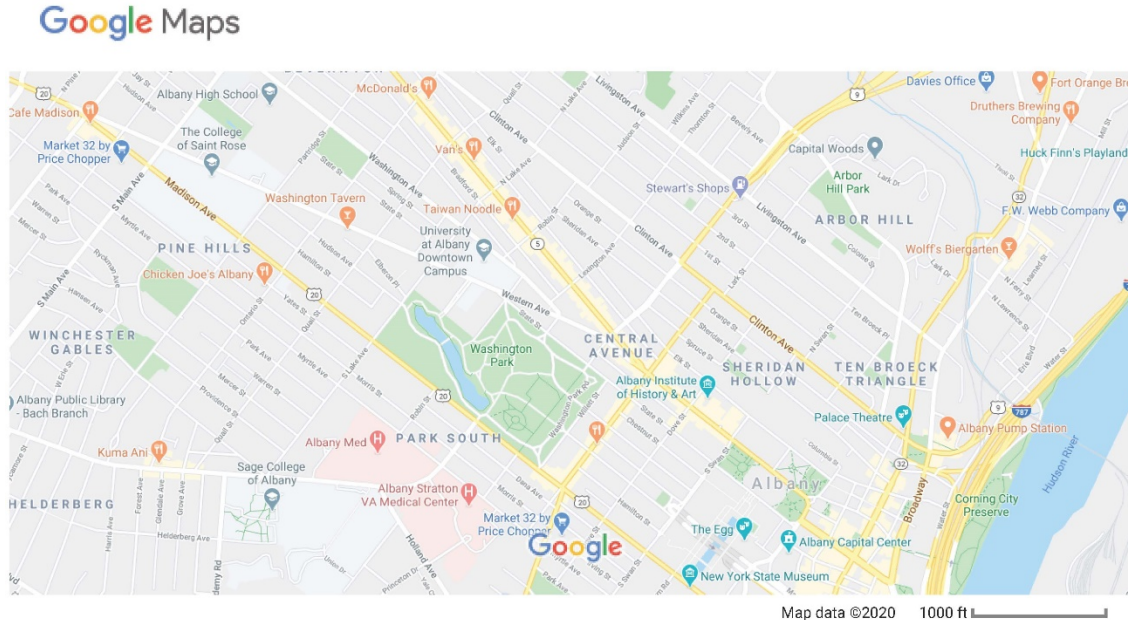
- Most applications include maps and plans, so boards need basic map and plan reading skills
- A map is a physical illustration of existing features, resources or uses on the ground surface
- In your service, you will examine many types of maps

tip

Refer to maps by name and date



Planimetric 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

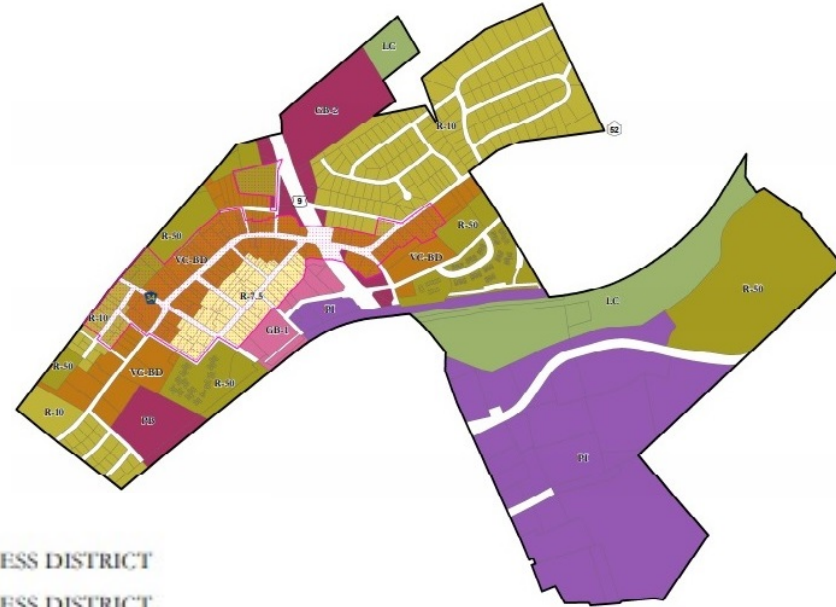
Topographic Maps



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

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
	LC, LAND CONSERVATION
	PB, PLANNED BUSINESS DISTRICT
	PI, PLANNED INDUSTRY DISTRICT
	R-10, ONE-FAMILY RESIDENCE DISTRICT
	R-50, THREE-OR-MORE-FAMILY RESIDENTIAL
	R-7.5, ONE AND TWO FAMILY RESIDENTIAL
	VC-BD, VILLAGE CENTER BUSINESS DISTRICT
	HISTORIC PRESERVATION OVERLAY

Site Plan Maps

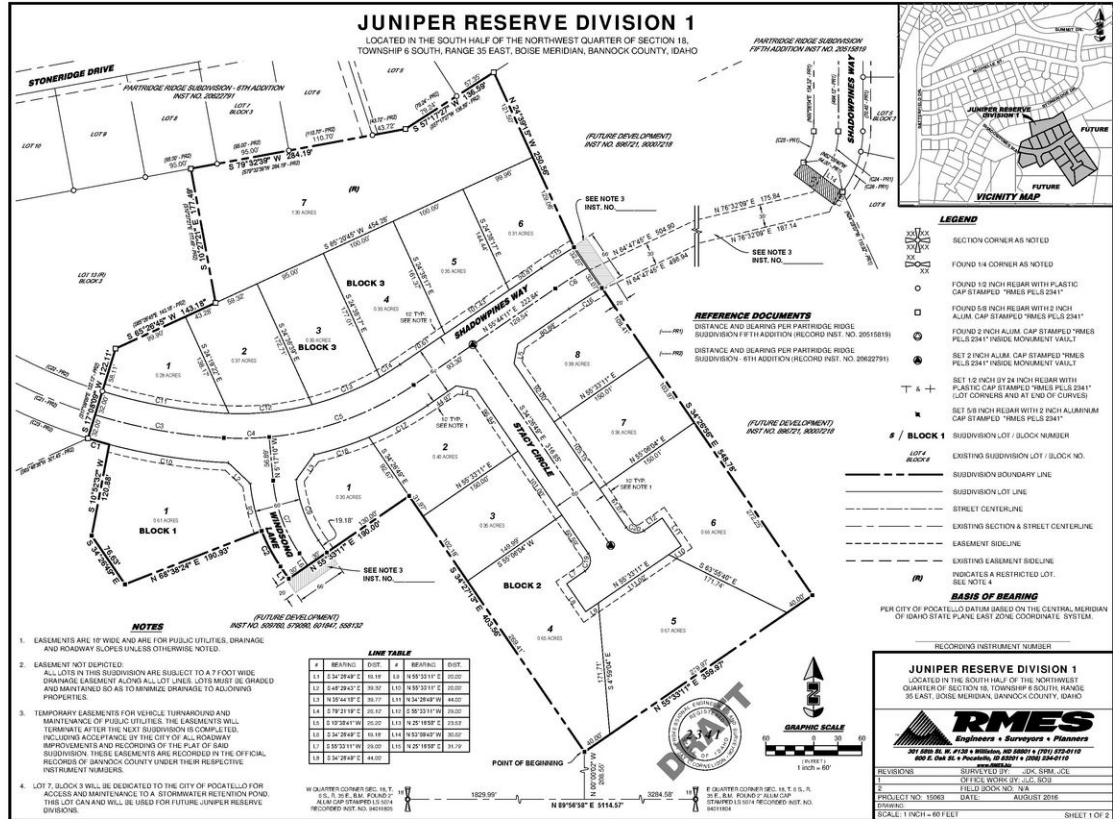
Rendering, drawing, or sketch which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on plan



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

A Division of New York Department of State



SEQR EAF Mapper

<https://gisservices.dec.ny.gov/eafmapper/>

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Navigate To Area (Step 1)

Go To

Select County:

Select Town:

Define Project Site (Step 2)

Or

Area:

Create Report (Step 3)

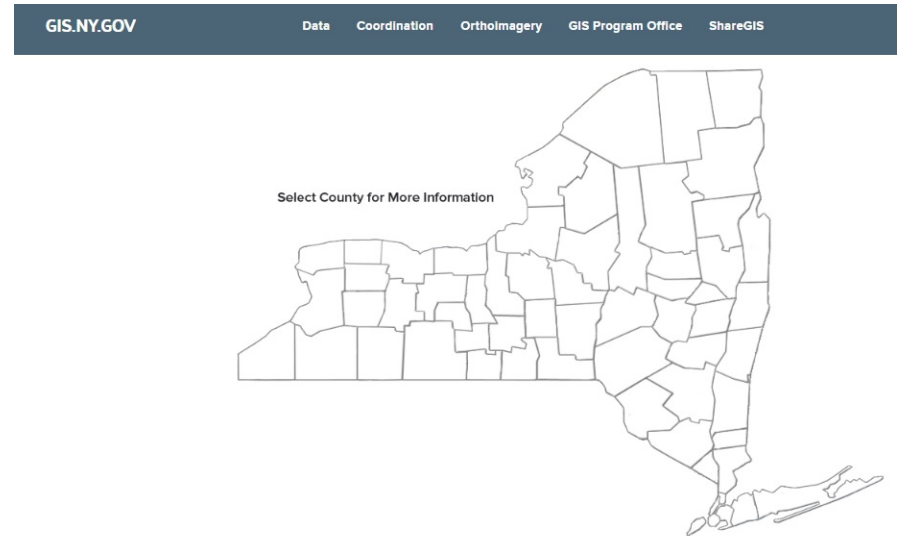
Initial Extent Zoom In Zoom Out Show Overview Map

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri C...

1:288,895

Other Mapping Resources

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



Preparing for Meetings

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."

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

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

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

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

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



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

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



Conducting Site Visits

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



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?

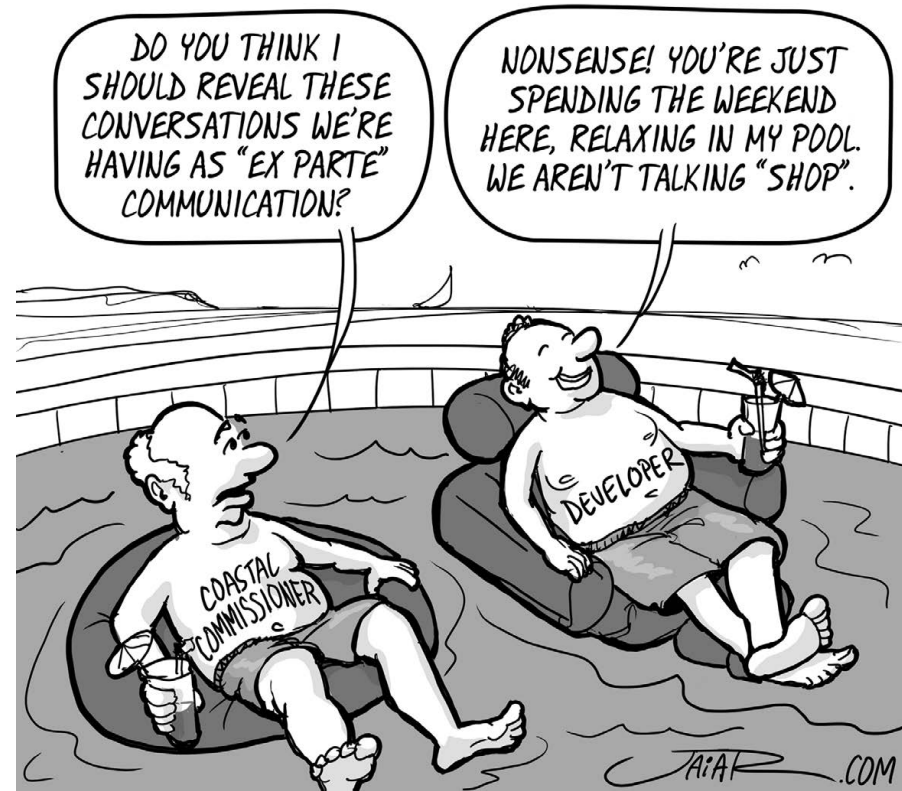
Site Visits: A Larger Perspective

- 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?



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



In the Meeting

Open Meetings Law

Public Meeting

- The official convening of a public body for the purpose of conducting public business
- Meetings allow the public to listen and observe, not comment

Public Hearing

- An official proceeding of a governmental body or officer during which the public is accorded the right to be heard
- Required for all ZBA matters
- Required for some Planning Board matters – subdivision, special use permits, site plan (when required locally)

Open Meetings Law: COVID-19

- Remote public meetings are allowed until 1/15/2022
- Proceedings must be recorded and later transcribed
- Best practice: If you have the ability to hold meetings both in person and online, do both so people who aren't comfortable attending in person can still participate online
- If you can't, allow written comment that can be read into the record
- Keep up to date on OML updates through the Committee on Open Government: <https://opengovernment.ny.gov/>

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



Working with Consultants

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



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



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

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

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



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



Making Your Decisions Stick

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



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

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

Practical Advice for Board Members

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



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

In Meetings

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



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 Open Meetings Law
- Know the law
- Be passionate for your community
- Have fun

Sources of Assistance

Locally

- City/village/town staff
- Previous board members
- Plans and reports
- Maps, rules of procedure, local laws and ordinances
- Consultants

Regionally

- County planning agencies
- Regional planning agencies
- Metropolitan planning agencies
- Colleges and universities

New York Department of State

Division of Local Government Services

518-473-3355

localgov@dos.ny.gov

<https://dos.ny.gov/training-assistance>