

Local Planning & Zoning:

Players: Governing Board, Planning Board, Zoning Board of Appeals, Code Enforcement Officer (80-90% of towns in Otsego County do not have local Code Enforcement Officer and use county Code Enforcer), Municipal Attorney, Clerk/Secretary; County Planning Board; Applicants or Aggrieved Parties; Members of the General Public; and Media.

Terms:

- **Ordinance:** "A rule established by authority; a permanent rule of action; a law or statute. In its most common meaning, the term is used to designate the enactments of the legislative body of a municipal corporation. An ordinance is the equivalent of a municipal statute, passed by the city council, or equivalent body, and governing matters not already covered by federal or state law. Ordinances commonly govern zoning, building, safety, etc. matters of municipality."
- **Law:** "That which is laid down, ordained, or established. A rule or method according to which phenomena or actions co-exist or follow each other. Law, in its generic sense, is a body of rules of action or conduct prescribed by controlling authority, and having binding legal force. That which must be obeyed and followed by citizens subject to sanctions or legal consequences is a law. Law is a solemn expression of the will of the supreme power of the State. ...
"The word may mean or embrace: body of principles, standards and rules promulgated by government; statute or enactment of legislative body; administrative agency rules and regulations; judicial decisions, judgments, or decrees; municipal ordinances; science or system of principles or rules of human conduct."
- **Public Meeting:** open to public. Open meetings are required except for when a police informant is testifying; personnel issues; pending litigation; and a couple of other situations.
- **Public Hearing:** public allowed to speak

Who Makes the Rules:

The State delegating authority to the local elected body through the Zoning Enabling Laws and the Municipal Home Rule Law. D [REDACTED] stated that if by-laws have not been passed or adopted by local law or ordinance by the governing body, they are not binding. She further stated that villages can no longer adopt by-laws by local ordinance, only by local law.

Planning Board & Zoning Board of Appeals:

In Towns, members are appointed by the town board. In villages and cites, they are appointed by the major with approval of the council or board of trustees. The Chairman of the Planning Board and the Chairman of the Zoning Board of Appeals can also be appointed by the governing body, at their option. The Chairman may be

authorized to perform the following duties: supervise agenda preparation; liaison with elected board; sign official documents; and supervise the filing of documents.

Municipal Clerk, Board Clerk/Secretary:

Receives applications, files decisions, maintains records, takes minutes, submits hearing notices, and provides meeting notices. There is a requirement of a 5 day notice in the newspaper for public hearing. S/he files the decisions within five business days after the decision is rendered (or sooner). Article 78 proceedings are served on her/him.

The legislative body is empowered to keep any authority that it can delegate out. If a Planning Board exists, it administers any subdivision regulations. If there is zoning, the Zoning Board of Appeals hears appeals and interpretations. Other matters may be delegated to the Planning Board, Zoning Board of Appeals, some other board, or handled by the governing board.

Subdivision Review: In [REDACTED] and [REDACTED] the town boards have kept authority over subdivisions. The Planning Boards in those towns only make recommendations.

The majority of municipalities in [REDACTED] County do not have comprehensive plans.
[REDACTED]

Site Plan Review: A drawing prepared to specifications and containing necessary elements as set forth in the applicable regulations. It shows the layout and design of the proposed use of a single parcel of land. (Large scale, commercial, on one parcel of land). **Public hearings are not required for site plan reviews if handled by the Planning Board. Public hearings are required for subdivisions. By ordinance, a town can require public hearings for site plan reviews.**

Special Use Permit: An authorization to use land in a way permitted by zoning, subject to requirements designed to assure that the proposed use is in harmony with zoning and will not adversely affect the neighborhood if the requirements are met. Up to 1974, only Zoning Boards of Appeal issued special use permits. Now, Planning Boards can do and usually issue them in conjunction with site plans, the latter of which can only be approved by Planning Boards.

The Planning Board may advise or review the following matters at the request of other Boards: variance requests; subdivision regulations; zoning changes; site plan regulations; capital budgets; recreation studies; and compliance with the comprehensive plan.

Building Inspectors, Zoning Enforcement Officers: Acquire, prepare, and distribute forms; receive applications; maintain records of administrative action; issue or deny permits; receive complaints; conduct investigations and inspections; and take necessary enforcement actions. *They may not modify or waive zoning regulations.*

Referral to the County: Some applications must be referred to the county planning agency. Refer if it applies to real property within 500 feet of: municipal boundary; state or county park/recreational area; state or county road; county-owned stream/drainage channel; state or county land on which a public building is located; boundary of a farm operation that is in a state agricultural district (except for area variances). Referrals made for comprehensive plans, adoption or amendment of zoning, use or area variances, special use permits, site plans, and other authorizations under the zoning ordinance or local law. *Otsego County has a memorandum of agreement with approximately two-thirds of the towns and villages that states that the towns and villages do not have to refer the matter to the county if the matter involves less than ten lots, no new road, and no county-wide impact.*

Referral gives opportunity to exchange information and receive advice and recommendations from professional staff at the county level. If a required referral is not made, the local decision may be challenged. The time needed for county review must be factored into the review process. Some county recommendations may require a majority plus one vote of the referring board in order to override. If there is no intermunicipal or county-wide impact, the County Planning Board will not deny the application, and the Planning Department remands the matter.

There are procedural requirements and time limits for all reviews and appeals.