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*CERTIFICATION*  
*SESSION I*  
**OVERVIEW OF THE  
BOARDS**

**ROCKLAND MUNICIPAL PLANNING  
FEDERATION**

**FEBRUARY 10, 2021**





# INTRODUCTION



- **Arlene Miller**, *Deputy Commissioner, Rockland County Planning Dept.*
  - Introduction
  - What is the Rockland Municipal Planning Federation?
  - Why are you here?
  - What do we want to accomplish in this series?
- Presenters:
  - **Ira Emanuel, Esq.**, *Emanuel Law, P.C.*
  - **Bonnie Franson, AICP CEP**, *Partner, Nelson, Pope & Voorhis, LLC*
  - **Max Stach**, *AICP, Partner, Nelson, Pope & Voorhis, LLC*



# INTRODUCTION





LEGAL  
RESPONSIBILITIES





LEGAL  
RESPONSIBILITIES:  
**ELIGIBILITY**

- **BASIC** requirement - appointed members are public officers.
- **NYS Public Officers Law:**
  - Must be a resident of the municipality
  - 18 years of age
  - U.S. citizen
- Board members must take an oath which is kept on file for duration of term. Uphold the constitutions of the United States and New York State.



# LEGAL RESPONSIBILITIES: DEFINITIONS

## Zoning Board of Appeals

A quasi-judicial body empowered to grant exceptions (“variances”) from strict compliance with a local zoning code. Also authorized to review decisions of the building inspector and to interpret the meaning of zoning code provisions. Sometimes empowered to grant special use permits.

## Planning Board

A board empowered to permit the subdivision of land and to approve site plans in accordance with the requirements of the local zoning code. Sometimes empowered to grant special use permits.



LEGAL  
RESPONSIBILITIES:

**PLANNING  
BOARD**

- **Planning Board:**
  - Creation and appointment: Town Law 271 and Village Law 7-718
  - Only has authority delegated to it by the municipal legislative body. Typically:
    - Site plan
    - Subdivision
    - Special use permit
    - Other permits and approvals – wetland, steep slope, etc.
  - Training and attendance requirements
  - Alternates



## LEGAL RESPONSIBILITIES

## ZONING BOARD OF APPEALS

- **Zoning Board of Appeals:**
  - Duties and procedures: Town Law 267-b; Village Law 7-712-b
    - Appeals from administrative decision made by enforcement official
    - Area variances
    - Use variances
    - Special use permits (if delegated to ZBA)
  - Training and attendance requirements
  - Alternates





## RELATIONSHIP BETWEEN BOARDS

- Planning Board relationship with Zoning Board of Appeals
- Other local boards and agencies that you may be involved with:
  - Building Inspector/Code Enforcement Officer
  - Village or Town Board
  - Architectural Review Board
  - Historic Preservation (Landmarks) Board
  - Environmental Commission
- County Planning GML review

RELATIONSHIP  
WITH  
PROFESSIONALS



## RELATIONSHIP WITH PROFESSIONALS

- Board members are volunteers and are assisted by **professionals** in the review process
- NYS does not mandate who may assist a board or professional credentials
  - Typically: NYS-licensed professional civil engineer; NYS-licensed attorney; AICP certified planner
  - Others: transportation engineer/planner, wetland scientist, landscape architect, architect, cultural resource consultant
  - Type of consultant depends on the nature of your community and nature of proposed project
  - Escrow to retain consultants





## TECHNICAL REVIEW BOARDS

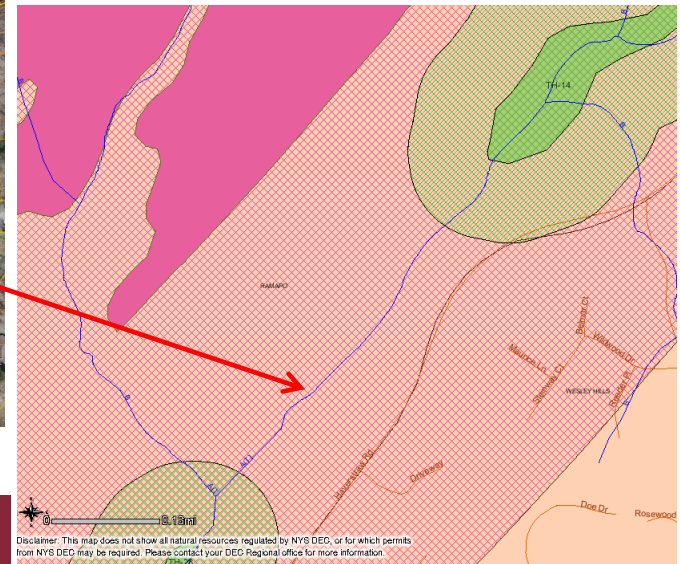
- Technical Advisory Committee (TAC) or Community Design Review Committee (CDRC)
  - Pre-application meeting:
    - Information gathering
    - Completeness
    - Informal guidance and overview of process
    - Provide initial comments, concerns and issues
    - Identify other permits and approvals; coordination with other agencies
    - Workshop-style meeting, where plans can be reviewed prior to board meetings



# TECHNICAL REVIEW BOARD: INFORMATION GATHERING



Rockland County GIS



NYSDEC Environmental Resource Mapper



RECORDKEEPING



# RECORDKEEPING



- **Goal:** Decisions supported by facts on the record helps ensure that a Board decision is not deemed arbitrary and capricious
  - Open Meetings Law – minutes of public meetings must include a record of motions and actions. Record must contain the votes of any matters, how each member voted, including absences
  - Recording secretary - notes, tape, transcript
  - Resolutions – formal versus informal
  - Municipal record keeping – statutory requirements:
    - Most decisions required to be filed in the municipal clerk's office within 5 days of the decision
    - Decision must be mailed to the applicant
    - Board must file a report of final action that is contrary to a county planning recommendation of modification or disapproval within 30 days after final action, with reasons set forth in the report
    - **See:**  
[http://www.dos.ny.gov/lg/publications/Record\\_Keeping\\_Tips\\_for\\_the\\_Zoning\\_Administration.pdf](http://www.dos.ny.gov/lg/publications/Record_Keeping_Tips_for_the_Zoning_Administration.pdf)

# RECORDKEEPING: CHECKLIST OF MAJOR ACTIONS

## CHECKLIST FOR SHAWANGUNK PLANNING BOARD MEMBERS

Proposed Action: \_\_\_\_\_

Zoning Classification: \_\_\_\_\_

### I. Proposed Planning Board Actions:

Type of Action	Check, if Applicable	First Submission Date	Application Deemed Complete (date)
Site Plan			
Special Use Permit			
Subdivision			
Cluster Subdivision			
Minor			
Major - Preliminary			
Major - Final			
Approval Date			

### II. Public Hearing:

Public Hearing	Is it Required?	Hold Public Hearing (yes, no)	Hearing Date – Open	Hearing Date - Close
Site Plan	Optional			
Special Use Permit	Required			
Subdivision				
Minor	Required			
Major – Preliminary	Required			
Major - Final	Optional			

### III. State Environmental Quality Review Act:

SEQRA Steps	Circle Applicable Items		Date:
Classify Action	Exempt (Type II)	Unlisted	Type I
Declare Intent to be Lead Agency		Coordinated or Uncoordinated Review	Coordinated Review Required
EAF to be Reviewed		Short Form, Part 1	Long Form, Part 1
PB Analysis		Short Form, Part 2	Short Form, Part 2
Part 3 Required		Optional	Optional
Issue Negative Declaration (including conditional)		Yes or No	Yes or No
Circulate to ENB; Involved Agencies		Not Required	Required
Positive Declaration			
Scoping Session		Optional	
DEIS Submitted			
DEIS Deemed Complete			
DEIS Hearing		Optional	
FEIS Submitted			
FEIS Deemed Complete			
Findings Statement Complete			

### V. Other Approvals:

Other Referrals or Approvals	Required (check)	Received Response (Date)
Shawangunk ZBA		
Shawangunk Town Board		
Shawangunk Highway Department		
Shawangunk EMC		
Fire District		
Shawangunk Building Inspector (Field Rpt)		
School District		
Ulster County DPW		
Ulster County PB GML Review		
Ulster County Health Department		
NYSDEC		
NYSOPRHP		
NYSDOT		
Other:		
Other:		
Other:		

### VI. Additional Substantive Information to be Submitted by Applicant:

Other	Required (check)	Received from Applicant (Date)
Narrative for Proposed Action		
Agricultural Data Statement		
Recreational River (NYSDEC)		
Shawangunk Mtn. Scenic Byway (visual assessment)		
CEA (Long EAF Required)		
Wetland Delineation		
Ecological Survey		
Traffic Study		
Sewer Evaluation		
Water Evaluation		
SWPPP		
Noise Level Evaluation		
Light Level Evaluation		
Other:		
Other:		
Other:		





RELATIONSHIP  
WITH  
APPLICANT



## RELATIONSHIP WITH APPLICANT

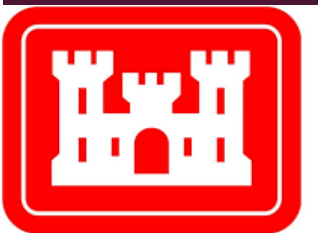
- **GOAL:** The PB and ZBA are charged with the duty of making **consistent, fair, and reasoned decisions**
- Balancing of applicant and public interest:
  - Open process – Open Meetings Law
    - See <http://www.dos.ny.gov/coog/openmeetlaw.html>
  - Fairness to public and applicant – ensure objectivity by avoiding conflicts of interest and appearance of impropriety
  - Impartial board members must make a decision based on the facts of the record



# RELATIONSHIP WITH APPLICANT: ETHICS

- Article 18 – General Municipal Law
  - Section 809: “Every application, petition or request submitted for a variance, amendment, change of zoning, approval of plat, exemption of plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality or a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant...”
- General Municipal Law Section 806(1)(a), (c) – Local Ethics Law
  - counties, cities, towns, villages, school districts, and fire districts must adopt a code of ethics which, at a minimum, contains provisions with respect to: disclosure of interest in legislation before a local governing body; holding of investments in conflict with official duties; private employment in conflict with official duties; and future employment.
- Ethics article/checklist - <https://landuselaw.wustl.edu/Articles/salkin.pdf>





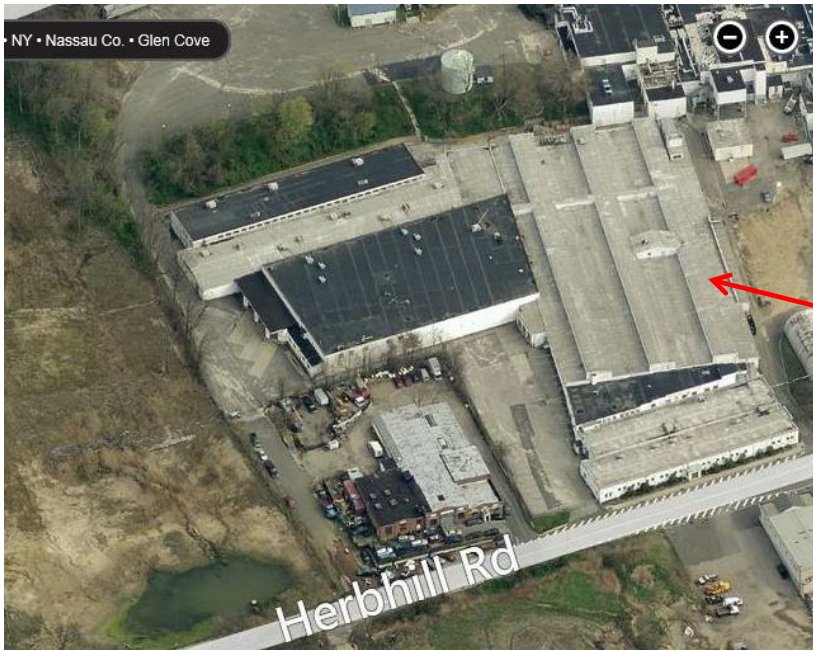
## RELATIONSHIP WITH OTHER AGENCIES



- In addition to local oversight, other agencies that may be involved in the review/approval of actions:
  - **Federal:** U.S. Army Corps of Engineers
  - **NYS:** Dept. of Environmental Conservation, Dept. of Transportation, Office of Parks, Recreation and Historic Preservation
  - **Rockland County:** Dept. of Planning, Highway Dept., Dept. of Health, Drainage Agency
- When to send applications to agencies for review and input – “completeness”



# SITE VISIT



Why we conduct site visits: Konica-Minolta Site



SITE VISIT





## SITE VISIT

- Site visit provides context of the proposed action and “discovery”
- Better able to evaluate “community character” issues
- Include applicant/owner consent to walk the property on land use application
- Stakeout - roads, other features in the field for wayfinding purposes
- Conduct site visit with professionals if possible
- Site Visits not required to be open to the general public
- Quorum and Open Meeting Law – Do not discuss application with other members or applicant. Only for data gathering. Disclose facts discovered at next meeting.



# SITE VISIT

**FIELD MAP -LIMITS OF DISTURBANCE ON AERIAL**





# PUBLIC HEARINGS

- Required for subdivisions, special use permits, and variances
  - optional for site plans
- Relationship to decision making:
  - Subdivision
  - Special use permit
  - Variance
- Adjoining municipality notification – GML 239-nn
- See:  
[http://www.dos.ny.gov/LG/publications/Conducting\\_Public\\_Meetings\\_and\\_Public\\_Hearings.pdf](http://www.dos.ny.gov/LG/publications/Conducting_Public_Meetings_and_Public_Hearings.pdf)



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# Resources

## HELP/RESOURCES AVAILABLE

- Rockland County Department of Planning:  
<http://rocklandgov.com/departments/planning/>
- NYS Dept. of State Division of Local Government Training:  
<http://www.dos.ny.gov/lglut/index.html>
- The Zoning School - Pace Law:  
<http://www.law.pace.edu/zoning-school>
- Pace Law Land Use Law Center:  
<http://www.law.pace.edu/landuse>
- New York Municipal Planning Federation:  
[www.nypf.org](http://www.nypf.org)
- NYSDEC Part 617 SEQRA Regulations:  
<https://www.dec.ny.gov/regs/2488.html>