NEW YORK STATE

Department of State
Local Government

PUBLIC MEETINGS & HEARINGS

Meetings and Hearings, Defined

- **Public meeting:** The official convening of a public body for the purpose of conducting public business
- **Public body:** Entities consisting of two or more people that conduct public business and perform a governmental function
- **Public hearing:** An official proceeding of a governmental body or officer during which the public is accorded the right to be heard



OPEN MEETINGS LAW

Purpose and Intent

- Public Officers Law Article 7 § 100-111
- Meetings allow the public to listen and observe
- Subject to Open Meetings Law
  - Application review and other board business
  - "Work session" or "agenda meeting"
  - "Site visit" if a quorum has gathered to discuss application
    - *Riverkeeper v. Planning Board of the Town of Somers*
- Exempt from Open Meetings Law
  - Soliciting and receiving legal advice from review board's attorney
    - Attorney-client privilege

Quorum

- Number of members needed to legally conduct business (convening meetings, hearings, voting, etc.)
- At least a majority of a fully constituted membership, including absences and vacancies



NY General Construction Law, Article 2 § 41

Using Alternates to Achieve Quorum

Prepare for board member absences due to conflicts of interest:

- Appoint any number of alternates by local law or ordinance
- For other absences, supersede statute by local law
- Terms of office set by governing board, not state statute
- Serve at the call of board chair
- Subject to Public Officers Law, oath of office, and training

Legal Memorandum: “Alternate Members of Planning Boards and Zoning Boards of Appeals” https://dos.ny.gov/legal-memorandum-lu06-alternate-members-county-and-local-planning-boards-and-zoning-boards-appeals

Executive Session

Valid only for specific reasons under OML:

1. Public safety
2. Protect identity
3. Criminal investigations
4. Actual litigation
5. Collective negotiations
6. History of a person
7. Exams
8. Property value



Public Officers Law, Article 7, § 105-106

Executive Session Procedure

- Portion of open meeting from which public may be excluded
- Pass motion to enter into executive session for stated purpose
- Close executive session and return to open meeting
- File minutes of actions taken in executive session within one week (Public Officers Law, Article 7 § 106)



Meeting Access Requirements

Open to "the public"

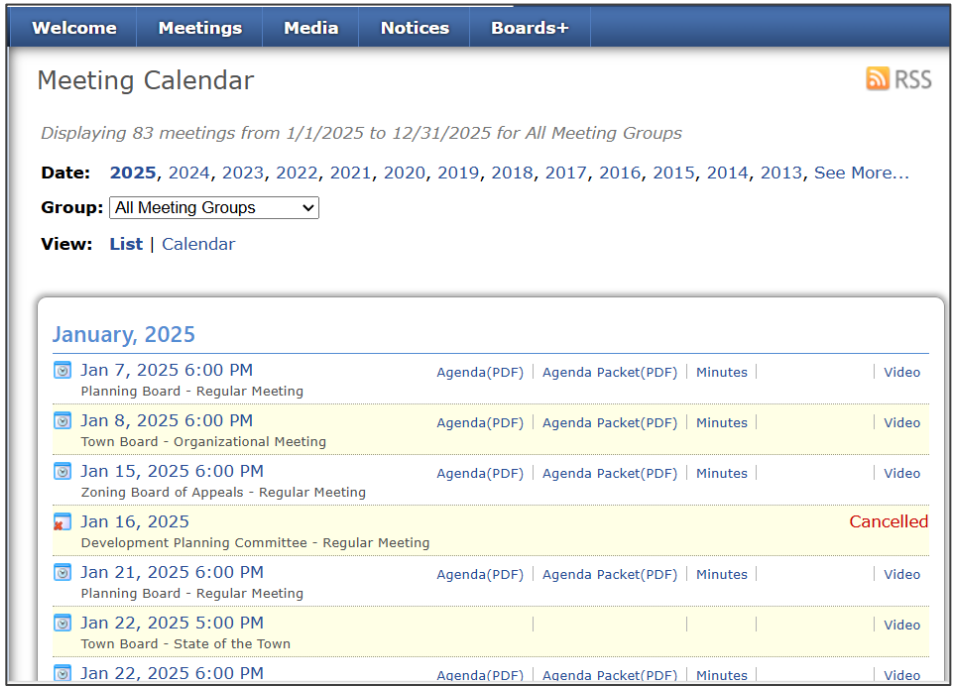
- Not limited to citizenship or residency
- Facility should adequately accommodate all
- Make reasonable efforts to permit barrier-free access to physically handicapped
- Public participation may be permitted but not required

Open to "the media"

- Open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted
- Adopt rules for equipment location and personnel as to conduct proceedings in an orderly manner
- Conspicuously post such rules during meetings and written copies upon request

Meeting Notice Requirements

1. Provide time and date to media at least one week in advance (this is not publication as a legal notice)
2. Conspicuously post in designated public locations at least 72 hours in advance
3. Conspicuously post on municipal website where able
4. If videoconferencing, identify meeting locations; state public's right to attend meeting at any of those locations
5. If live streamlining online, include website URL to watch



Remote Participation & Videoconferencing

Non-Public Locations

- OML § 103-a authorizes public bodies to adopt local law for Boards to participate & vote via videoconference in non-public location under “extraordinary circumstances” (undefined)
- Quorum required in public location(s)
- Public location(s) notice and access required

Public Locations

- Boards may participate via videoconferencing where they are seen, heard, AND their remote location is open to public (i.e.; member participates via videoconference in another state in public location)
- Remote public location(s) notice and access required
- No local law needed for this option

More info and model law: https://opengovernment.ny.gov/

Record Disclosure Requirements

- As of November 2021: Agency records, as well as any proposed resolution, law, rule, regulation, policy or any amendment scheduled to be the subject of discussion during an open meeting shall be made available, upon request, to the extent practicable **at least 24 hours prior** to the meeting
- Copies may be made available for a reasonable fee or posted on a routinely updated municipal website to the extent practicable at least 24 hours prior to the meeting
- More info: https://www.governor.ny.gov/news/governor-hochul-signs-two-pieces-legislation-boosting-transparency-state-and-local-government

MEETING PREPARATION AND PROCEDURE

Applications

- Appoint an administrative official (formally or informally)
  - ZEO, municipal clerk, board clerk, etc.
- Good forms and communication
  - Include SEQR Environmental Assessment Form Part 1
  - Post on website
- Have clear submission requirements, include checklist
- Most approvals require a public hearing within 62 days of a "complete application"
  - Submission deadlines increase efficiency of review
- Ask applicant to provide extra copies of materials
  - County referral (if required): send immediately
  - Other municipal department heads of recommendations

Organizing Meetings

- Reserve meeting room
  - Consider larger spaces for controversial applications
  - Arrange for equipment
- Confirm that members will attend
- Prepare agenda and distribute
- Invite experts and public officials



Meeting Procedures

- Format for meeting and presentations
  - Local rules of procedure may exist
- When and if questions or comments will be heard

Make all present aware of rules

I. Call to Order

II. Announcements

III. Public Participation / Comments on Regular Agenda Items - 10 Minutes

The public comment period is reserved for matters pending before the Board and listed on the Agenda. Comments should be brief and related to impacts of the proposed project.

Verbal comments will be limited to 3-5 minutes. A reminder will be given at the 3 minute mark. A 2nd reminder will be given at the 5 minute mark; at which time, the commenter will be asked to step aside to allow the next person to speak.

Written comments submitted by email to the PlanningBoard@townofbethlehem.org or regular mail to the Planning Board, 445 Delaware Ave, Delmar, NY 12054 will be incorporated into the project files of pending applications.

IV. Minutes Approval

A. Minutes Dec 3 & 17, Jan 7 & 21, Feb 4 to be considered at a future meeting

V. Action Items

A. Niagara Mohawk / National Grid Elsmere Substation, 25 Mason Rd, Delmar - Initial Presentation & Possible Action on SEQR Preliminary Classification of Action and Lead Agency Coordination for Proposed Replacement & Enlargement of an Electrical Substation - Site Plan & Special Use Permit Application 24-01400002

VI. Discussion / Information Items

A. Presentation on NYS DEC Wetland Regulations by Krista Spohr, NYSDEC Wetlands Outreach Coordinator

VII. New Business

VIII. Adjournment

Adjourn - Next Meeting - Tuesday, March 4, 2025, 6:00 PM

Live or archived webcasts can be viewed thru the media center / meeting portal at http://bethlehemtownny.iqm2.com/Citizens/Default.aspx

Audio & Video Recording





- Board may adopt procedures for recording that does not detract from the deliberative process
- Should not require permission or advance notice to record
- Absolute ban on recording is not reasonable
- Board member or public reluctance to be recorded is not appropriate reason to prohibit recording

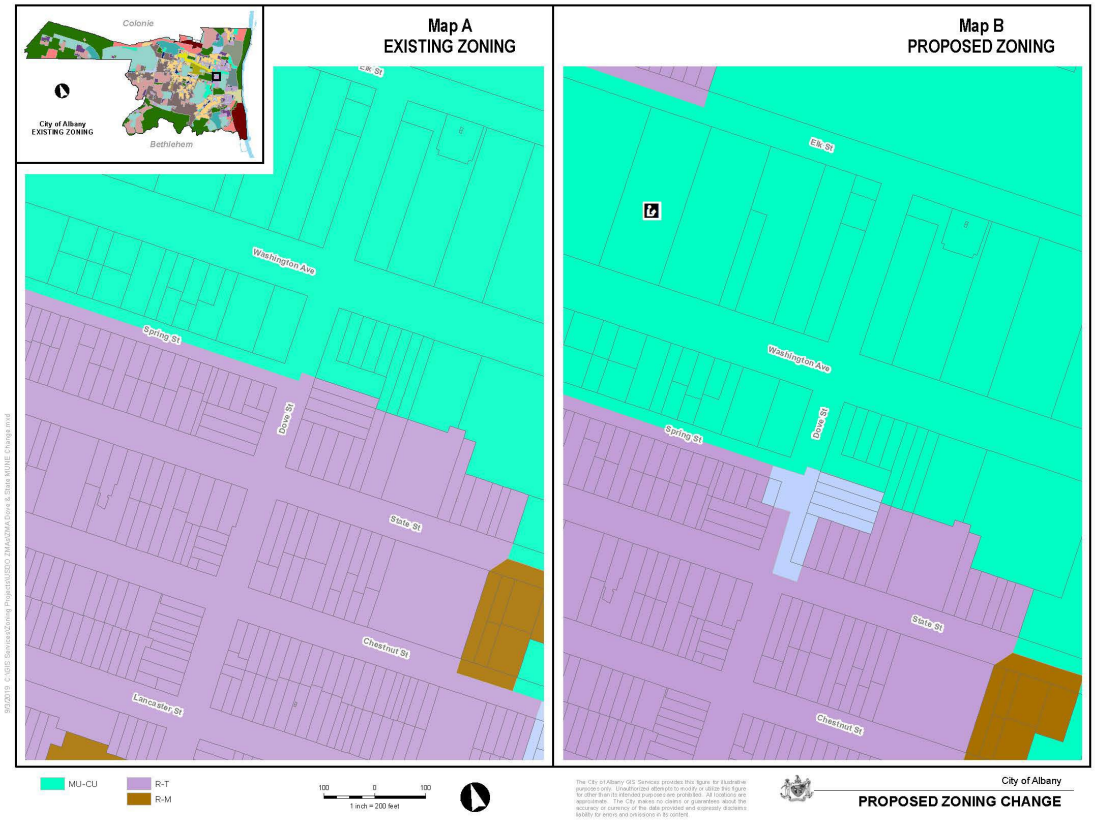
PUBLIC HEARINGS

Public Hearings

- Required for all matters before a ZBA
- Examples for planning boards include:
  - Subdivision
  - Special use permit
  - Preparation of preliminary comprehensive plan
  - Site plan (if required locally)

An official proceeding of a governmental body or officer during which the public is accorded the right to be heard

When to Hold a Hearing



- When required by state statute, local law, or ordinance
- When considering a change to zoning or regulations
- Prior to determination of significance for SEQR (optional)
- When application or issue may be controversial
- When the board is looking for information about a parcel and feedback on a proposal

Hearing Notice Requirements

- All noticing requirements for a public meeting under Open Meetings Law
- Legal notice in official newspaper
  - Generally, 5 days prior to hearing date
  - Adoption of and amendments to zoning regulations or comprehensive plans require 10 days advance notice

CONTENT OF NOTICE:

- Date, time & place
- Nature of proposed action
- Location of subject property, if applicable

Hearing Notice Requirements

- Must mail notice to:
  - Applicant
  - Regional state park commission, if 500’ from state park or parkway (ZBAs only)
  - Other agencies, if applicable:
    - GML § 239-m & GML §239-nn
- **No state statutes require direct mailing of notices to adjourning neighbors**



March 7 at 7:30 pm. The March meeting was previously scheduled for March 14, 2012.
Nelli W. Mooney
Planning Board
Secretary
February 9, 2012
Feb22c5

NOTICE OF PUBLIC HEARING
Notice is hereby given that the Town of Broome Planning Board will hold a public hearing at their regular meeting on February 27, 2012, at the Town Hall on Route 145 north of Livingstonville at 7pm on the following proposal:
A 6-parcel subdivision by the Gross Brothers of their property on Zach Hill Road. At this meeting, all interested persons shall be heard.
By Order of
George Chichester
Planning Board
Chairperson
Feb22c5

LEGAL NOTICE
The refunding bond resolution, a summary of which is published herewith, has been adopted on the 13th day of February, 2012, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were

objects or purposes to be financed pursuant to this Resolution (the "Purpose") is the acquisition of school buses. Section 4. It is hereby determined and declared that (a) the maximum cost of the Purpose, as estimated by the Board of Education, is $120,000, (b) no money has heretofore been authorized to be applied to the payment of the cost of the Purpose, and (c) the School District plans to finance the cost of the Purpose entirely from funds received by the issuance of the Bonds and bond anticipation notes hereinafter referred to. Section 5. It is hereby determined that the Purpose is one of the class of objects or purposes described in Subdivision 29 of Paragraph A of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the Purpose is five (5) years. Section 6. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the sale of the Bonds, including renewals of such notes, is hereby dele-

Roof APN 1102.2R project all in accordance with the plans and specifications for the following category of work: ROOFING Sealed Bid Proposals will be received until 2:00 p.m. prevailing time on Wednesday, February 29, 2012 at the Schoharie Central School District Office, P.O. Box 430, 136 Academy Drive, Schoharie, NY 12157, (518) 295-6600, at which time and place the bids will be publicly opened and read aloud. Any bid may be withdrawn without prejudice prior to the official bid opening time or any publicized postponement thereof. Any bid received after the time and date stated above shall be returned to the bidder, unopened. The bid documents and contract documents may be examined at the office of MOSAIC ASSOCIATES, 73 Troy Road, East Greenbush, New York 12061, telephone (518) 479-4000. Bid documents will be available after February 15, 2012 and may be obtained at the Architect's office upon payment of $100 deposit for each complete set, made payable to the

Hearing Notice Requirements

- Municipalities may adopt additional noticing requirements:
  - Signs on application property (best practice)
  - Mailings to neighbors
  - Municipal ListServ
- Municipal Home Rule Law § 20 allows local governments to vary notice requirements for hearings for local law adoption by that municipality



Hearing Procedures



- Applicant's role at hearing
- Procedure for public comment
  - Order of speakers
  - Optional sign-up
  - Time allotted per speaker
- Addressing questions from the public
- Consequences for disruptive audience members
- Recording sessions

Outline "Rules of Procedure" to maintain order

Hearing Tips

- Suggest speakers identify themselves (cannot require)
- Clarify to whom speaker is referring
- Beware of rustling paper or chatter near sensitive microphones
- Require visual references to be described or “read” into the record
- Let the public know what’s next



Closing the Hearing

- Hearing usually over when all who wish to speak are heard
  - Consider leaving hearing open if it is very late and additional people wish to speak
- After hearing closed, board may keep record open to accept written comments



Adjournment and Continuation

- If board adjourns to UNSPECIFIED TIME and PLACE, then notice must be given in same manner as original notice
- If PRIOR to ADJOURNING, board ANNOUNCES time and place of continuing session, then public notice need not be given again



RECORDS

Minutes are a Record

- Make available to the public
  - Regular meetings within two weeks
  - Executive sessions within one week
- If recording meeting, also take notes
- NYS Archives Records Retention Schedule
  - Official minutes permanently
  - Hearing proceedings permanently
  - Recordings four months after transcription or approval of minutes/proceedings

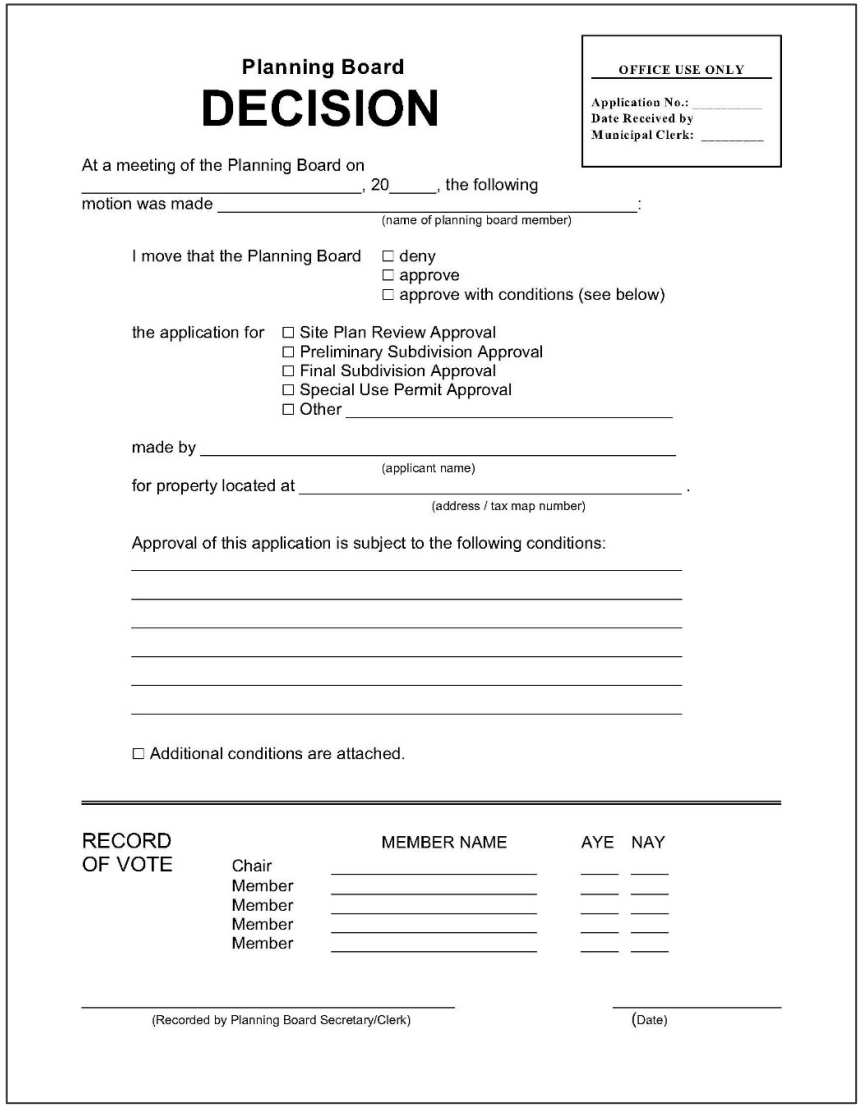
Decision Document

Decision

- Date action taken
- Motion
- Vote cast by each board member
- Any conditions imposed

Locally establish what constitutes a "decision document"

- Resolution
- Minutes indicating vote on relevant motion
- Findings statement that includes decision
- Copy of applicant's decision letter



Planning Board

DECISION

OFFICE USE ONLY

Application No.: _____

Date Received by Municipal Clerk: _____

At a meeting of the Planning Board on _____, 20_____, the following motion was made _____:
(name of planning board member)

I move that the Planning Board ☐ deny ☐ approve ☐ approve with conditions (see below)

the application for ☐ Site Plan Review Approval ☐ Preliminary Subdivision Approval ☐ Final Subdivision Approval ☐ Special Use Permit Approval ☐ Other _____

made by _____
(applicant name)

for property located at _____.
(address / tax map number)

Approval of this application is subject to the following conditions:

_____

_____

_____

_____

_____

_____

☐ Additional conditions are attached.

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	_____	____	____
Member	_____	____	____
Member	_____	____	____
Member	_____	____	____
Member	_____	____	____

_____ (Recorded by Planning Board Secretary/Clerk)

_____ (Date)

Noticing and Filing Decisions

- Attach findings to decision
- Notify applicant by mail
- Send county “report of final action,” if referred
- File with municipal clerk within 5 business days
  - Clerk should date stamp all records
  - Filing establishes start of 30-day period for appeal to NYS Supreme Court under Article 78 of NY Civil Practice Law & Rules

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Division of Local Government Services

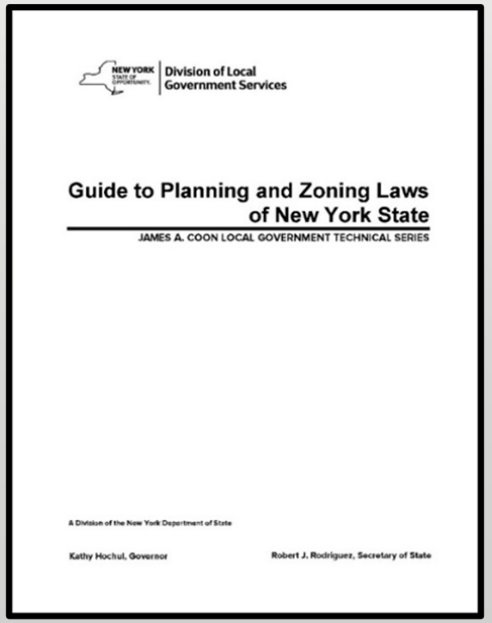
(518) 473-3355

localgov@dos.ny.gov

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

Publications:

https://dos.ny.gov/publications





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