



# SKILLS THAT MAKE GREAT BOARD MEMBERS

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## 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



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## 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

Who polices development in Colonie? Debate sparks tension at Town Board

Halt to development in Albany called; supporters, opponents to visit City Hall

Dense development in Capital City continues to draw criticism from some

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

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## Know Your Municipal Land Use Regulations

- Zoning
  - Regulates land use, density, placement of structures on sites and other site development considerations
  - Special Use Permit: use is permitted by zoning, but subject to additional review elements and possible conditions
- Subdivision
  - Division of a parcel of land into a number of lots, blocks or sites, with or without streets for the purpose of sale, transfer of ownership or development
- Site Plan Review
  - Drawing showing the proposed development of a single project or piece of property
- Other regulations: sign permits, architectural review, historic preservation, etc.

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## Caring for Our Land Use Regulations

- Symptoms of sick zoning or other land use regulations include:
  - You can't decipher the "old" zoning map
  - Many zoning interpretations or variances being sought/granted
  - Outdated terms and language
  - New technologies available
  - Infrastructure, development pressure changes
  - Confusion on definitions, wording, etc.
- Like a comp plan, our land use regulations need to be periodically reviewed to make sure they're still achieving the goals of the comp plan

tip

Keep a running list of regs that are not clear, missing etc. for use in future update

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## PRACTICAL AND PERSONAL SKILLS

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### Land Use Board Member 101: the job is hard

A good land use board member is:

- Inquisitive, quick to learn new skills and works well with others
- Not afraid to admit they don't know all aspects of land use development but know where to get assistance
- Objective and treats everyone equally
  - Applicants with "reputations" (good and bad), people they know, people with "status" in the community
- Not afraid to say no, or ask for more information even when that requires an applicant to spend more time or money
- Calm when meetings get heated and votes, even when it's hard

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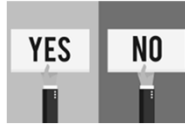
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### Interpersonal Skills with Applicants

- Don't be afraid to ask questions to ensure you understand the project – other board members may have the same questions!
- 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 as proposed, be upfront with concerns so that changes can be proposed early, or an applicant can choose to withdraw their application



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### Ethics: Conflicts of Interest

Disclose any actual, apparent, or potential conflict of interest pertaining to any application or alleged violation subject your jurisdiction

- Potential conflicts include business ties, personal connections, litigation, etc.
- "The test to be applied is not whether there is a conflict, but whether there might be."
- Avoid conflicts of interest in your official duties:
  - Don't solicit or receive gifts, either directly or indirectly
  - Alternates may serve for recused members



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## Ethics: 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



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## Technical Skills: 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



**tip** Refer to maps by name and date

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## Municipal Zoning Map

- Zoning maps divide a community into different districts or zones regulating land use, density and site development for those areas
- Zoning text may define zones not depicted on maps, such as "overlay districts" or provide a definition that can't be represented on a map due to scale – read the zoning text!



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## Tax Maps



- Provide context and useful information for getting a sense of density and lot configuration within a neighborhood
- Should not be used as a substitute for a survey
- Dimensional information may be estimated or based on scaling off other information

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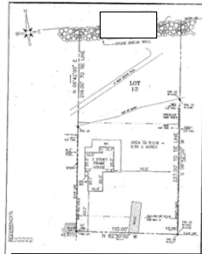
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## Survey Plats

- Developed by a licensed surveyor; must be stamped and signed to be official
- Uses deed description to identify property boundary lines
- Provides measurements and location for setbacks, existing building footprints etc.
- May include many important property features (easements/R.O.Ws), septic, well, roads, elevation, streams, waterbodies, wetlands)



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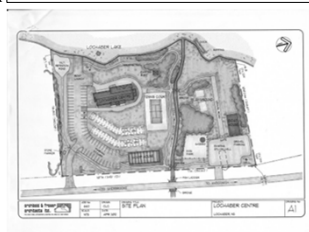
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## Proposed Plats and Plans

### Subdivision Plats



### Site Plans



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## Other Mapping Resources

- DEC SEQR EAF Mapper <https://gisservices.dec.ny.gov/eafmapper/>
- DEC Environmental Resource Mapper <https://gisservices.dec.ny.gov/gis/erm/>
- OPRHP Cultural Resource Information System <https://cris.parks.ny.gov/>
- County Real Property Services/GIS – County Websites
  - Property information; tax maps, aerials, referral data and other layers
- NYS GIS Clearinghouse <https://gis.ny.gov/>

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## PREPARING FOR MEETINGS

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## 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

Don't have rules?  
Meet with your board chair to discuss how meetings are run

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### How to Support the Review Process

- Know the first person an applicant will go to and who will be reviewing applications for completeness
  - 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

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### 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? Are you getting the information you need? Do you have a FAQ section or guide for new applicants?
- Use checklists to keep track of submissions
  - Checklists for applicants
  - Checklists for municipal staff/board members
- Incorporate timelines: Be aware of default approvals on subdivision applications

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### 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

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## 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

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## Conducting Site Visits

- Divide site visit considerations into two categories:
  - On parcel
  - Adjacent uses, views, impacts
- Bring a notebook or clipboard to write down your observations



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## 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/land use 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?

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### 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?
- Common light fixtures?



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### IN THE MEETING

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### Conducting Public Hearings

- Put the rules of the road on the back of the agenda so everyone knows what to expect
  - Time limits are good! Be sure they're equal for everyone
- Be courteous and careful of your body language
- You can ask speakers to identify themselves, but you cannot force people to provide the information



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## When Meetings Get Unruly

- If you have a controversial issue on the agenda, before the public hearing opens have the chair remind everyone of the ground rules
  - Serves as a reminder that the board will listen to public comment and not engage in back-and-forth dialogue; public comments should be kept to a certain time limit, should be relevant to the matter of the agenda and how disruptions will be handled
- Provide at least one warning before ordering removal of disruptive individual; if someone talks over the time limit, consider cutting the mic, if possible
- Remain calm and focused, be an example through your own demeanor as board members
- If people are extremely unruly, have a plan of action in place (may require assistance from police dept.)

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## 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



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## MAKING YOUR DECISIONS

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### Don't be Afraid to Seek Assistance

- Many board members are not land use experts and may need legal or land use assistance – BUT do it early in the process so the review isn't held up
- 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

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### Professional Project Review Services

Office of the  
State Comptroller  
Opinion 90-14

- Review costs may be charged to applicant, if locally authorized
- Might include assistance from planners, engineers, surveyors, attorneys, etc.
  - Some municipalities have these professionals on retainer
- Local regulations can specify pre-established fees
  - Possible municipal budget item
  - Staff training

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### Voting Considerations

- A quorum is needed to take a vote
- Votes must take place at meetings: no emails, call-ins, faxes, etc.
  - Who voted and how they voted must be recorded
- If a member is recusing, they should do so **at the beginning of the application review**, leave the room and the record should note the reason for recusal
  - Notify the chair early so they can make sure alternates are available, ensuring a quorum



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## Voting continued...

- Land use board members administer the laws and regulations as adopted by the governing board
- If a project mostly conforms with your regulations, public opposition is not a valid reason to deny a project
- **Avoid abstention!** You are appointed to make decisions on the applications before the board, no matter how difficult
  - If you need more info, ask for it
  - Abstaining from the vote because the matter is controversial is a disservice to the rest of the board



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## Findings

- Findings are based on the analysis which applies law to facts, leading to conclusions
- They may be 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 facts and findings to conditions imposed
- Insert these findings into the record and application file

FINDINGS support a decision if challenged in court

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## 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



Good record keeping is important when a decision is challenged and for enforcement and possible future applications

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### Wrapping Up: The Basics

- Know your comprehensive plan, zoning and other land use regulations
- Attend meetings and be on time!
- Read application materials and minutes before the meeting
- Do a site visit
- Seek staff assistance before the meeting; professional assistance early in review process
- Stick to the schedule and the agenda



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### Wrapping Up: In Meetings



- Focus on facts, not opinions
- Share information; confirm your understanding of the project
- Participate in discussion
- Be probing, but not argumentative
- Respect your associates
- Be conscious of body language
- Treat everyone equally; don't make it personal

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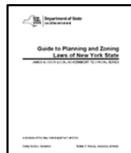
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