

ARTICLE 6

SITE PLAN REVIEW

Section 6.1 Definition and Purpose

As defined in 274-a of NYS Town Law: A Site Plan is a rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

Realizing site plan specifications can have an impact beyond the particular parcel in question, the purpose of site plan review is to ensure that any new development, substantial redevelopment, special permitted use or certain changes in use to parcels in the Town of Caneadea is (are) in harmony with the character of the town. This includes protecting against flooding and erosion, traffic congestion, noise and light pollution, and unsightly design. Another purpose is to minimize conflicts between future development and neighboring existing uses and natural features of the site. This will minimize any potential adverse effects to the health, safety, and general welfare of the residents of the Town of Caneadea.

Section 6.2 Authorization to Review Site Plans

- A.** In accordance with Town Law 274-a, the power to approve, approve with conditions, or disapprove site plans is hereby vested in the Planning Board of the Town of Caneadea. Article 6 applies unless it is inconsistent with the provisions of the Town Law, in which case, the provisions of the Town Law, as amended from time to time, shall govern.
- B.** When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan. Such conditions may include, but are not limited to, limiting the hours of operation; controlling the number and location of driveways, roads, curbs and parking areas; accessibility; requiring fencing, screening, and/or landscaping to protect adjacent properties and to enhance the visual character of the development; requiring landscaping on site; limiting the number, size, and location of signs; drainage; utilities; lighting; and conditions affecting any of the other plan elements.
- C.** No Certificate of Zoning Compliance shall be issued until all aspects of the approved site plan have been completed, including any modifications to the site plan and any conditions of approval. However, the Planning Board may authorize the Zoning Official to issue the Certificate of Zoning Compliance if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. This may be necessary, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases a performance bond is needed to ensure that the proposed development will be built in compliance with the approved site plan. The amount and form of such performance

bond shall be determined by the Town Board, after consultation with the Planning Board, Town Engineer, Town Planner, Counsel to the Town, Zoning Official, and/or other appropriate parties.

- D. Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area or use variance without the necessity of such determination by the Zoning Official. The Zoning Board of Appeals shall act on the application for a variance *prior to* final Planning Board action on the application for Site Plan review.

Section 6.3 Applicability and Exceptions

All new development, redevelopment and land use activities, any change in use, and any Special Use Permit application shall require site plan review and approval from the Town of Caneadea Planning Board prior to the issuance of a building permit and zoning permit, except the following:

- A. The sale of agricultural produce and temporary structures related to the sale of agricultural produce.
- B. Construction of new single-family or two-family dwellings, including ordinary accessory structures and related land use activities, which are built on standard sized lots and are at or below 4000 square feet per unit.
- C. Additions to existing one-family and two-family dwellings are also exempt from site plan review provided the additional square footage would not cause the dwelling to exceed 4000 square feet per unit.
- D. Ordinary repair or maintenance to existing structures or uses.
- E. Interior structural alterations within any existing building unless related to a change in use.
- F. Landscaping or grading changes, unless the landscaping and/or grading is part of a development or building project that is subject to site plan review.
- G. Home occupations, home retail and service trade.

Section 6.4 Procedures for Site Plan Review

A. Pre-application Conference

1. A pre-application conference may be held with the Planning Board prior to the preparation and submission of a formal application for a Special Use Permit. At this time the Board and the applicant shall review the application form, the materials and information needed to complete the application, and preliminary issues that may be involved with the project.

2. In order for the pre-application conference to be useful, the applicant shall provide a sketch plan(s) showing general existing site conditions and a schematic proposal of the project.
3. The Planning Board may waive any particular submission requirement(s) that it determines to be unnecessary for a complete review of a particular project.

B. Application Content

An applicant for Site Plan Review shall submit a completed application, on a form provided by the Town, to the Zoning Official, who shall forward it to the Planning Board. The application shall contain the following information and materials: The Planning Board may determine, based on the size and complexity of the plan, which of the following items, if any, need not be included.

1. An application for a Zoning Permit; and
2. A map, with north arrow and scale, identifying the subject site in relation to adjoining public roads and the neighborhood in which it is located; and
3. A scaled map (or maps) of the site, with a north arrow. The map(s) shall be at a scale approved by the Zoning Official and shall be adequate to show required site features and proposed structures. The map(s) shall show *existing* site conditions, prior to demolition of any existing structures and any grading. The Plan shall show:
 - a. The boundaries of the site; and
 - b. Any easements of record or known prescriptive easements; and
 - c. Topography with contours shown at intervals of not more than five feet; and
 - d. Vegetation type and location; and
 - e. Soil type and properties; and
 - f. One-hundred-year floodplain, high groundwater areas, known springs and seep areas, ponds, wetlands, and streams; and
 - g. All existing roads, fences, and drainage facilities; and
 - h. Location of public utility facilities and easements; and
4. Proposed Site Plan, on one or more scaled maps, with a north arrow. The map(s) shall be at a scale approved by the Planning Board and shall be adequate to show required site features and proposed structures. The site plan shall show:
 - a. Location of all proposed buildings and structures; and
 - b. Location of all proposed site improvements, such as plazas, tennis courts, pools, recreation areas, parks, open spaces and similar facilities; and
 - c. Driveways, walkways, parking areas, new and existing roads and any other circulation features, including access to existing public roads; and
 - d. Proposed location of new (or existing) utility services or relocated utility services, including easements, if necessary; and
 - e. Proposed drainage facilities; and
 - f. Location of sewage disposal and water supply systems. A description and explanation of the systems should be included, if necessary; and
5. Landscaping Plan, including planting schedule; and
6. Floor plans and elevations of proposed buildings and structures, showing all architectural features, including colors and materials; for large projects the Planning Board may

require renderings showing the proposed project in relationship to adjacent properties;
and

7. Lighting Plan, including the location and design of outdoor lighting; and
8. Signage Plan, including the location, design, color, materials and size of all signs; and
9. Storm Water Management Plan (a Storm Water Pollution Prevention Plan prepared in accordance with NYSDEC regulations shall be adequate to meet this requirement); and
10. Grading plan showing existing and finished contours and grades, the location of any slopes of five (5) percent or greater, and proposed erosion control measures; and
11. If the proposed project is in or near a floodplain, the applicant shall submit an application showing any encroachment in the flood plain.
12. If necessary, designations of proposed ownership of areas shown on the Site Plan as being part of a condominium unit, common area or dedicated open space; and
13. A written statement, which shall contain the following information:
 - a. The tax map number of the parcel or parcels on which the project will occur, and the name of the owner of record for those parcels; and
 - b. A general description of the project, including the nature of the use and anticipated hours of operation; and
 - c. If a multi-family dwelling is proposed, a description of the proposed ownership: condominium, rental, time-share ownership, etc., and a description of the proposed property management structure; and
 - d. A list of any encumbrances, covenants, easements on the property. These should also be shown on the site plan; and
 - e. A development schedule indicating phased development, if any, and the estimated completion date for the project; and
14. If the applicant is not the owner of the property, the applicant shall submit a statement from the property owner that gives his/her permission for the application to be submitted; and
15. Environmental Assessment Form, with Part I completed and signed by the applicant; and
16. All required fees; and
17. Any other information that the Planning Board determines is necessary for meaningful review of the application, based on the nature of the project or the site, to include but not limited to: provision for fencing, screening, containment of odors, dust, smoke, noise and vibrations, and soil erosion prevention.

C. Public Hearing

1. The Planning Board shall hold a public hearing on the application within sixty-two (62) days from the date that a complete application is received. The Planning Board shall determine when the application is complete.
2. Notice of the public hearing shall be published in the following ways:
 - a. by publication in a newspaper of general circulation in the Town at least five (5) days prior to the date of the public hearing; and
 - b. by applicant mailing via certified mail, return receipt, a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of the perimeter of the site that is the subject of the application. However, if a townhouse or condominium project is one of the properties within the 100 foot radius from the applicant's

- property or if a Homeowners Association owns one of the properties within said 100 foot radius, notice shall be given to the Management Committee, Board of Directors, the condominium owner's association, or the Homeowners Association rather than to each individual unit owner. Notice may also be mailed to such other persons as the chairperson of the Planning Board may direct. Such notices shall be mailed to the address shown on the current assessment roll, at least ten (10) days prior to the public hearing; and
- c. by mailing a notice to the applicant at least ten (10) days prior to the hearing; and
 - d. for all applications that meet the requirements contained in Section 239m of NYS General Municipal law, the Planning Board shall mail notice of such hearing to the Allegany County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application; and
 - e. for all applications where the site is within 500 feet of any municipal boundary, a notice of public hearing shall be sent to the clerk of that municipality at least ten (10) days prior to the public hearing.

D. Decision

- 1. The Planning Board shall make a decision on the application within sixty-two (62) days from the close of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- 2. The concurring vote of a majority of all members of the Planning Board shall be necessary to grant site plan approval.

E. Filing of Decision and Notice to Applicant

- 1. The Planning Board shall file a copy of its decision on the application with the Town Clerk within five (5) business days after such decision is rendered.
- 2. A copy of the decision shall be mailed to the applicant within five (5) business days after such decision is rendered.

F. Expiration of Site Plan Approval

- 1. Approval of the site plan shall expire one (1) year from the date of approval if a building permit has not been issued or if use of the property in accordance with the Site Plan approval has not commenced, in cases where a building permit is not needed. The Planning Board may grant an extension of the site plan approval for up to one additional year when the applicant is able to demonstrate a legitimate need to delay the start of construction or operation, such as inclement weather, delays in financing, or similar factors. The applicant shall apply to the Planning Board for such extension, prior to the expiration of the Site Plan Approval. The extension of the site plan approval is deemed to be a *de minimus* action that does not require a public hearing. However, the Planning Board may choose to hold a public hearing prior to any such extension.
- 2. Approval of the site plan shall expire if the use of the property in accordance with the site plan approval shall cease continuously for one (1) year.

G. Abandoned Application

If there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material is requested by the Planning Board, whichever is later, the Board shall deem the application to be abandoned and shall deny the application.

"No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Code or by the requirements of the State Environmental Quality Review Act.

H. Revocation of Site Plan Approval

The Planning Board shall have the authority to revoke the site plan approval, after a public hearing, if the current owner or operator fails to comply with any condition(s) of approval of the application. Prior to a public hearing on this issue, the Zoning Official shall pursue abatement of the failure to comply as a violation in accordance with Article 7 of this Code.

I. Amendments to Approved Site Plan

Any change to an approved Site Plan shall require an amendment to that Site Plan approval by the Planning Board. An application for an amendment to the approved Site Plan shall include a revised Site Plan and a letter discussing the proposed change and the necessity for that change.

Upon receipt of an application for an amendment to an approved Site Plan, the Planning Board shall determine if the amendment is a minor or major amendment. A minor amendment shall include the following and similar insignificant changes:

1. minor changes to the Landscaping Plan, such as a change in the types of plantings, provided the amount of buffering or landscaping is essentially the same as the approved plan; and/or
2. reconfiguration of the parking lot, where the number of parking spaces does not fall below the minimum requirement; and/or
3. change in location of garbage dumpsters, light poles, or similar site features, where the overall level of service will not change; and/or
4. change in location of access driveway, provided that such driveway meets all the criteria in Article 4 of this Law; and/or
5. minor realignments of water lines, sanitary sewer lines, and storm drainage facilities that may be necessary during construction, as approved by the Town Highway Superintendent.

Any other change to the site plan, including new buildings or the expansion of existing buildings, shall be considered a major site plan amendment.

If the Planning Board determines that the requested change is minor (a *de minimus* action), the Board may approve the amendment administratively, without a public hearing or referral to the Allegany County Planning Board.

If the Planning Board determines that the requested change is major, the Board shall follow the review and approval process contained in this Article, as if it were a new application.

Section 6.5 Standards for Review

When making a decision to approve, approve with conditions, or disapprove a Site Plan, the Planning Board shall consider the following standards. In approving a Site Plan, the Planning Board shall find that the project meets these standards, or can be modified or conditioned to bring it into compliance with the standards. In this latter case, conditions of approval or modifications to the proposal shall be part of the approved Site Plan.

- A.** The proposed project is consistent with the Town's Comprehensive Plan, and any amendments thereto; and
- B.** The proposed project is consistent with the general purposes and intent of this Code, and complies with all applicable regulations of this Code; and
- C.** The proposed project will not result in the destruction, loss or damage of a natural, scenic or historic feature of significance; and
- D.** The proposed project is compatible with the natural features of the site; and
- E.** The character and design of the proposed site plan presents a coherent, unified and consistent appearance, and adequately provides for the following features:
 - 1. There is adequate on-site parking provided, in terms of number of spaces, accessibility, and their arrangement on the lot.
 - 2. The internal circulation system is adequate for the activities and uses proposed.
 - 3. Adequacy of the means of access and egress to and from the site, for both pedestrians and vehicles.
 - 4. Loading and unloading zones are adequate for the anticipated delivery and service vehicles, and their location does not affect other vehicular or pedestrian traffic.
 - 5. Loading zones, trash receptacles and mechanical equipment areas are adequately screened from adjacent properties and from within the site.
 - 6. Size, design, number, placement and arrangement of signs is the minimum necessary to convey the required information and the signage plan is consistent with the overall architectural character of the development.
 - 7. The location and design of the proposed site lighting is adequate for safety, contains minimal impact to adjacent properties in terms of light spillage, and is consistent with the architectural design of the development; and
- F.** Buildings and structures within the proposed project are compatible with one another in design, mass, scale, style, materials, colors and architectural detailing; provide a sense of cohesion; and conform to the requirements of Article 12 of this Law; and
- G.** The proposed project is compatible in design, mass, scale, style, materials, colors and architectural detailing with the prevailing architectural standards in the general neighborhood,

and the orientation of the proposed buildings is compatible with the orientation of buildings on adjacent lots; and

- H.** The landscaping proposed for the site, including the type and arrangement of trees, shrubs, other plant material, ground covering material, walls and fences, pavement and any other landscaping features, is cohesive in nature; is adequate and appropriate to the site; and conforms to the requirements of Section 11.7 of this Law; and
- I.** If required, any buffering between the project site and adjacent properties is attractive and adequate and conforms to the requirements of this Law; and
- J.** The proposed water supply and sanitary waste disposal systems meet the standards of the Town, NYS Department of Environmental Conservation and the Allegany County Health Department; and
- K.** The grading plan, if required, has been determined to be adequate by the Town Highway Superintendent; and
- L.** The Storm Water and Drainage Plan has been determined to be adequate by the Town Highway Superintendent; and
- M.** If adjacent or neighboring properties contain existing solar facilities, the proposed project will not adversely affect the solar access of those facilities; and
- N.** Any proposed open space is usable for the purpose for which it is proposed. Adequate legal provision has been made such that these areas will remain as permanent open space. Adequate provisions have been made for the maintenance of the open space areas.
- O.** Any substantial residential projects allow for reservation of parkland on the sight, or provide adequate designated funds in lieu thereof.
- P.** The plan shall have a desirable transition with the streetscape and provide for adequate planting, safe pedestrian movement, and parking access, and emergency vehicle access.
- Q.** Parking shall, wherever possible, be located to the rear or sides of buildings so as not to interfere with the landscape treatment.
- R.** Newly installed utility services, and service revisions necessitated by exterior alterations, shall be underground.

Section 6.6 Planning Board Findings

Prior to approving a Site Plan application, the Planning Board shall make all of the following findings:

- A.** The proposed project is consistent with the Town of Caneadea Comprehensive Plan.

- B.** The proposed project will not unreasonably interfere with the orderly land use and development in the Town of Caneadea.
- C.** The benefits to the applicant and the public of the proposed project will exceed any burdens to the Town and residents therein.
- D.** The proposed project will not be detrimental to the public health, safety or welfare of the community.
- E.** The proposed project complies with all applicable provisions of this Law or will comply with those provisions based on conditions that will be attached to the approval, unless variances have been properly granted by the Town of Caneadea Zoning Board of Appeals.