

Code of the Town of Ossining, New York (Westchester County)

Chapter 200: ZONING

ARTICLE XI. Planning Board

§ 200-49. Conditional uses.

A. On application and after public notice and hearing, the Planning Board may authorize the issuance by the Building Inspector of permits for any of the conditional uses for which this chapter requires such permits in the district in which such use is proposed to be located. In approving any such use, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

[Amended 9-16-1969 by Ord. No. 73]

- (1) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.
- (2) That the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- (3) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
 - (a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential district or conflict with the normal traffic of the neighborhood; and
 - (b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

B. Each application for a conditional use shall be accompanied by a proposed site plan showing the size and location of the lot and the location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the lot. Such site plan shall be submitted, shall be processed and shall contain all the information required for the approval of site plans under § 200-50 of this chapter.

[Amended 4-22-1975 by Ord. No. 83; 8-9-1994 by L.L. No. 5-1994]

C. Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, § 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code.

[Amended 9-16-1969 by Ord. No. 73; 3-26-1985 by L.L. No. 2-1985 Editor's Note: Original Subsection 9.1.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II.]

D. Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall affect only the lot or portion thereof for which such permit shall have been granted.

[Amended 9-16-1969 by Ord. No. 73]

E. The Planning Board may require that conditional use permits be periodically renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the Planning Board to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit.

[Amended 9-16-1969 by Ord. No. 73]

F. No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until:

[Added 4-11-1995 by L.L. No. 2-1995]

- (1) Conditional use approval by the Planning Board for said improvements or change of use is granted by resolution.
- (2) Site plan approval from the Planning Board has been secured.
- (3) The site plans, revised if so required by said approvals, have been signed by the Planning Board Chairman.

G. Expiration of conditional use approval.

[Added 4-11-1995 by L.L. No. 2-1995]

- (1) Approval of a conditional use shall expire if:
 - (a) The applicant has not secured site plan approval within one year from the date of the adoption of conditional use approval;
 - (b) Site plan approval expires;
 - (c) All required improvements are not maintained and if all conditions and standards of the conditional use approval are not complied with throughout the duration of the approved use; or
 - (d) The approved use ceases to exist for any reason for more than one year.
- (2) The Planning Board may extend conditional use approval if, in its opinion, such extension is warranted by the particular circumstances involved.

§ 200-50. Approval of site plans.

[Amended 9-16-1969 by Ord. No. 73; 4-22-1975 by Ord. No. 83]

In any case wherein this chapter provides for or requires the submission of site development plans showing the proposed development and/or use of any land to the Planning Board for review, the final action on the approval of such site plans is hereby delegated to the Planning Board, and any building or use permit for the development and/or use of such land and any certificate of occupancy or compliance shall only be issued subject to the continued compliance with such approved site plans and any restrictions imposed in relation thereto by the Planning Board. In all such cases, no building permit shall be issued by the Building Inspector except upon the authorization of and in conformity with the site as finally approved by the Planning Board.

A. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular:

(1) Traffic access. That all proposed traffic access and ways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.

(2) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.

(3) Landscaping and screening. That all playground, parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter measured three feet above the base of the trunk shall be retained to the maximum extent possible.

B. Effect of site plan approval.

(1) No building permit shall be issued for any structure covered by this section until an approved site plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.

(2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site plan or approved amendment of any such plan.

(3) Prior to final action, the Planning Board shall refer any matter involving any of the areas specified in Article XII, §§ 200-52E(1)(a) through (e), to the Westchester County Planning Board in accordance with Section 277.61 of Chapter 277 of the Westchester County Administrative Code.

[Amended 3-26-1985 by L.L. No. 2-1985 Editor's Note: Original Subsection 9.2.2.4, which immediately followed this subsection and which provided for review by the Hudson River Valley Commission, was repealed during codification; see Ch. 1, General Provisions, Art. II.]

(4) A proposed change to the use or the intensity of use of any existing use which is subject to site plan approval under this chapter shall also be subject to site plan approval.

[Added 3-10-1981 by Ord. No. 106]

C. Procedure.

[Amended 9-16-1969 by Ord. No. 73]

- (1) Presubmission conference. Prior to the submission of a site plan, the applicant shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to determine which of the site plan elements listed in Subsection D shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Building Inspector in triplicate at least 15 days prior to the Planning Board meeting at which approval is requested. If not submitted within this six-month period, another presubmission conference shall be required.
- (3) The Building Inspector shall certify on each site plan or amendment whether or not the plan meets the requirements of all Zoning Ordinance provisions other than those of this section regarding site plan approval.
- (4) The Building Inspector shall retain one copy and transmit two copies of the certified site plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.
- (5) The Planning Board shall not render a decision upon any site plan application without first holding a public hearing. Such public hearing shall be held within 62 days from the date an application is received by said Board. The Planning Board shall mail notices of said hearing to the applicant at least 10 days before the hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five days prior to the hearing. The Planning Board shall render a decision on the site plan application within 62 days after said hearing, and the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. Planning Board disapproval shall include written findings upon any site plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants as qualified to advise whether a proposed use will conform to the requirements of this chapter. The assistance of a consultant, if sought, must be obtained within 10 days of the receipt of the application. Such consultant shall report within 30 days after receipt of such request. A copy of the report of such consultants shall be furnished to the applicant.

[Amended 8-9-1994 by L.L. No. 5-1994]

- (6) Amendments to a site plan shall be acted upon in the same manner as the approval of the original plan.
- (7) The Planning Board may require that site plan approval be periodically reviewed.
- (8) No proposed improvements or change of use may be implemented and no building permit or certificate of occupancy may be issued until:

[Added 4-11-1995 by L.L. No. 2-1995]

- (a) Site plan approval from the Planning Board for said improvements or change of use is granted by resolution.

(b) All conditions required by said resolution to be fulfilled prior to the signing of the site plans by the Planning Board Chairman have been fulfilled.

(c) The site plans, revised if so required by said resolution, have been signed by the Planning Board Chairman.

(9) Expiration of site plan approval.

[Added 4-11-1995 by L.L. No. 2-1995]

(a) Site plan approval shall expire if:

[1] All of the conditions required to be fulfilled prior to the signing of the site plans by the Planning Board Chairman are not fulfilled within one year from the date of the adoption of site plan approval and if said plans are not submitted for endorsement by the Chairman within said one-year period.

[2] All required improvements are not maintained and if all conditions and standards of the site plan approval are not complied with throughout the duration of the approved use.

[3] A bona fide application for a building permit or a certificate of occupancy is not made within one year from the date of the endorsement of the site plans by the Planning Board Chairman.

[4] All required improvements are not substantially completed within two years from the date of the endorsement of the site plans by the Planning Board Chairman. The staging of a development over a longer period may be specifically provided for by the Planning Board in its resolution of site plan approval.

(b) The Planning Board may extend site plan approval if, in its opinion, such extension is warranted by the particular circumstances involved.

D. Site plan elements. The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference.

(1) Legal data.

(a) The section, plate, block and lot number of the property taken from the latest tax records.

(b) The name and address of the owner of record.

(c) The name and address of the person, firm or organization preparing the map.

(d) The date, North point and written and graphic scale.

(e) A sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.

(f) The locations, names and existing widths of adjacent streets and curblines.

(g) The locations and owners of all adjoining lands as shown on the latest tax records.

(h) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.

(i) A complete outline of existing deed restrictions or covenants applying to the property.

(j) Existing zoning.

(2) Natural features.

(a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.

(b) Approximate boundaries of any areas subject to flooding or stormwater overflows.

(c) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk and other significant existing features.

(3) Existing structures and utilities.

(a) Location of uses and outlines of structures drawn to scale on and within 100 feet of the lot line.

(b) Paved areas, sidewalks and vehicular access between the site and public streets.

(c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.

(d) Other existing development, including fences, landscaping and screening.

(4) Proposed development.

(a) The location of proposed buildings or structural improvements.

(b) The location and design of all uses not requiring structures, such as off-street parking and loading areas.

(c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.

(d) The location and plans for any outdoor signs.

(e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of water- and sewer lines.

(f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.

(g) The location of all proposed water lines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.

(h) An outline of any proposed easements, deed restrictions or covenants.

(i) Any contemplated public improvements on or adjoining the property.

(j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.

(5) Any other information deemed by the Planning Board necessary to determine conformity of the site plan with the intent and regulations of this chapter.

§ 200-51. Fees.

[Added 9-15-1976 by Ord. No. 92; amended 10-25-1978; 2-13-1980; 10-25-1983 by Ord. No. 115; 10-23-1984 by Ord. No. 118; 3-26-1985 by L.L. No. 2-1985; 8-13-1985 by Ord. No. 120; 9-22-1987 by L.L. No. 6-1987; 11-27-1990 by L.L. No. 4-1990; 4-25-1995 by L.L. No. 3-1995; 9-11-2007 by L.L. No. 8-2007]

A. Applications for action or recommendation by review and approval authorities pursuant to Article 16 of the Town Law and the relevant provisions of this chapter shall be accompanied by payment of the following fees and the funding of escrow accounts as per Subsection B below, as applicable. Final approvals shall be conditioned upon payment of the following recreation and inspection fees, as applicable, and performance and maintenance bonds, as required. The amount of the fees shall be set by resolution of the Town Board in the Fee Schedule. Editor's Note: See Ch. A203, Fees.

(1) Subdivision.

(a) Application review fee.

(b) Recreation fee.

(c) Inspection fee.

(2) Site plan or conditional use permit.

(3) Request for rezoning or zoning amendment.

(4) Environmental quality review.

(5) Performance and maintenance bonds.

B. Escrow accounts.

(1) In addition to the payment of the fees required in Subsection A of this section, the approval authority shall adjust the fees sufficiently to reimburse the Town for the cost of professional consultation fees and other expenditures attributable to the proposal. The approval authority shall establish an escrow account, as follows, funded by the applicant in connection with authorizing the performance of professional consulting services regarding the proposal.

(2) At the time of the submission of any application and prior to its review by the approval authority, said approval authority shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the Town for the cost of professional consultation services. The applicant shall provide funds to the Town for deposit into such account in the amount set by resolution of the Town Board in the Fee Schedule. Editor's Note: See Ch. A203, Fees. It is the intent of these regulations to ensure that the applicant always has on deposit with the Town adequate funds to ensure that the Town will never subsidize application review or inspection costs at any time.

(3) The applicant shall be provided with copies of the consultant's invoice or Town's costs for such services as they are submitted to the Town. When an escrow account is drawn down to 50% of its original amount resulting from payment of said invoice, the applicant shall be required to deposit additional funds into such account to bring its balance up to 100% of the original amount. If such account is not fully replenished within 21 days of notice to the applicant for additional funds, the approval agency shall suspend its review of the application. In the case of post approval inspections and reviews involving construction, the Town may issue a stop-work order for such nonpayment.

(4) No approval shall be granted and no subdivision plat or site plan shall be endorsed until all professional consultation fees charged in connection with the review of the project have been reimbursed to the Town. No building permit or certificate of occupancy shall be issued unless all professional consultation fees charged in connection with the review and inspection of the project have been reimbursed to the Town. No refunds of any funds remaining on deposit in escrow shall be issued until after all pertinent professional review and inspection charges have been reimbursed to the Town.

C. In minor subdivisions of improved building lots involving no further construction on and no intensification of use of the lots created thereby, the Planning Board may equitably adjust the recreation fee and the inspection fees to be imposed on the applicant in connection therewith.

D. A fee shall be charged for each preapplication meeting with the Planning Board Chairman and professional consultant(s) to discuss concepts, etc., in the amount set by resolution of the Town Board in the Fee Schedule. Editor's Note: See Ch. A203, Fees.