

Local Law # 5 of 2021

SITE PLAN REVIEW

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GENERAL REFERENCES

ARTICLE I
General Provisions

1. Enactment and authorization.

The Town Board of the Town of Mohawk, Montgomery County, New York, does hereby ordain and enact the Town of Mohawk Site Plan Review Local Law pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law and § 274-a of the Town Law.

2. Title.

This chapter shall be known as the "Town of Mohawk Site Plan Review Local Law."

3. Purpose.

A. Through site plan review, it is the intent of this chapter to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

B. It is further the intent of this chapter to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town through review and approval of site plans.

4. Planning Board authority to review site plans.

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

5. Interpretation and application.

A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.

B. Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

ARTICLE II

Definitions

6. Definitions.

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

ACCESSORY STRUCTURE- A structure, the use of which is customarily incidental and subordinate to the principal building, and is located on the same lot or premises as the principal building.

APPLICANT - The person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

BUFFER AREA - An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity on adjacent properties.

BUILDING - A structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers. Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground.

EASEMENT - The right to use the land of another, obtained through the purchase of the use rights from a landowner.

ENVIRONMENTAL ASSESSMENT FORM (EAF) - A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental features and the project's magnitude, either a short or long SEQR environmental assessment form will be completed.

ENVIRONMENTAL IMPACT STATEMENT (EIS) - A document prepared pursuant to SEQR, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

GRADING - The leveling of land for site development purposes, including construction of roads, building construction, drainage areas, and parking.

LOT - A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

OWNER/OPERATOR - Person, persons, corporation, etc., that owns and/or operates the business or facility.

PERSON - Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

PHASED DEVELOPMENT - Development that occurs in defined stages.

ROAD - A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

ROAD, RIGHT-OF-WAY - An area defined by a boundary which provides for road construction, maintenance, improvement and/or widening.

SCREENING - Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site.

SETBACK - A minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted.

SIGN - A name, identification, description, display or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or public office notices nor any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, county, municipality, school, or religious group.

SITE PLAN - 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.

SKETCH PLAN - Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

SKETCH PLAN CONFERENCE - Initial optional Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements will be prior to submitting the site plan.

SPECIAL USE PERMIT- an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.

START OF CONSTRUCTION - The initiation of any physical alteration of the property,

excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling; installation of roads, excavation for footings, foundations or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) - Review of an application according to the provisions of the State Environmental Quality Review Act, 6 NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, § 8-0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decision making processes of state, county and local government agencies.

ARTICLE III Applicability

7. Uses requiring site plan approval.

A. Existing uses and structures. This chapter does not apply to uses and structures that are lawfully in existence as of the date this chapter becomes effective. Any use that would otherwise be subject to this chapter, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this chapter before such use is resumed. Any use or structure shall be considered to be in existence, provided such use or structure has started construction prior to the effective date of this chapter and is fully constructed and completed within one year after the effective date of these regulations.

B. Uncertain applicability. Any person uncertain of the applicability of this chapter to a given land use activity may apply in writing to the Town of Mohawk Planning Board for a written jurisdictional determination.

ARTICLE IV Procedures

8. Compliance with standards and procedures.

Any person, before undertaking any new land use activity at any location within the Town for which requires site plan approval, shall submit a site plan together with the appropriate supporting data to the Planning Board for review and approval in accordance with the standards and procedures set forth in this Local Law.

9. Sketch plan.

The applicant is strongly encouraged to meet with the Planning Board prior to submission of a site plan application. This informal meeting is suggested to prevent unnecessary expenses to the applicant. At the conference, the applicant shall provide either a verbal or written statement and rough sketch describing what is proposed together with a USGS topographic map showing the location of the building site and its relationship to the surrounding area. The Board will review the sketch plan and list all necessary information needed by the applicant to complete the site plan approval.

10. Application for site plan approval.

Each application for site plan approval shall be submitted to the Town Clerk 10 days prior to the Planning Board's regular scheduled meeting. The Town Clerk shall immediately notify the Planning Board that such application has been filed and the date thereof. Application shall include the application, signed by the current owner or representative thereof; seven copies of the site plan with the information outlined in Article IV, 11; an environmental assessment form, as required by the State Environmental Quality Review Act, and the appropriate fee.

11. Site plan submission requirements.

A. All site plans shall be prepared by a registered architect, landscape architect, licensed land surveyor or professional engineer duly licensed by the State of New York, unless this requirement is waived by the Planning Board because of the simplicity of the proposal. Site plans shall be prepared at a scale of one inch equals 20 feet or less, on standard 24 inch by 36 inch sheets, with continuation on 8½ inch by 11 inch sheets as necessary for written information.

B. Items required for submission include:

(1) Title of site plan, boundaries, location maps showing site's location in the Town, date, north arrow and scale of the plan.

(2) Name and address of the owner of record, developer, and seal of the engineer, architect, surveyor or landscape architect.

(3) Name and address of all owners of record of abutting parcels and those within 500 feet of the property line.

(4) All existing lot lines, easements and rights-of-way. Include areas in acres or square feet, abutting land uses, and the location and size of structures within 500 feet of the site.

(5) The location of existing and proposed personal wireless telecommunication facilities structures (plan and elevation of facility) and improvements, including roads, buildings, tower, guy wire anchors, parking and landscaping and will include grading plans for new facilities and roads.

(6) The applicant shall submit documentation on the intent and capacity of use as well as justification for the height of any tower or antenna and justification for any clearing required.

C. An environmental assessment form (either short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State

Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

D. Agriculture data statement. The applicant must submit an agricultural data statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

12. Less intensive review.

The Planning Board may elect to conduct a less intensive review. The Planning Board must state its grounds for waiving certain submission requirements in writing and file such statement along with the site plan application and supporting documents.

13. Acceptance of site plan application.

The Planning Board shall, within 30 days of a site plan application being filed, begin the review process. If the application is inadequate or lacking information as outlined in Article IV then the Planning Board may, in writing, request further information from the applicant. The time period in which the Planning Board must make a recommendation may be extended by written consent of the applicant and the Planning Board.

14. Segmentation.

The site plan and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is a reason to believe the application applies only to a segment of the total planned development. In such situations, the Board shall return such application to the applicant together with a letter stating the basis for its determination.

15. Referrals to other agencies and boards.

A. Coordinated review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to the Soil and Water Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.

B. Required referral:

(1) Whenever any site plan involves real property in an area described in § 239-m of the General Municipal Law, said site plan shall be referred to the Montgomery County Planning Board for their review and approval pursuant to § 239-m of the General Municipal Law.

(2) The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modifications or disapproval. In the event that the County Planning Board recommends

modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its action with the County Planning Board within seven days after final action.

16. Compliance with SEQR.

After the site plan has been accepted as complete, the applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval. The Planning Board shall classify the application according to the New York State Environmental Quality Review Act, and review the environmental assessment form and decide:

A. If additional information is needed to render a determination of significance. The Planning Board will specify exactly what the applicant needs to supply; or

B. If the information is provided and the project is identified as having small to moderate impacts with little significance, then a negative declaration can be given; or

C. If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full EIS will be provided.

17. Public hearing on site plan.

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within 62 days of receipt of the accepted site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least 10 days before the public 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 date of the hearing. If the application requires a public hearing and § 239-m review by the Montgomery County Planning Board, then the Board shall mail notice of the public hearing to the County Planning Board 10 days prior to said public hearing.

18. Planning Board action on site plan.

A. The time limitations of this section shall not apply until the conclusion of the SEQR process as discussed in IV (16).

B. The Board shall make a decision on the application within 62 days after the public hearing. If no public hearing is held, a decision on the application shall be made within 62 days of the receipt of a complete site plan application, including receipt of any special use permit required. The time within which the Board must render a decision may be extended by mutual consent of the applicant and the Board. The Board shall render its decision to either approve, approve with modifications, or disapprove the site plan. The decision of the Board shall be filed in the office of the Town Clerk immediately and a copy mailed to the applicant.

(1) Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall also be sent to the Building

Inspector.

(2) Approval with modifications. The Planning Board may approve the site plan and require that specific modifications be made. A copy of the written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail. Upon approval, and after payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with modifications with the Town Clerk. A copy of the written statement of approval with modifications shall also be sent to the Building Inspector.

(3) Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with a letter stating the Planning Board's reasons for disapproval. A copy of the written statement of disapproval shall also be sent to the Building Inspector.

19. Extension of time to render decision.

The time period which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time specified or agreed upon between the applicant and the Planning Board shall constitute Planning Board approval of the site plan as submitted or last amended.

ARTICLE V
Administration and Enforcement

20. Site plan compliance.

No permit or certificate of occupancy shall be issued by the Code Enforcement Officer, except upon the authorization by and in conformity with an approved site plan where required.

22. Code Enforcement Officer.

A. The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this chapter.

B. The Town Board may appoint a Code Enforcement Officer to carry out the duties assigned by this chapter. If appointed, the Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

23. Amendments.

The Town Board may, on its own, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this chapter pursuant to all applicable requirements of law.

24. Penalties for offenses.

A. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Law shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than 1% of total project cost, or by imprisonment not exceeding 20 days, or both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter.

B. In addition to the penalties provided above, the Code Enforcement Officer, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

25. Waivers.

The Planning Board may waive, subject to appropriate conditions, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

26. Effective date.

This law shall take effect after its adoption upon filing with New York State.