

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, New York 14424

2024 PLANNING BOARD RULES OF PROCEDURE ADOPTED JANUARY, 2024

Extract from the minutes of the Canandaigua Planning Board meeting of January 9, 2024:

■ A motion was made by MR. LACOURSE seconded by MS. VANLAKEN that the Canandaigua Planning Board 2024 Rules of Procedure be adopted as amended, as follows:

TOWN OF CANANDAIGUA PLANNING BOARD RULES OF PROCEDURE

- 1. Conflicts with other laws and regulations.** These rules are intended only to provide supplemental guidance regarding Planning Board procedures and are not intended to supersede any other adopted law or regulation.
- 2. Amendments.** The Board may, by resolution, amend these rules at the annual reorganizational meeting or when deemed prudent.
- 3. Duties and Responsibilities.**
 - A. The duties and responsibilities of the Planning Board are set forth in the various sections of the Canandaigua Town Code the New York State Town Law, and the State Environmental Quality Review (SEQR) regulations and the provisions contained in Sections 239-1, -m and -n of the New York State General Municipal Law.
 - B. Chair. The Chair shall:**
 - i. have the responsibilities and authority as specified herein and in Town Code and New York State Town Law,
 - ii. conduct Planning Board meetings,
 - iii. be responsible for signing all official documents on behalf of the Board including, but not limited to: correspondence, SEQR documents, approved subdivisions and site plans, and decision sheets, and
 - iv. be responsible for attending Planning Review Committee (PRC) meetings as needed to review staff processing of applications made to the Planning Board and ensure said applications are suitable for placement on a Planning Board meeting agenda.

v. Perform such other duties as directed by majority vote of the Planning Board.

C. **Vice-Chair.** The Vice-Chair will assume the responsibilities and authority of the Planning Board Chair, as specified in this section, when acting as the Planning Board Chair.

4. **Ethics.** Rules of ethical conduct for Planning Board members are governed by Chapter 21 of the Town Code.

5. **Meeting Schedule**

A. Board meetings shall be held the second and fourth Tuesday of each month except for December and as otherwise noted on the official calendar. Only one meeting in December on the second Tuesday.

B. All meetings shall convene at 6:00 p.m.

C. The foregoing meeting dates and times may be amended, including cancellation of a meeting, by the Board as needed.

D. The Chair may call an additional or emergency meeting when necessary with the concurrence of a majority of the Board.

E. Public notice of all meetings shall be made in accordance with NYS Law and Town Code Requirements.

6. **Meeting Order of Business**

A. Each regularly scheduled planning board meeting shall be conducted generally by the Chair in the order listed below:

Recite the USA Pledge of Allegiance

Meeting protocol

Introduction of the board and staff

Overview of emergency evacuation procedures

Privilege of the Floor (*see* Item 6C, below)

Attest to the publishing of legal notices

Application Review—Within each numbered category below, applications shall be heard in order by the application number

1. Public Hearings for Special Use Permits, Subdivisions, and others as required
 - a. Continued
 - b. New
 - c. Closed
2. Preliminary Site Plans
 - a. Continued
 - b. New
3. Final Site Plans
 - a. Continued
 - b. New
4. Sketch Plans
5. Request for Extensions

Other Board Business:

- Approval of minutes
- Surety/Letter of Credit Releases
- Referrals and Recommendations
- Comprehensive Plan/Special Projects Updates
- Other business as required
- Update on available training sessions

Reports:

- Town Engineer
- Planning Board Attorney
- Town Staff
- Board Member Reports

Upcoming Applications

Adjournment

- B. **Amendments.** The above order of business may be amended at the Chair's discretion and with the consent of the Board, provided that no application is treated unfairly or with prejudice, and that public hearings for which notice has been published are not unreasonably delayed. No requests by applicants or the general public for the exercise of this discretion shall be made during the conduct of the meeting.
- C. **Privilege of the Floor.** Any person, upon request, may address the planning board during a meeting on a matter of public concern that does not otherwise appear on

the agenda for that meeting. The time allotted for addressing the board shall be limited to five (5) minutes unless the Chair grants approval for additional time.

- D. Agendas. Development Office staff shall prepare agendas in advance of each meeting. Each application shall be identified by property location, type of application, property owner, and name of applicant.
- E. The Planning Board may adjourn a meeting at any time it deems reasonable and any applications appearing on the agenda for that meeting shall be rescheduled to the next available Planning Board meeting as determined by the Chair.

7. Application and Review Process

- A. Applications for planning board review are due by noon on the first business day of the month.
- B. Complete applications will be reviewed at the next scheduled Planning Review Committee (PRC) meeting.
- C. PRC shall review applications and make any referrals it deems appropriate. The PRC shall determine if an application is suitable for placement on a Planning Board agenda and identify outstanding issues or missing information/documentation. Staff shall notify applicant of the PRC's decision, including the date by which any additional information/documentation needs to be submitted.
- D. Draft agendas, application and other pertinent materials for review of an application will be made available to planning board members ~~on~~ **by the** Tuesday prior to the meeting, unless otherwise notified. Final agendas and proposed action items shall be made available to board members on the Thursday before the meeting. Ontario County Planning Board minutes shall be distributed to each board member by Town staff in a timely fashion.
- E. Copies of meeting agendas and legal notices shall be available in the Town Development Office ten (10) days prior to each planning board meeting. In addition, copies of the meeting agenda shall be available in the meeting room by 5:45 p.m. on the day of the scheduled meeting.
- F. Determination of Completeness. The Zoning Officer shall determine completeness of applications for purposes of placing applications on the PRC agenda and Planning Board agenda. If an application is deemed incomplete the Zoning Officer shall promptly notify the applicant of all missing information/documentation and shall set forth a specific date by which information/documentation shall be submitted. The Planning Board Chair shall have authority to place an application on a PRC or Planning Board agenda regardless of the Zoning Officer's determination of completeness.

- G. Applications that are adjourned or continued by the Planning Board due to additional information being required and/or requested not be scheduled for the next Planning Board meeting.

8. Public Hearings/Presentations

- A. A legal notice in the Town official newspaper shall provide public notification of all public hearings requiring a public notice which shall be held in accordance with New York State Town Law.
- B. Before public comment:
 - 1. A presentation by the applicant and/or their representative(s), describing the subject proposal, shall be made to the board and all others in attendance. shall be made in-person unless such in-person presentation is waived by the Chair.
 - 2. The Chair shall identify all correspondence pertaining to the application previously received from the general public and from the referenced referral agencies, and shall enter such correspondence into the record of the public hearing. For example, applications may be referred to (but not all inclusive):
- C. The Chair shall open and close all public hearings, unless a member objects to closing a hearing at which point whether the hearing shall remain open shall be put to a vote of the full board.
- D. Written materials submitted by the public during the public hearing shall be given to the planning board Chair and entered into the record of that public hearing. Copies thereof shall be provided to all board members, Town staff, and the applicant within three (3) business days of the date of the public hearing.
- E. All persons speaking in person or via video conference will first provide their names and addresses for the record. Public input will be limited to three (3) minutes for each speaker. Additional time may be granted by the Chair. All comments are to be directed to the board. The Chair may then redirect any questions or requests to another person. In no event, shall the public have the right to demand an answer to a specific question from a member of the board, staff, applicant or the applicant's agents. The Chair may restrict redundant comments.
- F. No action shall be taken upon an application that is subject to a public hearing until such time as the public hearing has been closed by the Chair.
- G. Special Use Permits for Short Term Rentals. Per town code §220.9-1(B) The Town Board authorizes the Planning Board to grant a special use permit for the operation of a short-term rental without the need for a public hearing.

1. The Planning Board authorizes the Zoning Officer(s) to issue a special use permit for the operation of a short-term rental when an applicant has demonstrated compliance with the requirements for application per town code §220.9-1(C)

9. Motions

- A. When a motion has been made and seconded and is under debate or discussion, no motion shall be received except to:
 1. Amend the motion
 2. Put the motion to a vote
 3. Adjourn or table it to a specified day, or
 4. Adjourn the meeting
 5. Withdraw the motion.

10. Voting & Records

- A. The ayes and nays for all Board votes shall be recorded in the minutes.
- B. A planning board member may abstain from voting. When a member exercises this right, it is not necessary that the member state reason(s) for abstaining.
- C. In accordance with the specific requirements of NYS General Municipal Law and Town Code Chapter 21, planning board members shall recuse themselves from participating in the consideration of any application pending before the planning board if a conflict of interest exists.
- D. In compliance with NYS General Construction Law, all actions taken by the Board must be by majority vote of the entire membership (3 of 5). In compliance with NYS General Municipal Law a recommendation of denial or modification from the Ontario County Planning Board may only be overridden with majority vote of the entire membership vote plus one (4 of 5). In the event the planning board does override the County recommendation, then the planning board shall set forth in the public record its reasons for doing so.
- E. In accordance with NYS Town Law, adopted Planning Board resolutions shall be signed by the secretary and filed with the Town Clerk. Said resolutions shall be accompanied by a decision sheet that is signed by the planning board Chair and which describes the application, the decision made and other relevant information as needed.

- F. Draft meeting minutes will be distributed to the Planning Board and staff within ten (10) days following the meeting. Minutes that have not been approved shall be clearly marked DRAFT and shall contain a statement that the unapproved minutes are subject to change.

11. Training Requirements. Training requirements for planning board members are established by Town Board resolution in compliance with NYS Town Law. Planning board members shall forward verification of any training received to Development Office staff.

12. Organizational Meeting.

- A. The Planning Board shall convene in the second week of January each year to:
 - 1. Review or revise the Rules of Procedure
 - 2. Review training requirements
 - 3. Appoint the vice-chair
 - 4. Appoint the secretary of the board
 - 5. Adopt the annual meeting schedule
 - 6. Hire other experts and clerks, as needed and, as provided by existing statutes
 - 7. Discuss any business pertinent to the effective operation of the planning board
 - 8. If not already appointed by the Town Board, appoint a planning board Chair to serve until such time as the Town Board appoints a chair.

13. Applications Requiring Variances. The Planning Board will not grant any approvals on applications requiring variances until such variances have been granted by the Town of Canandaigua's Zoning Board of Appeals or unless the Planning Board Chair determines otherwise. Applications requiring variances will be scheduled for the second Planning Board meeting after the required variances have been granted.

15. Filing and Distribution

- A. All adopted rules of procedure and amendments thereto shall be filed with the Office of the Canandaigua Town Clerk and made available for public inspection upon request.
- B. A copy of the Rules of Procedure shall be posted on the Town's website and a copy will be on file in the Town Development Office.

C. Copies of these rules shall be provided to each planning board member.

- 16. Effective Date.** All adopted rules of procedure shall become effective upon filing in the Office of the Canandaigua Town Clerk and shall remain in effect until further amended by the Planning Board.
- 17. Guidelines for the Review of Landscaping, Pruning and/or Removal of Trees and Vegetation, or Change in Grade Within Deed Restricted Areas.** A site development application and corresponding fee as established by the Town Board shall be submitted to the Development Office. The Planning board shall conduct its review according to the Guidelines for the Review of Landscaping, Pruning and/or Removal of Trees and Vegetation, or Change in Grade Within Deed Restricted Areas that are attached hereto and made a part herein as EXHIBIT A.
- 18. Remote Attendance Policy.** Remote participation in planning board meetings shall be conducted according to the Canandaigua Planning Board’s Remote Attendance Policy, which is attached hereto and made a part herein as EXHIBIT B, or as otherwise permitted or required by law.

Robert Lacourse	Aye
Scott Neal	Aye
Charles Oyler	Aye
Mark Tolbert	Aye
Amanda VanLaeken	Aye

Motion carried.

Attachments:

- Exhibit A
Guides for the Review of Landscaping, Pruning and/or Removal of Trees and Vegetation or Change in Grade Within Deed Restricted Area
- Exhibit B
Remote Attendance Policy

EXHIBIT A

Guidelines for the Review of Landscaping, Pruning and/or Removal of Trees and Vegetation, or Change in Grade Within Deed Restricted Areas

1. These guidelines shall apply to Applicants seeking Site Plan Approval from the Planning Board for landscaping, pruning and/or removal of trees and vegetation or change in grade in the deed restricted areas contained in Lots 74–82 and Lots 148–152 of the Fox Ridge Subdivision Phase IV.
2. Applicants for Site Plan Approval seeking removal and/or pruning of trees and vegetation or change in grade in these Deed Restricted Areas shall comply with the requirements for Site Plan Approval contained in Town Code Chapter 220, Article VII. However, in an effort to streamline the application process for these Applicants, the Planning Board may grant waivers, upon request, of certain requirements contained in Town Code pursuant to Town Code § 220-65(L). To assist the Planning Board in granting such waiver requests, the Planning Board hereby sets forth the following guidelines for Removal and/or Pruning of Trees and Vegetation or Change in Grade Site Plan Applications. These guidelines are intended to assist Applicants in providing the Planning Board with the necessary information it needs to grant such applications.
3. Applicants shall make application to the Town of Canandaigua Planning Board through the Development Office of the Town of Canandaigua for Site Plan Approval. The application shall include the following items:
 - A. Copy of the Property Owner’s deed;
 - B. An inspection and inventory checklist conducted by a professional (certified Arborist, Forrester, Landscape Architect, or Education Equivalent) and shall include all woody tree stems within the deed restricted area. An inventory summary table identifying all woody stems measured by species, and a stem density count for the woodlot is to be provided;
 - C. A written narrative describing the manner in which the existing trees are to be altered and/or removed from the property, including the caliper of each of the trees to be removed and the method to be used for altering and/or removing the trees;
 - D. A site plan depicting the location of all trees to be altered and/or removed from the woodlot parcel is to be provided. The location of any new landscaped areas (if required by the Planning Board) is to be depicted on the plans;
 - E. A written narrative describing the type of landscaping (if required by the Planning Board) to be provided, including the caliper of each of the trees to be planted, the method to be used for planting replacement trees, the details for staking the trees, and details to protect against erosion.
 - F. A written Request for Waiver of the requirements of Town Code Chapter 220, Article VII, pursuant to Town Code § 220-65(L).
4. All proposed landscaping is to be of native species that has adapted to the site conditions (soil properties, slope, light quality, etc.) that will enhance its ability to survive.

5. If required by the Planning Board, all removed trees or vegetation must be replaced within a six- (6-) month period following Site Plan Approval.
6. The Planning Board reserves the right to place additional restrictions and/or conditions of approval based on the individual application being considered and/or any information that is identified through the application process.
7. The Planning Board reserves the right to waive any of the above-listed guidelines upon request from Applicant and pursuant to the requirements of Town Code § 220-65(L).

EXHIBIT B

Remote Attendance Policy for the Town of Canandaigua Planning Board

I. Purpose

The purpose of this Policy is to allow members of the planning board of the Town of Canandaigua to attend and participate in meetings of the planning board by videoconferencing as identified in New York State Open Meetings Law, and to ensure that the public has an adequate opportunity to participate in the planning board process.

II. Definitions

“Member” means a member of the Town of Canandaigua Planning Board.

“Meeting” means any meeting of the Town of Canandaigua Planning Board that is subject to the Policy.

“Remote Means” means videoconferencing which shall include audio and video.

“Secretary” means the secretary of the Town of Canandaigua Planning Board.

III. Remote Attendance Permitted

Subject to the limitations set forth in Section IV below, planning board members may attend any meeting by remote means if the member is prevented from physically attending the meeting.

IV. Restrictions on Remote Attendance

No member may attend any portion of a meeting by remote means unless:

- (i) The remote means being utilized is fully functional, and shall allow:
 - a. All planning board members to hear all communications taking place during the meeting;
 - b. Any persons in attendance at the meeting to hear all communications taking place during the meeting;
 - c. All planning board members to see any documents displayed during the meeting;

- d. Any persons in attendance at the meeting to see any documents displayed during the meeting.

V. Rules of Procedure When Remote Attendance Utilized

- (a) When a planning board member attends any portion of a meeting by remote means as permitted by this policy:
 - (i) The minutes of the meeting shall include the following:
 - a. A statement that the member attended the meeting by remote means;
 - b. The location from which the member attended the meeting;
 - c. A statement that the remote means were fully functional;
 - d. The times, if any, during which the member attending the meeting by remote means left the meeting.
 - (ii) Every planning board member shall be identified during all board discussions so that all meeting participants are aware of which planning board member is speaking at all times.
- (b) A planning board member attending a meeting by remote means shall:
 - (i) Be permitted to fully participate in the meeting as if he or she were physically present, subject to the planning board's guidelines and procedures for conducting the meeting—the planning board's Rules of Procedures;
 - (ii) Advise the secretary and board if he or she leaves or returns from the Meeting; and
 - (iii) Advise the secretary and board of all other persons in the same room as such Member attending by remote means and whether and to what extent such other persons are able to hear the discussions at the meeting.

VI. Applicability

If any provision of this policy conflicts with any provision of the Town Code of the Town of Canandaigua, or New York State Law, the stricter provision shall prevail.

VII. Effective Date

- (a) This policy was approved by the Town of Canandaigua Planning Board on January 12, 2016.
- (b) This policy shall become effective immediately upon approval of the Town of Canandaigua Town Board, and shall remain effective unless otherwise rescinded.

VIII. Availability of Policy

- (a) This policy shall be filed in the Office of the Town Clerk of the Town of Canandaigua.
- (b) This policy shall be filed in the Development Office of the Town of Canandaigua.