

Town of Canandaigua

5440 Routes 5 & 20 West
Canandaigua, New York 14424

2023 PLANNING BOARD RULES OF PROCEDURE

ADOPTED JANUARY 10, 2023
AMENDED SEPTEMBER 12, 2023

Extract from the minutes of the Canandaigua Planning Board meeting of January 10, 2023:

■ A motion was made by MS. VANLAEKEN, seconded by MR. NEAL, that the Canandaigua Planning Board 2023 Rules of Procedure be adopted as amended, as follows:

TOWN OF CANANDAIGUA 2023 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 organizational 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-l, -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

Other Board Business:

- Approval of minutes
- Surety/Letter of Credit Releases
- Referrals from the Town Board
- Recommendations to Zoning Board of Appeals
- Recommendations to Code Enforcement Officer
- Comprehensive Plan—general discussion
- 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.

7. **Distribution of Agendas, Notices and Other Related Documentation**

- A. Draft agendas, application information, Planning Review Committee minutes and other pertinent materials for review of an application will be made available to planning board members on 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.
- B. Ontario County Planning Board minutes shall be distributed to each board member by Town staff in a timely fashion. Draft Town planning board minutes will be distributed to the planning board and staff from the secretary to the board within ten (10) calendar days of the subject meeting. All unapproved minutes shall be marked clearly as “DRAFT” and shall contain a statement that the DRAFT minutes are subject to change
- C. 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.
- D. Applications for planning board review are due by noon on the first business day of the month. Applications will be reviewed at the next scheduled Planning Review Committee (PRC) meeting for placement on a planning board agenda. Unless otherwise directed by the planning board Chair, if the zoning officer or duly appointed representative determines if the application is deficient, therefore, not ready for placement on a planning board agenda, the Development Office shall send a correspondence to the applicant outlining the specific deficiencies. If the PRC determines the application to be suitable for placement on a planning board agenda, the applicant will be so notified, and the application will be scheduled for planning board review at future meeting to be determined by the PRC.
- E. SEQRA. All formal actions taken in compliance with the implementing regulations of the State Environmental Quality Review Act (SEQRA) including classification of the action and determinations of significance shall be by formal resolution and recorded in the minutes.

- F. 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.

8. Public Hearings

- A. A legal notice in the Town official newspaper shall provide public notification of all public hearings which shall be held in accordance with New York State Town Law.
- B. Before public comment:
 - 1. A formal presentation by the applicant and/or their representative(s), describing the subject proposal, shall be made to the board and all others in attendance, and
 - 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):

Bristol Fire Department
Canandaigua Agricultural Advisory Committee
Canandaigua City Department of Public Work
Canandaigua City Fire Department
Canandaigua City School District
Canandaigua Code Enforcement Officer
Canandaigua Environmental Conservation Board
Canandaigua–Farmington Water and Sewer District
Canandaigua Highway and Water Superintendent
Canandaigua Lake County Sewer District
Canandaigua Lake Watershed Council
Canandaigua Lake Watershed Inspector
Canandaigua Town Economic Development Committee
Canandaigua Town Historian
Cheshire Fire Department
East Bloomfield Fire Department
Ontario County 911 Center
Ontario County Department of Public Works
Ontario County Soil and Water Conservation District
MRB Group D.P.C.
Neighboring Municipality
New York State Department of Environmental Conservation

New York State Department of Health
New York State Department of Transportation
New York State Electric & Gas
Ontario County Agricultural Review Board
Ontario County Planning Board
Rochester Gas & Electric Corporation
United States Army Corps of Engineers

- C. 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.
- D. 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.
- E. 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.
- F. 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**

- 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. A member of the planning board shall be eligible to vote upon the planning board meeting minutes only when he or she was present for the subject meeting in person, via the Remote Attendance Policy, or as otherwise specified by law.

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.
- 14. Comprehensive Plan Report.** A report on the current Town of Canandaigua Comprehensive Plan shall be written and forwarded to the Canandaigua Town Board by October of each year and shall include a summary of the planning board’s activities and goals related to the Town of Canandaigua Comprehensive Plan.
- 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.

I, John M. Robortella, secretary of the board, do hereby certify to the above resolution and to its being acted upon by the board at a meeting held on January 10, 2023.

John M. Robortella, Secretary of the Town of Canandaigua Planning Board L.S.

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.