

up on date as of March 2006
3/14/01

RECEIVED
FEB 27 2005
C. S. S.
PLANNING

**Town of Butternuts Site Plan Review Law
Article I**

Section 1 Enactment: The Town Board of the Town of Butternuts, Otsego County, New York, does hereby ordain and enact the Town of Butternuts Site Plan Review Law pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law and Section 274 of the Town Law.

1.2 Short Title: This local law shall be known as "Town of Butternuts Site Plan Review Law". The Town of Butternuts is hereinafter referred to as the "Town".

1.3 Intent and Purpose: Through site plan review, it is the intent of this local law to promote the health, safety and welfare of the Town.

It is further the intent of this local law to ensure the optimum overall conservation, protection, preservation, development and use to the natural and man-related resources of the Town, by regulating land use activity within the Town through review and approval of site plans. It is not the intent of this local law to prohibit per se any land use activity but to allow all land use activities which will meet the standards set forth in this local law. NO building permits will be issued without site plan approval.

ANY PERSON UNCERTAIN OF THE APPLICABILITY OF THIS LOCAL LAW TO A GIVEN LAND USE ACTIVITY MAY APPLY IN WRITING TO THE PLANNING BOARD FOR A WRITTEN JURISDICTIONAL DETERMINATION. (SEE ALSO 3.2 SKETCH PLAN)

1.4 Authorization of Planning Board to review site plans: The Planning Board is hereby authorized to review and approve 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 local law.

**Article II
Applicability and Definitions**

Section 2.0 Applicability of review requirements: All new land use activities within the Town shall require site plan review and approval before being undertaken, except the following:

1. Ordinary repair or maintenance or interior alterations to existing structures or uses. Exterior additions or alterations.
2. Agricultural or gardening uses and timber harvesting.

Article II continued

3. Construction or installation of one single family dwelling on a parcel of 5 or more acres not located within the 100-year flood plain.

4. The sale of agricultural produce and temporary structures related to the sale of said produce.

5. Garage, lawn or porch sales not exceeding three days or three times per calendar year.

2.2 Effect on existing uses: This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law, that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed within one year.

2.3 Relationship of this law to other laws and regulations: This local law in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this local law is in conflict with any other such law or regulation, the more restrictive shall apply.

2.4 Definitions:

1. "Land use activity" means any construction or other activity which changes the use or appearance of land or a structure or intensity of use of land or structure. "Land use activity" shall explicitly include, but not be limited to, the following: New structures, expansions to existing structures, new roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

2. "Commercial Applicant" means an applicant for a project subject to site plan review, other than construction of or modification to an owner occupied "single family dwelling"

Article III
Site Plan Review

Section 3.0 Procedures—Generally: Prior to undertaking any new land use activity except for uses specifically excepted in section 2.0 of this local law, a site plan approval by the Planning Board is required.

Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this local law.

3.1 Sketch plan: A sketch plan conference shall be held between the Planning Board and the Applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan; and for the Planning Board to review the basic site design

Article III continued

concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

1. A statement and rough sketch showing the locations and dimensions of principle and accessory structures, parking areas, access signs (with description), existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations.
2. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, street, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel. Map shall be of a scale of not less than 200' per inch.
3. A topographic or contour map of adequate scale and detail to show site topography.

3.2 Application requirements: An application for site plan approval shall be made in writing to the Planning Board and shall be accompanied by information contained on the following checklist. When the sketch plan conference is held, the accompanying information shall be drawn from the following checklist as determined necessary by the Planning Board at said sketch plan conference.

Site Plan Checklist:

1. Title of drawing, including name & address of applicant and person responsible for preparation of such drawing.
2. North arrow, scale and date.
3. Boundaries of property plotted to scale.
4. Existing buildings;
5. Grading and drainage plan, showing existing and proposed contours, rock outcroppings, soil characteristics, and water courses;
6. Location, design, type of construction, proposed use and exterior dimensions of all buildings;
7. Location, design and type of construction of all parking and truck loading areas, showing access and egress;
8. Provision for pedestrian access;
9. Location of outdoor storage, if any;
10. Location design and construction materials of all existing or proposed site improvements including drains culverts, retaining walls and fences;
11. Description of the method of securing water and location, design and construction materials of such facilities;
12. Description of the method of sewage disposal and location, design and construction materials of such facilities;
13. Location of fire and other emergency zones, including fire fighting water access;
14. Location, design and construction materials of all energy distribution

**Article III
Site Plan Checklist, continued**

facilities, including electrical, gas, and solar energy;

15. Location, size and design and type of construction of all proposed signs;

16. Location and proposed development of all buffer areas, including existing vegetative cover;

17. Location and design of outdoor lighting;

18. Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

19. Record of application for and status of all necessary permits from other governmental bodies;

20. Identification of any permits from other governmental bodies required for the project's execution;

21. Other elements integral to the proposed development as may be considered necessary in the particular case by the Planning Board.

3.4 Required fee: An application for site plan review shall be accompanied by a fee of \$10.00.

3.5 Reimbursable costs: Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan by a commercial applicant shall be charged to the applicant.

**Article IV
Review Standards**

Section 4.1 General standards and considerations: The Planning Board's review of site plan shall include, but not be limited to, each of the items covered in section 3.3.

**Article V
Public Hearing and Planning Board Decision**

Section 5.1 Public hearing: The Planning Board may conduct a public hearing on site plan if considered desirable by a majority of its members. Such hearing shall be held within forty-five (45) days of the receipt of application for site plan review and shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town at least five (5) days before the public hearing.

5.2 Planning Board decision: Within forty-five (45) days of receipt of the application for site plan approval or if a public hearing is held within forty-five (45) days of public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications or disapprove the site plan. The time period in which the Planning Board must

Article V
Public Hearing and Planning Board Decision, continued

render its decision can be extended by mutual consent of the applicant and the Planning Board.

A. **Approval:** Upon approval of the site plan, and payment of fees and costs due the Town by the applicant, the Planning Board shall endorse a copy of the site plan to file with the Town Clerk and mail by certified, receipted, mail a copy to the applicant.

B. **Approval with modifications:** The Planning Board may conditionally approve the site plan. A copy of the written statement containing such modifications shall be sent certified receipted mail to the applicant. The applicant must demonstrate to the Planning Board that such conditions are met, all fees and costs to the Town are paid before the Planning Board shall endorse and file a copy of the site plan. An endorsed copy of the site plan shall also be sent to the applicant by certified receipted mail.

C. **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 receipted mail along with the Planning Board's reasons for disapproval.

Article VI

Appeal of Planning Board Decision

Section 6.1 Appeal procedure: Any person aggrieved by any decision of the Planning Board or any officer, department, board or bureau of the town, may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the town clerk.

Article VII

Miscellaneous Provisions

Section 7.1 Enforcement officer: The Town Board may appoint an enforcement officer to carry out the duties assigned by this local law or any additional regulations adopted pursuant to section 7.2 hereof. If appointed, the 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.

7.2 Further regulation by Planning Board: The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this local law. Such conditions would need to be endorsed by the Town Board.

7.3 Amendments:

A. The Town Board may on its own motion, on petition, or on recommendation of the Planning Board, after a public hearing, amend this local law pursuant to all applicable requirements of law.

Article VII
Amendments, continued

- B. All proposed amendments originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within thirty (30) days of receipt of this referral. Failure of the Planning Board to report in time shall constitute a recommendation for approval.

7.4 Enforcement: Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law, or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than two hundred fifty dollars (\$250) or by penalty of two hundred fifty dollars (\$250) to be recovered by the town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal shall continue.

7.5 Severability: The provisions of this local law are severable. If any article, section, paragraph or provision of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision (s) adjudged invalid, and the rest of this local law shall remain valid and effective.

Evelyn K. Butler
Town clerk