



VILLAGE OF MIDDLEVILLE ZONING LAW

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VILLAGE OF MIDDLEVILLE
ZONING LAW

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ZONING LAW

VILLAGE OF MIDDLEVILLE, HERKIMER COUNTY, NEW YORK

A LOCAL LAW REGULATING AND RESTRICTING THE LOCATION, CONSTRUCTION, ALTERATION AND USE OF BUILDINGS AND LAND IN THE VILLAGE OF MIDDLEVILLE, NEW YORK, PURSUANT TO THE ZONING PROVISIONS OF ARTICLE 7 OF THE VILLAGE LAW OF THE STATE OF NEW YORK.

THE MIDDLEVILLE VILLAGE BOARD, by virtue of the power and authority vested in it by law, does hereby ordain and enact as follows:

ARTICLE I - TITLE, PURPOSE

Section 1 - Title

This local law shall be known and may be cited as "The Village of Middleville Zoning Law".

Section 2 - Purpose

This Zoning Law is a land use control to guide development in the Village of Middleville.

The provisions of this Zoning Law shall be held to be the minimum requirements, adopted for the promotion of the public health, morals, safety or the general welfare.

Whenever the requirements of this Zoning Law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standard, shall govern.

ARTICLE II - DEFINITIONS

Section 3 - General

For the purposes of this Zoning Law, certain terms or words used herein shall be interpreted as follows:

- Words used in the present tense shall include the future. The singular number includes the plural, and the plural, the singular.
- The word "person" includes a firm, association, partnership, trust, company, or corporation as well as an individual.
- The word "lot" includes the word "plot" or "parcel".
- The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged, or designed to be used or occupied".
- The word "shall" is mandatory and not optional, and shall include will.

Section 4 - Definitions

ACCESSORY BUILDING: A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

ACCESSORY STRUCTURE: Shall mean any addition to a building or mobile home which includes: awnings, carports, porches, storage cabinets, and similar appurtenant structures.

ACCESSORY USE: A use customarily incidental to the principal use or building and located on the same lot as such use or building.

ALLEY: A service way which affords a secondary public means of vehicular access to abutting property.

ALTER/ALTERATIONS: A change or rearrangement of the structural parts, when referring to a building; also an enlargement, either in height or in sides or ends or the moving from one position to another.

AREA, BUILDING: The total area taken on the horizontal plane at the main grade level of the principal building and all the accessory buildings, excluding uncovered porches, terraces and steps.

AUTO REPAIR SHOP: A structure used for the repair and servicing of motor vehicles. For the purpose of this local law, an auto repair shop encompasses minor and major auto repairs. All repair work must take place within an enclosed structure and all vehicles must be stored within an enclosed structure.

AUTO WRECKING: The dismantling or disassembling of used motor vehicles or the storage, sale, salvaging or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts. As used herein, the term "vehicle" shall mean passenger-type automobile, truck, tractor-truck, trailer, bus motorcycle, or other vehicles, however propelled, as well as tractors, bulldozers, machinery, and similar equipment.

AREA OF LOT OR SITE: The total area within the property lines of a site.

BASEMENT: A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade of the adjoining ground, and which is not designed or used primarily for year-round living accommodations.

BOARDING HOUSE: Any dwelling in which more than three persons either individually or as families are housed or lodged, except those engaged in farm work, for hire with or without meals.

BUILDING: Any roofed structure intended for the shelter, enclosure or housing of persons, property or animals.

BUILDING, FRONT LINE OF: The line of the wall of the building nearest to the front line of the lot, including covered sunporches or parlors whether or not enclosed, but not including steps.

BUILDING LINE: A line established by law or by agreement, usually parallel with a property line, beyond which a structure may not extend.

BUILDING, FLOOR AREA: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

BUILDING, HEIGHT OF: The vertical distance measured from the mean natural grade at the foundation to the highest peak of the roof.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is located.

BUSINESS OR COMMERCIAL: Pertaining or relating to the sale, exchange, or trade of goods or services where such action is the principal use to which the building or land is devoted. Also means an accessory use of a building or land to an extent which is unproportionate to the principal use.

CAMPING GROUND: A tract of land that is planned and improved for the placement of two or more travel trailers, or two or more tents which are used as temporary living quarters, and for an occupancy of not more than 90 consecutive days, and which will comply with all existing State, County, and local regulations covering the same.

COMMON AREA: Shall mean any area or space designed for joint use of tenants occupying said developments.

COMMUNITY SEWER & WATER SYSTEM: Refers to a private sewer and water system which serves an entire development, but has its service facilities remote from individual housing units.

COVERAGE: That area of the lot covered by the principal and accessory structures.

DRIVE-IN RESTAURANT: A place where food or beverages are served or sold for consumption on the premise primarily in an automobile.

DRIVEWAY: Refers to a minor private way used by vehicles and pedestrians for access. For the purposes of this local law, a driveway is not considered a structure for purposes of determining side yard setbacks.

DWELLING, ONE-FAMILY: A detached building, other than a mobile home or other temporary structure, designed for exclusive year around occupancy by one family one.

DWELLING, TWO-FAMILY: A detached building, other than a mobile home or other temporary structure, designed for exclusive year around occupancy by two families living independently of each other.

DWELLING, MULTIPLE-FAMILY: A building or group of buildings, designed for year round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

ENFORCEMENT OFFICER: Refers to the individual appointed by the Village Board of Trustees, who is charged by law with the duty to enforce the provisions of this law.

FAMILY: One or more persons occupying the premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

FARM: Any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels; and the raising of hogs, the principal source of food of which is garbage transported from another location.

FIRE PREVENTION AUTHORITY: Refers to the fire prevention organization within whose jurisdiction said development is situated.

FOUNDATION: Means a permanent structure which is located under the main body of a residence or building which supports and prevents said structure from shifting, settling or heaving.

FRONTAGE: The lot line of a plot or parcel of land which abuts a public street or road.

GRADE, ESTABLISHED: The elevation of the centerline of the roads or streets as established by the proper authorities.

GRADE, FINISHED: The completed surface of lawns, walks, or roads or the average elevation of the surface of the ground where it abuts the structure.

HEALTH AUTHORITY: Refers to the State Department of Health, or its authorized representative, or the local health official serving the municipality.

HOME OCCUPATION: (See Section 21)

HOSPITAL: A building or structure for the diagnosis and medical or surgical care of human sickness or injuries.

HOSPITAL, ANIMAL: An establishment for temporary occupancy by sick or injured animals for the purpose of medical treatment.

INDUSTRIAL: The use of buildings or land or both for the purpose of manufacturing or producing, in whole or in part, any type of product or goods, or subsequent sale, trade, exchange, or shipment.

LAUNDERETTE: A business premises equipped with individual clothes washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

LIGHT MANUFACTURING: Any use wherein the primary occupation is the processing, fabrication, converting, altering, assembling or other handling of materials or goods; the operation of which is conducted solely within a building or group of buildings; and which use creates no objectionable odors, fumes, dirt, vibration, glare, or noise beyond the site containing the use.

LOT: A portion, plot or parcel of land considered as a unit, devoted to a certain use or occupied by a building(s) united for a common interest. Also, such open land existing and not subject to use at the time of adoption of this ordinance.

LOT, AREA: The total area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

LOT, CORNER: A parcel of land at the junction of and fronting on two or more intersecting streets, or roads so as to form an interior angle of 135 degrees or less.

LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines, measured in the direction of the side lines of the lot frontage.

LOT, LINES: Any line or lines dividing one lot from another lot or from a street.

LOT, WIDTH OF: A width of the lot measured at right angles to the lot depth at the front yard specified for the district.

MOBILE HOME - SINGLE SECTION: For the purpose of this local law, a single section mobile home means a structure, transportable in one section, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. A "trailer" or a "recreational vehicle" is not considered a mobile home. (See Section 25 for additional information.)

MOBILE HOME - DOUBLE SECTION: For the purpose of this local law, a double section mobile home means a structure, transportable in two sections, which, in the traveling mode, is at the minimum a constant sixteen feet in width or thirty-six feet or more in length, or, when erected on site, is five hundred seventy-six or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. Two "trailers" are not considered a double section mobile home. A double section mobile home, when assembled, will have similar characteristics of a site-built house, including a peaked roof. (See Section 25 for additional information.)

MOBILE HOME LOT: Means a parcel of land for the placement of a mobile home and the exclusive use of its occupants.

MOBILE HOME COURT: A parcel of land which has been planned and improved for the placement of two or more mobile homes for non-transient use.

MOBILE HOME STAND: Means that part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

MODULAR DWELLING UNIT: A factory manufactured home, either a one, two or multiple family dwelling, consisting of component parts manufactured off-site which must be transported to the building site separately for erection, construction or installation as a permanent structure. Modular homes differ from mobile homes in that a modular home must be installed on a site-built permanent foundation, is not designed to be moved or transported once installed on the foundation and is subject to the requirements of Chapter B of the New York State Uniform Fire Prevention and Building Code.

MOTEL: A building or group of buildings, whether detached or in connected units, used as individual sleeping units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities.

NON-CONFORMING LOT: A tract of land lawfully existing at the time of enactment or amendment of this local law which does not conform to the dimensional regulations of this law.

NON-CONFORMING USE: A building, structure, or use of land lawfully existing at the time of enactment of this ordinance, and which does not conform to the regulations of the district or zone in which it is situated.

NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED: A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

PARKING SPACE: The area required for parking one automobile, normally regarded as being an area nine (9) feet wide and twenty (20) feet long, exclusive of driveways and passageways thereto, and held to be a minimum by this ordinance. Parking spaces must comply with the setback distances for accessory structures.

PERMITTED USE: A land use specifically allowed in a particular zoning district, excluding illegal uses and nonconforming uses.

PERSON: Means any individual, firm, trust, partnership, public or private association, or corporation.

PLAT: Means any map, plan or chart, indicating the location and boundaries of individual properties.

PLOT: Means a parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat.

PUBLIC SEWER & WATER SYSTEM: Refers to a system which serves an entire development but has its service facilities remote from individual housing units, usually in the form of a municipality operated utility system.

PUBLIC STREET OR ROAD: Refers to a public way which affords principle means of access to abutting properties.

RECREATIONAL VEHICLE: A mobile recreation unit including travel trailer, motor home, pick-up, camper, converted bus, tent trailer, or similar device used for temporary portable housing.

RIGHT-OF-WAY: Means the area, either public or private, over which the right of passage exists.

ROOMING HOUSE: (See Boarding House)

SERVICE STATION: Any area of land including structures thereon, used or designed to be used for the supply of gasoline or oil or other fuel for motor vehicles and which may include facilities for servicing, lubricating, and minor repairing, but not including salvaging of such vehicles.

SETBACK: The distance from lot lines to the nearest outside wall of the principle and secondary structure.

SEQR: The State Environmental Quality Review Act (SEQR), Article 8 of the NYS Environmental Conservation Law was adopted in order to incorporate consideration of environmental factors into the planning, review and decision making processes at all levels of government, particularly at the local government level. SEQR also facilitates a coordinated review for actions involving more than one agency.

SEWER CONNECTION: Means the connection of all pipes, fittings, and appurtenances from the drain outlet of the mobile home or building to the inlet of the corresponding sewer riser pipe of the sewer system serving the mobile home park or development.

SEWER RISER PIPE: Means that portion of the sewer lateral which extends vertically to ground elevation and terminates at each building or mobile home lot.

SIGN: Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge, or insignia of any government agency, school or religious group, or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a "sign".

SIGN, ADVERTISING: A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

SIGN, BUSINESS: A sign which directs attention to a business, commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed and only incidentally on the premises if at all.

SIGN, FLASHING: A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this ordinance any revolving or illuminated sign shall be considered a "flashing sign".

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF: That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION: Any change in the supporting members of a building, or any substantial change in the roof.

TOURIST CAMP: (See Camping Ground)

TOURIST HOME: A dwelling in which overnight accommodations are provided for transient guests for compensation.

TRAILER: A mobile unit designed for camping, recreational travel, or vacation use only, which is equipped with a chassis and provides partial housekeeping facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

TRAILER CAMP, OR PARK: (See Camping Ground)

UNIT: Shall mean a house, apartment, house trailer, mobile home, cabin, camp or cottage designed for use by a single family.

WATER CONNECTION: Means the connection consisting of all pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the building or mobile home.

WATER RISER PIPE: Means that portion of the water supply system serving the development or mobile home park which extends vertically to the ground elevation and terminates at a designated point at each building or mobile home lot.

YARD, FRONT: An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.

YARD, REAR: An open, unoccupied space on the same lot with the main building, open and unoccupied except for accessory building, if any, extending the full width of the lot and located between the rear line of the main building and the rear line of the lot.

YARD, SIDE: An open unoccupied space on the same lot with the main building, located between the side-lines of the main buildings and the adjacent lot side-lines, and extending from the front yard to the rear yard.

ARTICLE III - DISTRICTS AND BOUNDARIES

Section 5 - Establishment of Districts

For the purpose of this Local Law, the Village of Middleville is divided into the following types or classes of districts:

R-1	Residential District
R-2	Residential District
R-3	Residential District
AG	Agricultural District
OS	Open Space District
B-1	Business District
B-2	Heavy Commercial/Light Industrial District
B-3	Recreation/Business District
PDB	Planned Business District
PDR	Planned Residential District
PDM	Planned Mobile Home District

Section 6 - Interpretation of District Boundaries

The following rules shall apply to determine the boundaries of the districts shown on the zoning map or maps:

1. Where district boundaries follow streets or highways, the center of such streets and highways shall be considered the district boundaries.
2. Where district boundaries shall follow lot lines, such lot lines shall be considered the district boundaries.
3. Where district boundaries on the zoning map shall follow natural routes such as streams, etc., the center of such natural lines shall be considered to be the district boundaries.
4. Where district boundaries are indicated as parallel to streets or highways they shall be construed as being parallel thereto and at such distances therefrom as indicated in figures on the appropriate map, or, if no such figures appear, then by measurement of the scale of the map. In case of dispute as to the exact location of a district boundary, the decision of the Board of Appeals shall be final.

Section 7 - Application of Regulations

Except as otherwise provided elsewhere in this Local Law:

1. No building shall be erected, constructed, reconstructed or altered, and no land or building or part thereof shall be used, for any purpose or in any manner except as permitted for the district in which such building or land is located.
2. No building shall be erected, constructed, reconstructed or altered, nor shall any open space surrounding any building be encroached upon or reduced in any way, except in accordance with the yard, lot area and

building location regulations of this ordinance for the district in which such building is, or shall be located; or where such open space or land is located.

3. No yard or other open space surrounding any building located in conformance with this regulation shall be considered as providing the requisite yard or open space area for another building. Likewise, no yard or open space on one lot shall be considered as providing a required yard or open space for a separately-owned building on any other lot.

ARTICLE IV - USE REGULATIONS

Section 8 - R-1, Residential District

In the R-1 Residential District, the following uses are permitted, subject to regulations set forth in this ordinance:

- A. Permitted Uses
 1. one-family dwellings
 2. accessory uses
- B. Site Plan Review Uses
 1. home occupation
 2. park or playground
 3. public utility station
 4. fences over four feet in height

Section 9 - R-2, Residential District

In the R-2 Residential District, the following uses are permitted, subject to regulations set forth in this ordinance:

- A. Permitted Uses
 1. one-family dwelling
 2. accessory uses
 3. 2, 3 or 4 family dwelling by conversion
 4. double section mobile home
- B. Site Plan Review Uses
 1. home occupation
 2. church
 3. school
 4. nursing home
 5. 2, 3 or 4 family dwelling by conversion
 6. public utility station
 7. fences over four feet in height

Section 10 - R-3, Residential District

In the R-3 Residential District, the following uses are permitted, subject to regulations set forth in the local law:

- A. Permitted Uses
 - 1. one-family dwelling
 - 2. single-section mobile home
 - 3. accessory uses
 - 4. double-section mobile home
- B. Site Plan Review Uses
 - 1. home occupation
 - 2. public utility station
 - 3. fences over four feet in height

Section 11 - AG, Agricultural District

In the AG, Agricultural District, the following uses are permitted subject to regulations set forth in this local law.

- A. Permitted Uses
 - 1. farms, nurseries
 - 2. one-family dwellings
 - 3. two-family dwellings (by conversion only)
 - 4. accessory uses (agricultural and residential)
- B. Site Plan Review Uses
 - 1. home occupation
 - 2. boarding home by conversion
 - 3. public utility station
 - 4. Ag related mobile home

Section 12 - OS, Open Space District

- A. Permitted Uses
 - 1. cemetery
 - 2. park

Section 13 - B-1, Business District

In the B-1 Business District, the following uses are permitted, subject to regulations set forth in this local law.

- A. Permitted Uses
 - 1. professional or business office
 - 2. bank, savings and loan institution
 - 3. personal services such as beauty or barber shop
 - 4. retail stores
 - 5. accessory uses (comm.)
- B. Site Plan Review Uses (see Schedule A)

Section 14 - B-2, Heavy Commercial/Light Manufacturing District

In the B-2 Heavy Commercial/Light Manufacturing District, the following uses are permitted, subject to regulations set forth in this local law.

- A. Permitted Uses
 - 1. warehousing
- B. Site Plan Review
 - 1. service station
 - 2. light manufacturing (see definition of light manufacturing in Section 4)
 - 3. fences over four feet in height
 - 4. auto repair shop
 - 5. machine shop

Section 15 - B-3, Recreation/Business District

In the B-3 Recreation/Business District, the following uses are permitted, subject to regulations set forth in this local law.

- A. Permitted Uses
 - 1. campground
 - 2. diamond prospecting

Section 16 - Site Development Plan Review Process

- A. Purpose and General Process: The following process is incorporated into this Local Law as a tool for the Planning Board to evaluate specific uses in certain zoning districts. These uses, termed Site Plan Review Uses, are noted for each district in Sections 8 through 13.

The site development plan review process has three (3) possible steps: concept review, preliminary site plan review and action, and final site plan review and action.

- B. Procedure for Preliminary Site Plan Review and Action: Prior to the issuance of a building permit for any Site Plan Review Uses, the zoning officer shall refer the application and all application materials as specified herein to the Planning Board for its review and approval in accordance with the provisions set forth in this Section.

Within forty-five (45) days of the receipt of a Preliminary Site Plan, the Planning Board shall inform the applicant of its decision.

1. Concept Review

A meeting shall be held between the Planning Board and applicant to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the concept review, the following information will be required, if appropriate:

- a. An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets and easements within two hundred (200) feet of the boundaries thereof.

- b. A map of site topography at no more than five (5) feet contour intervals. If general site grades exceed five (5) percent or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two (2) feet of elevation should also be provided.

2. Application for Preliminary Site Plan Approval

Anticipated costs which the Planning Board expects to incur due to consulting services or other review costs shall be paid by the applicant and placed in escrow account. Any unspent funds shall be returned to the applicant within five (5) days of Planning Board action on the Final Site Plan.

An application for preliminary site plan approval shall be made in writing to the zoning officer and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the sketch plan conference.

- a. Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- b. North arrow, scale and date;
- c. Boundaries of the property plotted to scale;
- d. Existing watercourses;
- e. Grading and drainage plan, showing existing and proposed contours;
- f. Location, proposed use and height of all buildings;
- g. Location, design and construction materials of all parking and truck loading areas, showing ingress and egress;
- h. Provision for pedestrian access;
- i. Location of outdoor storage, if any;
- j. Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;
- k. description of the method of sewage disposal and location, design and construction materials of such facilities;
- l. description of the method of securing public water and location, design and construction materials of such facilities;
- m. Location of fire and other emergency zones, including the location of fire hydrants;
- n. Location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- o. Location, size and design and construction materials of all proposed signs;
- p. Location and proposed development of all buffer areas, including existing vegetative cover;
- q. Location and design of outdoor lighting facilities;
- r. Designation of the amount of building area proposed for retail sales or similar commercial activity;
- s. General landscaping plan and planting schedule;

- t. Other elements integral to the proposed development as considered necessary by the Planning Department, including identification of any state or county permits required for the project's execution; and
- u. Completed Environmental Assessment Form (EAF) in compliance with the State Environmental Quality Review Act (SEQR).

3. Review Criteria

The following criteria for the Planning Board review may include, but not be limited to the following:

- a. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- b. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- c. Location, arrangement, appearance and sufficiency of off-street parking and loading.
- d. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- e. Adequacy of stormwater and drainage facilities.
- f. Adequacy of water supply and sewage disposal facilities.
- g. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- h. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
- i. Protection of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable features.
- j. Adequacy of fire lanes and other emergency zones and provisions of fire hydrants.
- k. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

Consultant Review. The Planning Board may consult with the Village enforcement officer, fire commissioners, conservation council, other local and county officials, and its designated private consultants, in addition to representatives of federal and state agencies including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

Public Hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within forty-five (45) days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Village at least seven (7) days before the public hearing.

4. Planning Board Action on Preliminary Site Plan

The proposed development in question may be subject to the provision of the State Environmental Quality Review Act (SEQR). First, the Planning Board should identify the type of action the proposed development is according to the SEQR. Depending on the size, location, and other factors, it may be a TYPE I or an UNLISTED action. To make a decision, the Planning Board should consult Part 617 of Article 8 of Environmental Conservation Law (New York). The Planning Board should also review the Environmental Assessment Form (EAF) submitted as part of the application. The action type and related procedure will dictate the next steps, if any, to be taken to comply with the SEQR regulations.

If it is determined that an environmental impact statement will be prepared for the proposal in question, all time frames and deadlines are delayed until a draft environmental impact statement is filed. An application is not complete, and therefore the review clock does not start, until a determination of no significance has been made or until a draft environmental impact statement has been completed. When the draft environmental impact statement is complete, the time frame for Planning Board review begins (45 days). If another agency has determined that the proposal in question may have a significant effect on the environment, the Planning Board shall not issue a decision until a final environmental impact statement has been filed.

When compliance with SEQR is complete and within forty-five (45) days of the receipt of an application for preliminary site plan approval, the Planning Board shall act on it. If no decision is made within said forty-five (45) day period, the preliminary site plan shall be considered approved. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications.

The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned.

If the Planning Board approves the preliminary site plan without modifications, and determines that no additional information is required, the procedure outlined in subsection (C) may be waived by the Planning Board. If the proposed action is subject to review by the Herkimer County Planning Board, this action shall first be referred to the County Planning Board for their recommendation, prior to the Village Planning Board's final action.