We’ll Be Using a Live Poll!

CONNECT TO PARTICIPATE

NO SMARTPHONE / PREFER TEXTING OPTION

Send a Text to: 22333
Type in Message: “MollyGaudios040”

SMARTPHONE/TABLET/COMPUTER BROWSER OPTION

Type: “Pollev.com/mollygaudios040” in browser
- OR -
Open Phone Camera; Focus on QR Code (at right)
Introductions

NICE TO MEET YA!
About Us!

- Planning Nerds
- Zoning Geeks
- Former Municipal Planners
- Former Review Board Volunteers

John Steinmetz, FAICP

Molly Gaudioso, AICP
Our Experience

- 50+ Comprehensive & Long-Range Planning Efforts
- 40+ Zoning & Land Use Regulation Projects
- 13+ Joint Planning & Zoning Updates
- 300+ Public Meetings & Workshops
Who's in the Zoom?

Planning Board or Commission Member

Zoning Board of Appeals Member

Legislative Board Member

Municipal Staff (CEO, Planner, etc.)

Other
In what type of municipality do you serve?

- Town
- Village
- City
- County
# GOALS

- Increase understanding of your role, powers, and parameters of influence
- Help you get the results you want from new development with local tools
The Why

YOUR VISION & LOCAL REGULATIONS
Planning is Just the Beginning

Snapshots of Plans We’ve Completed...

TOP: Village of Pittsford 2019 Comprehensive Plan

MIDDLE: Town of Greece 2019 Master Plan

BOTTOM: Village of LeRoy 2018 Waterfront & Downtown Revitalization Strategy
“All [municipal] land use regulations must be in accordance with a comprehensive plan adopted pursuant to this section.”

NYS GENERAL CITY LAW § 28-A
NYS TOWN LAW § 272-A
NYS VILLAGE LAW § 7-722
Spectrum of Control

- No Local Regulation
- Some Local Regulation
- Heavy Local Regulation

How much influence do you have? How much do you want?
What’s Your Vision?

COMMUNITY PREFERENCE SURVEY (CPS)
Select your preferred image based on . . .
- Building Scale / Location
- Building Design
- Landscaping / Screening
- Parking
- Signage
- Etc.

**Why a CPS?**

- Determine your attitudes towards different types of development
- Get you thinking about the character of your community today versus its potential

**THIS?**

**OR**

**THAT?**
Multi-Family Residential

A

B
MF Residential: Which do you prefer?
Commercial
Commercial: Which do you prefer?
Mixed-Use
Mixed Use: Which do you prefer?
The Who, What & How

YOUR ROLE, POWERS & PROCEDURES
Your Level of Influence

**GOOD NEWS**

- You play an important role in the development review process
- Your decisions may protect character and quality of life of your community
- Some of you have the ability to effect change above and beyond the Code

*Provided Some Discretion:*
  - Legislative Body
  - Planning Board/Commission

**BAD NEWS**

- Mismanagement of the development review process could hinder investment
- Your decisions could permit detrimental actions to your community's vision
- Some of you are more limited in the way you can effect desired change

*Limited by Law:*
  - ZBA
  - Code Enforcement
Variance

Context & Examples
Who?

+ Zoning Board of Appeals (required)

What are the triggers?

+ CEO denies application that doesn’t meet code requirements
+ Technically an “appeal”
+ Variances are a reality for ALL types of codes per NYS Law (Form based, traditional, hybrid, etc.)

Types of Variances…

+ AREA - “Due to the physical conditions of my property I am incapable of meeting your requirements.”
+ USE - “I’d like to do something (a use) you don’t allow (and generally don’t want).”
Area Variance

“Due to the physical conditions of my property I am incapable of meeting your requirements.”

ADDITION TO HOME – Doesn’t meet side setback requirement
Area Variance

“Due to the physical conditions of my property I am incapable of meeting your requirements.”

AREA: Review Criteria – Set by NYS Law (no variation):

+ Will it cause an undesirable change in neighborhood character, will it create a detriment to nearby properties?
+ Will the variance have an adverse impact on the physical or environmental conditions in the neighborhood or district?
+ Is the requested area variance substantial?
+ Is the alleged difficulty self-created?
+ Can the benefit be achieved by some other method?
Which question is within the ZBA's purview?

- Will the addition include more bedrooms?
- What will the design of the addition look like?
- Have you considered a smaller size or different location?
- How is your relationship with your neighbor?
- All of the Above

✉️ When poll is active, respond at pollev.com/mollygaudios040
☎️ Text MOLLYGAUDIOS040 to 22333 once to join
“I’d like to do something (a use) you don’t allow (and generally don’t want).”
USE: Review Criteria – Set by NYS Law (no variation):

+ They cannot realize a reasonable return on any other permitted use, demonstrated by competent financial evidence.
+ Their alleged hardship has not been self-created.
+ The requested use variance, if granted, will not alter the essential character of the neighborhood.
+ Their alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood.

* APPLICANT MUST PROVE ALL OF THESE APPLY *
Which question is NOT within the ZBA's purview?

What are your planned hours of operation?

Who's going to own and operate the flower shop?

How do you plan to accommodate cars and deliveries?

Have you tried to sell your property as a residential use?

All of the Above
Variances

“Due to the physical conditions of my property I am incapable of meeting your requirements.”

“I’d like to do something (a use) you don’t allow (and generally don’t want).”

- **Factors of Decision**
  - Must grant *minimum variance necessary*
  - May impose conditions

- **Result of Approval**
  - Permanent approval for property – *NOT* nonconforming
  - May *NOT* be revoked
Special Use Permits

CONTEXT & EXAMPLES
Special Use Permits

“I’d like to do something (a use) that may be okay if I meet certain criteria.”

Who?

- Zoning Board of Appeals (most common)
- Planning Board (sometimes – best practice)
- Municipal Board (least common)

What are the triggers?

- You select the uses subject to special use permit
- Clearly identify in your zoning/land use law

<table>
<thead>
<tr>
<th>LAND USE</th>
<th>LDR</th>
<th>MDR</th>
<th>SMR</th>
<th>MR</th>
<th>ADDITIONAL REGULATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single- or Two-Family Dwelling</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§350-7.13</td>
</tr>
<tr>
<td>Multi-Family Dwelling, By Conversion</td>
<td>-</td>
<td>SP</td>
<td>-</td>
<td>SP</td>
<td>§350-7.13</td>
</tr>
<tr>
<td>Multi-Family Dwelling, Up to 6 Units</td>
<td>-</td>
<td>P</td>
<td>-</td>
<td>P</td>
<td>§350-7.13</td>
</tr>
<tr>
<td>Multi-Family Dwelling, 7 to 12 Units</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>P</td>
<td>§350-7.13</td>
</tr>
<tr>
<td>Multi-Family Dwelling, Over 12 Units</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SP</td>
<td>§350-7.13</td>
</tr>
<tr>
<td>Fraternity or Sorority House</td>
<td>-</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>-</td>
</tr>
<tr>
<td>Bed and Breakfast or Short-Term Rental</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>SP</td>
<td>§350-7.7 &amp; 7.17</td>
</tr>
<tr>
<td>Home Occupation (Including Day Care)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§350-7.12</td>
</tr>
<tr>
<td>Hospice, Nursing Home, or Assisted Living</td>
<td>-</td>
<td>SP</td>
<td>-</td>
<td>SP</td>
<td>-</td>
</tr>
</tbody>
</table>
Special Use Permits

“I’d like to do something (a use) that may be okay if I meet certain criteria.”

ADDRESS: 193 S 1st Street
ZONING: C2 District
PROPOSED USE: Auto Body Repair Shop
SUP TRIGGER: §640-16
Special Use Permits

“I’d like to do something (a use) that may be okay if I meet certain criteria.”

ADDRESS: 193 S 1st Street
ZONING: C2 District
PROPOSED USE: Auto Body Repair Shop
SUP TRIGGER: §640-16
Special Use Permits

“I’d like to do something (a use) that may be okay if I meet certain criteria.”
Which question is NOT within your purview?

- How do you plan to finance the business?
- What kind of services/repairs will you provide?
- Are you proposing an outdoor storage area?
- Do you plan to allow overnight parking?
- All of the Above
Special Use Permit: How would you decide?

- Approve
- Approve with Conditions
- Deny
Factors of Decision
+ May negotiate for mitigating measures
+ May impose time limitations and/or require renewal
+ Make sure conditions/parameters of use are in written decision

Result of Approval
+ Permit for use AS PROPOSED; expansions/alterations require new
+ Differs from use variance in that a use variance is permanent
Site Plan Review

CONTEXT & EXAMPLES
Who?
+ Planning Board (most common – **best practice**)
+ Municipal Board (sometimes)
+ Planning / Zoning Staff (typically with “minor” actions)

What are the triggers?
+ You select the development actions subject to review
+ Clearly identify in your zoning/land use law

---

**EXAMPLE: Village of Bergen 2021 Draft Code**

<table>
<thead>
<tr>
<th>ACTION</th>
<th>EXEMPT</th>
<th>MINOR</th>
<th>MAJOR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONSTRUCTION / EXPANSION / ALTERATION</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary Use or Structure</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single- or Two-Family Dwelling</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Use, Up to 1,000 sf</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Use, Over 1,000 sf</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accessory Use or Structure</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single- or Two-Family Use, Up to 250 sf</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single- or Two-Family Use, Over 250 sf</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Use</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landscaping, Exterior Lighting, Mechanical Equipment, or Stormwater/Green Inf</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single- or Two-Family Dwelling</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Use</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Off-Street Parking / Loading Area</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10 Spaces or Less</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Over 10 Spaces</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**Other Actions**

<table>
<thead>
<tr>
<th>ACTION</th>
<th>EXEMPT</th>
<th>MINOR</th>
<th>MAJOR</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONSTRUCTION / EXPANSION / ALTERATION</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Driveway</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Joint, Shared, or Through Residential Driveway</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Within Existing Cutout</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Requiring New or Altered Cutout</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Solar Energy System (Accessory Use or Structure)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Park or Playground Equipment</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telecommunications Facility</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

“I am making a physical investment to external features of my property.”
Site Plan Review

“I am making a physical investment to external features of my property.”

ADDRESS: 2 W 1st Street & 200 Gansvoort Street
ZONING: C2 District

PROPOSED USE: Coffee Shop w/ Drive Thru

SPR TRIGGER: §640-16
- Restaurant/Eating Establishment (B)
- New Construction (C)
Site Plan A

“I am making a physical investment to external features of my property.”
General Review Criteria Context

- Code requirements
- Local Comprehensive Plan, LWRP, etc.
- Water, sewer, drainage, lighting, etc.
- Traffic circulation, access, and parking
- Pedestrian and bicyclist access and circulation
- Landscaping and screening
- Building design and location
- Site design and transitional treatments
- Etc.

Site Plan Review

“I am making a physical investment to external features of my property.”
Site Plan A: How would you decide?

Approve

Approve with Modifications

Deny
Site Plan B

“I am making a physical investment to external features of my property.”
Site Plan B: How would you decide?

- Approve
- Approve with Modifications
- Deny
How You Get the “Good” Stuff

- Baseline Code Requirements
- Your Leverage in Review Process
How You Get the “Good” Stuff

- Baseline Code Requirements
- Your Leverage in Review Process
How You Get the “Good” Stuff

- Baseline Code Requirements
- Your Leverage in Review Process
How You Get the “Good” Stuff

- Baseline Code Requirements
- Your Leverage in Review Process
Check Limitations of Your Code...

**CODE COMPLIANT (SITE PLAN A)**

**CURRENT ZONING:** C2 District  
**FRONT SETBACK REQUIREMENT:** 25 ft

**NOT CODE COMPLIANT (SITE PLAN B)**

**CURRENT ZONING:** C2 District  
**FRONT SETBACK:** Area Variance Needed
Amendments

CONTEXT & EXAMPLES
Amendments

“The code doesn’t provide for this, but it may be consistent with our vision”

Who?
- Municipal Board (required final decision)
- Planning Board (optional advisory decision)

What are the triggers?
- Legislative Board or PB notices the code doesn’t jive with community’s vision/plan
- Petition by Owner(s) of at least 20% of property(s)
- Petition by Owner(s) of at least 50% of property(s) frontage

Types of Amendments (Re-Zonings)
- Text
- Map
- Planned Developments
Amendments

“The code doesn’t provide for this, but it may be consistent with our vision”

- **General Review Criteria**
  - Defer to direction of planning documents, studies & SEQR

- **Implications of Decision**
  - **YES** – We feel this will rectify a plan/code disconnect
  - **NO** – We didn’t allow it for a reason; doesn’t align with our vision

- **Result of Approval**
  - Official adoption of a supplement to, repeal, or change of regulations to the code and/or district boundaries
Text Amendments

§ 640-7 ZONING

ARTICLE III
Use Regulations

§ 640-7. R-1 Residential District.

A. Purpose. The R-1 Residential District is established to provide and maintain land area for neighborhoods of single-family dwellings on large-size lots.

B. The following use shall be permitted in any R-1 Residential District, provided that such use is in compliance with Schedule A and other applicable provisions of the zoning regulations contained herein:

1. One single-family residential dwelling per parcel of land.
2. A private swimming pool.
3. A residential greenhouse.
5. A deck, gazebo.
6. Private tennis court.

C. The following accessory residential structures/uses shall be permitted in any R-1 Residential District, provided that such structures/uses are in compliance with § 640-13 and other applicable provisions of the zoning regulations contained herein:

1. One detached residential garage.
2. A private swimming pool.
3. A residential greenhouse.
5. A deck, gazebo.
6. Private tennis court.

D. The following uses shall be permitted in any R-1 Residential District with site plan approval from the Planning Commission, provided that such use is in compliance with Schedule A and other applicable provisions of the zoning regulations contained herein:

1. Church or other places of worship; a religious education center, parish house, rectory, parsonage or convent.
2. Public or private school accredited by the New York State Department of Education.
3. Public park or playground.
4. Police or fire station.
5. Municipal public or private utility structure. [Added 5-5-1988 by L.L. No. 6-1988]
6. Multi-family dwellings to single-family dwelling conversion. [Added 4-8-2015 by L.L. No. 7-2015]

E. Editor’s Note: Schedule A is included as an attachment to this chapter.

§ 640-9 ZONING

§ 640-10

C. The following accessory residential structures/uses shall be permitted in any R-2 Residential District, provided that such structures/uses are in compliance with § 640-13 and other applicable provisions of the zoning regulations contained herein:

1. One detached residential garage.
2. A private swimming pool.
3. A residential greenhouse.
5. A deck, gazebo.
6. Home occupations (allowed only within an owner-occupied dwelling unit).

D. The following uses shall be permitted in any R-2 Residential District with site plan approval from the Planning Commission, provided that such use is in compliance with Schedule A and other applicable provisions of the zoning regulations contained herein:

1. Hospital/nursing home.
2. Professional physician/dental office.
3. Funeral home.
4. Municipal public or private utility structure.
5. Church or other places of worship; a religious education center, parish house, parsonage or convent.
6. Public or private school accredited by the New York State Department of Education.
7. Public park or playground.
8. Public library, art gallery or museum.
9. Police, fire or ambulance station.
10. Cemetery.

E. Any proposed uses described in Subsection D herein which involve property adjacent to or fronting on the Oswego River shall be subject to special use permit requirements as contained in Article XII of this chapter. [Added 4-1-2008 by L.L. No. 3-2008]


A. Editor’s Note: Schedule A is included as an attachment to this chapter.
Map Amendments

REZONE FROM COMMERCIAL TO RESIDENTIAL
Wrap it Up!

Final Thoughts & Further Education
The Deeper Dive...

REQUIRED ELEMENTS

- Public Hearings (NYS Municipal Law)
- State Environmental Quality Review (SEQR)
- County Referrals (NYS Municipal Law)
- Local Waterfront Consistency Review (Required if you have an LWRP)

OPTIONAL PROCEDURES

- Subdivisions
- Planned Developments
- Cluster Development
- Incentive Zoning
- Historic Preservation
- Other Land Use & Development Tools...
Did You Zone Out?

Here are the high points!

- Update plans to reflect your current vision
- Ensure your code aligns with your plans & policies
- Clearly define triggers & review criteria
- Craft regulations that support your expectations & give you “teeth” for negotiation
- Reward the “good” and reject the “bad”
- Identify potential ways to streamline processes
Planning Nerds to the Rescue

- Preliminary Code Audit
- Additional Training & Topics
- Municipal Review Assistance
- Planning, Zoning & More

John Steinmetz, FAICP  
jsteinmetz@bartonandloguidice.com  
(585) 797-7634

Molly Gaudioso, AICP  
mgaudioso@bartonandloguidice.com  
(585) 771-0886
Phew!

COMMENTS? QUESTIONS?