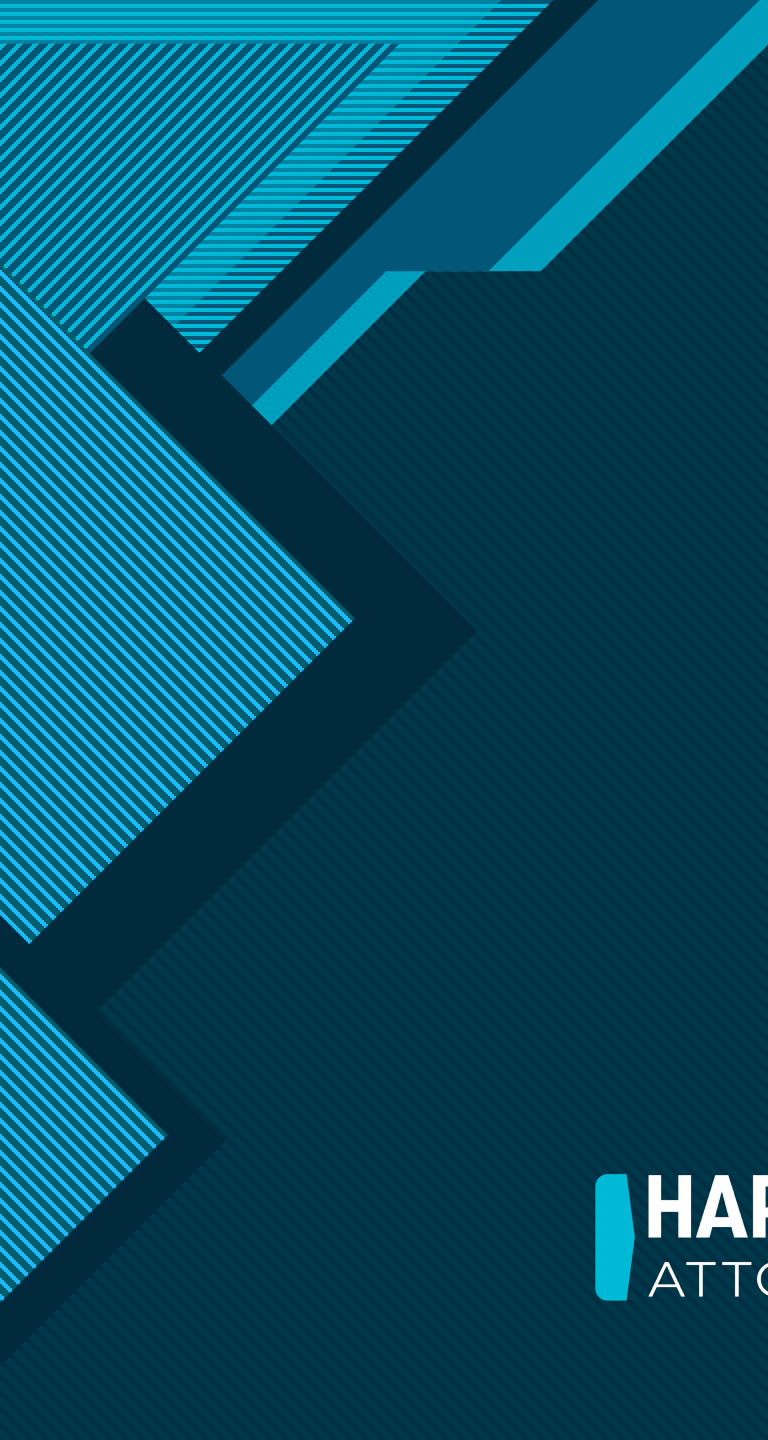




Capital District Regional Planning Commission Workshop

Recent Case Law Shaping SEQRA, Planning & Zoning Practice

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Big Picture



- Recent appellate decisions continue to refine how SEQRA, zoning, and planning boards exercise local discretion.
- Courts are clarifying **what counts as a “hard look”** under SEQRA — and when deference ends.
- Stronger emphasis on **procedural integrity and record quality**: courts uphold well-documented decisions, not perfect ones.
- Themes:
 - Deference vs. scrutiny (*Elizabeth Street Garden, Bennett, Boise*)
 - Interagency boundaries (*Smith, Ferris*)
 - CLCPA and renewable energy policy (*Freepoint Solar*)
 - Local discretion and reasoned findings (*Williams, Friends*).

SEQRA in the Court of Appeals

Elizabeth Street Garden (2024)

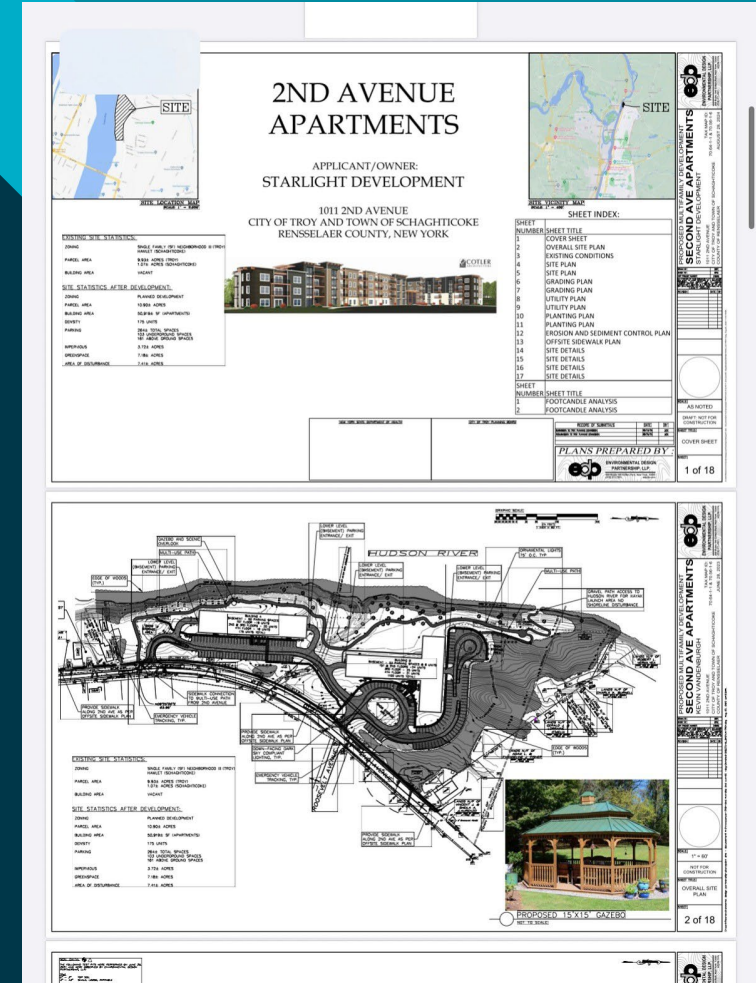
- If your agency follows established SEQRA procedures, documents its reasoning, and clearly identifies how it considered the relevant factors, **the courts will defer** — even in politically charged projects.
- *Elizabeth Street Garden* is now a leading modern SEQRA precedent from the Court of Appeals. It strengthens agency discretion and reinforces that SEQRA is about **rational decision-making, not outcome perfection**.



SEQRA in the Third Department

Bennett v. Troy City Council (2024)

- *Elizabeth Street Garden* — courts will defer when agencies follow the manual and explain themselves.
- BUT
- *Bennett v. Troy* — courts will step in when agencies shortcut consultation or minimize significant impacts.
- Both decisions reaffirm that SEQRA is about **transparency, inclusion, and timing** — getting the analysis right *before* the decision, not after.



SEQRA in the Third Department

Friends of the Shawangunks v. Town of Gardiner (2024)

For planning boards and municipal attorneys, this case reinforces three key points:

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- **Standing:** Environmental groups can have standing when their members show concrete, personal impacts—proximity and use matter.
 - **Zoning Interpretation:** “Lowest feasible elevation” and similar code standards apply only where the local law says they do; read the ordinance as a whole.
 - **SEQRA Review:** A negative declaration stands if the board took a reasonable hard look—even if the applicant supplied much of the analysis—so long as the record shows the board **independently reviewed and justified** it.

Solar Development

Freepoint Solar LLC v. Town of Athens (3d Dept 2024)

- *Freepoint Solar* is a major precedent confirming that **renewable-energy facilities qualify as public utilities** entitled to a **reduced variance showing** when their impacts are limited.
- The Third Department aligned zoning law, SEQRA, and the CLCPA into a unified principle: **municipal discretion must yield to reasoned, evidence-based decision-making that supports New York's transition to clean energy.**
 - It also sends a clear message that **local zoning decisions must be reconciled with statewide climate and energy policy** — particularly the mandates of the CLCPA and the Public Service Law §66-p renewable targets.
- In short, while towns retain zoning authority, they **cannot use local opposition or zoning rigidity to obstruct renewable projects** that are consistent with state energy policy and have minimal impacts under SEQRA.



Planning vs Zoning

Smith v. Town of Thompson Planning Board (3d Dept 2024)

- **Planning boards can't interpret zoning**

- Before a planning board can weigh impacts, it has to know what use it's reviewing and whether that use is even allowed.
- If there's genuine uncertainty about whether a proposed use fits within a permitted category, **the ZBA must decide** — either on appeal or by referral.



- **SEQRA depends on zoning clarity**

- The environmental analysis assumes a specific “use.” If that use turns out to be prohibited, the SEQRA findings collapse.
- If that question isn't clear, the next step isn't SEQRA — it's **a referral to the ZBA.**

- **Be careful with applicant terminology**

- Mixed references like “warehouse/distribution” can be fatal if the code distinguishes between those terms. Consistency in the record — and conditioning approvals on the stated use — are critical.

Exhaustion

Matter of Ferris v. Grass (3d Dept 2023)

Takeaways for Municipal Boards

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- *Ferris v. Grass* is a procedural case, but an important one. It reminds both applicants and municipal attorneys that **Article 78 is not a shortcut** around local administrative processes. If a party disagrees with a building inspector, the next stop is **the ZBA — not Supreme Court**.
 - **Follow the chain of review.** Local codes almost always require appeals of a building inspector's decision to the ZBA before anyone can sue. If an applicant bypasses that step, the municipality should promptly move to dismiss.
 - **ZBAs are gatekeepers.** They interpret the zoning code and handle appeals of enforcement actions — courts expect them to act as the first line of review.
 - **Futility exceptions are rare.** Unless the code makes clear that the ZBA lacks authority, or prior identical appeals have been definitively rejected, “futility” won’t excuse exhaustion.

Brownfield Redevelopment

Matter of Boise v. City of Plattsburgh (3d Dept 2023)

Takeaways for Municipal Boards

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- *Boise v. City of Plattsburgh* teaches that redevelopment of remediated sites demands **fresh SEQRA analysis**, not reliance on historical cleanups. When boards defer critical mitigation or assume past certifications cover new excavation, courts will find the review inadequate.
 - For planners and municipal attorneys, this case sits squarely between *Elizabeth Street Garden* and *Bennett v. Troy*: deference applies only when the record shows an active, transparent, and complete SEQRA process.
 - **Brownfield ≠ SEQRA exemption.** Prior remediation doesn't end the environmental inquiry if redevelopment changes site conditions.
 - **Deferred mitigation is risky.** Plans like HASPs must be prepared or at least outlined during SEQRA so the public can comment.
 - **Rely on expert input—but exercise independent judgment.** Agencies may use DEC data, but they must still explain *why* no further analysis or mitigation is needed.

Independent SEQRA Duty

Clean Air Action Network of Glens Falls (3d Dept 2025)

Takeaways for Municipal Boards

- **Independent SEQRA Duty Remains:** Even if DEC or another agency issues permits, the lead agency must document its own analysis and reasoning.
-  **Thresholds ≠ Significance:** Being below a regulatory emission threshold does not automatically mean “no impact.”
- **Record Matters:** Meeting minutes, memoranda, and determinations must show a *thorough* evaluation—not assumptions of mitigation.
- **Early coordination helps:** Where novel technology or PFAS-type emissions are involved, boards should consult DEC early but still make an independent record.

ZBA Area Variance

Williams v. Town of Lake Luzerne ZBA (3d Dept 2025)

Takeaways for ZBA:

- **Apply § 267-b Rigorously.** Each of the five statutory factors must be weighed on the record, and conclusions must be supported by concrete findings — not formulaic phrases.



Context Matters. Percentages alone don't define "substantial." Boards should discuss *visual impact, neighborhood scale, and context* when applying the test.

- **Self-Created ≠ Fatal.** Town Law explicitly says a self-created hardship does not automatically bar a variance.
- **Show the Balancing.** Courts will uphold denials if the record demonstrates an actual balancing process; they will reverse when it reads like a checklist.

Key Takeaways for Planning & Zoning

- **Process Over Perfection:** Courts continue to uphold decisions where boards show a clear, documented process — even if outcomes are controversial (*Elizabeth Street Garden*).
- **Substance in the Record:** When the record lacks analysis or reasoning, decisions fall — especially on environmental impacts or authority boundaries (*Bennett, Boise, Smith*).
- **Don't Defer Blindly:** Coordination with DEC and other agencies is fine — but SEQRA requires an independent hard look (*Clean Air Action Network*).
- **Zoning Integrity Matters:** Planning Boards can't interpret the code; that's the ZBA's job (*Smith, Ferris*).
- **Reasoned Balancing:** ZBAs must explain their rationale under Town Law § 267-b — not just recite it (*Williams*).
- **State Policy Context:** The CLCPA is now part of the landscape — renewable projects are treated as matters of public necessity (*Freepoint Solar*).



Table of Authorities

1. *Bennett v Troy City Council*, 2024 NY Slip Op 05257 (3d Dept 2024) (SEQRA – Negative Declaration annulled for failure to take “hard look” at archaeological resources and tribal consultation requirements under SEQRA § 617.7).
2. *Boise v City of Plattsburgh*, 219 AD3d 1050 (3d Dept 2023) (SEQRA – Brownfield redevelopment; improper deferral of Health and Safety Plan (HASP); failure to analyze contaminated soils under SEQRA “hard look”).
3. *Clean Air Action Network of Glens Falls, Inc. v Town of Moreau Planning Bd.*, 235 AD3d 1124 (3d Dept 2025) (SEQRA – Planning board invalid negative declaration for biosolids “biochar” plant; court held blind reliance on DEC permits violated SEQRA duty to independently analyze air emissions).

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4. *Elizabeth Street Garden, Inc. v City of New York*, 2024 NY Slip Op 03321 (2024) (SEQRA – Court of Appeals upheld negative declaration for senior housing; reaffirmed deferential “hard look / reasoned elaboration” standard and recognized CEQR Manual methodology).

5. *Ferris v Grass*, 219 AD3d 1008 (3d Dept 2023) (Zoning Procedure – Failure to exhaust administrative remedies before ZBA appeal rendered Article 78 premature).

6. *Friends of the Shawangunks v Town of Gardiner Planning Bd.*, 224 AD3d 961 (3d Dept 2024) (SEQRA / Zoning – Upheld negative declaration for ridge development; found planning board took requisite “hard look” and properly interpreted local zoning standard (“lowest feasible elevation”)).

Table of Authorities

7. *Freepoint Solar LLC v Town of Athens Zoning Bd. of Appeals*, 234 AD3d 127 (3d Dept 2024) (Zoning / Public Utility – Solar developer entitled to variance under *Con Ed v Hoffman* public-utility standard; court invoked CLCPA policy and SEQRA minimal-impact findings to reduce burden).
8. *Smith v Town of Thompson Planning Bd.*, 233 AD3d 1107 (3d Dept 2024) (Zoning / SEQRA – Approvals vacated because planning board decided zoning interpretation that should have been referred to ZBA; SEQRA determination void as predicate use uncertain).
9. *Williams v Town of Lake Luzerne Zoning Bd. of Appeals*, 240 AD3d 1134 (3d Dept 2025) (Area Variance – Denial of height variance for garage found irrational; ZBA failed to apply Town Law § 267-b balancing test with record-based findings).

Questions ?

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