

Town of Malone Local Law 1 of 2023

Chapter 79

Article V

Site Plan Review

The Town Board of The Town of Malone, Franklin County, New York, does hereby ordain and enact the Town of Malone Site Plan Review Law pursuant to the authority and provisions of section 10 of the New York State Municipal Home Rule Law and section 274-a of the Town Law.

79-25. Purpose.

Through site plan review, it is the intent of this local law to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the town and, in addition, such environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its inhabitants.

79-26. Authorization of Planning Board to Review Site Plans.

The Planning Board is hereby authorized to review and recommend 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.

79-27. Applicability.

- A. All new land use activities within the town shall require site plan review and approval before being undertaken, except the following:
 - 1. Construction of one- or two-family dwelling and ordinary accessory structures, and related land use activities.
 - 2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this local law.
 - 3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - 4. Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%; and having a cost value of less than \$5,000.
 - 5. Nonstructural agricultural or gardening uses not involving substantial timber cutting.
 - 6. Signs under 10 square feet.
 - 7. The sale of agricultural produce and temporary structures related to sale of agricultural produce.
 - 8. Garage, lawn, and porch sales not exceeding seven days. If such sales take place more often than five (5) times in any calendar year, site plan approval will be required.

- B. Any person uncertain of the applicability of this local law to a given land may apply in writing to the Town Board for a written jurisdictional determination.

79-28. 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 and completed within one year from the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

79-29. 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. It is not the intent of this law to supersede the local regulations set forth in section 79-18.4 of this chapter.

79-30. Procedure.

Prior to undertaking any new land use activity except for uses specifically excepted in section 79-27(A)(1) of this local law, a site plan approval by the Town 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.

- A. Sketch Plan. A sketch plan conference shall be held between the Planning Board and applicant to review the basic site design concept and to determine the information to be submitted with the site plan prior to the preparation and submission of a formal site plan. The Planning Board will review the basic site design 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 principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the 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, streets, rights-of-way, easements, and other pertinent features within 200 feet of the boundaries of the parcel; and
 - (3) A topographic or contour map of adequate scale and detail to show site topography.
- B. The Planning Board shall provide the applicant with comments on the sketch plan within 60 days of the sketch plan conference.

79-31. Application for site plan approval.

An application for site plan approval shall be made in writing to the Code Enforcement Officer, with the chairperson of the Planning Board copied and shall be accompanied by information drawn from the following checklist. The Planning Board may require additional information, if necessary, to complete its review.

A. Plan checklist for all site plans (prepared by New York State registered architect, engineer, or surveyor):

- (1) Title of drawing, including name and address of applicant and person responsible for preparation of such drawing;
- (2) North arrow, scale and date;
- (3) Boundaries of the property plotted to scale;
- (4) Existing buildings;
- (5) Existing watercourses and bodies of water;
- (6) Location of any slopes 5% or greater;
- (7) Grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bed rock, and soil characteristics;
- (8) Location, design, type of construction, proposed use, and exterior dimensions of all buildings;
- (9) Location, design, and type of construction of all parking and truck loading areas, showing access and egress;
- (10) Location of outdoor storage, if any;
- (11) Provision for pedestrian access;
- (12) Location, design, and construction materials of all existing or proposed site improvements including drains, culverts, retaining walls and fences;
- (13) Description of the method of sewage disposal and location, design and construction materials of such facilities;

- (14) Description of the method of securing public water and location, design and construction materials of such facilities;
- (15) Location of fire and other emergency zones, including the location of fire hydrants;
- (16) Location, design, and construction materials of all energy distribution facilities, including electrical, gas and solar energy;
- (17) Identification of water source; if well, locate on drawing;
- (18) Location, size and design and type of construction of all proposed signs;
- (19) Location and proposed development of all buffer areas, including existing vegetation cover;
- (20) Location and design of outdoor lighting facilities;
- (21) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;
- (22) General landscaping plan and planting schedule;
- (23) An estimated project construction schedule;
- (24) Record of application for and approval status of all necessary permits from state and county officials;
- (25) Identification of any state or county permits required for the project's execution;
- (26) SEQR documents;
- (27) Copy of property deed and a listing of all deed restrictions; and
- (28) Other elements integral to the proposed development as considered necessary by the planning board.

B. Where it is deemed appropriate, the Town Planning Board may waive any of the administrative requirements of this article based on its findings as set forth in the public record on said application.

79-32. Public Hearing and Approvals.

- A.** Within 31 days after receipt of the completed application, the Planning Board shall review the application, site plan, and supporting data, and shall make a written recommendation to the Town Board of approval, approval with conditions, or disapproval of the site plan.
- B.** The failure of the Planning Board to make a recommendation within 31 days following the receipt of a complete application or such longer period as may be agreed to by the applicant, shall be deemed a recommendation for the approval of the development plan as submitted. The Planning Board may, at its sole discretion, hold a public hearing within its time frame to provide a recommendation.
- C. Public Hearing.** Within 31 days following receipt by the Town Board of the report of the Planning Board, or its failure to act as above provided, the Town Board may conduct a public hearing. Such hearing shall be advertised in the Town's official newspaper, or if there is none, in a newspaper of general circulation in the Town of Malone at least ten (10) days before the public hearing.
- D. Public Notice.** If the Town Board and/or the Planning Board determines that a public hearing shall be held, all property owners within ¼ mile of the subject property as measured from the boundary line of the property involved in either direction shall be notified, in writing, at least ten days prior to the public hearing.
- E. Town Board Decision.** Within 62 days after the public hearing, if one is held, or 62 days after the receipt of the Planning Board's recommendation if no hearing is held, the Town Board shall render a decision to approve, approve with conditions, or deny the site plan, and shall forward the decision to the Code Enforcement Officer, file said decision with the town clerk, and mail such decision to the applicant. Any extension of this sixty-two-day period may be granted upon consent of both the applicant and the Town Board. If the Town Board fails to act within the sixty-two-day period or the extension period that has been granted, the site plan shall be considered denied.
 - (1) Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Town Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, code enforcement officer, and file same with the town clerk.
 - (2) Upon disapproval of a site plan, the Town Board shall so inform the code enforcement officer and the code enforcement officer shall deny a zoning permit to the applicant. The Town Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the town clerk. A copy of the minutes may suffice for this notice.
 - (3) The Town Board may conditionally approve the final site plan. If the Town Board conditionally approves the site plan, the site plan initially submitted shall be considered to be the preliminary site plan, and the applicant may prepare his final

detailed site plan and submit it to the Town Board for approval. If more than six months have elapsed between the time of the Town Board's report on the preliminary site plan and the submission of the final site plan, and if the Town Boards finds that conditions have changed significantly in the interim, the Town Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.

79-33. Review of Site Plan.

- A. The Town Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:
- (1) Location, arrangement, size, design and general site compatibility of buildings, lighting, and signs.
 - (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls. This includes the maximum feasible redesign of private roads to conform to existing public access and rights-of-way.
 - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - (5) Adequacy of stormwater and drainage facilities.
 - (6) Adequacy of water supply and sewage disposal facilities.
 - (7) 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.
 - (8) In the case of an apartment complex or other multiple dwelling, the adequacy of useable open space for play areas and informal recreation.
 - (9) Protection of adjacent or neighboring properties against noise, glare, odor, dust, unsightliness, or other objectionable features.
 - (10) Adequacy of on-site refuse storage, including appropriate screening and rodent control measures.
 - (11) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - (12) Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding, and/or erosion.
 - (13) Overall impact on the neighborhood including compatibility of design consideration.
- B. Consultant Review. The Planning Board and/or Town Board may consult with the Town Code Enforcement Officer, highway department, County Planning Agency, and other local county officials, in addition to representatives of federal and state agencies, including, but

not limited to, the Soil and Water Conservation District, the State Department of Transportation and the State Department of Environmental Conservation.

- C. **Required Fee.** An application for site plan review shall be accompanied by a fee amount that is set from time to time by Town Board resolution.
- D. **Reimbursable Costs.** Costs incurred by the Town for outside consultant fees or other expenses in connection with the review of a proposed site plan may be charged to the applicant. The Town Board has the discretion to require an applicant to pay anticipated fees and costs into escrow, held by the Town, by resolution. Any unused funds paid into escrow shall be returned to the applicant upon final determination of the application, or withdrawal of the application.

79-34. Application for Final Detailed Site Plan Approval.

- A. The final detailed site plan shall conform substantially to the preliminary site plan that has received conditional (preliminary) site plan approval. It shall incorporate any revisions or other features that may have been recommended by the Town Board. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

79-35. Action on Detailed Final Site Plan Application.

- A. Within 62 days of the receipt of a complete application for final site plan approval, the Town Board shall render a decision to the applicant and the code enforcement officer.
- B. Upon approval, an application for final site plan approval by the Town Board shall endorse its approval on a copy of the final site plan and shall forward a copy to the applicant, code enforcement officer, and file same with the town clerk.
- C. Upon disapproval of a final site plan, the Town Board shall so inform the code enforcement officer and the code enforcement officer shall deny a zoning permit to the applicant. The Town Board shall also notify the applicant in writing of its decision and its reasons for disapproval. Such disapproval shall be filed with the town clerk. A copy of the minutes may suffice for this notice.

79-36. Supplemental Regulations Pertaining to Site Plan Approval.

- A. **Expiration of site plan approval.** Such site plan approval shall automatically terminate one year after the same if granted unless significant work has been done on the project. The Town Board may authorize one or more extensions for additional one-year periods.
- B. **Inspection of Improvements.** The code enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the Planning Board and Town Board and other agencies, as appropriate.

C. Performance Guarantee.

- (1) No zoning permit shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee, approved by the Town Board, has been posted for improvements. The sufficiency of such performance guarantee shall be determined by the Town Board after consultation with the Code Enforcement Officer, Planning Board and Town Attorney.
- (2) The Town Board shall have the option of requiring a performance bond or other financial guarantee in an amount sufficient to restore property to its original condition if the applicant fails to comply with the conditions of the site plan approval.

D. Revisions. No property shall be utilized in a manner different than in an approved site plan unless a revised site plan has been approved, even if the revised use, by itself, represents a use not requiring site plan approval.

79-37. Appeal of Decision.

Any person aggrieved by any decision of the Town 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.

79-38. Enforcement.

Any person, corporation, partnership, association of 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 person or entity shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect, or refusal shall continue.

79-39. 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.