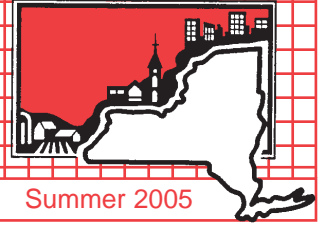


PLANNING NEWS



New York Planning Federation

279 River Street, Suite 302, Troy, NY 12180

Summer 2005

Everything You Wanted to Know About the NYPF Annual Conference

Inside this newsletter is the preliminary program for the New York Planning Federation's 2005 Annual Conference which takes place October 9th-12th in Saratoga Springs.. Registration forms for both the conference and our host hotel, the PRIME Hotel & Conference Center, are also attached. Please review the information and send in your registration prior to September 15th to take advantage of lower rates.

Responding to a desire for more Code Enforcement Officer In-Service training sessions, the upcoming conference will offer ten In-Service credits over a three-day period from Monday October 10th through Wednesday the 12th. We have also included ten CLE credit courses for municipal attorneys.

The backbone of the NYPF Conference has always been providing solid and useful information for local officials. This year is no exception. Listed below are some of the more than two dozen workshops in the upcoming 67th Annual Conference:

- **A Practical Guide to Comprehensive Planning;**
- **The Importance of Keeping Planning Board and ZBA Minutes;**
- **How to Deal Effectively with Franchises;**
- **Hot Button Issues** that include the Supreme Court's recent decision on takings, as well as a discussion of inclusionary zoning;
- **Water, Water, Everywhere**, a session that discusses groundwater, stormwater and wastewater;

- **How to Create Farm-Friendly Zoning Regulations;**
- **Encouraging Mixed-Use Development on Main Street;**
- Two extremely popular courses – **Planning and Zoning Case Law** and **Ethical Issues in Planning and Zoning** – have always attracted overflow crowds. We are creating additional seating space for both of these sessions so that, hopefully, no one will be left standing;
- **How Municipalities Can Work with Developers to Create a Win-Win Situation for Everyone;**
- **FOIL and the Open Meetings Law.**

In addition to the workshops, we will be offering walking tours of downtown Saratoga Springs, information on activities for families, two receptions, a Tuesday night banquet, and some of the Capital Region's best shopping at locally-owned businesses less than a block away from the Conference site.

Please remember that inside is a *Preliminary* Program. While all the courses will be offered, their order may change due to a presenter's availability at a specific day or time. If you have any questions contact Lael Locke at 518 270 9855 or by email at llocke@nypf.org to receive latest updates.

We look forward to seeing each of you very soon. ❖

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The New York Planning Federation also maintains a toll-free number for members. Call (800) 366-NYPF

NEW YORK PLANNING

FEDERATION is a non-profit membership organization established in 1937. Our mission is to promote sound planning and zoning practice throughout New York State. Membership, which currently includes nearly 10,000 individuals, is open and welcome to anyone supporting this mission. Membership categories include municipalities, counties, public organizations, private businesses, individuals, and libraries.

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PLANNING NEWS welcomes responses from its readers. Manuscripts may be submitted for possible publication. Call the newsletter editor, Lael Locke, to discuss your article ideas. If published, such articles or letters become the property of **PLANNING NEWS** and may be edited to conform with format requirements. The opinions and views expressed in **PLANNING NEWS** are those of the authors and do not necessarily represent those of the Planning Federation.

Case Study:

Updating a Comprehensive Plan

The Town of Pendleton is a rural community in Niagara County that has recently been inundated with applications for new home subdivisions. At the present time, plans before the Town Planning Board call for the construction of 850 new homes where some 2200 total homes currently exist.

This growth pattern seems to lack balance, says Planning Board member James Sacco, who also chairs the Town's Master Plan Committee. "At the same time that farmers are selling their land for new home construction, commercial/industrial growth is stagnant with just a few failed projects funded by the local IDA."

Believing that there was a need to better guide Pendleton's physical development, a Master Plan Committee was formed in 2003 to examine and update an earlier plan from 1990. (Because the development of this plan had been filled with problems and not readily accepted by local residents, it had never been legally adopted.)

In 2003, the Town Board denied a request by the Master Plan Committee for funding, "saying they didn't want to spend \$20,000 to \$30,000," says Sacco. Undeterred, the Planning Board initially undertook the task of updating the plan themselves. However, between regularly scheduled Planning Board meetings and an already large workload, they later opted to create a separate committee which was approved by the Town Board in 2004.

The Master Plan Committee is composed of representatives from the different local boards and committees which work for Pendleton, as well as the school board, fire company, Niagara County, senior citizens and other special interest groups. Their work so far has included developing and compiling the results of a survey questionnaire sent to local property owners; reviewing all chapters of the current plan with involved agencies and residents; and developing new chapters to better address SEQR and eventual implementation of the Master Plan. All of the committee's meetings are open to the public and announced on the Town's website, which also publishes the minutes from each meeting.

A draft plan update is anticipated by the end of this summer, at which time public forums will be held to hear comments. An engineer will help with technical review and preparation of an Environmental Impact Statement (EIS). Hopefully, by this time next year, Pendleton will have a successful new Master Plan that everyone will be proud of. ♦

NYPF Conference Registration

Please complete the form below and return it with your registration fee or voucher to the New York Planning Federation, 279 River Street, Suite 302, Troy, NY 12180. Please contact Lael Locke at 518 270 9855 or by email at llocke@nypf.org with any questions.

PLEASE NOTE: meals are not included with conference registration. They are part of the hotel package. Meals may be purchased, when available, for an additional fee of \$15.00 breakfast, \$20.00 lunch and \$30.00 dinner. *Indicate on the form below if you are choosing this option.*

► **Full Registration** (received by September 15th)

NYPF Members: \$95.00 Non-Members: \$125.00

I am not a hotel guest but would like to buy ___ breakfasts, ___ lunches, ___ dinners at the above rate. the above rates.

► **Late or On-Site Full Registration**

NYPF Members: \$140.00 Non-Members: \$175.00

I am not a hotel guest but would like to buy ___ breakfasts, ___ lunches, ___ dinners at the above rate.

► **One-Day Registration**

NYPF Members: \$85.00 Non-Members: \$115.00

Circle day you are registering for: Monday Tuesday Wednesday

I am not a hotel guest but would like to buy lunch on _____ (indicate day desired)

Return this form with payment or voucher to: New York Planning Federation, 279 River Street, Suite 302, Troy, NY 12180. Please use a separate form for each person registering.

Name _____

Title _____

Municipality/Organization _____

Address _____

Daytime Phone _____ Email _____

Payment is by (circle one) check voucher in the amount of \$ _____

*Don't forget to include payment for desired meals if you are not staying at the PRIME. Please note that your registration fee is **NON-REFUNDABLE** unless cancellation notice is received by September 30th.*

NOTE TO ATTORNEYS: Through an agreement with Albany Law School, an accredited provider of Continuing Legal Education in New York State, the Planning Federation is able to offer Municipal Attorney CLE accredited courses. Attorneys planning to take advantage of this opportunity must pre-register for BOTH the conference AND for separate CLE credits. All NYPF CLE courses offered at this conference contain new content for 2005 and are not repeat courses for purposes of the NYS CLE Boards "no repeat" rule. Please call 518 270 9855 or email Lael Locke at llocke@nypf.org to request CLE information.

2005 Preliminary Schedule

SUNDAY, OCTOBER 9th

3:30 REGISTRATION DESK OPENS
 5:00: RECEPTION AT THE PRIME 6:30: DINNER AT THE PRIME
 8:00 – EVENING SESSION - TBA

MONDAY, OCTOBER 10th

REGISTRATION & EXHIBITOR AREA OPEN, 8:00 am

9 am to 10:15 am	WELCOME & PLENARY “Looking for Growth in all the Wrong Places” Beth Humstone
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BREAK

10:30 to 11:45	Practical Guide To Comprehensive Planning	Records, Findings & Decisions CLE 1.5	The Importance of Planning & Zoning Board Minutes CEO	Dealing with Franchise Design: You DO Have a Say.
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12:00 LUNCHEON: “Why Talk About the 2010 Census in 2005?” Robert Scardamalia

1:30 to 2:45	Hot Button Issues: Takings; Inclusionary Zoning CLE 1.5	How Municipalities Can Work with Developers to Create a Win- Win Situation	The ABCs of SUPs (special use permits) CEO	Planning for Implementation	County Planners Meeting (from 10:00 am)
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BREAK

3:00 to 4:30	Effective Meetings & Hearings (runs till 4:45) CLE 1 CEO	Water, Water, Everywhere: Stormwater, Groundwater, Wastewater	Creating Farm-Friendly Zoning Regulations	Growth, Decline & Revitalization	County Planners Meeting concludes
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DINE AROUND ON YOUR OWN IN SARATOGA SPRINGS

TUESDAY, OCTOBER 11th

REGISTRATION AND EXHIBITOR AREAS OPEN AT 8:00 am

9:00 to 10:15	Encouraging Mixed Use Development On Main Street	Drafting a Junk Ordinance CEO	Effective Enforcement CLE 1.5 CEO	FOIL & the Open Meetings Law CLE 1.5
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BREAK

10:30 to Noon	Planning & Zoning Case Law CLE 1.5 CEO	Building Traditional Town Centers	Local Governments & the First Amendment CLE 1.5
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NOON: LUNCHEON & NYPF AWARDS PRESENTATION

1:30 to 3:00	Ethical Issues in Planning & Zoning CLE 1.5	Codifying New Urbanism CLE 1.5	CEO Credit Course TBA
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BREAK

3:00 to 4:30	Advanced SEQR CLE 1.5	Manufactured Housing CLE 1 CEO	Municipal Officials' Guide to Natural Resources Management	CEO Gripe Session: Questions you Really Want Answered
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5:00: RECEPTION AT THE PRIME 6:30: BANQUET

WEDNESDAY, OCTOBER 12th

9:00 to 11:30	Mock ZBA Hearing for an Interpretation and Area Variance
9:00 to Noon	Inspection of High Pile Combustible Storage CEO



New York Planning Federation 2005 Conference

ARRIVAL Sunday, October 9th 2005 DEPARTURE: Wednesday, October 12th 2005

LODGING RESERVATION FORM

Package Rates are Quoted Per Person Per Stay

SINGLE	DOUBLE	TRIPLE
\$614.14	\$419.46	\$354.57

Above rate includes 3 night's lodging, Sunday reception and dinner; Monday breakfast and lunch; Tuesday breakfast, lunch, reception and dinner; Wednesday breakfast. Room rates are subject to combined taxes of 13% unless tax exempt status has been approved – see **Tax Exempt Information**. Taxes are subject to change without notice.

Rates for guests staying 2 nights are as follows:

SINGLE	DOUBLE	TRIPLE
\$450.25	\$320.47	\$277.21

Sunday/Monday stay includes 2 night's lodging, Sunday reception & dinner; Monday breakfast & lunch; Tuesday breakfast & lunch
Monday/Tuesday stay includes 2 night's lodging, Monday lunch; Tuesday, breakfast, lunch, reception & dinner; Wednesday breakfast

IF STAYING 2 NIGHTS, BE SURE TO INDICATE WHICH 2 NIGHTS ON YOUR REGISTRATION FORM

- **CUT-OFF DATE** for guaranteed reservations is **Friday September 16th**. Reservations received after that date will be accepted subject to availability. To reserve, mail or fax the form below to the address at the bottom of this page.
- All reservations must be guaranteed using a credit card or advance deposit. Please send check or money order in the amount of one night's stay or indicate the appropriate credit card information in the space on this form. We accept American Express, Master Card, Visa, Diner's Club or Carte Blanche.
- Check-in Time is 3:00 pm. Check-Out Time is 11:00 am.
- All reservations must be guaranteed for the entire stay. Guests will be penalized for early departure. Unless a reservation is changed prior to check-in, guests having an early departure will be charged the full room rate for their entire scheduled stay.
- **CANCELLATION POLICY:** Cancellation less than 48 hours prior to a scheduled arrival date will result in forfeiture of a deposit. If a credit card was used, a charge equal to one night's stay will be applied to the above credit card.
- **TAX EXEMPT INFORMATION:** If your tax exempt organization is paying for your stay, the following information applies – A completed ST 119.1 form, as well as a copy of your form of payment. A company check or company credit card must be received with this form. If paying by personal check, credit card or cash, the following information applies – A completed AC-946 form must be received with your reservation. Proper identification will also need to be shown on check-in.
- For directions visit the Hotel's website; www.PrimeHotelsandResorts.com/Saratoga. No reservations via the Internet.

Name: _____	
Municipality/Organization _____	
Address _____	
Telephone: _____	Fax: _____
Email _____	
Arrival Date: _____	Departure Date: _____ # Nights _____ # Adults _____ *
* List all Roommates on this Form _____	
Smoking Room _____	Non-Smoking _____ King-Size Bed _____ 2 Doubles _____ (First-Come, First-Served Basis)
Credit Card Co. _____	Credit Card # _____ Exp. Date _____
Cardholder's Name (Printed) & Signature _____	

Group Code: 000058

RETURN FORM TO:

The Prime Hotel & Conference Center Reservations Dept. 534 Broadway, Saratoga Springs, NY 12866
518-584-4000 or 1-888-999-4711 / Reservations Fax 518-584-7430

Case Law Update

The following cases illustrate **Area Variance** decisions determined by New York courts in 2005.

In *Fleck v. Town of Colden*, 16 A.D.3d 1052 (2005) the Appellate Division, Fourth Department overturned site plan approval and a height variance granted by the Town Board in connection with an application for a proposed deer farm. In approving the site plan application, the Town Board granted a variance for a ten-foot high (10') fence to be located six inches (6") from the adjoining lot lines.

While the Town Code provided a provision that allowed the Town Board to grant variances where there was an "extraordinary hardship," the Court noted that because the request for a higher fence required an area variance, the Board was obligated to comply with the standards for issuing such a variance as set forth in NYS Town Law §267-b(3)(b). Specifically, the Court held that the Town Board, while acting in place of the Zoning Board, was required to engage in a balancing test, weighing the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community if the area variance was granted. In this case, there was no evidence that the Town Board had engaged in the required balancing test.

In *Defreestville Area Neighborhood Ass'n. v. Planning Board of the Town of North Greenbush*, 16 A.D. 3d 715 (2005) the Appellate Division, Second Department, upheld an area variance which increased the residential density of a luxury apartment complex due to the fact that the zoning board, with assistance of independent consultants, adhered to the statutory criteria outlined under Town Law §267-b(3)(b), despite increased population density and the fact that the developer's difficulty was self-created.

This case demonstrates that when a Zoning Board creates a substantial record and consults independent professionals, its decision will be upheld by the Courts. In granting the application,

the Zoning Board noted the average population density of similar apartment complexes in the Capital District. Further, with respect to traffic, the Zoning Board relied on the traffic study which had found no adverse impact. Consideration was also given to the recreation and parking space for the project, despite the substantial density variation. Moreover, at the public hearing, the numerous positive aspects of the project were noted by the Zoning Board, including the construction of a new municipal water storage tower, the extension of water piping to surrounding residents at the applicant's expense, the presence of an otherwise unavailable housing option in the Town (i.e. luxury apartments) and the Town's receipt of fees in excess of \$130,000, and an increased tax base. ❖

Information for this article was prepared by David R. Everett, Esq. and James A. Boglioli, Esq. of Whiteman Osterman & Hanna LLP. Mr. Boglioli will be presenting at the upcoming NYPF conference as part of the "Hot Button" session on Monday October 10th, discussing inclusionary zoning.

Welcome New Members

The New York Planning Federation is pleased to announce that the following new members have joined us since the publication of our spring newsletter. If you would like information on becoming a member, please call 518 270 9855, or visit "Member-ship Information" on our website, www.nvpf.org.

City

City of Rye

Villages

Village of Canajoharie

Firms

Clark Patterson Associates

Individuals

Brian Grisi / NYS Adirondack Park Agency

Non-Profit

PDC Campus Planning Office, Cornell University

NEW YORK PLANNING FEDERATION PUBLICATIONS

Send request with a list of the books you want or call (800) 366-NYPF to order
Checks or vouchers accepted. Prepayment not required. (M) member / (NM) non-member

✓ **All You Ever Wanted to Know About Zoning, 4th Edition.** (196 pages) By Sheldon Damsky & James Coon. The latest version of our most popular book includes key legislation and case law through the 2004 legislative session. \$50 (M) / \$60 (NM) + \$3.00 s/h. Bulk rate available.

✓ **The Short Course: A Basic Guide for Planning Boards and Zoning Boards of Appeals in NYS** by Harry J. Willis, David Church, and James W. Hotelling 2001, updated 2004. (83 pp. Illus.) A review of the full range of knowledge and skills needed by any planning or zoning official. Awarded the 1996 Public Education Award by the American Planning Association Upstate New York Chapter. \$16 (M) / \$18 (NM) + \$3.00 s/h. Bulk orders, 5 or more \$14(M) / \$16 (NM) + \$3.00 s/h.

✓ **A Practical Guide to Comprehensive Planning** David Church & Cori Traub, 1966. Updated 2002. (88 pg. Illus.) Practical advice on preparing and implementing comprehensive plans. Includes case studies. \$16.00 (M) / \$18.00 (NM) + \$3.00 s/h. Bulk orders (5+) \$14.00 (M) \$16.00 (NM) + \$3.00 s/h.

✓ **Rural Development Guidelines, Hamlet Design Guidelines, & Building Form Guidelines** 3 vol. set by Joel Russell, Anne Tate w/ Dutchess Co. Dept. of Planning, et.al., 1994. Helpful principles and numerous illustrations demonstrate better design in development. 3-volume set, \$15 + \$3.00 s/h. Single volume \$6.00 + \$1.50 s/h

✓ **Shawangunk Ridge Conservation Design Guide** by David Church and John Myers, 1993. Review of development options in hilly terrain. Includes a model ridge overlay zoning, timber harvesting and tower siting regulations. \$8.00 + \$1.50 s/h.

✓ **Model Cell Tower Ordinance** by Federation staff. Short article and model ordinance. Free.

✓ **Adult Entertainment Tech Memo** a 12-page brochure pre-pared by Lydia R. Marola, Esq. Village of Scotia attorney, and Rebecca Lubin, AICP. Free to members, \$5.00 non-members.

✓ **Software Provider Directory** by Federation staff. A 6-pg. brochure describing companies that sell planning and zoning board software. Free to members, \$2.00 non-members.

✓ **Survey and Compendium of Local Laws for Protecting Water Quality from Nonpoint Source Pollution** NYS DEC 1996 (63 pg.) A compilation of actual local laws and model regulations. \$6.00 + \$1.50 s/h

✓ **The Interaction of Commercial Forestry with Town Government in New York State** NYS Forest Resources Development Council, 1995. Results and analysis of a survey on local attitudes and regulations addressing timber harvesting. \$6.00 + \$3.00 s/h

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