

- Open Meetings and Public Hearings
- Quorum and Voting
- Important Reading (Homework)
- Decision Making & A Complete Public Record
- Code Breakdown
- Site Plan Approval
- Special Use Permits
- Subdivision
- SEQR
- General Philosophy
- Information Sources and Contacts



# Planning Board Basics

## Open Meetings

NYS Public Officers Law (Sec. 100) requires that whenever a quorum of a public body is gathered to conduct business the public be allowed to observe.

“S 103. Open meetings and executive sessions. (a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section ninety-five (105) of this article.”

This does not mean that the public is allowed to speak or otherwise interact with members of the public body at a public meeting. Every effort should be made to give the public a chance to observe the proceedings.

Executive sessions are typically reserved for personnel issues, sensitive legal and financial matters or safety. (Sec. 105)



# Planning Board Basics

## Public Hearings

- The Planning Board will hold a lot of public hearings for site plan reviews, special use permits, subdivisions, SEQR. The purpose of a public hearing is to inform and gather information from, the public.
- Before the hearing members of the public should have a chance to review the proposal(s) that will be the subject of the hearing.
- Each hearing should begin with a brief summary of how the hearing will proceed (rules) and a synopsis of the issues at hand.
- Because this is an information gathering exercise, provisions should be made for properly recording everything that is offered.
- Members of the board do not have to answer questions or otherwise engage the public.



# Planning Board Basics

## Quorum & Voting

**“S 41. Quorum and majority.** Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of the whole number of such persons or officers, gathered together in the presence of each other or through the use of videoconferencing, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, shall constitute a quorum and not less than a majority of the whole number may perform and exercise such power, authority or duty. For the purpose of this provision the words "whole number" shall be construed to mean the total number which the board, commission, body or other group of persons or officers would have were there no vacancies and were none of the persons or officers disqualified from acting.”\*

\* NYS General Construction Law, Chapter 22, Article 2, Section 41



# Planning Board Basics

## Important Reading

NYS Town Law, Sections 271, 274-a, 274-b, 276 thru 279

NYS Village Law, Sections 7-718, 7-725-a, 7-725-b, 7-728 thru 732

NYS General City Law, Sections 27, 27-a, 27-b, 31 thru 34, 37

(<http://www.dos.state.ny.us/lgss/books/zoning.htm>)

NYS Public Officers Law Section 100 “*Open Meetings Law*”

NYS General Municipal Law Article 12-b Section 239-m

*County Planning Board Referrals*

Comprehensive Plan

Zoning Code

Subdivision Regulations



- Difficult decisions can be made easier with an objective approach.
- Try divesting yourself from the desired or anticipated outcome.
- Focus on the legally required process and compilation of an informative and complete public record.
- Findings are the answer. They are the relevant facts that support and explain any decision
- The Public Record should be clear on three points:
  1. Process followed.
  2. Relevant facts that support the decision (findings).
  3. Nature and content of the decision. Include specific conditions if made.



- General Purpose and Intent
- Definitions
  - A complete definitions section with cross references can be invaluable to the ZBA at decision time.*
- Laws Applicable to All Districts
  - (parking, lighting, etc)*
- Creation and Empowerment of Boards
  - It's where your authority comes from.*
- Use Districts:
  - Intent of District*
  - Allowed Uses*
  - Allowed Accessory Uses*
  - Specially Permitted Uses*
  - What requires other approvals (site plan, etc)*



- **Waiver Authority**  
*for subdivision, site plan, and special use permits.*
- **Density Schedule**  
*Setbacks, minimum lot sizes, maximum lot coverage, etc*
- **Zoning Map**  
*It's a legal document that must accompany any change to district boundaries.*
- **Site Plan Review Criteria:**  
*Submission requirements and areas of review.*
- **Special Use Permit Criteria**



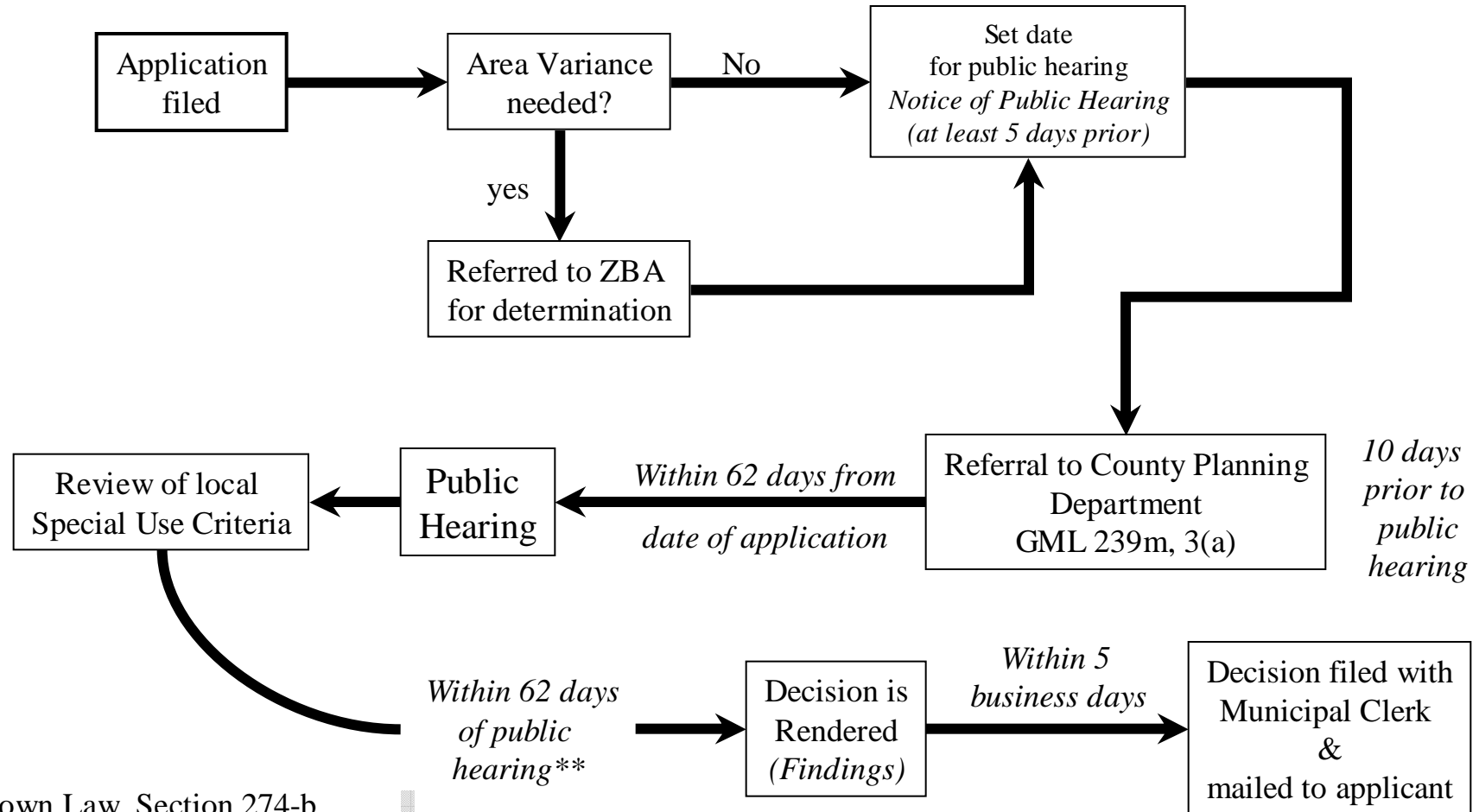


- **“Definition of special use permit.** As used in this section the term "special use permit" shall mean an authorization of a particular land use which is permitted in a zoning ordinance or local law, subject to requirements imposed by such zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met.”\*
- **The review should be administrative in nature.** Standards in the Zoning Code should provide adequate guidance to the reviewing agency.
- If the Special Use Permit requirements are met, the application should be approved and vice versa.
- If the reviewing agency wishes to **waive** on or more of the review criteria, the authority to do so must be spelled out in local law. If the Town Board has not given waiver authority to the reviewing board review criteria and submission requirements may not be waived.



# Planning Board Basics

# Special Use Permit



\* Town Law, Section 274-b  
City Law, Section 27-b  
Village Law Section 7-725-b

\*\*Can be extended by mutual consent of applicant and ZBA



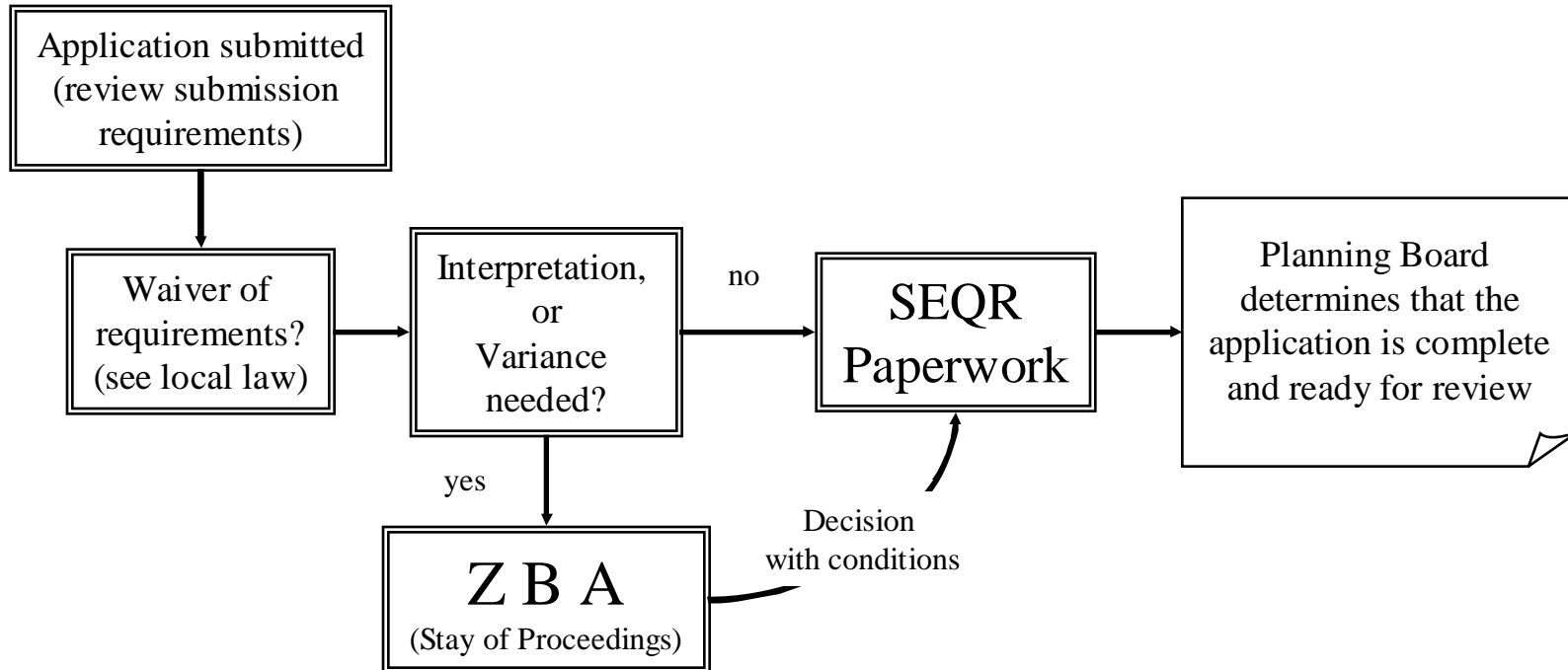
# Planning Board Basics

## Site Plan Review

- Can exist without zoning.
- Legislative Board may empower ZBA, or Planning Board to review site plans. Usually Planning Board.
- Legislative Board may retain site plan review authority for themselves.
- When designating some other administrative body to review site plans, the Legislative Board must clearly define the extent of the authority being given



### 1 Application Ready for Review



*Procedure In Town, Village, and City Law*

*Town Law Section 274-a,*

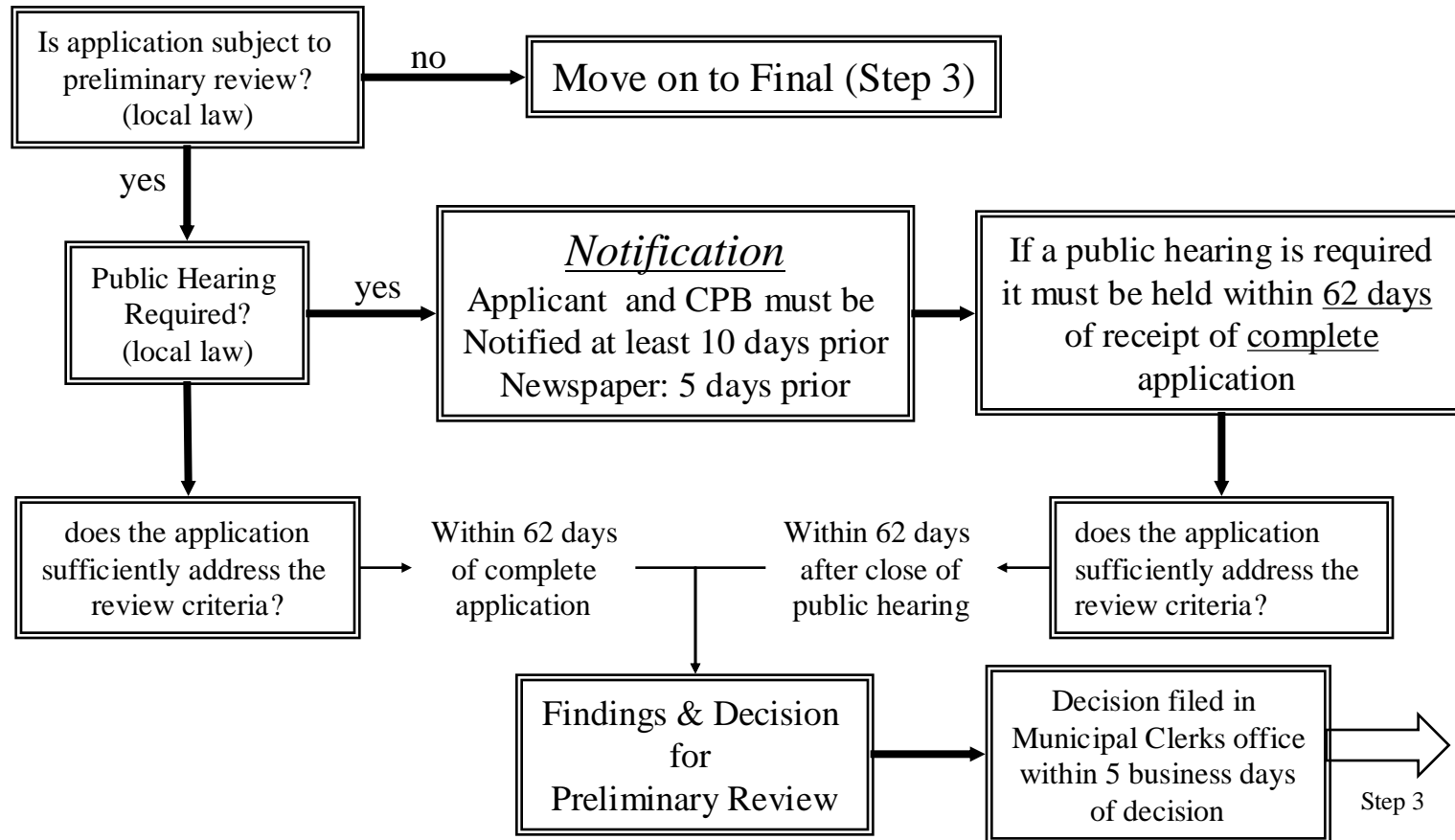
*Village Law Section 7-725-a,*

*General City Law Section 27-a)*



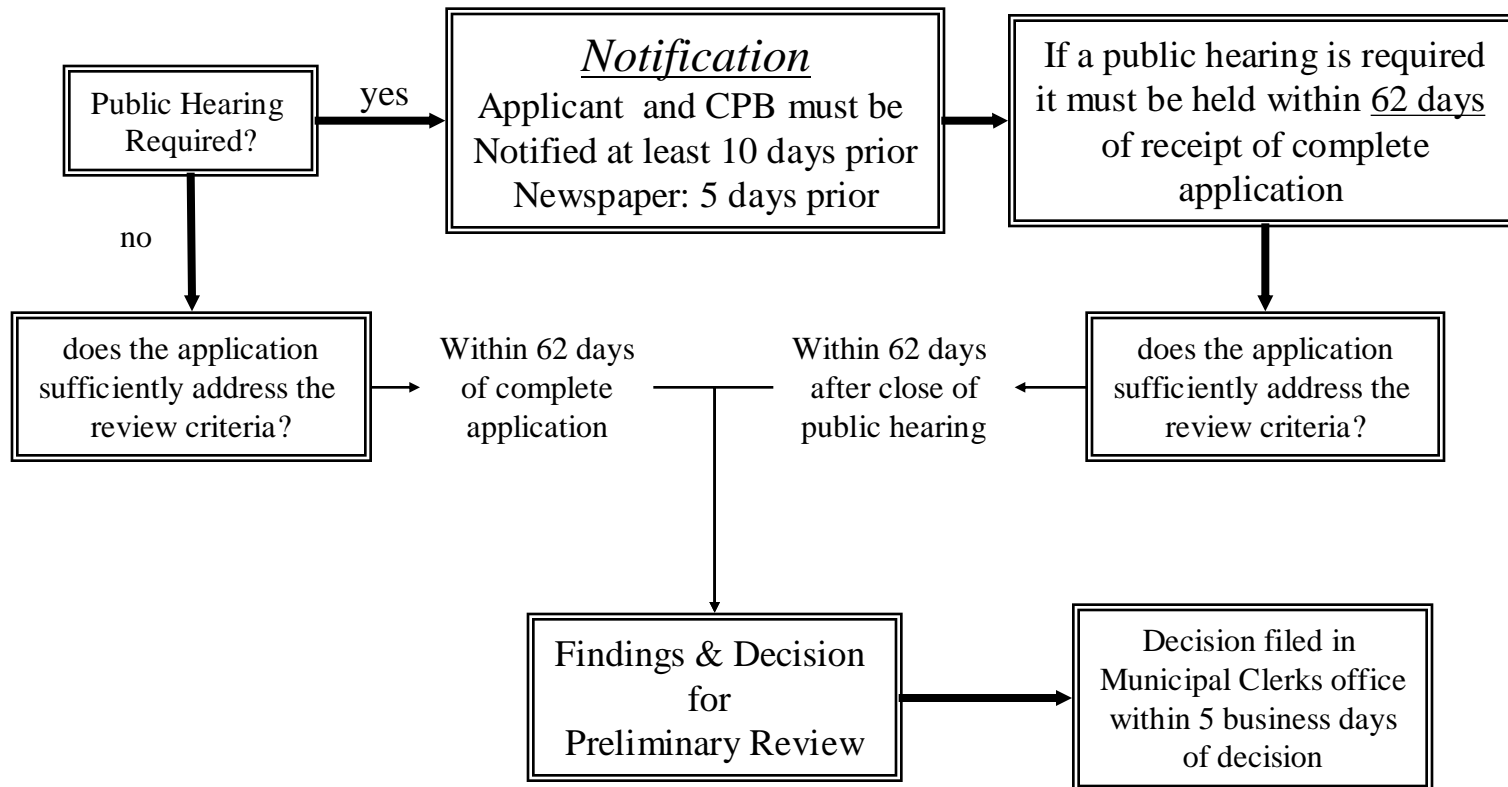
## 2

### Preliminary Review – Not Provided for In State Law



## 3

### Final Review



# Planning Board Basics

## Subdivision Review

- The intent of subdivision review is to ensure proposals for the division of land include adequate provisions for access, sewer and water, and other essential services and amenities in compliance with local law. It should be clear that newly created lots are able to be developed in a way that does not unduly harm adjacent land owners and the community
- Anything defined in local law as a subdivision must be reviewed using the procedures specifically spelled out in NYS enabling legislation.
- Subdivision review must be coordinated with SEQR.
- The legislative body may set up different types of review for different types and scales of subdivision.
- As with most other municipal actions the decision on a subdivision should be supported with findings of fact in the public record.
- Process is important! State Law provides for default approval in the event that certain time limits are not met.



# Planning Board Basics

## Default Approval

“8. Default approval of preliminary or final plat. The time periods prescribed herein within which a planning board must take action on a preliminary plat or a final plat are specifically intended to provide the planning board and the public adequate time for review and to minimize delays in the processing of subdivision applications. Such periods may be extended only by mutual consent of the owner and the planning board. In the event a planning board fails to take action on a preliminary plat or a final plat within the time prescribed therefore after completion of all requirements under the state environmental quality review act, or within such extended period as may have been established by the mutual consent of the owner and the planning board, such preliminary or final plat shall be deemed granted approval. The certificate of the town clerk as to the date of submission of the preliminary or final plat and the failure of the planning board to take action within the prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.”

*NYS Town Law Section 276, part 8, NYS Village Law Section 7-728, part 8 &  
NYS General City law Section 32, part 8*

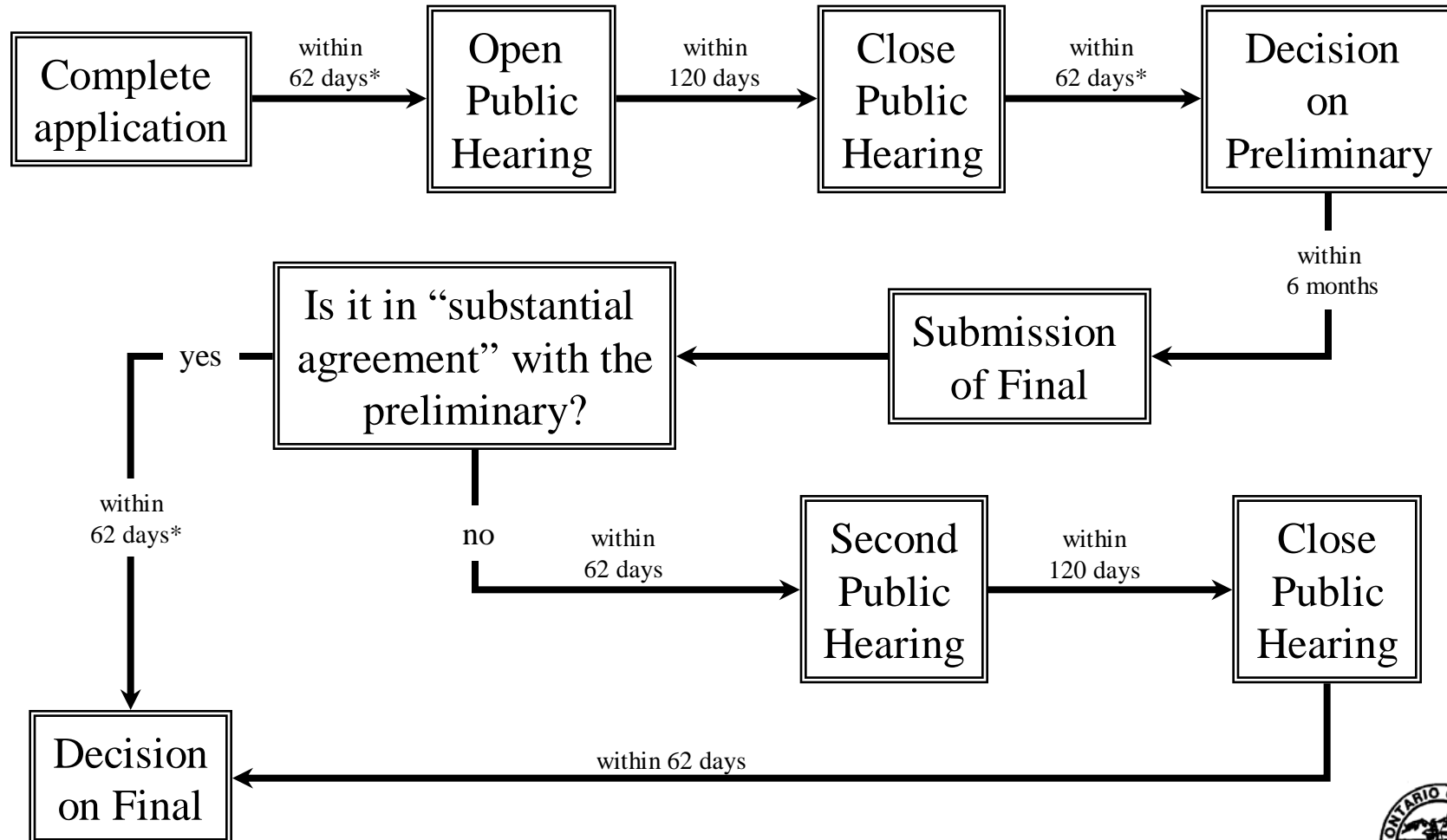




# Planning Board Basics

# Subdivision Review

## Review Process - The Simple Version



*\*Failure to comply within this specific time limit results in default approval unless extended by mutual consent of owner and reviewing agency*



## State Environmental Quality Review

- Intended to incorporate environmental considerations into local decision making.
- What is “environment”?
- Local reviews should be coordinated with SEQR
- The SEQR process affects when an application is complete and ready for review.
- Process driven. Know the basic players and procedures.
- Avoid Segmentation!



*Typically, review time clocks do not start until required SEQR paperwork has been completed.*

## **6 NYCRR PART 617 - STATE ENVIRONMENTAL QUALITY REVIEW 617.3 GENERAL RULES .**

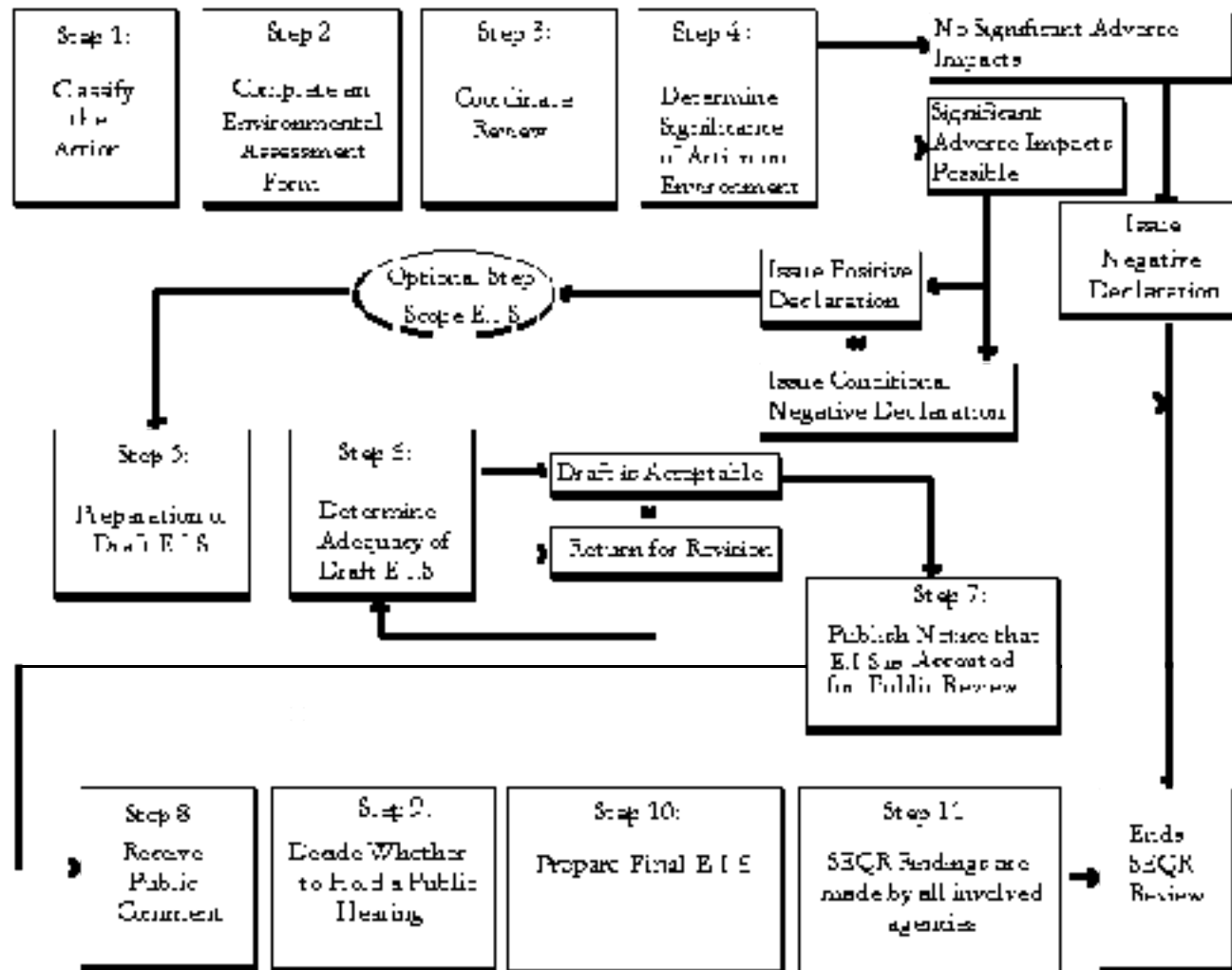
(c) An application for agency funding or approval of a Type I or Unlisted action will not be complete until:

- (1) a negative declaration has been issued; or
- (2) until a draft EIS has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy. When the draft EIS is accepted, the SEQR process will run concurrently with other procedures relating to the review and approval of the action, if reasonable time is provided for preparation, review and public hearings with respect to the draft EIS.



# Planning Board Basics

# SEQR



# Planning Board Basics

## Basic Philosophy

- Open and consistent communication with other boards, municipal officials, the public and other information sources is essential.
- No one knows everything about planning.
- Understanding how to find out is an essential part of a thorough review.
- As much as possible divest yourself from a specific outcome.
- Process is important!
- Create a complete and accurate public record.
- Support any decision with factual findings.



# Planning Board Basics

## Information Sources

- **Ontario County Online Resources (ONCOR)** - a robust web based mapping system integrated with databases that show assessment information surveys, tax maps, etc.  
<http://oncor.co.ontario.ny.us/Oncor>
- **Ontario County Planning Department Website** – Minutes, referrals lists, training modules etc. <http://www.co.ontario.ny.us/planning/>
- **New York Municipal Insurance Reciprocal (NYMIR)** – “The educational program is written for volunteers who may be experienced with aspects of land use practice but who are not experts or practitioners. Each component describes the basics of the subject covered and summarizes the requirements of applicable statutes and the lessons learned from important court cases. The emphasis is on understanding the fundamental rules and avoiding common mistakes.” (from the website) [http://www.nymir.org/zoning\\_reg.shtml](http://www.nymir.org/zoning_reg.shtml)
- **New York Planning Federation** – Various resources including links to interesting sites, model ordinances, grant and training opportunities etc. <http://www.nypf.org/>
- **NYS Department of State, Division of Local Government** – Mostly helpful publications (James Coon Series) <http://www.dos.state.ny.us/lgss/index.htm>
- **NYS DEC, State Environmental Quality Review (SEQR)** - Everything you could ever want to know about SEQR including, step by step procedural guidance, forms, schedules, complete regulations, etc  
Link to Main Site: <http://www.dec.ny.gov/public/357.html>  
Link to Part 617 (Regulations): <http://www.dec.ny.gov/reg/4490.html>



# Planning Board Basics

## Information Sources

Ontario County Planning Department

20 Ontario Street, Suite 323

Canandaigua, NY 14424

Ph: (585) 396-4455

Fax: (585) 393-2960

[www.co.ontario.ny.us/planning](http://www.co.ontario.ny.us/planning)

### **Staff:**

Kristen Hughes, Director

Thomas P Harvey, Associate Planner

Angela Ellis, Senior Planner

Maria Rudzinski, Senior Planner

Kevin Schultz, Senior Planner

Tim Jensen, Senior Planner

