

The background of the slide is a spiral-bound notebook with a light beige, textured cover. The spiral binding is visible on the left side. The text is centered on the page.

**Site Plan Review**

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**More Method  
Than You Think**

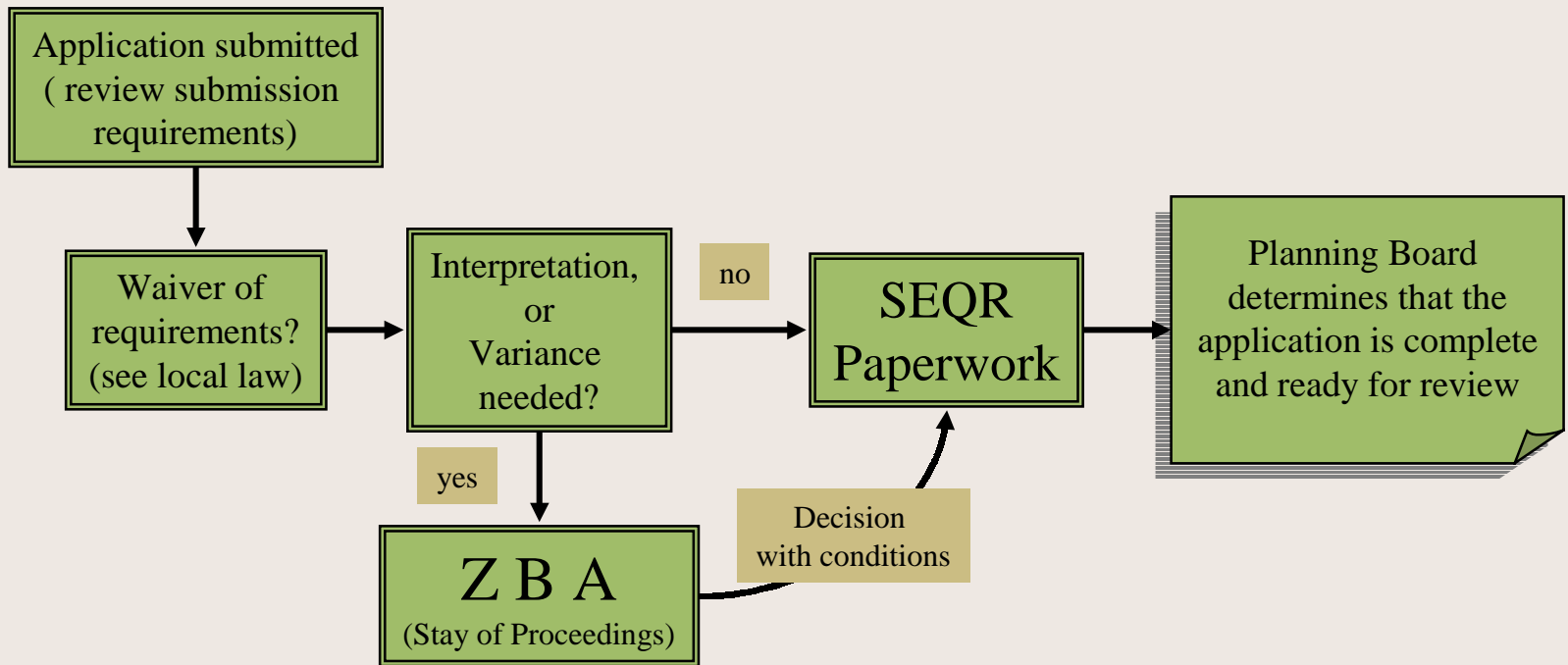
# Site Plan Review – Some Basics

- *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 authority*

# Procedure In Town, Village, and City Law

(TL Section 274-a, VL Section 7-725-a, CL Section 27-a)

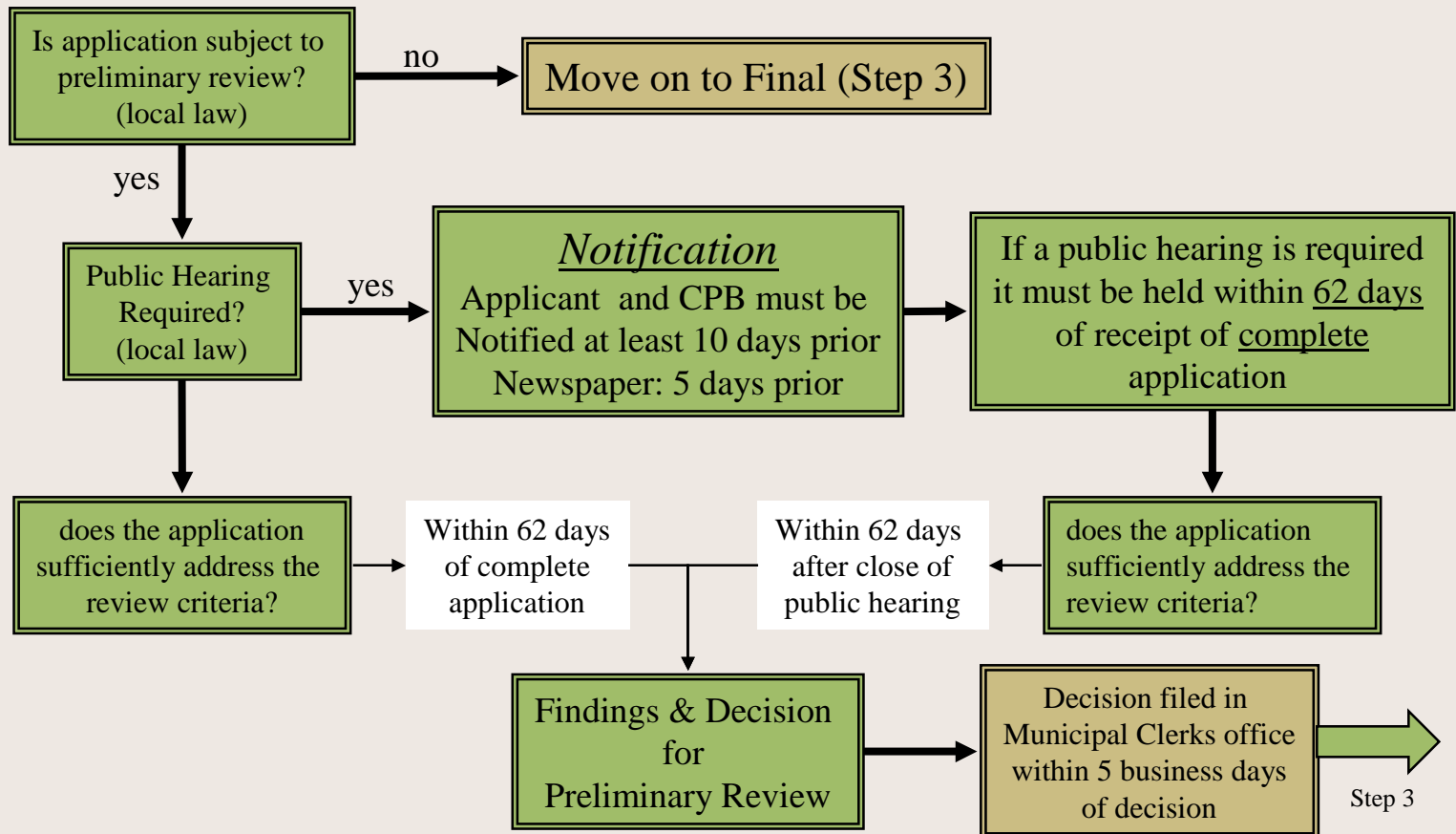
## 1 Application Ready for Review



# Procedure In Town, Village, and City Law

(TL Section 274-a, VL Section 7-725-a, CL Section 27-a)

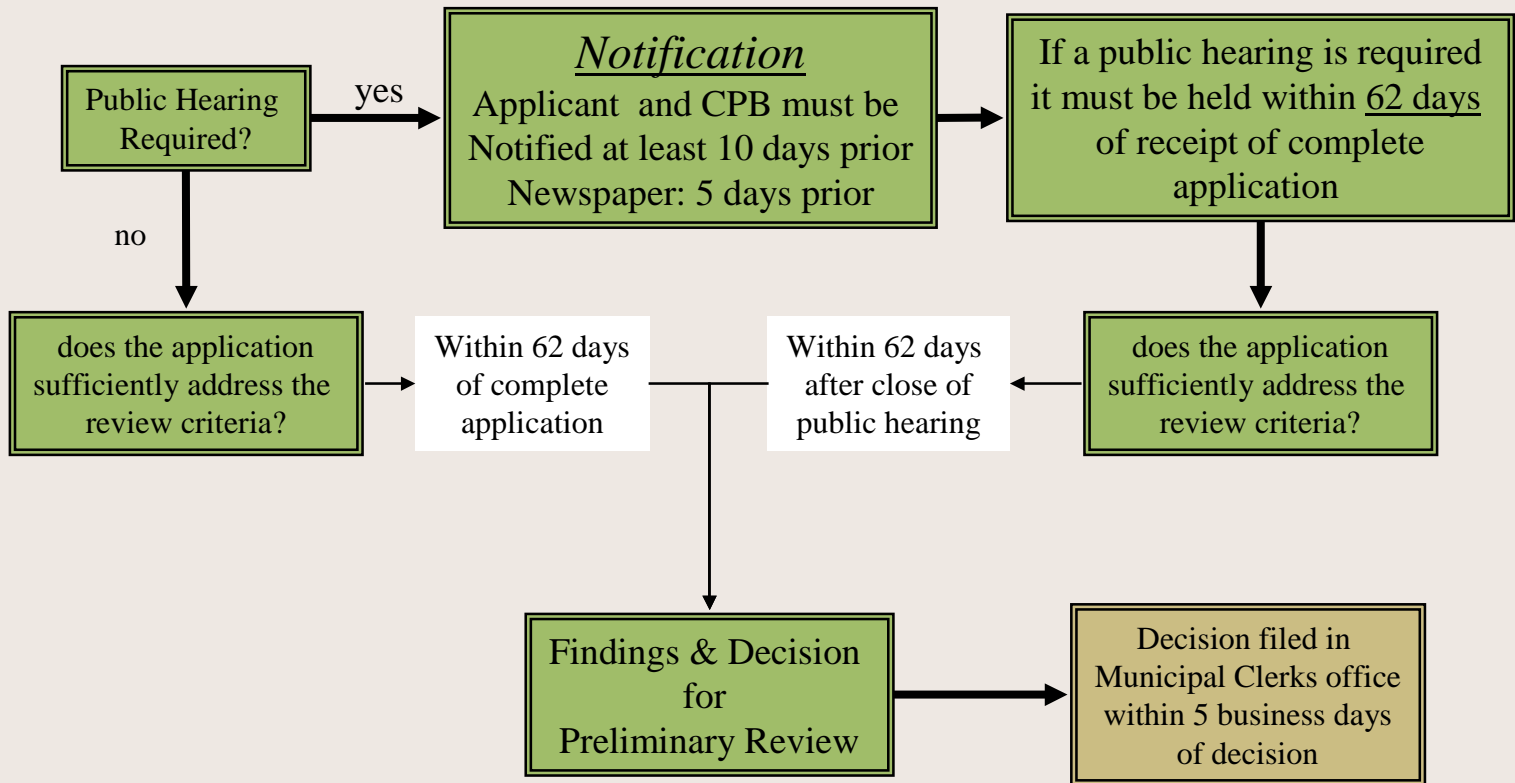
## 2 Preliminary Review – Not Provided for In State Law



# Procedure In Town, Village, and City Law

(TL Section 274-a, VL Section 7-725-a, CL Section 27-a)

## 3 Final Review



# Compliance with SEQR

*The Site plan review time clock does 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.

# Submission Requirements & Review Criteria

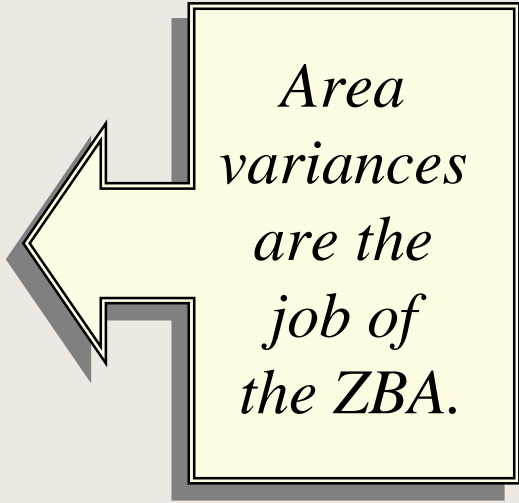
- Should clearly define the extent of review by designated agency.
- Two Lists – Similar, but not identical.
- Submission requirements should be specific.
- Review criteria may be very specific or somewhat general.
- General criteria necessitate more thorough and specific evidence to support decision.
- Supplemental standards help.

# Waivers vs. Variances

## *Section 274-a of NYS Town Law, Part 3*

### 3. Application for area variance.

Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.



*Area  
variances  
are the  
job of  
the ZBA.*

# Waivers vs. Variances

5. Waiver of requirements. The town board may further empower the authorized board to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the ordinance or local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

*Standards for waiving site plan review criteria have to be spelled out in local law.*

# Supportive Evidence – Findings

*A planning board must render **findings** of fact to support site plan decisions. These **findings** must be supported by substantial evidence in the record.*

*Conclusory **findings** which merely restate the requirements of the applicable zoning regulation are not enough to substantiate a decision.*

# Expert Testimony & Local Knowledge

- *Both are acceptable as basis for decisions*
- *Planning Board members are allowed and should incorporate their own knowledge into site plan review.*
- *This does not mean that members become experts in all areas of site plan review.*
- *Character of the neighborhood, potential negative affects on neighboring properties, etc. are areas where residents may have some “expertise”*
- *Input from qualified people is still needed for technical issues.*
- *In either case, be careful to spell out the factual findings!*

# Basis for Decision

- *Findings, Findings, Findings, Findings, Findings*
- *The decision to approve or deny must be made by the empowered agency.*
- *The decision cannot be based solely on:*
  - *the opinion of the municipal attorney*
  - *SEQR findings unrelated to site plan review criteria*
  - *hearsay*
  - *public opposition*

# Fees to the Applicant

- *A fee schedule should be set up in local law to address the need for engineers , architects and other professionals generally helpful to site plan review.*
- *Different fee schedules may apply to different types and sizes of projects. (individual residences vs. 50 lot mobile home park)*

# Conditions

- *2 Step Test 1) Must be reasonably related to the application and 2) ameliorating demonstrated potential negative affects. (“nexus” and relationship to affect)*
- *Should also be reasonably related to site plan review criteria.*
- *Generally, an applicant should not be required to make off site improvements.*
- *Parkland or cash in lieu of can be required for residential development when a “proper case” can be made that the proposed development will increase the need for recreation facilities (population growth)*

# Final Thoughts

- ✓ *The Town Board should clearly define extent and nature of site plan review authority.*
- ✓ *There is a reason that a reviewing agency is made up of residents from the community. They are uniquely qualified and legally empowered to balance site plan related issues for the good of their municipality.*
- ✓ *The reviewing agency must make the final decision.*
- ✓ *The reviewing agency should create a complete description of the review process in the public record. Did I mention findings?*
- ✓ *If a review criteria are general, it just means that the local board has more work to do listing findings that support a decision.*
- ✓ *Nobody knows everything about site plan approval. The local code should provide for a review process that allows for consultation with qualified people to aid in decision making.*

## Information Sources – Internet Sites

- [www.co.ontario.ny.us/planning](http://www.co.ontario.ny.us/planning)
  - Info, Links, Dept of State Publications
- <http://www.nymir.org/>
  - New York Municipal Insurance Reciprocal
  - Simple Registration Required
- <http://assembly.state.ny.us/cgi-bin/claws>
  - New York State Consolidated Laws
- [http://www.dec.state.ny.us/website/dcs/EP\\_SEQR/seqr\\_1.html](http://www.dec.state.ny.us/website/dcs/EP_SEQR/seqr_1.html)
  - NYSDEC Introduction to SEQR with links to law text

## Information Sources – People

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