

THE ST. LAWRENCE COUNTY PLANNING OFFICE

*Public Safety Complex, Second Floor, 48 Court Street
Canton, New York 13617-1169*

VOICE (315) 379-2292
FAX (315) 379-2252

E-MAIL Planning@stlaw.org
WEB SITE planning.stlawco.org

Land Use Training Session May 30, 2018

Best Practices for Aesthetically Pleasing Projects and Recent Land Use Decisions

Agenda

- | | |
|-------------|---|
| 6:30 – 6:35 | Introductions and overview of agenda |
| 6:35 – 6:50 | Aesthetically Pleasing: What does it mean and who gets to choose what looks “nice” |
| 6:50 – 7:10 | Case Study Colton – What we learned from a dollar store development (guest presenter) |
| 7:10– 7:30 | Recent Land Use Decisions by Zoning Boards and how they can help in your review deliberations |
| 7:30 – 7:35 | Break |
| 7:35 – 8:10 | Case Study introduction and deliberation |
| 8:10 – 8:25 | Reports from groups |
| 8:25 – 8:30 | Wrap-up and additional training resources |

Aesthetically Pleasing: What does it mean? Who gets to choose?



Which do you like better, this or...



...this McDonald's?



Discussion topics

- Defining aesthetics
- Design guidelines and standards
- Architectural review
- Signage/lighting
- Role of the Planning Board
- Role of the ZBA

Defining Aesthetics

Concerned with beauty or the appreciation of beauty.

- Similar to legislating common sense
- Generally accepted principles (proportions, tidy, consistent with existing, scale, etc.)

Design Guidelines and Standards

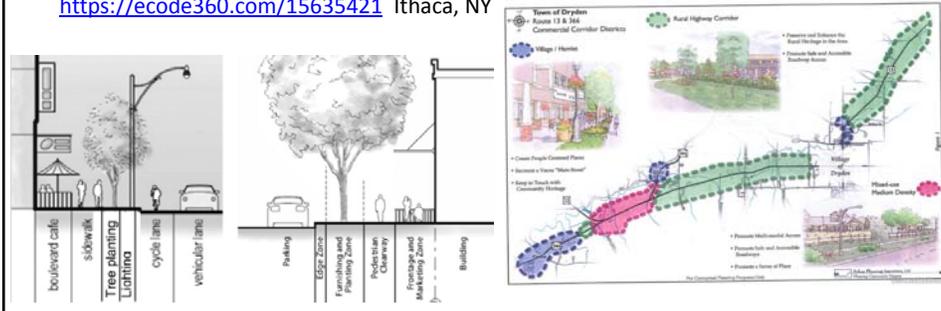
- Design Guidelines --clearly articulate community vision, lots of renderings and sketches

<http://dryden.ny.us/departments/planning-department/planning/design-guidelines/>

- Design standards -- specific to Landscaping, windows, colors, signage, lighting, facades etc.

<https://ecode360.com/13591169> Ellenburg, NY

<https://ecode360.com/15635421> Ithaca, NY



Architectural Review

- Useful in Historic Districts
- Adds another layer of review to projects
- Protects integrity of district/structure/etc.
- May be the Planning Board or a separate board

[https://www.dos.ny.gov/lg/publications/Legal Aspects of the Municipal Historic Preservation.pdf](https://www.dos.ny.gov/lg/publications/Legal_Aspects_of_the_Municipal_Historic_Preservation.pdf)



Architectural Review



Signage

“U.S. Supreme Court Affirms That Content-Based Sign Codes Violate The First Amendment” (BBK Law
September 3, 2015)

Size, Location, Duration, Appearance are okay



Signage



Signage

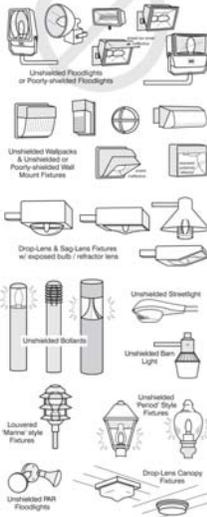


Lighting

Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged

Fixtures that produce glare or light trespass

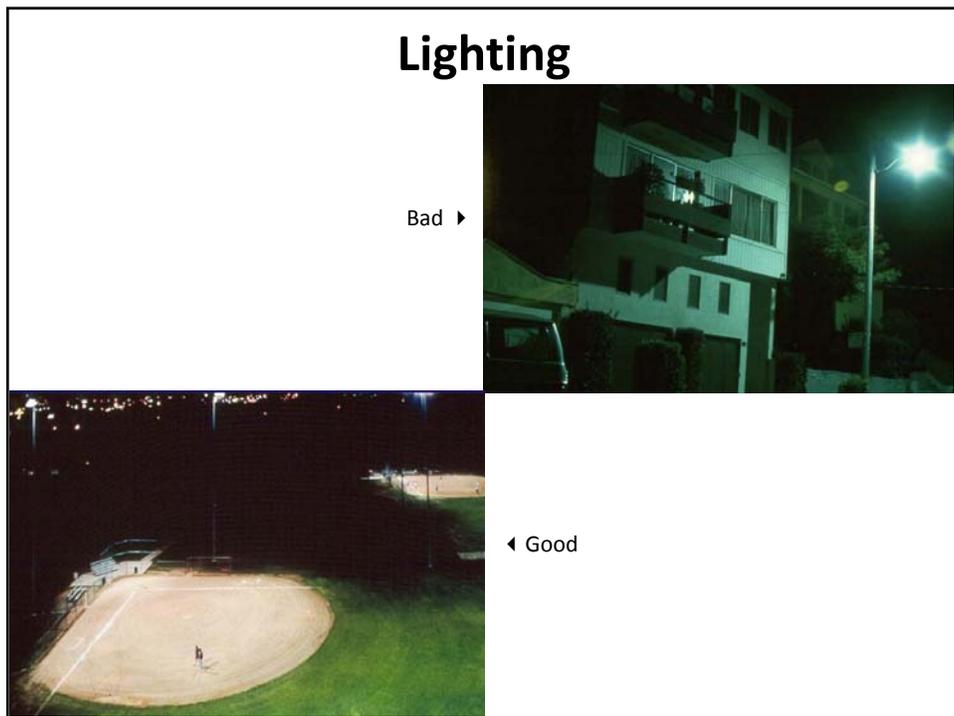
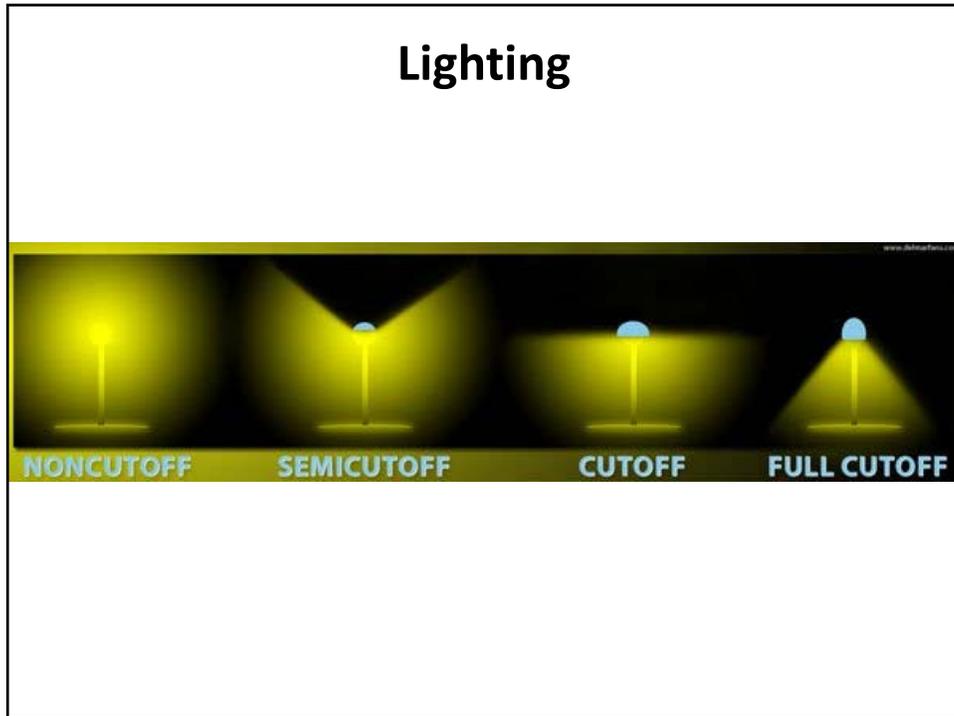


Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



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Role of the Planning Board

- Issue site plan approvals and special use permits required to meet design standards

“...ground floor apartment(s) shall not result in substantial changes in the exterior appearance of the building, including changes in the fenestration, facades, porches or other elements of the structure.” **Section 180-31 (10) b. Village of Potsdam Zoning Code 9** (special use permit criteria)

Role of the Zoning Board of Appeals

- Grant dimensional relief (area variance) when necessary (signage, setbacks, height)
- Consider use variance requests for projects that don't meet permitted use status

“...ground floor residential use in the CBD is prohibited on the section of Market Street between Maple Street and Sandstone Drive on the west side of Market Street and...” **Section 180.17.1 B. Village of Potsdam Zoning Code**

ZBA Case Studies

Court decisions
regarding interpretations and area variances

May 30, 2018

Court Case #1: Interpretation

- Bethany Reformed Church to lease vacant parsonage to Family Promise
- Homeless day center for housing and employment assistance
- Up to 14 persons
- No overnight stays



Uses & Zoning

- R-1B: SFR medium density
- Permitted uses: Detached single family homes & houses of worship
- Sanctuary, education & social building, parsonage and parking lot
- Single family residential neighborhood



2.82 Acres



Neighbor's Reaction

- Vehement opposition
- Traffic & noise by drifters, vagabonds, tramps and bums



Local code



- Houses of worship: “A structure or part of a structure used for worship or religious ceremonies”
- Not defined: “worship” and “religious”
- Division of Buildings and Codes: “Proposed use does not appear to be related to house of worship or SFR” → Use variance/SUP

Church’s position



- Homeless outreach part of church’s mission and congregation’s religious work; an act of charity
- Harm other services: Alcoholics Anonymous, NA, community meals, day care program
- Give wide latitude as allowed under the Religious Land Use and Institutionalized Persons Act of 2000

Mission Statement

Bethany Reformed Church seeks to be a caring and inclusive community

called by Christ to glorify God –

empowered by the Holy Spirit to express God's love,

serve our neighbors and community,

and invite others to follow Christ in a life-changing way.

Religious Land Use and Institutionalized Persons Act of 2000

- Cannot adopt land use regulations that impose a substantial burden on exercising religious freedom
- Cannot use zoning to block religious activity
- Regulations on the religious must equal those on the non-religious

Is a day center part of church?

- Attempt to determine original intent
- Based on minutes, testimony, planning documents
- Can defer to standard definitions/practices

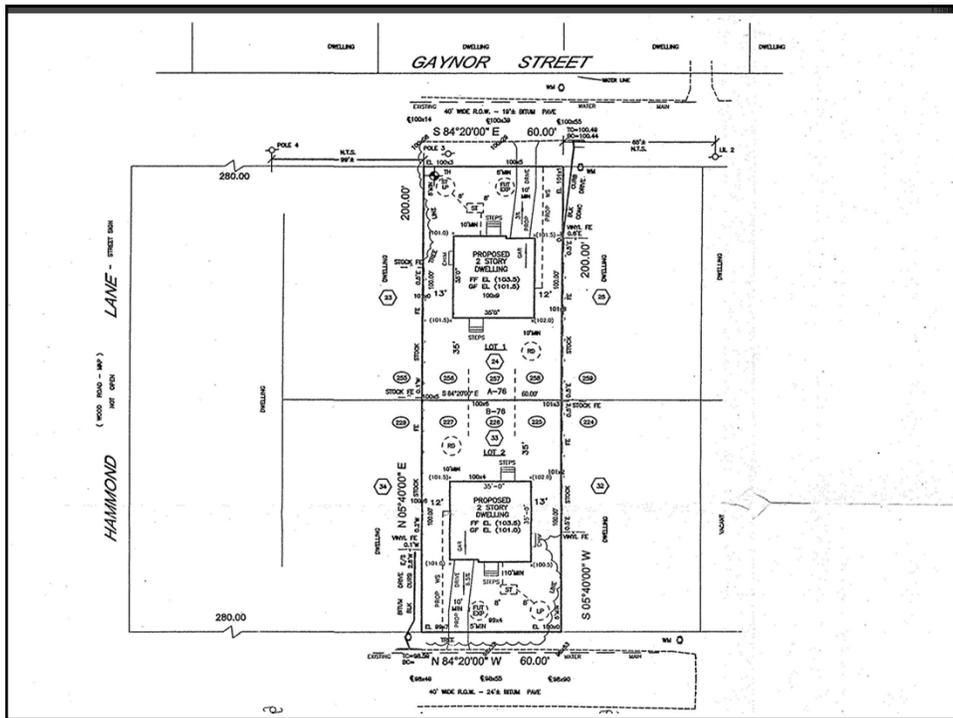
Court Case #2: Area Variances

- Double-frontage, non-conforming lot
- Held in common ownership since 1948
- Construct a dwelling on each 6,000 sq. ft. lot
- Variances needed for lot size, road frontage, front, side and rear yard setbacks

Property Characteristics

- 60' road frontage, 12,000 sq. ft
- Surface discharges affects sole source drinking aquifer
- Rezoned from B to A-2 in 1994
- Acquired via tax sale in 2008





Residential B Standards - Before 1994

- 15,000 sq. ft.
- 100' of road frontage
- 40' front yard
- 18' side yards
- 50' rear yard

A-2 Standards - After 1994

Standard	Required	Proposed
Lot size	80,000 sq. ft.	6,000 sq. ft.
Road frontage	200'	60'
Front yard	60'	30'
Side yard	30' & 80'	12' and 25'
Rear yard	75'	35'

Causes for Rezoning

- Concern for high density residential
- Rezoned undeveloped portions
 - Maintain rural character
 - Preserve/enhance water quality
 - Minimize future traffic congestion
 - Protect/enhance existing environment
 - Advances groundwater quality plan

Non-Conforming Provision

- ... single-family dwelling may be erected on any lot 60 feet or more in width, within a zoning district where otherwise permitted, which was separately owned at the time of the passage of the ordinance... and ***which has not come into common ownership with adjoining property...***

County Department of Health

Hydrological zone 1

- 20,000 sq. ft. lot size
- Created before 1981 → exempt

Balancing Tests

- Undesirable change in neighborhood character?
- Achieve benefit by some other method?
- Variance(s) substantial?
- Adverse impact on environment?
- Difficulty self-created?

Interpretation Outcome:

- March 2015: ZBA: homeless outreach is a part of a church's religious work.
- February 2016: Albany County Supreme Court says ZBA used overly broad definition of "house of worship"
- April 2016: Family Promise files appeal with Appellate Division, 3rd Department: Supreme Court should not exclude ministry work.
- November 2016: Homeless services legally recognized as religious conduct. Acts of charity is essential part of religious worship, a central tenant of major religions. Judgement reversed without costs, petition dismissed.

Area Variance Outcome:

- April 2015: Denied by ZBA
- January 2016: Suffolk County Supreme Court: staff report and ZBA's denial has rational basis. Proceeding denied, motion dismissed.
- December 2017: Argued before Appellate Division, 2nd Department.
- March 2018: – Decision affirmed with costs

Additional Training

Local Government Conference:

- October 9, 2018 at SUNY Potsdam

County Planning Office:

- Fall training session in Mid-November

NYS Department of State:

- <https://www.dos.ny.gov/lg/lut/index.html>

Land Use Resources

County Planning Office:

- Tel: (315) 379-2292
- planning@stlawco.org
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Online mapping:

- new.dancgis.org/ima