

# ***Welcome***

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***Spring 2019***  
***Land Use Training***

***for***

***Planning Boards and***  
***Zoning Boards of Appeal***

# Agenda

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- 6:30 – 6:35**      ***Introductions and overview of the agenda***
- 6:35 – 6:55**      ***The Zoning Revision Process – Your Role***
- 6:55 – 7:15**      ***The Special Use Permit – Why specifics are important***
- 7:15 – 7:35**      ***Area Variances – Addressing concurrently with SUPs***
- 7:35 – 7:40**      ***Break***
- 7:40 – 8:10**      ***Case Study introduction and deliberation***
- 8:10 – 8:25**      ***Reporting from groups***
- 8:25 – 8:30**      ***Wrap-up and Additional Training Resources***

# The Zoning Revision Process

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- An application for an un-permitted use is received:

What can happen?

Denial

Use Variance request

Code revision

# Zoning Revision

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- ◉ **Decision of the Municipal Board**
- ◉ **A public hearing is required**
- ◉ **Planning Boards and ZBAs should be consulted**

# What Should Be Considered?

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- Need a name for the new use
- Need to determine where it can go
- Need to determine standards

# Planning and ZBAs

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- Meet with municipal officials
- Have a Committee of representatives
- Look at what other Communities have done

# The County Planning Board's Role

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- County Planning Staff are always willing to offer assistance
- Zoning revisions are referable
- Action taken at the local level after public hearing and County sign-off

# What is a Special Use Permit?

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- **Special Use Permit defined:**

**“The authorization of a particular land use that is permitted in a zoning law subject to specific requirements that are imposed to assure that the proposed use is in harmony with the immediate neighborhood and will not adversely affect surrounding properties”** (Town Law, Section 274-b; Village Law, Section 7-725-b; General City Law, Section 27-b)



# Special Use Permits

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- SUPs offer an additional layer of protection for uses that are less compatible such as:
  - agricultural uses in residential zones
  - home occupations
  - small rural businesses
  - group dwellings
  - bar/restaurants
  - auto service and repair

# Special Use Permits

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- **Common SUP conditions include:**
  - **minimum lot sizes, lot coverage & setbacks**
  - **buffering to address lighting, noise, odor etc.**
  - **sales limitations for businesses**
  - **number of employee restrictions**
  - **traffic impacts (parking, access, etc.)**
  - **limited change in appearance**

# Special Use Permits

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- The role of the Planning Board in reviewing SUPs is to ensure that all conditions listed in the code are addressed
- Public hearings are required within 62 days of submission and a decision 62 days after the hearing
- County review may be necessary

# What is an Area Variance?

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Town Law § 267; Village Law § 7712; and General City Law § 81

define an area variance as:

- **“The authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.”**

# Area Variances

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- Deal with dimensional, bulk or density restrictions
- In determining area variances, the ZBA must weigh benefit of applicant against the health, safety and welfare of the community
- ZBA must evaluate five factors in this “balance-of-interest” test for an area variance

# Area Variances (Five Factors)

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- Will an undesirable change to neighborhood character take place?
- Can benefit be achieved by other means?
- Is the variance substantial?
- Will the variance negatively affect environment?
- Has the hardship been self-created\*?

\* This factor should be considered but does not necessarily preclude the granting of the area variance

# Area Variances (Concurrent Review)

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- Special Use Permit and Area variance can be reviewed at the same time (by different boards)
- Area Variance request does not need to be denied before it can go to ZBA
- Intended to speed up the process

# Area Variance Case Study

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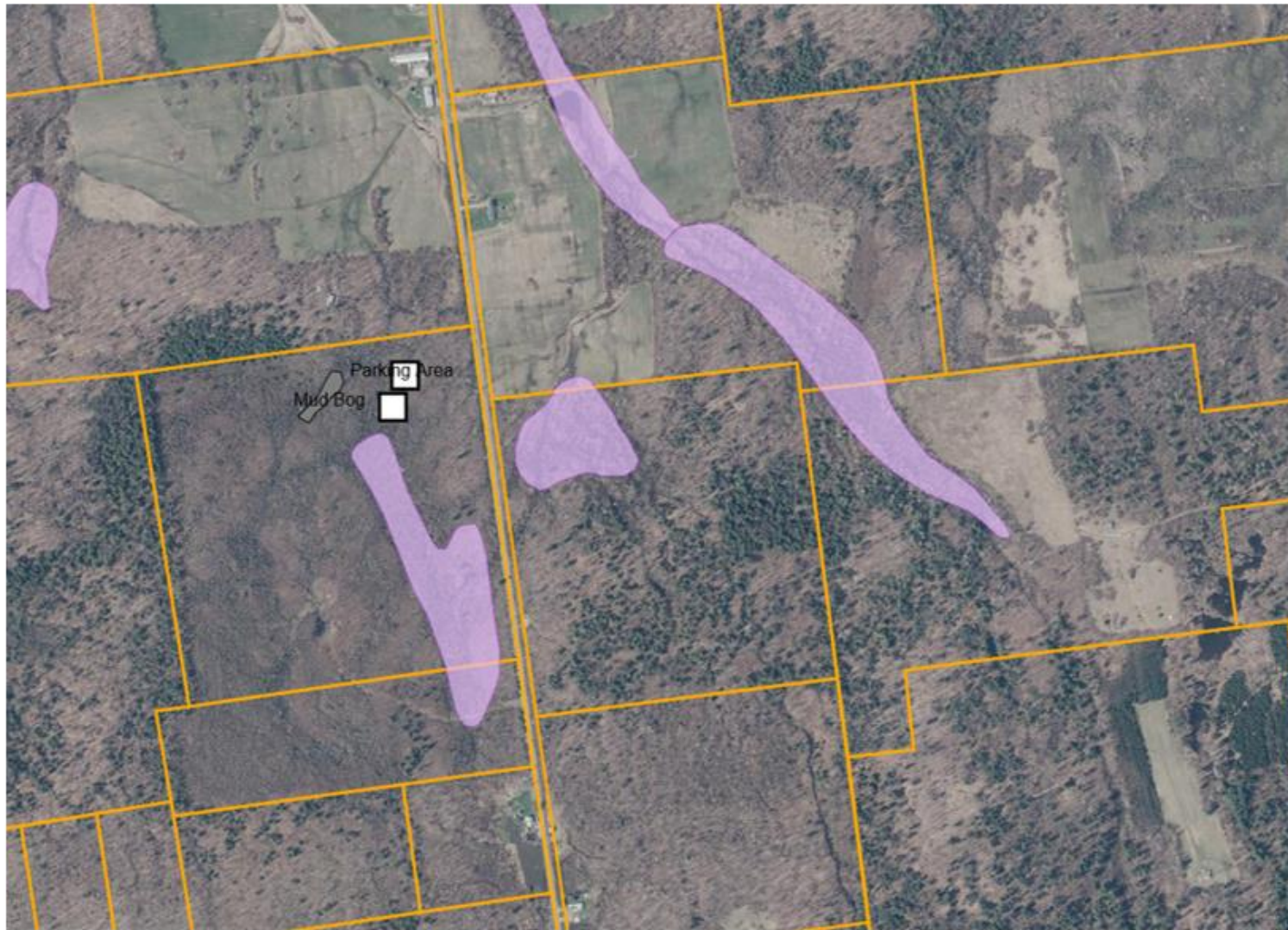
- **City of Kingston, NY**



# Case Study – Mud Bogging SUP Language

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- You have been appointed to a committee charged with creating Special Use Permit language for Mud Bogging.
- Please come up with a name for the use, where you think this type of use should be allowed in your town or village and what type of standards you would have such a land use meet.
- The fictional site plan for a mud bogging facility is intended to help you develop the standards.



Federal Wetland



Parcels StLawrence



Parcels

Proposed Mud Bogging Facility – Town of Happy, NY    Scale: 1 inch = 700 feet

# Other Training Resources

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- <http://www.dos.ny.gov/lg/lut/index.html>
- <http://new.dancgis.org/ima/>
- **Local Government Conference:**
  - Tuesday, October 15, 2019 at SUNY Potsdam
- **County Planning Office: 315-379-2292**