

Topic: Alternative Dispute Resolution
Resource Type: Regulations
State: New York
Jurisdiction Type: Municipal
Municipality: Town of Warwick
Year (*adopted, written, etc.*): Unknown
Community Type – applicable to: Suburban; Rural
Title: Town of Warwick Land Use Mediation
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Abstract

Recognizing that land use disputes can result in costly, time-consuming litigation, the Town of Warwick passed this Land Use Mediation ordinance to encourage and legitimize voluntary mediation of disputes that arise during the planning and zoning permit approval process. The mediation of all disputes is authorized, including disputes with the town boards (i.e. the Planning Board). The statute was enacted in the interest of increasing non-adversarial resolution of disputes in the town. The mediation is voluntary but is encouraged and can be requested by the justice presiding over the matter.

Resource

CODE OF THE TOWN OF WARWICK NEW YORK
PART II GENERAL LEGISLATION
Chapter 164, ZONING
ARTICLE IV, Regulations
§ 164-47.5. Land use mediation.

A. Purposes.

The Town Board of the Town of Warwick recognizes that disputes between developers, home owners, and other interested parties may occur in connection with decisions made by the Town of Warwick. Often these disputes result in litigation that is contentious, costly, and time consuming for all concerned. In an effort to provide an alternative to litigation for resolving such disputes, the Town of Warwick encourages the use of voluntary mediation as set forth herein. Nothing herein shall be construed to abridge the powers of decision making authority of the Town Board or any other board, office, committee, or official to which the Town Board has delegated the responsibility for issuing permits, granting approvals, or otherwise advising the Town Board.

B. Costs.

All costs associated with voluntary mediation conducted pursuant to this section shall be allocated among the parties of interest in a manner to be determined by the parties of interest by agreement. The Town Board is hereby authorized to enter into agreements for sharing the costs of mediation.

C. Procedures.

Mediation shall supplement, not replace, planning and zoning practices (including public hearings) otherwise applicable in the Town of Warwick. The use of mediation shall be voluntary and shall be available in any dispute in which two or more parties of interest agree to voluntary mediation. Any party of interest whose request(s) for permit(s) or approval(s) from the Town of Warwick are the subject of voluntary mediation under this chapter may seek consent from the Town Board for the suspension of time limits found in New York State Town Law or the local law of the Town of Warwick, relevant to such permit(s) or approval(s). The Town Board's decision to consent to the suspension of time limits is entirely within the discretion of the Town Board. The Town Board's consent, if given, shall be conditioned, at a minimum, on the following:

(1) Public notice of the proposed voluntary mediation shall be given in the official newspaper, by one or more parties of interest, at least 10 days and not more than 60 days prior to the granting of such consent by the Town Board. An affidavit of service of public notice shall be filed with the Town Clerk. Such notice shall include at a minimum, the basis of the dispute and the permit(s) and/or approval(s) being sought; the name of the interested party seeking the permit(s) and/or approval(s); and directions for contacting someone who will be responsible for providing information regarding the mediation and the procedure for joining the mediation.

(2) The suspension of time limits shall not exceed 60 days. Upon expiration of the 60 days, the party of interest originally requesting the suspension of time limits may request an additional suspension period, not to exceed 60 days. There is no limit to the number of additional suspension periods to which the Town Board may consent. The Town Board may receive evidence at a public hearing from any interested party with regard to the progress of the mediation to determine whether the consent to an extension of the suspension of time limits would be appropriate. Public notice of the hearing shall be published at least 10 days prior to the hearing in the official newspaper.

(3) Nothing in this section shall be construed to limit the Town Board's authority to impose additional or more restrictive conditions upon its consent to the suspension of time limits.

D. Confidentiality.

Unless otherwise required by law, the parties of interest may agree that the proceedings of the mediation shall remain confidential.

E. Accepted practices.

Any mediation undertaken pursuant to the provisions of this chapter shall be conducted in accordance with accepted mediation practices including, but not limited to, those developed by the New York State Dispute Resolution Association, Inc. for use by community dispute centers established pursuant to Article 21-A of the Judiciary Law or by any other qualified and impartial person acceptable to the parties and the applicable review board.

F. Effect of agreement.

The mediator shall have no power to impose a settlement or bind the Town of Warwick to the terms or conditions of any agreement resulting from voluntary mediation conducted pursuant to this chapter, and any settlement reached shall require approval by the applicable review board to assure compliance with all provisions of this chapter. Terms or conditions of such an agreement may be presented at a public hearing on the requested permit(s) and/or approval(s) or appeal of their denial. The Town Board, Zoning Board of Appeals, Planning Board, or other reviewing authority may refuse to consider such terms or conditions presented if the parties of interest fail to provide justification for them on the record.