

**Topic:** Site Plan Approval  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of Somers  
**Year (adopted, written, etc.):** 1977  
**Community Type - applicable to:** Suburban; Rural  
**Title:** Town of Somers Site Plan Review Ordinance  
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### ***Abstract***

The Town of Somers delegated the authority to review and approve site plans to the Planning Board. The board may prescribe conditions to encourage the most appropriate use of the land taking into account of among other items open spaces, environmentally sensitive lands, trees and vegetation.

### ***Resource***

(See TOWN OF SOMERS, N.Y., SITE PLAN REVIEW ch. 144 (1977)).

## **SITE PLAN ORDINANCE**

[HISTORY AND BACKGROUND: ADOPTED BY THE TOWN OF SOMERS, NEW YORK SITE PLAN ORDINANCE §§ 144-1 TO 144-12.]

### **ARTICLE I**

#### **General Provisions**

##### **§ 144-1 Statutory authority; purpose**

Pursuant to § 274 of the Town Law, as amended, § 170-114 of Chapter 170, Zoning, delegates final authority to the Planning Board for approval of any site plan required by the Zoning Ordinance. Pursuant to § 274-a of the Town Law, these regulations are adopted to establish a procedure for review of site plan application.

##### **§ 144-2 Adjustment of regulations**

Where the Planning Board finds that, because of special circumstances of a particular case, extraordinary hardships may result from strict compliance with these regulations, it may

adjust the regulations so that substantial justice may be done and the public interest secured – provided that any such adjustment will not have the effect of nullifying the intent and purpose of these regulations, the [Municipal] Development Plan, or the Official Map of the [municipality]. In granting any adjustment, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements so adjusted.

**§ 144-3 Amendments [OMITTED]**

**§ 144-4 Enactment**

In order that properties may be developed in accordance with the authority, jurisdiction and policy of the [municipality], these regulations are hereby adopted.

**ARTICLE II  
Objectives**

**§ 144-5 Considerations**

In considering and acting upon site plans, the Planning Board shall take into consideration the recommendations of the [Municipality] Development Plan as well as the public health, safety, welfare, comfort, and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular, and the planning board may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, encourage the most appropriate use of the land, taking into account:

- A. The size, location, height, bulk, appearance, character and suitability of all buildings and facilities.
- B. The safety, adequacy, and convenience of vehicular and pedestrian trafficways, parking and loading areas, access drives and areas related thereto.
- C. The topography, landscaping, and open spaces in relation to each other, to pedestrian and vehicular traffic, and to protection of adjacent properties.
- D. The presence of environmentally sensitive lands including wetlands, watercourses, buffers around wetlands and watercourses, steep slopes, and floodplains.
- E. The preservation of trees and vegetation and the protection of archaeologically sensitive lands, historically sensitive areas, and aquifers.

**ARTICLE III**

**Procedure**

**§ 144-6 Site plan approval**

The procedures for the review and approval of a site plan shall be as set forth in § 170-114 of Chapter 170, Zoning, of the Code of the Town of Somers.

**ARTICLE IV**  
**Site Plan Elements and Standards**

**§ 144-7 Site plan elements**

A detailed site plan shall include all elements listed herein, except that the Planning Board may waive such elements as it deems to be neither pertinent nor necessary, for the proposed development:

A. Legal data

- (1) Section, block and lot numbers of the property taken from the latest tax records.
- (2) Name and address of the applicant and of the architect, engineer, landscape architect and/or surveyor preparing the site development plan.
- (3) Title of the development, date and date of revision, if any.
- (4) North arrow, scale, and location map drawn to a scale of not less than one (1) inch equals one thousand (1,000) feet.
- (5) Survey map defining precisely the boundaries of the property.
- (6) The locations, names, and existing widths of adjacent streets, including curblines.
- (7) The location and owners of all adjoining lands as shown on the latest tax records.
- (8) Copies of all existing and proposed deed restrictions or covenants applying to the property, including covenants and agreements restricting the use and establishing future ownership and maintenance responsibilities for all private roads, recreation, and open space areas.
- (9) Existing zoning, Business NS District, Business GB District, etc.
- (10) Any other legal agreements, documents or information required by the Planning Board.

B. Natural features

- (1) Topographic data at a maximum contour interval of two (2) feet, showing existing and proposed contours.
- (2) Designation of specific soil types.
- (3) The location of all existing watercourses, intermittent streams, wetlands areas and springs, consistent with the definitions set forth in Chapter 167, "Wetlands and Watercourse Protection," of the Code of the Town of Somers.
- (4) Approximate boundaries of any areas subject to flooding or stormwater overflows, including flood hazard areas as established by the United States Department of Housing and Urban Development.
- (5) Rock outcroppings and areas of steep slope, consistent with the definitions set forth in Chapter 148, "Steep Slopes Protection," of the Code of the Town of Somers.
- (6) The location and general characteristics of the different areas of vegetation including the identification of all individual trees with a diameter of eight (8) inches or greater, measured at a height of four and one-half (4 ½ ) feet from the

ground, as well as stands of trees and wooded areas, within areas of proposed disturbance.

- (7) Archaeologically sensitive lands.
- (8) Historically sensitive areas.
- (9) Aquifers.

C. Existing structures and utilities.

- (1) Location of all structures on the premises and approximate location of all neighboring structures within one hundred (100) feet of the lot line.
- (2) Location of all existing public and private roads, paved areas and sidewalks.
- (3) Locations, dimensions, grades, and flow direction of existing sewers, culverts, waterlines as well as other underground utilities within and adjacent to the property.
- (4) Other existing improvements, including fences, landscaping, and screening.

D. Proposed development.

- (1) The location and dimension (length, width, ground floor elevation, and height) of proposed structures with a detailed breakdown of all proposed floor space by type of use and floor level.
- (2) The location, width, and finished pavement grades of the proposed public and private roads, sidewalks, and steps, including profiles.
- (3) The location, layout, finished pavement grades, surface treatment, and curbing proposed for parking and loading areas, including ingress and egress drives.
- (4) The location, size, and proposed screening of outdoor storage areas.
- (5) The location and size of all proposed water supply, sanitary sewerage, storm drainage, valves and hydrants, and other utility facilities, including connections to any existing facilities, including profiles.
- (6) Landscaping plan to clearly identify all existing areas of vegetation that are to be retained and all areas that are to be revegetated or replanted. The plan shall:
  - (a) Include type, size, location and quantities of new materials to be used, including both common and botanical names.
  - (b) Provide a landscaped strip twenty-five (25) feet in width along all property lines that abut land in a residence district or that are across a street from land in a residence district except for approved entrances and exits.
  - (c) Provide a landscaped strip fifteen (15) feet in width along all property lines that abut land in a nonresidence district or that are across a street from land in a nonresidence district.
  - (d) Demonstrate compliance with the requirements set forth in § 170-34 of Chapter 170 (Zoning) of the Code of the Town of Somers for landscaped strips and shrubbery screens in off-street parking areas. Where those requirements may conflict with those set forth herein, the more restrictive standard shall apply.
  - (e) Provide for the planting of street trees, as described in § 150-22D(3) of Chapter 150, Subdivision of Land, of the Code of the Town of Somers, along street lines and access roads.

- (7) Proposed type, location, design, shielding, and hours of operation of exterior lighting, proposed location, type, size, wording, design, color and illumination of all signs.
- (8) Calculation of expected storm drain loads to be accommodated by the proposed drainage system.
- (9) Estimate of earthwork, showing the quantity of any material to be imported to and/or removed from the site.
- (10) Description of measures planned to assure proper erosion and sedimentation control during construction.
- (11) A statement from the applicant's engineer indicating the estimated cost of constructing all new roads and sidewalks and of the water supply, sanitary sewage, and storm drainage systems.
- (12) Tree protection measures to preserve and protect existing trees shall be specified. These measures shall comply with the following standards:
  - (a) Trees to be preserved in proximity to disturbance areas shall be marked conspicuously on all sides. In cases where large areas of trees are to be preserved, conspicuous marking of the area shall be required.
  - (b) In areas of concentrated construction or similar activity, trees to be preserved shall be fenced at the drip line.
  - (c) No construction equipment shall be parked and no earth or construction materials shall be stockpiled or stored under the canopy of trees to be preserved.
  - (d) Excavation greater than six (6) inches in depth shall be prohibited within the drip line of a tree, except for the digging necessary for placement of landscape vegetation where the original grade is to be restored.
  - (e) Earth fills or fills of other material greater than two (2) inches in depth shall be prohibited within the drip line of a tree unless measures, consistent with accepted practices, are taken to provide adequate aeration and water to the root structure.
- (13) Hours of construction activity shall be specified on the site plan. No construction activity exceeding decibels as measured at applicant's property line shall be allowed to start before 8:00 a.m. or extend beyond 6:00 p.m. No construction activity shall be allowed on Sundays or legal New York State holidays.
- (14) Upon completion of construction, four (4) prints of an as-built plan shall be submitted to the Planning Board showing building outlines, first-floor elevations, parking areas, drainage, rim and invert elevations, pipe sizes, sewer, water, underground utilities and finished grades of all roads within the site. When required by the Planning Board, the as-built plan shall show the landscaping on the site, differentiating between that landscaping which was preserved and that landscaping which was newly planted.

E. Conservation Board review and recommendation.

Each site plan shall be submitted by the Planning Board to the Conservation Board for its review and recommendation concerning environmental aspects of such plan. The

Conservation Board shall have thirty (30) days from date of transmittal to respond. Failure of the Conservation Board to act within the allotted time shall not prejudice the application.

### **§ 144-8 Standards for site plan approval**

In acting on site plan applications, the Planning Board shall take into consideration the objectives of this chapter; the objectives, policies, and recommendations of the [Municipality] Comprehensive Master Plan; the health, safety and welfare of the public in general and of the residents, employees, visitors or guests of the proposed development; the protection of environmentally sensitive lands; and the aesthetic impact on the neighborhood. The Planning Board may require such modifications, conditions and safeguards so as to bring the proposed development into compliance with the intent of these regulations. The Planning Board shall specifically take into account the following.

- A. The proposed number, size, location, height, bulk, use, appearance and architectural features of all structures and facilities.
  - (1) The overall building and site design shall enhance and protect the character and property values in the surrounding neighborhood.
  - (2) Development shall be compatible with the architectural style and visual composition of the hamlet area in which it is located.
  - (3) Development shall have a harmonious relationship with the natural terrain, physical characteristics and vegetation on the site and on adjacent properties.
  
- B. The safety, capacity, appearance, and convenience of vehicular and pedestrian trafficways, parking and loading areas, access drives, and areas related thereto.
  - (1) All off-street parking and loading facilities shall meet the requirements of Article X of Chapter 170, Zoning, of the Code of the Town of Somers.
  - (2) Adequate fire lanes and emergency zones shall be provided along with suitable legal agreements for enforcement.
  - (3) The direction of traffic movements may be defined and restricted, with appropriate signage, based upon consideration of site characteristics and site access.
  - (4) The Planning Board may require proposed structures to be set back forty-five (45) feet from the center line of access drives located completely within a development site.
  - (5) Interconnection of parking lots via access drives within and between lots shall be identified and required in order to provide maximum traffic efficiency, to restrict to a minimum the number of curb cuts on public streets, to enhance the development of the hamlet, and to establish the safest and most convenient traffic circulation patterns.
  - (6) Pedestrian and bicycle movement within the site, between the development area and the public right-of-way, and between the site and adjacent sites, shall be evaluated; sidewalks and bicycle paths shall be provided as determined necessary to ensure safe, efficient, and appropriate passages.

C. The protection of environmental quality.

- (1) Buffer areas, plantings, open spaces, walls and/or fences shall be provided as determined appropriate by the Planning Board and in accordance with other requirements of the Code of the [Municipality] so as to ensure harmony with adjacent development and land, to screen parking areas, and to conceal storage and utility areas.
- (2) Adequate storm and surface water drainage facilities shall be provided so as to properly drain the site, detain stormwater as necessary, minimize downstream flooding, and address non-point pollution.
- (3) Exterior lighting and accessory facilities (e.g., air-conditioning systems) shall not create a nuisance for surrounding properties or the public in general.
- (4) Solar access shall be considered – including the orientation of proposed buildings to sun angles, the shading and windscreen potential of vegetation, and the relationship to solar access for adjacent uses and properties.
- (5) Hours of operation shall be considered in the context of nearby existing and permitted uses, existing traffic conditions, and characteristics of the proposed use while in operation. Hours of operation may be restricted for the purpose of preventing nuisances.
- (6) Outdoor storage or display of articles, materials, or equipment shall be identified and considered in the context of the proposed use and nearby existing and permitted uses. The Planning Board may find as part of site plan approval that certain outdoor displays do not require any screening and may be conducted as part of the permitted use.
- (7) Consideration shall be given to alternative designs and methods of preservation that limit disturbance or destruction of existing trees or vegetation. Factors to be considered include:
  - (a) The physical condition (species, size and health) of the trees and vegetation on the site to be developed.
  - (b) The effect of proposed site disturbance on existing trees and vegetation including effects on ecological systems, erosion and sedimentation potential and surrounding vegetation and habitat.
  - (c) The effect of disturbance or removal of existing vegetation on historical context and scenic resources.
  - (d) The impact of utility placements on the health, symmetry, and appearance of trees as well as the impact on vegetation and wooded areas.

## **ARTICLE V**

### **Changes**

#### **§ 144-9 Field adjustments**

During construction, the [Municipal] Engineer may authorize, upon the request of the applicant, minor adjustments to the approved site plan when such adjustments appear necessary in the light of technical or engineering considerations, the existence or

materiality of which was first discovered during actual construction. Such minor adjustments shall be consistent with the approved site plan. The approved change(s) shall be noted on an approved copy of the site plan, which plan shall be transmitted to the Planning Board for information and its permanent file.

### **§ 144-10 Material changes**

Where unforeseen conditions are encountered which require any material change to an approved site development plan or where the developer wishes to modify the approved plan for other reasons, an amended site plan shall be filed with the Planning Board for review and approval in accordance with the same procedures required for initial applications.

### **§ 144-11 Special conditions**

If, during the course of construction, any conditions, such as flood areas, underground water, springs, intermittent streams, humus beds, unsuitable slopes, soft and silty areas or other unusual circumstances, are encountered that were not foreseen in the original planning, such conditions shall be reported to the [Municipal] Engineer, together with the developer's recommendations as to the special treatment required to secure adequate and permanent construction. The [Municipal] Engineer shall, without delay, investigate the condition or conditions and either approve the developer's recommendations to correct same, order a modification thereof, or issue his own specifications for correction of the condition or conditions. Unusual circumstances or detrimental conditions observed by the [Municipal] Engineer shall be similarly treated.

## **ARTICLE VI**

### **Definitions**

### **§ 144-12 Words and terms defined**

For the purpose of these regulations, certain words and terms used herein are defined as follows:

**Building Inspector** - The Building Inspector of the [municipality].

**Official Map** - The map established by the [Municipality] Board under § 270 of the Town Law, showing the streets, highways, and parks theretofore laid out, adopted and established by law, and any amendments thereto adopted by the [Municipality] Board or additions thereto resulting from the approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

**Planning Board** - The Planning Board of the [municipality].

**Site Plan** - The drawing or drawings and related information required in Articles V and VI of Chapter 170, Zoning, and described in Article IV of these regulations.

**Subdivision Regulations** - The officially adopted Subdivision Regulations of the [municipality], together with any and all amendments thereto, as outlined in Chapter 150, Subdivision of Land, of the Code of the Town of Somers.

**Municipality Comprehensive Master Plan** - A plan prepared in accordance with § 272-a of the Town Law which identifies the goals, objectives, principles, guidelines, policies, standards, devices, and instruments for the immediate and long-range protection, enhancement, growth and development of the [municipality], together with any and all amendments thereto.

**Municipality Engineer** - That person retained by the [municipality] to provide professional engineering services.

**Zoning Ordinance** - The officially adopted Zoning Ordinance of the [municipality], together with any and all amendments thereto, as outlined in Chapter 170, Zoning, of the Code of the Town of Somers.