



Development Review Process Frequently Asked Questions (FAQ)

What is a site plan?

A site plan is a rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of land. [Town Law §274-a(1)].

What is a subdivision review?

Subdivision review involves the division of a parcel of land into a number of smaller lots, with or without streets or highways, for the purpose of sale, transfer of ownership, or development. [Town Law §276(4)(a)].

What is a variance?

There are two types of variances: an area variance and a use variance.

An area variance permits the use of land in a manner which is not permitted because of the dimensional or physical requirements of the applicable zoning regulations. For example, a homeowner may want to place a shed in their backyard. If the setback requirements under the zoning code require the shed to be at least ten feet from a property line, but there is a large tree that prevents placement of the shed in compliance with this requirement, the homeowner can seek an area variance to permit the shed to be closer to the property line than the minimum setback requirements.

A use variance permits the use of land for a use that is not permitted or is prohibited by the zoning regulations. Use variances are rare and require an applicant to meet a strict set of criteria before being granted.

Where can I find the zoning regulations?

The Town of Penfield's zoning regulations are set forth in Chapter 250 of the Town Code. It is available online (<https://ecode360.com/15183091>).

What is the role of the Planning Board?

The Planning Board has the authority to review and approve site plans and subdivisions within most zoning districts. The Planning Board ensures that projects comply with applicable zoning regulations.

What is the role of the Zoning Board of Appeals?

The Zoning Board of Appeals considers requests for variances or special permits that deviate from standard zoning regulations. They evaluate the specific circumstances and potential impact(s) of each application and decide whether to approve such requests. The Zoning Board of Appeals also considers appeals of orders issued by certain authorized officials regarding compliance with the Town's zoning regulations.



What is the process for proposed development that requires Planning Board review?

The development process in Penfield can vary depending on the specific requirements of the zoning district and the application type. However, the following are the key steps involved in most reviews:

- Sketch Plan Submission
- Sketch Plan Meeting (informal application to review concept level plans)
- Review by Internal Staff and Referral Agencies (if applicable)
- Application Submission
- Public Hearing
- Review by Planning Board and ongoing Internal Staff and Referral Agencies (if applicable)
- Decision
- Pre-construction Actions (e.g., mylars, letter of credit, etc.)
- Construction

What is the process for proposed development that requires Zoning Board of Appeals review?

Sometimes a project involving site plan and/or subdivision review will also require variances. When that is the case, an applicant typically submits an application to the Zoning Board of Appeals simultaneously with an application to the Planning Board.

Most applications before the Zoning Board of Appeals do not involve site plan or subdivision review. Rather, an applicant is seeking one or more variances. Those applications proceed as follows:

- Application Submission
- Review by Internal Staff and Referral Agencies (if applicable)
- Public Hearing
- Decision

Who decides which development applications to submit?

All applications are submitted independently by residents, property owners and/or developers. Project submission is based solely on the discretion of the applicant, who determines the scope and location of their proposed project.

The Town and its boards **are not involved** with who submits project applications or what types of project applications are submitted.

How does the review process work?

Town staff and relevant boards (e.g., Planning Board, Zoning Board of Appeals) review the application to ensure compliance with zoning regulations and other standards.

Each project application must meet local, state, and federal standards for approval. This review includes assessing the project's impact on the community, environment, and infrastructure.

It is important to note that the relevant boards are charged with evaluating projects against specific standards. Nearly all of these standards are available online (e.g., Penfield Town Code, Chapter



250, New York Town Law Article 16, etc.). In general, a Planning Board's decision must be based upon "substantial evidence" in the record. A denial can only be based upon a reason particular to the proposed project, rather than because of generalized community objections. The same is true for a decision by the Zoning Board of Appeals. These boards are not permitted to base their decisions solely on generalized community objections.

What is required for the application submission?

A formal application must be submitted, including a letter of intent, plans, and supporting documents that outline the scope, scale, and impact of the proposed project. Application submission requirements vary based on the type of application.

Sketch Plan applications require less material than Preliminary/Final applications and are voluntary for proposed development in most zoning districts. Sketch plans are required to include an application, letter of intent providing an overview of the proposed development, conceptual plans, architectural renderings (for commercial applications). Any additional information provided by an applicant will be reviewed as part of the application.

Preliminary and/or final applications must include at minimum an application form, letter of intent, a New York State Department of Environmental Conservation Environmental Assessment Form (EAF) part 1, a summary of the overall development including the identification of all EPOD's, all necessary variances, all necessary local, state, and federal permits, and full engineered site plans. Additional materials may be required by the Board(s) during the review of an application.

What happens during the sketch plan meeting?

During the sketch plan (pre-application) meeting, landowners or developers meet with Town planning staff to discuss their proposed project and understand the applicable regulations and requirements. The Planning Board can receive a sketch plan application, in which case the applicant attends a Planning Board meeting to review the concept level plan and receive informal feedback. A public hearing often accompanies this Planning Board meeting. However, it is important to note that a sketch plan review does not result in any formal decision approving or denying an application. The purpose of this review is for an applicant to receive feedback from the Planning Board and members of the public before an applicant decides what modifications may be required to a concept before a formal application is submitted (if one is submitted at all).

What is the purpose of the public hearing?

The public hearing allows community members to provide feedback on the proposed project. This ensures transparency and gives the community an opportunity to voice their opinions. The most useful feedback pertains to the standards set forth in the applicable zoning regulations or environmental impacts.

How are differences in zoning handled?

If there are differences in zoning, developers may need to apply for a variance or rezoning. This process involves additional reviews and public hearings to ensure that any changes conform with the recommendations in the Town's Comprehensive Plan.



Where can development take place?

The Town of Penfield has designated zoning districts based on its comprehensive plan. The zoning map identifies areas where various land uses are permitted, including residential, commercial, industrial, and mixed-use. Property uses and scale of development are controlled by the district in which they are located.

The Town has no legal authority to restrict the development of private land if it meets all zoning requirements. Like any privately held property, landowners are entitled to use their property in accordance with town regulations. People can buy or sell their property at any time without any input from the Town. This is no different than one selling a single-family residence. Similarly, landowners are entitled to submit project applications to the Town to develop or improve their property.

The Town of Penfield does not have land designated “forever wild.” Property that has not been developed can be developed in accordance with the Town’s zoning laws. If you have been told a piece of land is “forever wild” in Penfield, that is not true unless it’s town-owned parkland, the development rights of private property have been purchased or donated, or conservation easements have been filed as a condition of a previous project approval.

Residents and property owners can view the official Town of Penfield Zoning map (available online and at Town Hall) or contact the Town of Penfield Planning Department if they have questions about undeveloped land in the town.

How does rezoning work?

Rezoning involves changing the zoning district designation of a particular area. This process includes a thorough review by the town staff, public hearings, and a decision whether to rezone by the Town Board. Rezoning ensures that changes in land use align with the Town's Comprehensive Plan.

What if my property is located in an historic district or is a designated historic landmark?

The Town has historic overlay districts and several locally designated historic landmark properties. For proposed projects that include exterior modifications to landmark buildings or properties in a designated historic district (e.g., façade changes, building additions, etc.) an application to the Town of Penfield Historic Preservation Board may be required. The Historic Preservation Board is responsible for considering application for a Certificate of Appropriateness, in conformance with the regulations contained in Town Code Section 250-6.2.

What are the criteria for approving a development project?

Projects are approved based on their compliance with zoning regulations, alignment with the comprehensive plan, and potential impact on the community. Environmental, traffic, infrastructure and other considerations are also evaluated.



How can residents stay informed about development projects?

Residents can stay informed through the [Town's website](#) (Property Under Review), public meetings, newsletters, and social media channels. The Town regularly updates the community on upcoming projects and opportunities for public input.

When an application is under review, the Town has a process to notify the community. Per New York State law, notice for public hearings is only required by posting a legal notice in the Town of Penfield paper of record (Webster Herald) and at Penfield Town Hall (bulletin board). For some applications, written notice to neighboring properties may also be required by New York State law (e.g., NYS Agricultural District notification required for development of land that is actively farmed).

However, to ensure transparency and keep citizens informed, the Town of Penfield has chosen to implement numerous additional notification methods above and beyond what is required.

In addition to legal notice publication in the local paper and Penfield Town Hall, the Town also provides additional notifications:

- Application materials posted to Town website
- Property Under Review sign(s) posted at the location of a project that is subject to a public hearing
- Postcards sent to properties within proximity to the proposed project (distance based on the property's size) to alert them to the date and time of the public hearing

For applications under review, the Town also accepts and collects public comments by email hard-copy letter, fax, and the Town of Penfield website. Once received, comments are forwarded to the reviewing board. All public comments are placed in the project file and become part of the public record.

How is public input addressed during the development process?

Public input is addressed through public hearings, community meetings, and written feedback. The planning department and relevant boards consider all input and strive to balance the interests of the community with proposed future development.

How is a decision made on a development application?

After considering the application, the relevant board makes a decision to approve, deny, or request modifications to the proposed project. This decision is based on compliance with local, state, and federal standards.

When a board reviews an application, it must ensure that its decisions are based on an objective review of the applicable laws, regulations and policies. As noted above, decisions by the Planning Board and the Zoning Board of Appeals cannot be solely based on generalized community objections.

**What happens if a project is approved?**

Once a project is approved, the developer must complete the pre-construction steps through the Town Engineering Department before obtaining the permits needed to begin construction. Town staff may conduct inspections during this phase to ensure compliance with the approved plans and regulations.

Can a project be modified after it's approved?

Yes, modifications can be proposed. Small changes may be reviewed and approved by staff through an administrative review or field change. More significant changes must be reviewed and approved by Board that granted the approval to ensure all necessary standards and regulations are still being met.

How does the Town ensure compliance with approved plans?

Town staff conduct inspections during and after construction to ensure that the project complies with the approved plans and all relevant regulations. Non-compliance can result in stop-work orders halting construction until brought in compliance, penalties, and/or the requirement to make corrections.

What happens if a project is denied?

If a project is denied, the developer can revise the proposal to address the concerns raised during the review process and reapply. Alternatively, they can appeal the decision if they believe it was unjust.