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Local Law

SITE PLAN REVIEW

Local Law Filing
New York State Department of State
41 State Street, Albany, NY, 12231

Town of Fine

Local Law No. 1 of the year 2003

A local law concerning the formation of a Town Planning Board

Be it enacted by the Town Board of the Town of Fine, in the County of St. Lawrence, as follows:

SITE PLAN REVIEW LAW PREFACE

The purpose of this local law is to provide the Town of Fine with a mechanism for reviewing and approving certain activities relating to land use.

Based on the findings of the Fine Town Planning Board and a study of the types of activities which are likely to have impacts on the health, safety and welfare of the Town's property owners, it is the consensus of the Town Planning Board and the Town Board that site plan review is preferable to enactment of a zoning ordinance.

Site plan review has many advantages over a traditional zoning approach. It is simpler, less restrictive, more flexible and easier to administer. It does not control land use in the same manner that zoning does. The site plan review law requires certain land use activities to be reviewed by the Town Planning Board and approved, approved with modifications or disapproved.

The intent of this local law shall be to preserve and enhance the sparsely settled, wooded, "Adirondack" character, scenic beauty and attractiveness of the Town for the benefit of all residents and property owners as well as to promote and guide the economic development of the Town by controlling incompatible, conflicting or harmful land uses. The development of the J & L site and the Newton Falls mill as industrial sites would be encouraged. It is not the intent of this local law to prohibit any land-use activity completely, but rather to allow land uses which will meet the standards of this document. The purpose of this local law is to complement all New York State regulations and to ensure that local land use serves the needs of the local people.

Board meetings will be posted in advance and the public will be invited.

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INTRODUCTORY PROVISIONS

Section 1.1 ENACTMENT

The Town Board of the Town of Fine, St. Lawrence County, New York does hereby ordain and enact the Town of Fine Site Plan Review Law pursuant to the authority and provisions of Sections 274-a, 276, 277, 278, and 282 of the Town Law of the State of New York.

Section 1.2 SHORT TITLE

This local law shall be known as the "Town of Fine Site Plan Law." The Town of Fine shall hereinafter be referred to as the "Town."

Section 1.3 INTENT

The intent of this local law shall be to preserve and enhance the sparsely settled, wooded, "ADIRONDACK" character, scenic beauty and attractiveness of the Town for the benefit of all residents and property owners as well as to promote and guide the economic development of the Town by controlling incompatible, conflicting or harmful land uses. It is not the intent of this local law to prohibit any land-use activity completely, but rather to allow land uses which will meet the standards set forth in Article IV of this document. The development of the J & L site and the Newton Falls mill as industrial sites would be encouraged.

Section 1.4 AUTHORIZATION

The Town Planning Board, hereinafter referred to as the "Planning Board", is hereby authorized to review and approve, approve with modifications or disapprove site plans for new land uses in accordance with the standards and procedures set forth in this local law. The Code Enforcement Office of the Town of Fine shall be in attendance for these reviews. The Planning Board will appoint the clerk of the Board.

Section 1.5 PLANNING BOARD

1.5.1 ESTABLISHMENT and MEMBERSHIP

A Planning Board is hereby created. This Planning Board shall consist of five members appointed by the Town Board in accordance with the New York State Town Law. Upon failure of the Town Board to appoint a chairperson, the members of the Planning Board shall elect a chairperson.

1.5.2 FOUNDATION

The Planning Board shall exercise all powers conferred upon it by the provisions of this Town Law and shall act upon all matters that may be referred to it from time to time by resolution of the Town Board. It shall conduct hearings and perform its duties in accordance with such procedures provided in §271 of the New York State Town Law, and any future amendments.

1.5.3 CERTIFICATION

The Town Clerk of the Town of Fine shall file with the Clerk of the County of St. Lawrence a certificate certifying that the Planning Board of the Town of Fine has been authorized to approve sites in accordance with provisions of §271 of the Town Law, as amended.

1.5.4 TERMS of MEMBERS FIRST APPOINTED

The terms of the five members of the Board shall be so arranged that the term of one member shall expire at the end of the calendar year in which these members were initially appointed. The terms of the remaining members shall be so arranged that one term shall expire at the end of each calendar year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the Board. In addition, the Town Board may replace any or all Planning Board members at any time for cause.

1.5.5 REPORT on REFERRED MATTERS; GENERAL REPORTS

The Town Board may by resolution refer any matter to the Planning Board before final action is taken by the Town Board or any other Town Officer having final authority over the matter. The Town Board may further stipulate that final action shall not be taken until the planning board has submitted its report, or has had a reasonable time, which may be set by the Town Board in its resolution, to submit the report.

ARTICLE II

APPLICABILITY and DEFINITIONS

Section 2.1 APPLICABILITY of REVIEW and REQUIREMENTS

2.1.1 SITE PLAN REVIEW

All new land use activities within the Town shall require site plan review and approval before being undertaken except as hereinafter provided. Any use or structure shall be considered to be in existence provided that it has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

The following shall not require site plan review:

1. New accessory buildings, driveways and recreational uses related to an existing single family residence.
2. Additions to single family dwellings and to accessory buildings, driveways and recreational uses related to a single family residence.
3. Non-structural agricultural or gardening uses.
4. Garage, lawn or porch sales.
5. Temporary structures for the sale of agricultural produce.
6. Uses and structures which are lawfully in existence as of the date this local law becomes effective and continue to be used for substantially the same purposes.
7. The reconstruction and/or restoration of a building or structure which is damaged by any means. If the building or structure is destroyed, the building or structure may be replaced within five years of the destruction without site plan review; thereafter site plan review will be required.

Section 2.2 DEFINITIONS

1. Accessory structure - a structure detached from a principal building on the same or adjacent lot and customarily incidental and subordinate to the principal building or use.
2. Borrow - In road-building, fill which is brought in or "borrowed" to raise a low area. The opposite of "waste", which is an excess of earth that must be removed.
3. Building - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.
4. Boundary Line adjustment - A modification or adjustment of the boundary or boundaries between the properties of adjoining landowners, including a conveyance of a portion of either property to the adjoining landowner, in which no new land use or building rights are created.
5. Cession, or Cession Deed - The conveyance to a local government body of private property street rights.
6. Days = Calendar days.
7. Fence - A barrier of any material or combination of materials erected or induced to grow to enclose or screen areas of land.
8. Hamlet - A small group of houses in a rural area.
9. Lot - A designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.
10. Plat - (1) A map representing a tract of land showing the boundaries and location of individual properties and streets; (2) A map of a subdivision.
11. Residential dwelling - A building designated for single or multiple family, temporary or year-round occupancy including eating and sleeping areas.
12. SEQR 6 NYCRR, Part 617, "State Environmental Quality Review".
13. Sign - Any object, device, display or structure, or part thereof, situated outdoors or indoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.
14. Single family residence - A building containing one or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within for the exclusive use of a single family maintaining a household.
15. Structure - A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.
16. Subdivision - The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions for sale, development or lease.
17. Use or Land Use - The purpose or activity for which land or buildings are designed, arranged, or intended, or for which land or buildings are occupied or maintained. This includes roads, trails, leach fields, and any other change or modification of the existing features of the property.

18. Principal Building - The building containing the principal use or occupancy of the property.
19. Street, Arterial - A road or street designed to serve heavy flows of traffic and which is used primarily as a route for fast or heavy traffic generating areas.
20. Street, Collector - A street designed to serve as a traffic way from local streets to the arterial streets, including major entrances to subdivisions and streets for circulation within such development.
21. Street, Dead-end or Cul-de-sac - A street or portion of a street with only one vehicular traffic outlet with a turnaround at its terminus.
22. Street, Local - A street used primarily for access to abutting properties.
23. Street, Marginal Access - A local street which is parallel to and adjacent to a major artery and which provides access to abutting properties and protection from through traffic.
24. Street Pavement - The exposed surface of the roadway used by vehicular traffic.
25. Street Width - The width of right-of-way, measured at right angles to the center line of the street.

Section 2.3 RELATIONSHIP of this LAW to Other LAWS and REGULATIONS

Applicants should determine whether an Adirondack Park Agency permit is required pursuant to Section 806 (Shoreline Restrictions) or Section 809 (Project Review) of the Executive Law, Article 27. In addition, applicants should determine the requirements of the New York State Department of Environmental Conservation and the New York State Health Department.

ARTICLE III

SITE PLAN REVIEW PROCEDURES

Section 3.1 PLANNING BOARD REVIEW and DECISION

3.1.1 PROCEDURE

Within 62 days of receipt of a complete preliminary application as defined in Subsection 3.3 of this local law, the Planning Board shall approve the preliminary application, approve it with modifications or disapprove the preliminary application. The applicant shall not have to file a final site plan if the preliminary site plan is to be approved without modifications. Issuance of a building permit shall constitute applicant notification of Planning Board approval of a site plan. Applicant notification of Planning Board disapproval shall be made in writing.

If the Planning Board approves the preliminary application with modifications, the applicant shall submit a final detailed site plan to the Planning Board for approval according to the requirements set forth in Article III, Section 3.4 of this local law. Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a written decision to the applicant and the Code Enforcement Officer, and such decision shall be signed by the Chairperson of the Board.

Application filing fees, consulting fees, environmental quality review fees, inspection fees, fixed fees for other reasonable fees sufficient to recover costs incurred by the Town of Fine may be charged as determined by the Planning Board or Town Board. Such fees shall be established by resolution of the Town Board, and the applicant's obligation for payment of these fees may be secured by inclusion of a requirement for the escrow of estimated fees in the security agreement, or any other agreement imposed by the Planning Board or the Town Board to ensure payment of these fees, including a cost reimbursement agreement. Fees may be charged a second time or increased in the event that an applicant or approval has been delayed or abandoned by such applicant and thereafter refiled or reactivated in order for the town to recover the costs of repeated and/or further review of such application for site plan or plat approval.

3.1.2 PUBLIC HEARINGS

Public hearings shall be advertised in accordance with Section 5.2 of this local law.

3.1.3 TIME LIMITATIONS

The time periods within which Planning Board actions are required by §3.1.1 of this local law are the maximum time allowable; however, time does not begin to run until completion of the review under the SEQR process. The Board shall make every effort to act as quickly as possible in reviewing applications in order to minimize delays to the applicant. If the Planning Board does not complete their review within the times specified in Subsection 3.1.1 of this local law, this will constitute approval of the application, except where the review period has been extended by mutual consent of the applicant and the Planning Board.

3.1.4 JUSTIFICATION and NOTICE

1. The Planning Board shall apply the review standards described in article IV of this local law in reviewing site plans.
2. Decisions of the Board shall be in writing and may include reasonable conditions to further the intent of this local law. Reasons for disapproval shall be clearly stated.
3. Decisions of the Board shall be filed within five days in the Office of the Town Clerk and a copy mailed to the applicant.
4. No building permit shall be issued and no site work shall commence until all necessary permits and approvals from Town, County, State and Federal agencies are obtained and any required performance bond is filed with the Town Clerk.

Section 3.2 SKETCH PLAN CONFERENCE

3.2.1 PURPOSE

Prior to submission of an application as defined in Section 3.3 of this local law, an applicant may as an option request an informal Sketch Plan Conference with the Planning Board. The purpose of this conference is to save the applicant time and money and to make the most of the opportunities for desirable development. This conference can be used to review the basic site design concept, to discuss site characteristics (advantages and limitations), to determine the information to be required by the Board on the preliminary site plan and to address environmental concerns as required by the New York State Environmental Quality Review Act (6 NYCRR 617) hereinafter referred to as SEQR.

3.2.2 SKETCH PLAN SUBMISSION

Prior to the sketch plan conference, the applicant shall submit in as much detail as possible a written statement to the Town of Fine Code Enforcement Officer including as a minimum the following:

1. A statement describing the proposed use.
2. The approximate acreage or square feet involved, and the scale of the map.
3. A sketch map of the proposed use showing access roads, the proposed activity, and adjacent property owners' boundaries.
4. A topographical map of an appropriate scale showing the location of the proposed use and surrounding area within five hundred feet (500') of the site of the proposed use. Copies of U.S.G.S. 7 1/2 minute sheets are acceptable.

Upon receipt of the Sketch Plan, the Code Enforcement Officer in conjunction with the applicant shall complete the Sketch Plan Review Questions Form as adopted by the Planning Board and shall schedule a time for the Sketch Plan Conference which is mutually convenient to the applicant and the Planning Board, but not to exceed 30 days from the date of submission of the Sketch Plan. The Code Enforcement Officer shall submit the Sketch Plan Review Question Form to the Board no later than 15 days from the date of submission of the Sketch Plan.

Section 3.3 PRELIMINARY APPLICANT REQUIREMENTS

3.3.1 APPLICATION

An application for preliminary Site Plan approval shall be submitted in writing to the Code Enforcement Officer who shall then forward it within 15 days to the Planning Board after ensuring that it contains the necessary information for the Planning Board's review. The application shall be accompanied by information drawn from the list in section 3.3.2. The application for Site Plan approval will be on a form adopted by the Planning Board. Any person uncertain as to whether or not this local law applies to a given land use activity may apply in writing to the Planning Board for a written determination.

3.3.2 REQUIRED DOCUMENTS

The following shall be required, unless specifically waived by the Planning Board or otherwise indicated and shall constitute application for a site plan review:

1. Application form (as approved by the Planning Board and available from the Code Enforcement Officer or the Town Clerk).
2. Location map with scale, north arrow and date showing boundaries and dimension of the parcel or property involved, identification of adjacent properties including ownership and roads and any known easements or right-of-way.

3. Map showing existing features of the site including structures, roads, bodies of water, flood-prone areas, wooded areas, land uses, water and sewer lines, paved areas, wells and on-site sewage disposal facilities.
4. The same or separate map as 3 above indicating the location, dimensions and arrangement of any proposed buildings or uses on the site, including roads, pathways, etc., providing ingress and egress.
5. Sketch of any proposed building or structure including exterior dimensions and elevations of front, side and rear.
6. Name and address of applicant and professional advisors.
7. Copy of the deed to the property if requested by the Planning Board.
8. Authorization of the owner to apply for a permit if the applicant is not the owner of the property in question.
9. A non-refundable application fee of \$10.00 per parcel for each separate application filed.

Section 3.4 FINAL APPLICATION

3.4.1 SUBMISSIONS of FINAL SITE PLAN

After receiving approval with modifications from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the board for approval. If more than 6 months has elapsed since the date of the Planning Board's action on the preliminary site plan and if the board finds that conditions may have changed significantly in the interim, the Planning Board may require submission of the preliminary site plan for further review and possible revision prior to accepting the final site plan for review.

3.4.2 FINAL APPLICATION REQUIREMENTS

The following additional information shall accompany an application for final site plan approval:

1. Record of application for and approval status of all necessary permits from Federal, State and County agencies.
2. Detailed sizing, location and materials specifications for all modifications specified in the initial conditional approval by the Board.
3. An estimated project construction schedule.

ARTICLE IV

SITE PLAN REVIEW STANDARDS

Section 4.1 GENERAL STANDARDS

The proposed land use activity should not be in conflict with the Town's intent as expressed in Section 1.3 of this local law or with community goals and objectives as expressed in a Town Plan or in future community planning documents.

Section 4.2 SPECIFIC STANDARDS

The Planning Board's review of this site shall include, as appropriate, but not be limited to the following considerations:

1. Development shall be compatible with surrounding land uses.
2. Development shall be undertaken in such a manner as to allow for proper drainage. Development shall not cause flooding on surrounding or adjacent properties.
3. Appropriate steps shall be taken to prevent excessive noise or glare unreasonably interfering with use and enjoyment of neighboring properties.
4. Development shall not cause unreasonable traffic congestion that interferes with normal traffic circulation.
5. Development must provide adequate parking for their customers, clients, patrons, guests, and inhabitants.
6. All development must comply with all Town, County, State and national regulations, including requirements imposed by the Adirondack Park Agency and the Department of Environmental Conservation.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1 REFERRAL to COUNTY PLANNING BOARD

Pursuant to §239-m of the General Municipal Law, any proposed action that is brought before the Planning Board shall be referred to the St. Lawrence County Planning Board if they apply to real property located within five hundred feet of the following:

1. The boundary of any city, village or town; or
2. The boundary of any existing or proposed county or state part or any other recreation area; or
3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or

4. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
6. The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

Section 5.2 ADMINISTRATIVE OFFICER

The Code Enforcement Officer, as defined in the Town's Local Law for the Administration and Enforcement of the New York State Uniform Fire Protection and Building Code, shall perform all of the functions identified in this local law and shall otherwise assist the Planning Board in the administrative and enforcement of this local law or any additional regulations adopted pursuant to Section 5.3 of this local law.

Section 5.3 PUBLIC HEARINGS

Any public hearing held under the provisions of this local law shall be advertised by a notice of public hearing, to be published once in the official newspaper of the Town at least five days prior to the date of the hearing. In addition, notices shall be mailed to the applicant and all owners of real property within 500 feet of the exterior boundary of a proposed site. Notices shall be mailed by first class mail or may be presented in person. Failure by the Town to notify each owner shall not otherwise affect the decision of the Planning Board. Any hearing may be recessed by the Planning Board in order to obtain additional information or to serve further notice upon property owners or other persons it decides may be interested in the proposal being considered. Upon recessing, the time and date when the hearing is to be resumed shall be announced and no further notice or publication will be necessary. Conduct of public hearings shall be within the discretion of the Planning Board but shall conform to generally accepted standards for the conduct of administrative hearings. Failure by the Town to notify each owner shall not otherwise affect the decision of the Planning Board.

Section 5.4 FURTHER REGULATIONS by PLANNING BOARD

The Planning Board may, after holding a public hearing and giving adequate notice thereof, adopt such additional procedural rules and regulations as it deems necessary and reasonable to carry out the provisions of this local law.

Section 5.5 AMENDMENTS

The Town Board may on its own motion, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this local law pursuant to all applicable requirements of law. All proposed amendments originating by petition, or by motion of the Town Board, shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within 62 calendar days after receiving such referral. Failure of the Planning Board to report within the required time shall be deemed a recommendation for approval of the proposed amendment.

Section 5.6 ENFORCEMENT

1. Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this local law or any conditions imposed by a permit or approval pursuant hereto shall be guilty of an offense and subject to a fine to be received in the amount of two hundred-fifty (\$250.00) dollars per week. Each week that such violation continue shall constitute a new violation.
2. In case of any violation or threatened violation of any of the provisions of this local law, or conditions imposed by a permit or approval pursuant hereto, in addition to other remedies herein provided, the Town by action of the Town Board may institute any appropriate action or proceeding to prevent such unlawful activity, to restrain, correct or abate such violation, to prevent any illegal act, conduct, business or use in or about such premises.
3. Any permit or approval granted under this local law which is based upon or is granted in reliance upon any material misrepresentation, a failure to make a material fact or circumstance known by or on behalf of any applicant, shall be void. This section shall not be constructed to affect the remedies available to the Town under paragraph one of this section.
4. The Planning Board may settle by civil release and compromise any violations of this law, on terms which may be mutually agreeable to the Planning Board and the alleged violator, prior to Town Board action under paragraph one of this section. Where such Town Board action has been initiated, consent of the Town Board shall be a necessary prerequisite to such civil compromise and settlement.

Section 5.7 STATUTE of LIMITATIONS

Limitation of Time to Commence Enforcement Proceeding. A proceeding or action to enforce any violation of the provisions of this Local Law or any conditions imposed on a building, construction or attempt to establish a structure contrary to any approved plans or specifications, must be commenced within five years from the date the Town becomes aware of such alleged violation. The Town will be considered to be aware when written documentation of the violation has been recorded. The period of limitation shall commence with the completion of any structure or other improvement in violation of this Local Law or any permit.

Section 5.8 JUDICIAL REVIEW

Any person aggrieved by any decision of the Planning Board may appeal such decision to the New York State Supreme Court for review under Article 78 of the CPLR. Such an appeal must be commenced within 30 days of the filing of the decision of this Board in the Office of the Town Clerk.

Section 5.9 SEVERABILITY

The provisions of this local law are severable. If any article, section, paragraph or provisions of this local law shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) judged to be invalid, and the rest of this local law shall remain valid and effective.