

Somewhat Plain English Major Subdivision Process

1. Preliminary discussions with applicant

The applicant MAY attend informal sketch plan conferences with the board. It is important to record that the time clock has not started on the formal review, either by notes in the minutes, or a signed statement by the applicant. Some boards will not retain any materials offered by the applicant until the applicant has submitted a complete submission package including everything required by the subdivision law, to make it abundantly clear to the applicant that a formal review has not commenced.

2. Preliminary acceptance of application

The board should formally make a determination that the application package is complete EXCEPT FOR SEQR, and that anything not included is waived by the board. Consulting a technical checklist of submission requirements is helpful. *(Note: the time clock does not start until SEQR is completed.)*

3. County referral

Where the location of the subdivision makes it necessary, and in counties with a county referral requirement (ex. Oneida County), the complete application must be referred to the county planning board. Only part 1 of the EAF is necessary to refer.

4. Agricultural Data Statement

Where the location of the subdivision makes it necessary, the agricultural data statement must be sent to affected property owners.

5. Complete SEQR

Type of action - The board must make a determination of what type of action the application is. MOST subdivisions are “unlisted” actions, require only a short EAF, and the board makes its own independent SEQR determination. However, the board should consult the SEQR “type 1” list to make sure the action is not on this list. When a subdivision is found to be on the “type 1” list, professional assistance with the SEQR process should be sought. A “type 1” action shall require a long EAF, the designation of a lead agency, and a coordinated review.

Complete EAF – The board must review part 1 of the EAF which has been completed by the applicant, and then complete part 2 and part 3.

Determine significance of action – The board must make a determination of significance by motion or resolution. In almost all cases this will be a “negative declaration.” If a “positive declaration” is made, the board should immediately consult professional assistance with the next steps in the SEQR process.

Filings – In the case of a negative declaration, the EAF and negative declaration document should be entered into the record of the board. In the rare case that the action is “type 1,” then the positive or negative declaration must be sent to the ENB for publication.

(Note: the time clock will start when the board makes a negative declaration, or accepts a draft environmental impact statement.)

6. Referral to ZBA

Where the subdivision requires an area variance from the ZBA, the planning board, with the agreement of the applicant, may stop the clock and allow the applicant to apply for relief from the ZBA. The minutes should contain the agreement to stop the clock, and a clear statement of what specific circumstance will trigger its resumption.

7. Notice of hearing

The board must establish a hearing date by motion of the board. A notice of the hearing must be published in a newspaper in general circulation at least five days before the hearing. Where the location of the proposed subdivision requires, notice by mail or electronic transmission must be made to the clerk of adjacent municipalities at least ten days before the hearing.

8. Hearing

The hearing must be held within 62 days of a SEQR negative declaration or the acceptance of a completed environmental impact statement. The hearing may be held opened for up to 120 days. The board must act by motion to extend or close the hearing.

9. Action on preliminary plat

Within 62 days of the closing of the hearing, the board must act to approve with or without modifications or disapprove the preliminary plat. A resolution addressing county referral comments should accompany action of the board.

10. Certifications, notifications and filings

Applicant – copy of decision resolution must be mailed to applicant

Planning board clerk – approved plat must be certified by the planning board clerk and filed within 5 business days. Resolution of action must be filed within 5 business days

Municipal clerk – resolution of decision must be filed within 5 business days with the municipal clerk

11. Submission of final plat

Within 6 months of the approval of the preliminary plat, the final plat must be submitted for final approval. The board should formally make a determination that the application package is complete, and that anything not included is waived by the board. Consulting a technical checklist of submission requirements is helpful. (*Note: the time clock starts upon accepting the application as complete.*)

12. Determination of need for second hearing

The board must determine whether the submitted plat is substantially in compliance with the preliminary plat, and may waive the second hearing, if so. Otherwise, the board must establish a second hearing date by motion of the board. A notice of the hearing must be published in a newspaper in general circulation at least five days before the hearing. Where the location of the proposed subdivision requires, notice by mail or electronic transmission must be made to the clerk of adjacent municipalities at least ten days before the hearing.

13. Hearing

If required, the hearing must be held within 62 days of the acceptance of a completed application. The hearing may be held opened for up to 120 days. The board must act by motion to extend or close the hearing.

14. Action on final plat

Within 62 days of the closing of the hearing, or within 62 days of the acceptance of a completed application where there has been no hearing, the board must act to approve, conditionally approve with or without modifications or disapprove the final plat.

15. Conditionally approved plat signed when complete

Plat must be signed within 180 days, with two 90 day extensions possible, and filed with either planning board or municipal clerk (depending on who municipal board designates).

16. Certifications, notifications and filings

Applicant – copy of decision resolution must be mailed to applicant

Planning board clerk – approved or conditionally approved plat must be certified by the planning board clerk and filed within 5 business days. Resolution of action must be filed within 5 business days

Municipal clerk – resolution of decision must be filed within 5 business days with the municipal clerk

County planning board – final action of any matter referred must be reported within 30 days to the county planning board, including any reasons for contrary action

County clerk – APPLICANT must file approved plat within 62 days of final approval with the county clerk