Land Use & Zoning

We represent clients in all aspects of land use and zoning issues, including permitting and variance requests, zoning requests and hearings, appeals of administrative and governmental decisions regarding land use, property due diligence, Article 78, and land use litigation. Through strong project management skills and a detailed understanding of deadlines and time constraints, our attorneys have built a proud reputation and substantial practice that includes clients such as major retail chains, commercial and residential developers, and homebuilders.

Our zoning and planning work on behalf of clients extends to site plan approvals, special use permits, variance relief and subdivision approvals, plus administrative and quasi-judicial proceedings involving municipal bodies and zoning and planning boards.

Every day, individuals and businesses throughout New York State are faced with countless administrative and code enforcement concerns. Whether the issue is compliance, permitting, licensing, or application preparation, our Land Use & Zoning Practice Area attorneys advise and represent clients before local and state boards, agencies, and commissions.

Court challenges to action or inaction by municipal agencies and officers are brought pursuant to Article 78 of the Civil Practice Law & Rules (CPLR). After reviewing the case and scrutinizing the agency's actions and decisions, the state Supreme Court may ultimately reverse an agency's decision or procedures or, alternatively, order the agency to expedite its decision. Our attorneys have successfully represented municipalities and their respective agencies in Article 78 proceedings of all types and have had many lawsuits dismissed.

Our attorneys also advise municipal clients on the full spectrum of environmental issues arising from land use and development, solid waste management, resource recovery, and recycling. Using the latest methods and resources, we provide experienced counsel on compliance with SEQRA, the Clean Air Act, the Clean Water Act, SARA and Community Right-to-Know laws, RCRA, TSCA, OSHA, and their NYS counterparts.

Representative Experience

- Handled the sale of a homeowners association common area to construct a single-family home.
- Prepared an easement to authorize the installation of fiber optic cables over a homeowners association common area and advised the HOA regarding procedures to authorize the installation.
- Prepared a declaration of restrictions to preserve protected wetlands and an adjacent area incident to a NYS Department of Environmental Conservation (DEC) and US Army Corps of Engineers wetland permit.
- Amended a condominium offering plan to extend the terms of the offering.
- Prepared an application for treatment pursuant to Cooperative Policy Statement 7 (CPS-7).
- Authored an *amicus curiae* brief in support of the position that the costs of obtaining a state mining permit incurred in relying on permissive zoning must be considered in determining whether the applicant had established vested rights prior to the enactment of a zoning prohibition.
- Defended an Article 78 Proceeding commenced by neighbors challenging the formation of a planned development district, subdivision, and site plan approval for reusing five existing buildings and constructing a four-story, 52-unit multi-family building and a four-story, 52-unit multi-family building with underground parking.
- Have represented numerous municipal bodies in Article 78 proceedings challenging administrative approvals.

- Prosecuted approvals for the redevelopment of historic landmark property, including rezoning to the planned development district, subdivision and site plan approval for the reuse of five existing buildings, and the construction of a four-story, 52-unit multi-family building and a four-story, 52-unit multi-family building with underground parking.
- Represented numerous land use applicants before municipal bodies.
- Assisted numerous municipal bodies as special counsel regarding SEQRA compliance.
- Representing a zoning board in a pending Article 78 proceeding challenging its action to annul a previously granted variance.
- Successfully represented numerous municipal bodies in Article 78 Proceedings challenging SEQRA approvals.
- Successfully obtained a use and area variance for a local business looking to expand to the Town of Amherst.
- Successfully represented a Fortune 500 company looking to expand its nationwide car dealership into Upstate New York, handling all aspects from rezoning through site-plan approval at the municipal level.
- After a municipality denied various zoning approvals sought by a nationwide student-housing management and development company, successfully obtained a decision from a NY Supreme Court justice overturning the town board's denial, resulting in a $50 million local investment in private student housing.
- Successfully obtained critical variances for a developer from the City of Buffalo Zoning Board of Appeals for a proposed medical office building despite intense opposition from adjacent property owners.
- Providing strategic advice for the replacement of more efficient and cleaner turbines at an existing generating facility, including securing the necessary permit modifications to enable the project to go forward and interfacing with NYSDEC and other state and local agencies to secure the necessary permits and approvals in a timely manner.
- Represents an energy storage projects developer in handling all aspects of the projects, including counseling on all siting and permitting issues to ensure the most efficient and successful project development while preserving the in-service dates as well as interfacing with key regulators.
- Represents a residential hamlet and a town to establish a water district and to finance improvements pursuant to NYS Town Law, including SEQRA compliance, governmental permitting, and USA Rural Development Agency finance.
- Successfully negotiated a favorable outcome for a multifamily housing developer amidst a final administrative penalty order by the United States Army Corps of Engineers.
- Successfully prosecuted an Article 78 proceeding, annulling area variances and site plan approval for the abutting commercial development.
- Successfully prosecuted hundreds of mobile home park evictions for a national real estate investment trust (REIT).
- Successfully defended an Article 78 proceeding challenging the zoning board's interpretation appeal regarding the permissibility of a code blue shelter in the downtown district of a town in Fulton County, New York.
- Obtained a site plan approval and temporary conditional permit for a kennel and dog daycare facility.
- Obtained a SEQRA negative declaration, rezoning, and site plan approvals for a multifamily housing development, including coordination with neighborhood stakeholders to build consensus.
- Obtained a special use permit for used car sales on behalf of a business in Tonawanda, New York.
- Obtained a special use permit and manufacturing license for a brewery, including a branch office permit for the on-premise restaurant.

- Defended a municipality in a plenary action seeking to annul a land use moratorium, obtaining a pre-answer motion to dismiss.
- Obtained a change-of-use permit to authorize a cigar bar membership association.
- Represented a municipality in the development of two 5 MW community solar facilities on municipal-owned land in an adjoining municipality.
- Obtained a SEQRA negative declaration, multiple area variances, and site plan approval for a mixed-use multi-family housing development amidst community opposition in a traditionally rural area.
- Obtained a SEQRA negative declaration and site plan approval for a 150 MW battery energy storage facility, the first of its kind in Western New York.
- Prosecuted an Article 78 proceeding to annul a denial of use variances to accommodate a 5 MW community solar facility and access road, including a successful appeal before the Appellate Division, Third Department.
- Obtained municipal entitlements for a 5 MW community solar facility, including wetland permitting from the United States Army Corps of Engineers.
- Successfully obtained site plan approval for car wash along a major commercial thoroughfare, including negotiation of cross-access with the adjoining developer and coordination with the NYSDOT and adjoining municipality amidst significant community opposition.
- Counseled a licensee in New York State Liquor Authority enforcement action alleging violation of COVID-19 restrictions imposed by an executive order.