

**From:** [Diana Quast](#)  
**To:** [Maura Weissleder](#)  
**Subject:** FW: Recreation Fees  
**Date:** Thursday, September 18, 2025 9:37:33 AM

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**From:** Kopstein Jay <jkopstein@yahoo.com>  
**Sent:** Wednesday, September 17, 2025 2:05 PM  
**To:** Ed Lachterman <elachterman@yorktownny.gov>  
**Cc:** Luciana Haughwout <lhaughwout@yorktownny.gov>; Sergio Esposito <sesposito@yorktownny.gov>; Susan Siegel <ssiegel@yorktownny.gov>; Patrick Murphy <pmurphy@yorktownny.gov>; Diana Quast <dquast@yorktownny.gov>; Adam Rodriguez <arodriguez@yorktownny.gov>  
**Subject:** Recreation Fees

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Ed,

Below are sections 274 and 277 of the New York State Town Law. I have highlighted the portions having to do with parks, recreation and associated trust funds. Sections 274 and 277 state, *“Any monies required by the authorized board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.”*

I contend that the Town Board has the authority to prioritize the use of trust fund monies to improve, enhance, expand the scope of and replace items other than general maintenance items in our parks and recreation facilities as well as to acquire new facilities. This adheres to the general understanding that the trust fund monies will not be supplanting normal budgetary monies. I further contend that the Town Board can suggest to the Planning Board that whenever waiver monies are mandated as part of the site plan approval procedures, that these monies be prioritized for the “improvement, enhancement, expansion of the scope of and replacing items other than general maintenance items in our parks, playgrounds and recreation facilities.”

Jay Kopstein

### **Town Law - TWN § 274-a. Site plan review**

Current as of January 01, 2024 | Updated by [FindLaw Staff](#)

1. Definition of site plan. As used in this section the term “site plan” shall mean 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 a single parcel of land as

shown on said plan. Plats showing lots, blocks or sites which are subject to review pursuant to authority provided for the review of subdivisions under [section two hundred seventy-six](#) of this article shall continue to be subject to such review and shall not be subject to review as site plans under this section.

2. Approval of site plans. (a) The town board may, as part of a zoning ordinance or local law adopted pursuant to this article or other enabling law, authorize the planning board or such other administrative body that it shall so designate, to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth in the ordinance or local law and/or in regulations of such authorized board. Site plans shall show the arrangement, layout and design of the proposed use of the land on said plan. The ordinance or local law shall specify the land uses that require site plan approval and the elements to be included on plans submitted for approval. The required site plan elements which are included in the zoning ordinance or local law may include, where appropriate, those related to parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses as well as any additional elements specified by the town board in such zoning ordinance or local law.

(b) When an authorization to approve site plans is granted by the town board pursuant to this section, the terms thereof may condition the issuance of a building permit upon such approval.

3. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed site plan contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to [section two hundred sixty-seven-b](#) of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

4. Conditions attached to the approval of site plans. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town.

5. Waiver of requirements. The town board may further empower the authorized board to, when reasonable, waive any requirements for the approval, approval with modifications or disapproval of site plans submitted for approval. Any such waiver, which shall be subject to appropriate conditions set forth in the ordinance or local law adopted pursuant to this section, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular site plan.

6. Reservation of parkland on site plans containing residential units. (a) Before such authorized board may approve a site plan containing residential units, such site plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.

(b) Land for park, playground or other recreational purposes may not be required until the authorized board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular site plan will contribute.

(c) In the event the authorized board makes a finding pursuant to paragraph (b) of this subdivision that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the town board. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the authorized board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

(d) Notwithstanding the foregoing provisions of this subdivision, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved pursuant to [section two hundred seventy-six](#) of this article, the authorized board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.

7. Performance bond or other security. As an alternative to the installation of required infrastructure and improvements, prior to approval by the authorized board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the authorized board or a town department designated by the authorized board to make such estimate, where such departmental estimate is deemed acceptable by the authorized board, shall be furnished to the town by the owner. Such security shall be provided to the town pursuant to the provisions of [subdivision nine of section two hundred seventy-seven](#) of this article.

8. Public hearing and decision on site plans. In the event a public hearing is required by ordinance or local law adopted by the town board, the authorized board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. The authorized board shall mail notice of said hearing to the applicant at least ten days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the town at least five days prior to the date thereof and shall make a decision on the application within sixty-two days after such hearing, or after the day the application is received if no hearing has been held. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and such board. The

decision of the authorized board shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

9. Notice to county planning board or agency or regional planning council. At least ten days before such hearing, the authorized board shall mail notices thereof to the county planning board or agency or regional planning council, as required by [section two hundred thirty-nine-m of the general municipal law](#), which notice shall be accompanied by a full statement of such proposed action, as defined in [subdivision one of section two hundred thirty-nine-m of the general municipal law](#). In the event a public hearing is not required, such proposed action shall be referred before final action is taken thereon.

10. Compliance with state environmental quality review act. 1 The authorized board shall comply with the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

11. Court review. Any person aggrieved by a decision of the authorized board or any officer, department, board or bureau of the town may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such proceedings shall be instituted within thirty days after the filing of a decision by such board in the office of the town clerk. The court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The court shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.

12. Costs. Costs shall not be allowed against the authorized board unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

13. Preference. All issues addressed by the court in any proceeding under this section shall have preference over all civil actions and proceedings.

### **Town Law - TWN § 277. Subdivision review; approval of plats; additional requisites**

Current as of January 01, 2024 | Updated by [FindLaw Staff](#)

1. Purpose. Before the approval by the planning board of a plat showing lots, blocks or sites, with or without streets or highways, or the approval of a plat already filed in the office of the clerk of the county wherein such plat is situated if the plat is entirely or partially undeveloped, the planning board shall require that the land shown on the plat be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage or other menace to neighboring properties or the public health, safety and welfare.

2. Additional requirements. The planning board shall also require that:

(a) the streets and highways be of sufficient width and suitable grade and shall be suitably located to accommodate the prospective traffic, to afford adequate light and air, to facilitate fire protection, and to provide access of firefighting equipment to buildings. If there be an official map, town comprehensive plan or functional/master plans, such streets and highways shall be coordinated so as to compose a convenient system conforming to the official map and properly related to the proposals shown in the comprehensive plan of the town;

(b) suitable monuments be placed at block corners and other necessary points as may be required by the board and the location thereof is shown on the map of such plat;

(c) all streets or other public places shown on such plats be suitably graded and paved; street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, fire alarm signal devices (including necessary ducts and cables or other connecting facilities), sanitary sewers and storm drains be installed all in accordance with standards, specifications and procedures acceptable to the appropriate town departments except as hereinafter provided, or alternatively that a performance bond or other security be furnished to the town, as hereinafter provided.

3. Compliance with zoning regulations. Where a zoning ordinance or local law has been adopted by the town, the lots shown on said plat shall at least comply with the requirements thereof subject, however, to the provisions of [section two hundred seventy-eight](#) of this article.

4. Reservation of parkland on subdivision plats containing residential units. (a) Before the planning board may approve a subdivision plat containing residential units, such subdivision plat shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.

(b) Land for park, playground or other recreational purposes may not be required until the planning board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision plat will contribute.

(c) In the event the planning board makes a finding pursuant to paragraph (b) of this subdivision that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such subdivision plat, the planning board may require a sum of money in lieu thereof, in an amount to be established by the town board. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the planning board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be

used by the town exclusively for park, playground or other recreational purposes, including the acquisition of property.

5. Character of the development. In making such determination regarding streets, highways, parks and required improvements, the planning board shall take into consideration the prospective character of the development, whether dense residence, open residence, business or industrial.

6. Application for area variance. Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to [section two hundred sixty-seven-b](#) of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations. In reviewing such application the zoning board of appeals shall request the planning board to provide a written recommendation concerning the proposed variance.

7. Waiver of requirements. The planning board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.

8. Installation of fire alarm devices. The installation of fire alarm signal devices including necessary connecting facilities shall be required or waived pursuant to this section only with the approval of: (a) the board of supervisors or legislative body of the county if the installation is to be made in an area included in a central fire alarm system established pursuant to [paragraph \(h\) of subdivision one of section two hundred twenty-five of the county law](#) or (b) the town board in any other case unless the installation is to be made in a fire district in a town in which no central fire alarm system has been established pursuant to [subdivision eleven-c of section sixty-four](#) of this chapter, in which case only the approval of the board of fire commissioners of such fire district shall be necessary. Required installations of fire alarm signal devices including necessary connecting facilities shall be made in accordance with standards, specifications and procedures acceptable to the appropriate board.

9. Performance bond or other security. (a) Furnishing of performance bond or other security. As an alternative to the installation of infrastructure and improvements, as above provided, prior to planning board approval, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the planning board or a town department designated by the planning board to make such estimate, where such departmental estimate is deemed acceptable by the planning board, shall be furnished to the town by the owner.

(b) Security where plat approved in sections. In the event that the owner shall be authorized to file the approved plat in sections, as provided in [subdivision ten of section two hundred seventy-six](#) of this article, approval of the plat may be granted



upon the installation of the required improvements in the section of the plat filed in the office of the county clerk or register or the furnishing of security covering the costs of such improvements. The owner shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the county clerk or register and the required improvements have been installed in such section or a security covering the cost of such improvements is provided.

(c) Form of security. Any such security must be provided pursuant to a written security agreement with the town, approved by the town board and also approved by the town attorney as to form, sufficiency and manner of execution, and shall be limited to: (i) a performance bond issued by a bonding or surety company; (ii) the deposit of funds in or a certificate of deposit issued by a bank or trust company located and authorized to do business in this state; (iii) an irrevocable letter of credit from a bank located and authorized to do business in this state; (iv) obligations of the United States of America; or (v) any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements. If not delivered to the town, such security shall be held in a town account at a bank or trust company.

(d) Term of security agreement. Any such performance bond or security agreement shall run for a term to be fixed by the planning board, but in no case for a longer term than three years, provided, however, that the term of such performance bond or security agreement may be extended by the planning board with consent of the parties thereto. If the planning board shall decide at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such security, or that the required improvements have been installed as provided in this section and by the planning board in sufficient amount to warrant reduction in the amount of said security, and upon approval by the town board, the planning board may modify its requirements for any or all such improvements, and the amount of such security shall thereupon be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of improvements required by the planning board.

(e) Default of security agreement. In the event that any required improvements have not been installed as provided in this section within the term of such security agreement, the town board may thereupon declare the said performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds thereof, the town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.

10. Provision of improvements by town. (a) Adoption of resolution. Notwithstanding the foregoing provisions of this section, with respect to plats approved by the planning board, the town board may adopt a resolution that sidewalks and/or water mains and/or sanitary sewers and/or storm drains required by the planning board pursuant to this section be constructed or installed at the expense of the town as authorized by articles three-A 1 and twelve-C 2 of this chapter or at the expense of an existing

improvement district in which the plat is located. Such improvements may also be acquired without consideration by the town board on behalf of the town or an improvement district as authorized by article three-A, twelve, 3 twelve-A 4 or twelve-C of this chapter.

(b) Establishment of improvement district. If an improvement district has not been created for the area in which the plat is located, the town board may establish or extend an improvement district as provided in this chapter or in any applicable special law for the purpose of constructing or installing or acquiring without consideration such improvements shown on the map of any plat as the town board may determine.

(i) Execution of contracts. The town board resolution shall require that the owner or owners of real property execute such contracts with the town as the town board may deem necessary for the purpose of ensuring that the expense of such construction or installation, including the cost of issuing obligations to raise moneys to pay the expense thereof and interest on such obligations, shall not be an undue burden upon the property deemed benefitted by the agreements or of such improvement district or extension thereof as the case may be and may require a security agreement, including the filing of a surety bond, letter of credit or the deposit of cash or securities reasonably acceptable to the town board as to assure the performance of such contracts.

(ii) Any such surety agreement shall be executed in accordance with this subdivision, and may contain such other provisions as the town board may reasonably determine to be necessary to ensure the performance of such contracts.

11. Suffolk county; disposal of sewage from plats. (a) In the county of Suffolk, when the health department shall have directed that disposal of sewage from the plat shall be provided for by a communal sewerage system, consisting of a treatment plant and collection system, then the Suffolk county sewer agency shall determine, specify and direct the means and method by which the aforesaid system shall be best provided by and at the expense of the developer. Among the alternative means and methods the Suffolk county sewer agency may direct, shall be: (i) that the developer, at its own cost and expense, install, build and construct such system according to such plans, specifications, conditions and guarantees as may be required by the Suffolk county sewer agency, and upon satisfactory completion thereof, the developer shall dedicate and donate same, without cost to the Suffolk county sewer agency, or its nominee, and the developer shall also petition to form a county district, but if the Suffolk county sewer agency shall determine that a suitable complete communal sewerage system of adequate size cannot be properly located in the plat or is otherwise not practical, then, (ii) the developer shall install, build and construct temporary cesspools or septic tanks together with a sewage collection system according to such plans, specifications, conditions and guarantees as may be required by the Suffolk county sewer agency, and upon satisfactory completion thereof, the developer shall dedicate and donate same, without cost, to the Suffolk county sewer agency or its nominee, and in addition thereto, the agency may also require the payment to the Suffolk county sewer agency of a sum of money in an amount to be determined by the Suffolk county sewer agency, and the developer shall also petition to form a county district, or (iii) the developer shall install, build and construct temporary cesspools or



septic tanks and, in addition thereto, shall pay to the Suffolk county sewer agency a sum of money in an amount to be determined by the Suffolk county sewer agency and the developer shall also petition to form a county district, or (iv) the developer shall provide such other means and methods or combination thereof as the Suffolk county sewer agency may determine, specify and direct.

(b) Any sums paid to the Suffolk county sewer agency pursuant to any provisions of this section, shall constitute a trust fund to be used exclusively for a future communal sewerage system which shall be owned and operated by a county sewer district, which district shall include the subject plat within its bounds. Such moneys and accrued interest, if any, when paid to such district, shall be credited over a period of time determined by the district, pro rata, against the sewer assessment of each tax parcel of the subject plat as may exist at the time of the payment of such moneys and accrued interest to such district. Provided, however, that if so directed by local law enacted by the Suffolk county legislature with approval of the county executive:

(i) the Suffolk county sewer agency may refund all moneys on deposit in said trust fund pursuant to agreements entered into before July first, nineteen hundred seventy-eight under the authority of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision, and all accumulated interest, if any, earned thereon, to the owner as of July first, nineteen hundred eighty-eight of the subject plat from which moneys deposited into said trust fund were collected, or a predecessor in title if said predecessor establishes a superior right to the moneys and accumulated interest; and

(ii) the Suffolk county sewer agency may cease to accept money for deposit into the trust fund if said money is due and owing 5 because of agreements entered into before July first, nineteen hundred seventy-eight under the authority of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision.

(c) The useable value of any communal sewage collection system built under subparagraph (i), (ii) or (iv) of paragraph (a) of this subdivision shall be credited over a period of time determined by the district, pro rata, against the sewer assessment of each tax parcel of the plat as may exist at the time such system is incorporated into a county sewer district which shall include the subject plat within its bounds.

(d) While planning for and pending the formation or extension of a district contemplated hereunder which will incorporate a plat that has or is to have a dry lateral sewer collection system installed therein, the county legislature may contract in those instances where it feels an emergency exists, and the public health and welfare are in urgent need and will be best served, with any department, agency, subdivision, or political instrumentality of the state, county, town, or village, or an improvement district or a private entity having a treatment plant, to furnish sewerage disposal service to such plat on such terms and conditions and for such consideration as the Suffolk county sewer agency may recommend and the county legislature approves. The county legislature may finance, in whole or in part, pursuant to the local finance law, any expenditure made pursuant to this section. Upon the erection of the contemplated district, it shall reimburse the county for any funds the county may have expended to provide such interim disposal service to the plat.

