

Dutchess County Planning Federation

Caselaw Update 2025

***Special Thanks to David Steinberg for his efforts in
keeping us apprised of recent decisions**

Cases Discussed

- Appellate Division, Second Department
- Appellate Division, Third Department

Article 78 Proceeding

- An action to challenge an administrative proceeding in court
- Generally decided “on the record” without court appearances

Article 78 Proceeding

- Questions include:
 - Whether the administrative body acted in excess of its jurisdiction
 - Whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion
 - Whether a determination made as a result of a hearing held, and at which evidence was taken, pursuant to direction by law is, on the entire record, supported by substantial evidence.

Article 78 Proceeding

- Generally brought in Supreme Court
- Statute of limitations for challenging a Planning Board or Zoning Board of Appeals decision is 30 days
- Court may annul or confirm determination in whole or in part. No money judgments.

Zoning Board of Appeals

Mixed Results for ZBA Decisions

- *Decisions to deny a use variance under the Town Law standards were all upheld, but annulled for a public utility (2 denials, 1 annulment)*
- *Denials annulled three times for failure of ZBA to base its decision on the record*

Zoning Board of Appeals

Matter of 80 Woodland Ave v Village of
Catskill,

2025 NY Slip Op 04284 (3d Dept. 2025)

- Applying for a use variance after purchasing a vacant school is a self-created hardship

Zoning Board of Appeals

Hammer v Town of Bedford,
2025 NY Slip Op 05238 (2d Dept. 2025)

- Applicant could not demonstrate, based on dollars and cents proof, that property in well-off Town could not yield a reasonable rate of return without the installation of an apartment above the garage.

Zoning Board of Appeals

Freepoint Solar v. Town of Athens Zoning Board of Appeals, 243 AD3d 127

- Large-scale solar installations are a public utility and subject to the “public necessity” use variance test, which sets a lower burden for establishing the right to a use variance.

Zoning Board of Appeals

Camarda v. Ubert, 2025 Slip Op. 03061
(2d Dept. 2025)

- Statute of limitations defense will not bar petition challenging second decision on area variance

Zoning Board of Appeals

**Mancuso v. Town of Mount Pleasant,
2025 NY Slip Op 04479 (2d Dept 2025)**

- **Board failed to sufficiently set forth the specific findings relied on in denying a street frontage variance to allow 18 feet where 25 feet of frontage is required.**

Zoning Board of Appeals

McGinn v. ZBA of Town of East Hampton

2025 NY Slip Op. 04905 (2d Dept 2025)

- *Special uses, unlike area variances, give permission to use property in a way that is consistent with zoning ordinance, though not necessarily as of right*

Zoning Board of Appeals

Williams v. Town of Lake Luzerne Zoning Board of Appeals

2025 Slip Op 04509 (3d Dept. 2025)

- ZBA denial of area variance for height for differential of 4 feet between accessory structure and primary structure not supported on the record, where both structures were under the maximum height in the district and the accessory structure would replace a much taller structure.

Planning Board

Good News For Planning Board
Members!

*Fewer Planning Board challenges than
ZBA challenges*

Planning Board

Mastromonaco v. Town of Cortlandt

2025 NY Slip Op. 04249 (2d Dept. 2025)

- *Article 78 petition to challenge site plan approval for contractor's yard was filed 17 years too late*

Planning Board

PF Development LLC v. Town of Brunswick
2025 NY Slip Op. 03671 (3d Dept. 2025)

- Motion to dismiss not warranted when Planning Board Chairperson who lives next to a project and has strong feelings against a project is alleged to have biased the Town Board.

Town Board / Board of Trustees

- Local laws are considered constitutional unless proven otherwise

Town Board / Board of Trustees

Hudson View Park Company v. Town of Fishkill (2d Dept 2024)

- MOU between developer and Town Board committing Town Board to complete the review of a zoning petition and render a decision on the merits based on empirical data violated term limits rule and constituted illegal contract zoning

Town Board / Board of Trustees

**Vojta v. Town Board of Town of
Huntington**

2025 NY Slip Op 05525

(2d Dept. App Div)

- Town Board took a hard look at sewer impacts when it rezoned a property to allow an assisted living facility

Questions?

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