

BUSINESS IN

2022

WEEKLY WEBINAR SERIES

2023

2021

2020

2019



BOND

**SCHOENECK
& KING** ATTORNEYS

Your Host



Gabriel S. Oberfield

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TODAY'S AGENDA

Gabe Oberfield – (12:00PM-12:10PM)

- Introduction
- COVID Update
- SCOTUS Recap

David Ferrara – (12:10PM-12:15PM)

- Implications of *Dobbs* in the Workplace

Sandra Casey – (12:15PM-12:25PM)

- Title IX Notice of Proposed Rulemaking

Theresa Rusnak – (12:25PM-12:35PM)

- EEOC Nondiscrimination Standards

Brody Smith (12:35PM-12:45PM)

- Zoning and Land Use Updates

Oberfield

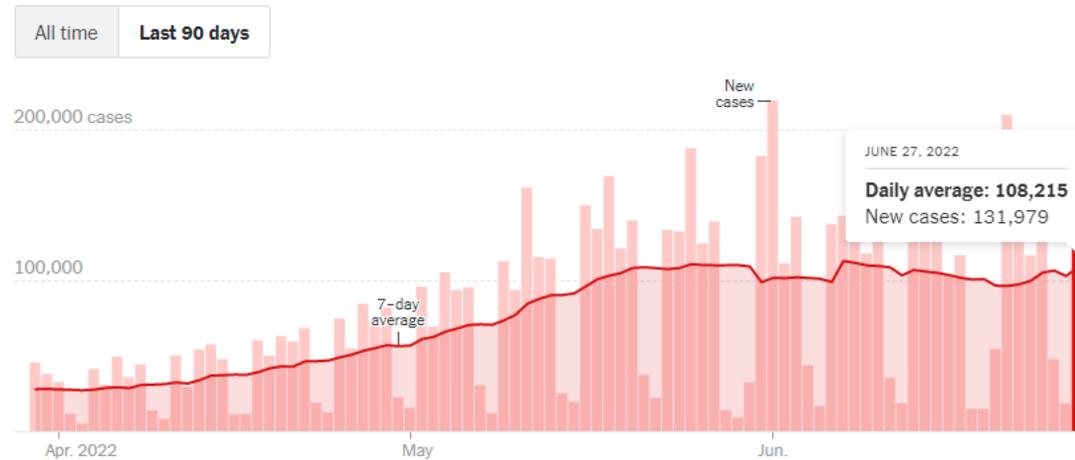
- Your Questions / Adjourn

COVID Infection Trends & Information

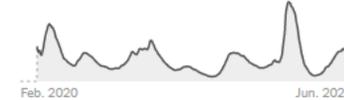
Today's COVID Picture, Nationally

Source: New York Times

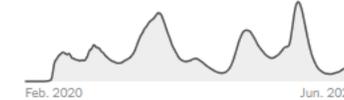
New reported cases



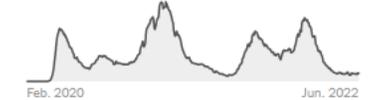
Test positivity rate



Hospitalized



Deaths

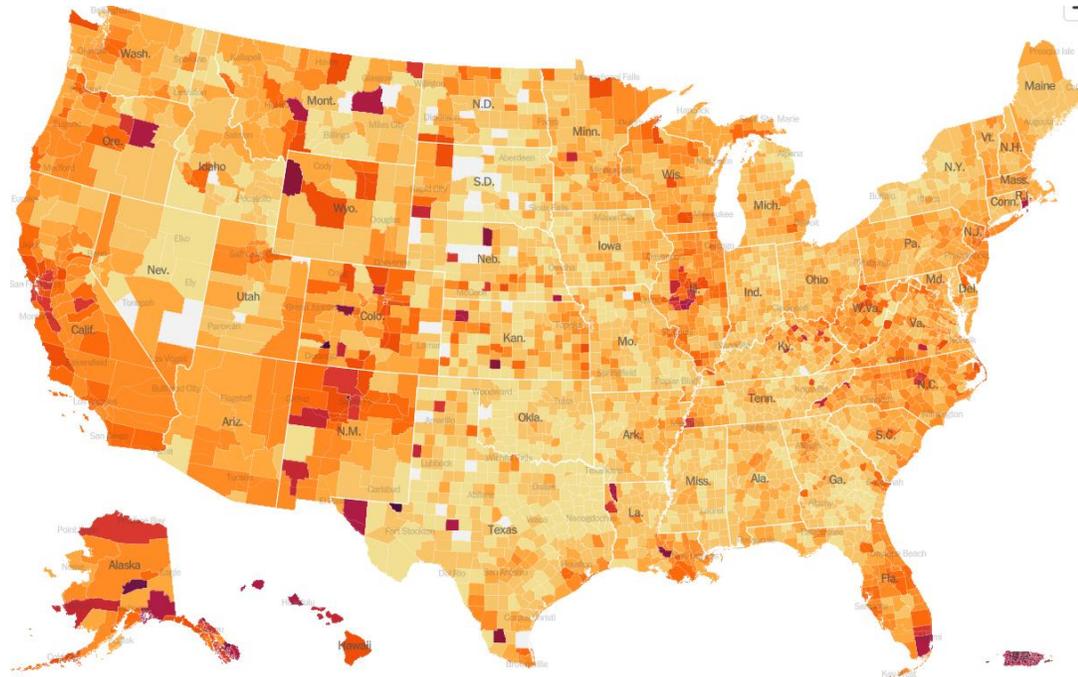


	DAILY AVG. ON JUN. 27	14-DAY CHANGE	TOTAL REPORTED
Cases	108,215	+1%	87,031,752
Test positivity	15%	—	—
Hospitalized	31,720	+6%	—
In I.C.U.s	3,492	+7%	—
Deaths	333	+3%	1,012,765

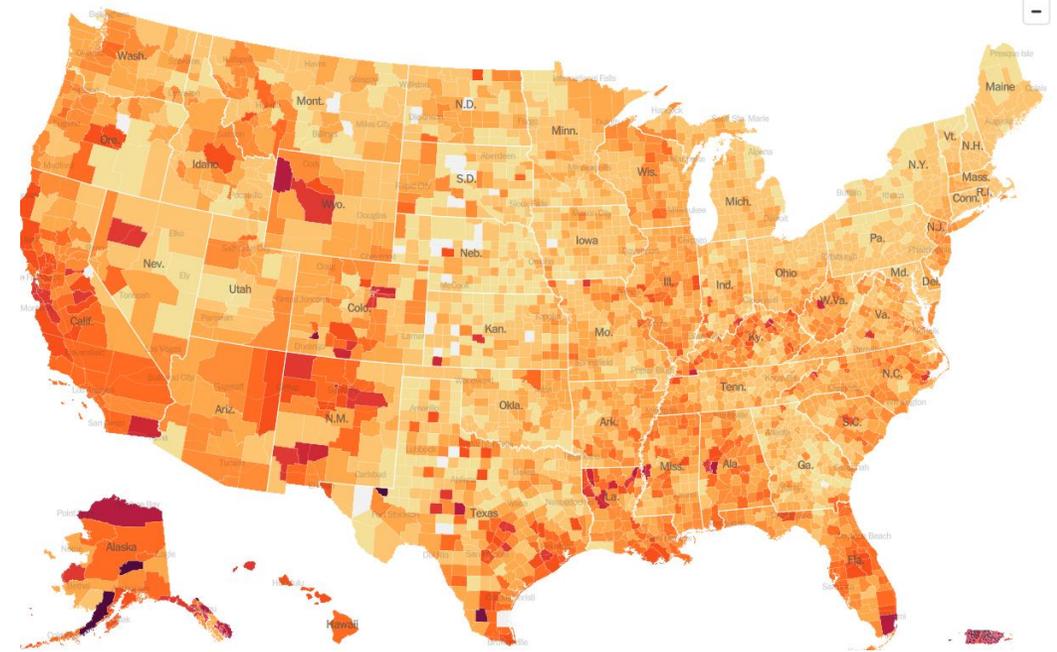
Some creeping back – evidence of continuing contagiousness and a lack of true seasonality

Today's COVID Hotspots

Source: New York Times



As of June 14, 2022

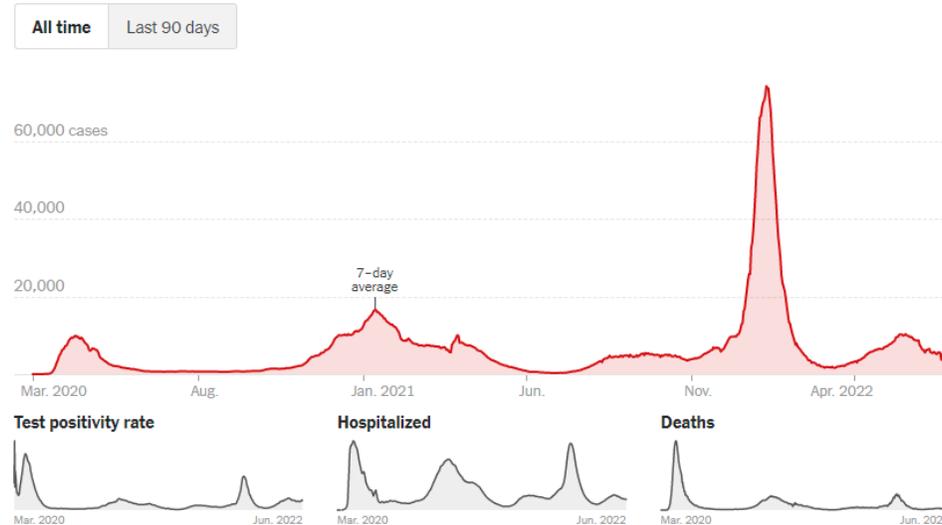


As of June 28, 2022:
*Some intensifying in California, Florida and
broader Southeast*

Today's COVID Picture, in New York State

Source: New York Times

New reported cases



	DAILY AVG. ON JUN. 27	14-DAY CHANGE	TOTAL REPORTED
Cases	6,719	+17%	5,579,899
Test positivity	9.0%	—	—
Hospitalized	2,101	-10%	—
In I.C.U.s	211	-10%	—
Deaths	14	-27%	68,899

- Average daily caseload statewide has risen by 17 percent over a two-week period
- No new mandates (Federal, State or local)
- Recommendations concerning indoor masking remain in place
- Vaccines now available for children six months to five years old



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Two-Week Differentials in New York

Source: New York Times

June 14, 2022

	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	5,512	28	-37%	8%	12	-16%	19.6	0.10
New York City ›	3,754	45	-15%	8%	13	+1%	10.4	0.13
Nassau ›	516	38	-33%	11%	26	+4%	1.6	0.12
Westchester ›	311	32	-32%	9%	16	+13%	0.3	0.03
Suffolk ›	458	31	-41%	10%	19	+5%	1.9	0.13
Orange ›	96	25	-37%	10%	12	Flat	0.6	0.16
Putnam ›	24	25	-47%	11%	12	-4%	0	—
Clinton ›	20	24	-32%	13%	38	+26%	0.1	0.18
Rockland ›	80	24	-33%	7%	10	-5%	0.2	0.05
Dutchess ›	69	24	-40%	12%	10	-15%	0.2	0.06
Sullivan ›	17	23	-47%	9%	13	-25%	0.2	0.20

June 28, 2022

	CASES DAILY AVG.	PER 100,000	14-DAY CHANGE	TEST POSITIVITY	HOSPITALIZED AVG. PER 100,000	14-DAY CHANGE	DEATHS DAILY AVG.	PER 100,000
New York	6,719	35	+17%	9%	11	-10%	14.0	0.07
New York City ›	3,170	38	-7%	10%	13	-2%	6.4	0.08
Nassau ›	494	36	-1%	11%	25	-5%	0.8	0.06
Westchester ›	283	29	-4%	9%	13	-11%	0.9	0.09
Suffolk ›	416	28	-6%	9%	13	-11%	1.1	0.07
Rockland ›	83	26	+12%	9%	5	-33%	<0.1	0.02
Putnam ›	24	24	+1%	11%	6	-34%	0	—
Dutchess ›	62	21	-2%	11%	6	-26%	0.2	0.05
Orange ›	81	21	-11%	9%	10	+2%	0.6	0.14
Ontario ›	22	20	+71%	8%	13	-30%	0	—
Sullivan ›	13	18	-17%	8%	12	+14%	0	—

The Supreme Court of the United States

Source: New York Times

- **Reproductive Rights**
 - *Dobbs v. Jackson Women's Health Organization* (6-3)
 - Unwound *Roe v. Wade*;
- **Second Amendment / Guns**
 - *New York State Rifle & Pistol Association v. Bruen* (6-3)
 - Overturned 'concealed carry' weapon restrictions in NY law;
- **Matters of Religion**
 - *Carson v. Makin* (6-3)
 - Ruled invalid a Maine state tuition program excluding religious institutions;
 - *Kennedy v. Bremerton School District* (6-3)
 - Constitutional right to pray after football games;
 - *Shurtleff v. Boston* (9-0)
 - City of Boston erred in barring private group raise a Christian flag in front of its City Hall, "although it had allowed ... other organizations to use the flagpole to celebrate various causes."



The NYS Legislature – Extraordinary Session

Source: Office of Gov. Kathy Hochul



- *Special Session of New York State Legislature to convene on Thursday – focus on ‘gun safety’*
- **Context:**
 - SCOTUS
 - Primaries – Today Is Election Day in New York State for State Offices
 - *Reminder – Federal contests scheduled for August 2022*



Convenes Extraordinary Session to Pass Gun Safety Legislation in the Wake of the Supreme Court's Decision in *NYSRPA v. Bruen*
Proclamation for Extraordinary Session Available [Here](#)

Governor Kathy Hochul today announced she will convene an extraordinary session of the New York State Legislature on June 30 to pass new gun safety legislation in response to the United States Supreme Court's decision in *NYSRPA v. Bruen*.

Workplace Disruption – Are You Ready?



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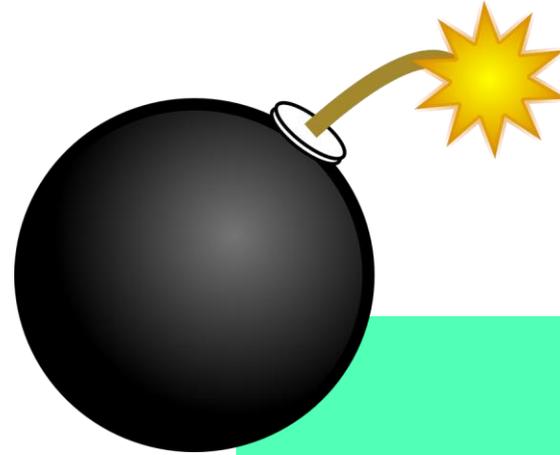
Dobbs v. Jackson Women's Health

What Does it Mean for Employers?

- Inevitable confrontation among co-workers, supervisors, and managers.
- Potential customer/vendor impacts.
- Very few political issues in past 50 years carry the same degree of emotion.
- Religious and women's health concerns.

Dobbs v. Jackson Women's Health What Does it Mean for Employers? (Cont'd)

- Economic implications of unwanted pregnancies.
- Powder Keg that like so many other social and political issues spill into workplaces across America.
- Off duty protesting activity likely to spill back to workplace.
- Cannot rule out workplace violence.



Major Challenges for Employers

- Be Proactive – Send the right message to the organization from the top.
- Review and update policies regulating proper behavior in the workplace.
 - Clothing
 - Harassment
 - Parking Lot Rules
 - Lockers, Desks, Etc.
 - Relocation

Major Challenges for Employers (Cont'd)

- Clearly define boundaries of political expression, not just abortion, but other social issues as well.
- Define Company's position on:
 - Leaves of Absence
 - Health Insurance Plan (insured plans are subject to state law regulation)
 - Financial assistance to travel to other states where abortions are legal

Legal Landscape

- Generally, no current federal or state prohibition against political discrimination in private sector.
 - Title VII
 - New York Human Rights Law
 - Not Yet Protected Class
- Discrimination protection based on religion and “Creed”
 - Title VII – Confined to religion/creed but may argue anti-abortion views are based on fundamental religious beliefs.
 - New York – 201-d – Prohibits discrimination based on off-duty “recreational activities” (smoking pot, dangerous sporting activities, etc.) or “political activities”

Legal Landscape (Cont'd)

- Outside of working hours, off premises, without use of Company equipment or other property.
- Historically, “Political Activities” have been interpreted very narrowly
 - “Campaigning” for candidates or fundraising.
 - Not covering expression of political views.
- Uncertain what Court would do, bumper stickers, posters, etc.
Does it rise to level of “campaigning?”
 - Picketing and protesting not “recreational activity” under 201-d because it’s not done for purpose of “leisure.” *Kolb v. Camilleri (W.D.N.Y. Aug. 1, 2008)*

Avoiding Political Customer/Employee Nightmare

- IBM CEO – Employees will gravitate to Companies that share their perspective and willing to help employees.
- Disney – LGBTQ+ Community and State of Florida
- Coca-Cola – Voting rights in Georgia
- Starbucks – Initial position on Black Lives Matter

Avoiding Political Customer/Employee Nightmare (Cont'd)

- Starbucks Public Policy
 - Bans employees wearing anything in support of Black Lives Matter
 - Citing Company policy prohibiting clothing and accessories that advocate political, religious or personal issues
 - Yet accepted and encouraged LGBTQ pins and shirts during Pride Month.
 - Not well thought out and quickly modified.
- Whether Company decides to publicize position on key social issues.
- Most important – need to know what is Company's position – Employees will ask!

What's Next?

- Litigation from States seeking to ban abortions.
 - 26 States currently prohibit abortion.
- Civil penalties levied by States for “aiding an abetting” abortions.
- Potential discrimination claims by employees against employers based on gender, pregnancy and potentially political expression and activity 201-d.

What's Next? (Cont'd)

- NLRB Decisions finding employee speech “concerted and protected” and therefore not subject to disciplinary action, including termination.
- Union rallying cry to help organize.
- Great deal of uncertainty – For sure!

U.S. Department of Education Releases Title IX Proposed Rules



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Title IX Proposed Rules

- In commemoration of the 50th Anniversary of the enactment of Title IX, the U.S. Department of Education announced sweeping proposed amendments to the Title IX regulatory scheme that went into effect less than 2 years ago.
<https://www2.ed.gov/about/offices/list/ocr/docs/t9nprm.pdf>
- It is important to keep in mind these are proposed regulations and still have to undergo the rulemaking process before they are finalized.
- Once the proposed rules are published in the Federal Register, which will be in another few weeks, there will be a 60-day comment period.
- The Department will then have to sift through many comments before it can finalize the rules; therefore, it may be many months before we see the final regulations.
- But colleges and universities should plan now for the changes that are contemplated, since we do not anticipate there will be sweeping changes from what has been proposed. The Department considered the views of many Title IX stakeholders and advocacy groups over a long period of time in drafting the proposed rules.

Major Changes to the Current Regulations

- The Department issued a fact sheet that summarizes the proposed rules and can be found here:
<https://www2.ed.gov/about/offices/list/ocr/docs/t9nprm-factsheet.pdf>
- The Department makes clear that sex discrimination under Title IX includes discrimination on the basis of sex stereotypes; sex characteristics; pregnancy or related conditions; sexual orientation; and gender identity.
- Pregnancy or related conditions mean pregnancy, childbirth, termination of pregnancy, or lactation.

Other Notable Definitions

- The proposed rules provide a new definition of hostile environment harassment that includes severe or pervasive conduct that “denies or limits a person’s ability to participate in or benefit from a college or university’s program or activity.”
- The proposal provides a new definition of supportive measures that specifically includes “temporary measures that burden a respondent imposed for non-punitive and non-disciplinary reasons.”
- The rules also eliminate the distinction between “directly-related evidence” and “relevant evidence.”
- The proposed rules define relevant evidence as that which is “related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.”

Scope of Title IX Regulations

- The proposed rules expand the current application of Title IX regulations to conduct that is outside of the institution's program or activity. Specifically, the proposed rules obligate an institution to address a sex-based hostile environment even if the sex-based harassment contributing the hostile environment occurred outside an institution's education program or activity or outside the United States.
- They also specifically state that Title IX would apply to any conduct that is subject to the institution's disciplinary authority.

Mandatory Reporting

- The proposed rules would greatly expand mandatory reporting and related obligations of most personnel on college and university campuses.
- Under current regulations, employees who are not confidential resources and who have authority to institute corrective measures would be required to notify the Title IX Coordinator when they receive information about conduct that may constitute sex discrimination under Title IX.
- In addition, the proposed rules state that an institutional employee who is not a confidential resource and who has responsibility for “administrative leadership, teaching or advising” would similarly become a mandatory reporter of such conduct impacting students, which would appear to include most faculty.
- All other employees who are not confidential resources would be obligated to either report such information to the Title IX Coordinator or, alternatively, provide the Title IX Coordinator’s contact information and information about reporting options to the reporting party.

Emergency Removal & Supportive Measures

- Under the proposed rules, the standard for emergency removal of students from campus pending the outcome of a Title IX grievance process is different from current regulations, which allow removal where the continued presence of a student poses an “immediate threat to the physical health or safety” of the reporting party or others.
- Under the proposed rules, emergency removal would be authorized in cases involving an “immediate and serious threat to the health or safety” of such individuals, thereby permitting emergency removal based on threats of emotional harm.

Grievance Procedures

- Generally, the proposed rules bring back the flexibility to campuses to investigate and resolve a claim of a Title IX violation.
- They eliminate the strict time requirements under the current regulations and instead require that institutions complete the major steps of their processes (e.g., intake, investigation, adjudication and appeal) in “prompt time frames” articulated in their policies, with reasonable extensions permissible based only on good cause that is fully disclosed and explained to the parties.

Grievance Procedures

- There would be no requirement that institutions conduct live hearings at which each party's advisor may cross examine the other party and any witnesses.
- Institutions would be permitted to continue live hearing systems but would also have the option to return to a “single investigator” or hybrid model not involving a live hearing.
- If these alternative models are implemented, institutions would be obligated to ensure that they incorporate processes to evaluate credibility of parties and witnesses and an opportunity to review an investigative reports and/or relevant evidence gathered during the process.

Grievance Procedures

- If an institution chooses to use a live hearing model, the institution would be required either to:
 - (a) allow each party's advisor to cross examine the other party and any witnesses; or
 - (b) allow each party to propose to the decision maker questions to ask the other party and any witnesses.

**It is important to note that case law in some jurisdictions may impose additional requirements on the Title IX grievance process, so institutions should consult an attorney in determining what model should be used in accordance with the proposed rules once they become finalized.

Retaliation

- Like the current regulations, the proposed rules require institutions to address retaliation against parties or witnesses relating to a sex-discrimination complaint. Currently, the campus has the discretion to utilize different processes in accordance with other policies or practices. The proposed rules obligate an institution to use the specified Title IX grievance process to resolve the allegations of retaliation.
- The proposed rules also specifically require an institution to address “peer retaliation” such as student-on-student conduct.

Miscellaneous

- The proposed rules would retain a number of provisions under current regulations, including among other things:
 - the parties' right to utilize an advisor of their choice;
 - the presumption that a respondent in a complaint is not responsible unless a finding of responsibility is made through the Title IX grievance process;
 - an obligation to post training materials on institutional websites;
 - broad authorization for the use of the informal resolution processes; and
 - standards for appeals of determinations and dismissals of complaints.

Conclusion

- While the proposed rules will not likely go into effect for several months, institutions are encouraged to start planning now for changes to their policies and procedures. They should consider what changes would be needed to comply with the proposed rules and how their procedures could be modified in light of the flexibility the proposed rules afford in order to better align with institutional culture and practices.

EEOC Updates re: Nondiscrimination



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EEOC Add X Gender Marker

- On June 27, 2022, the EEOC announced that it had added an option for complainants to select a nonbinary “X” gender marker during the intake process for filing a charge of discrimination.
- The EEOC has also modified its charge of discrimination form to include “Mx.” in the list of prefix options.
- To find out more about LGBTQI+ discrimination, visit www.eeoc.gov/sexual-orientation-and-gender-identity-sogi-discrimination.

Supreme Court Decision(s)

- In 2020, the Supreme Court held in the *Bostock* decision(s) held that Title VII protects gender identity and sexual orientation, as connected to “sex,” which Title VII has long protected
- The Court wrote:

“An employer who fired an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.”

Impact

- Employees who believe they have been discriminated against, retaliated against, or harassed based on their sexual orientation or gender identity can now bring claims in federal court
- Claims under Title VII, if successful, can involve:
 - Back pay to the individual
 - Compensatory damages for emotional distress (up to \$300,000, based on the size of the employer)
 - Punitive damages (capped)
- Employees have 180/300 calendar days after last act of discrimination to file a charge with the EEOC

Gender Expression Non-Discrimination Act (GENDA)

- GENDA amended the Human Rights Law in 2019 by adding “gender identity or expression” as a protected category, defined as:
 - “A person’s actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender”
- Protects the way a person expresses gender through speech, dress, and behavior

Pronoun Use

- Failure to use correct pronouns for individuals in the workplace is discrimination
- Correct pronouns may include: they/them, he/him, she/her or ze/zem
- Illegal under NYC and NYS law; if use of incorrect pronouns is “severe and pervasive” harassment, illegal under Title VII as well
 - In NYC, violators are subject to civil penalties of \$125,000, and up to \$250,000 for “willful” violations

Restrooms and Gender Identity

- Transgender and gender expansive employees must be provided access to facilities (restrooms, locker rooms, or changing rooms) consistent with their gender identity asserted at work
 - Employees cannot be required to use a single-gender facility that conflicts with that person's gender identity asserted in the workplace
- Employers must provide reasonable alternative arrangements for any employee who expresses a need or desire for increased privacy

Religious Considerations

- The NY/NYC Human Rights Laws, as well as Title VII, prevent discrimination on the basis of an employee's religion
- An employer's actual or perceived religious objections do not justify discrimination, nor do a co-worker's beliefs justify the same
- It is not a violation of an employee's religious rights in the workplace to require the employee to follow the law
- Note: For religious institutions, Title VII does not apply to employees in "ministerial" positions

Introduction to Zoning and Land Use



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Zoning and Land Use Approvals

The purpose of this presentation is to introduce you to land use concepts so that you can initiate conversations with clients who are considering development projects. I will introduce you to the following concepts:

- Zoning
- Variances
- Special Permits
- Site Plan approval

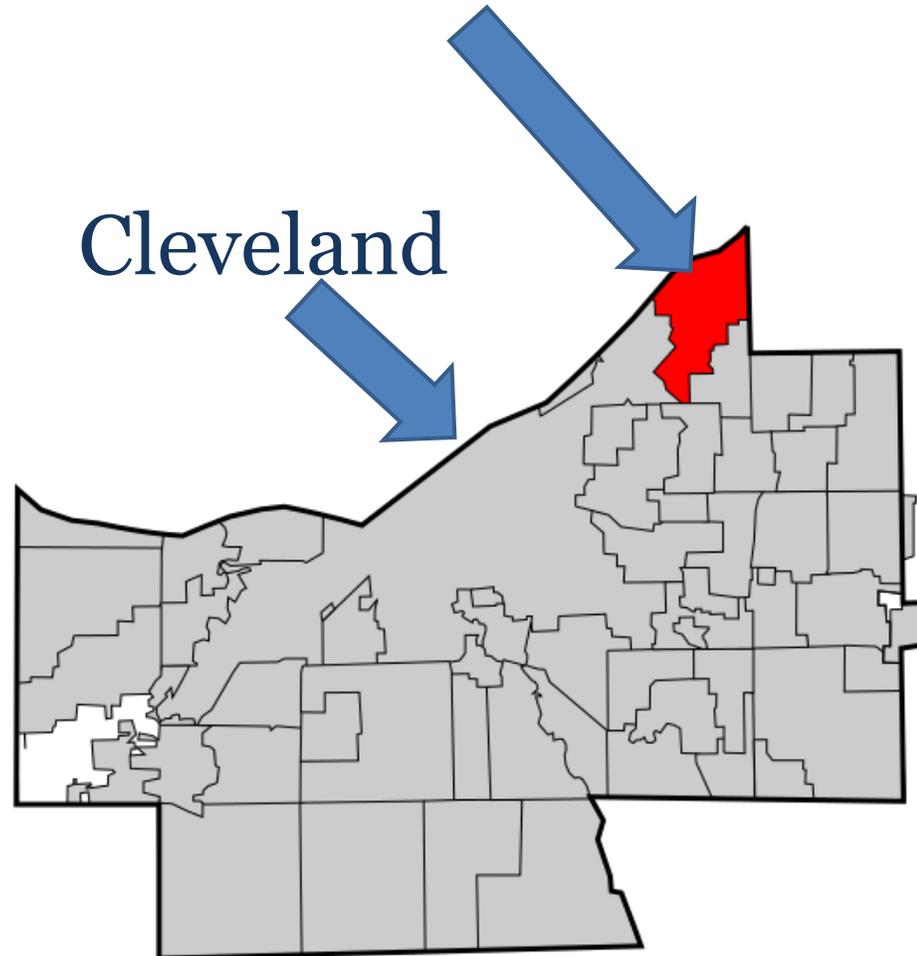
Common Zoning Scheme

- Comprehensive Plan (Town Law 263, 272-a)
- Zoning Code in accordance with Comprehensive Plan (Town Law 264, 266)
- Planning Board (Town Law 271)
- Zoning Board of Appeals (Town Law 267, 267-a)

What is Euclidean Zoning?



City of Euclid



Single District / Euclidean Zoning

- Euclid v. Amber Realty Co., 272 U.S. 365 (1926)
- Between 5,000 and 10,000 people
- 13 square miles
- “The ordinance is assailed on the grounds that it is in derogation of [§ 1 of the Fourteenth Amendment to the Federal Constitution](#) in that it deprives appellee of liberty and property without due process of law and denies it the equal protection of the law, and that it offends against certain provisions of the Constitution of the State of Ohio.”

A taking?

“The bill alleges that the tract of land in question is vacant and has been held for years for the purpose of selling and developing it for industrial uses, for which it is especially adapted, being immediately in the path of progressive industrial development; that for such uses it has a market value of about \$ 10,000 per acre, but if the use be limited to residential purposes the market value is not in excess of \$ 2,500 per acre; that the first 200 feet of the parcel back from Euclid Avenue, if unrestricted in respect of use, has a value of \$ 150 per front foot, but if limited to residential uses, and ordinary mercantile business be excluded therefrom, its value is not in excess of \$ 50 per front foot.”

Police Power

“The ordinance now under review, and all similar laws and regulations, must find their justification in some aspect of the police power, asserted for the public welfare. The line which in this field separates the legitimate from the illegitimate assumption of power is not capable of precise delimitation. It varies with circumstances and conditions.”

A pig in a parlor

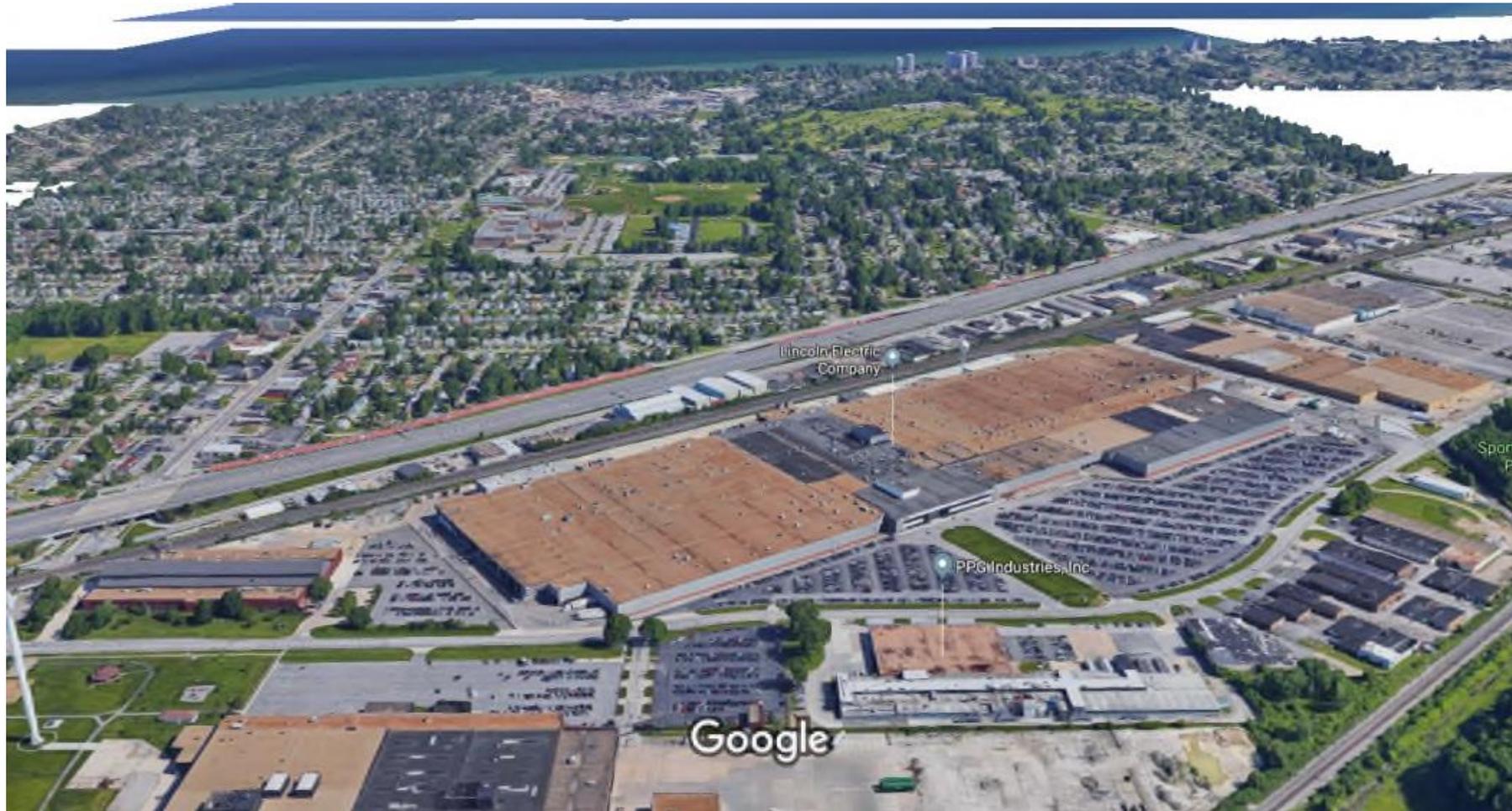
- “A nuisance may be merely a right thing in the wrong place, -- like a pig in the parlor instead of the barnyard. If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control.”



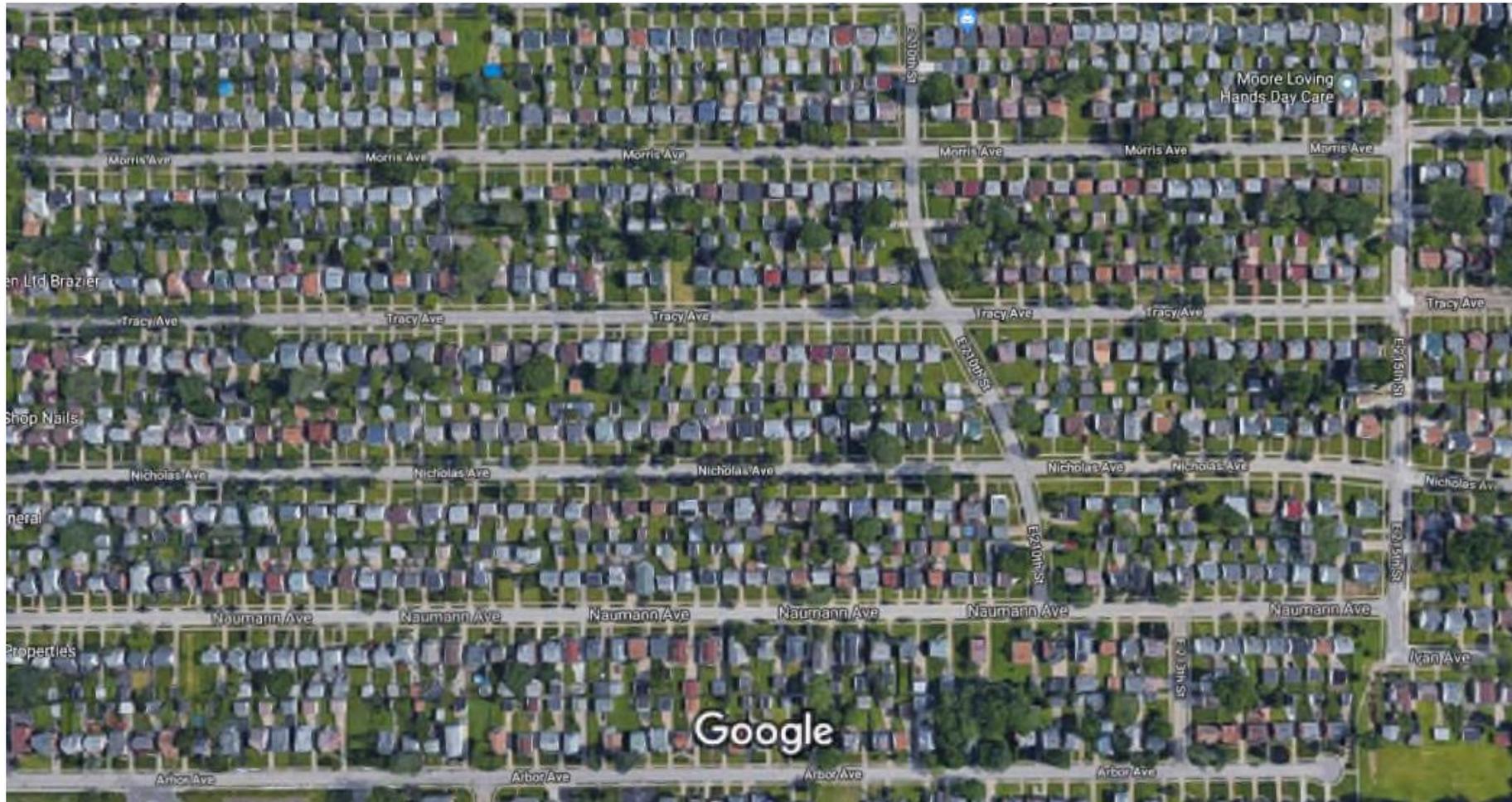
Holding

“If these reasons, thus summarized, do not demonstrate the wisdom or sound policy in all respects of those restrictions which we have indicated as pertinent to the inquiry, at least, the reasons are sufficiently cogent to preclude us from saying, as it must be said before the ordinance can be declared unconstitutional, that such provisions are clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare.”

Result of Euclidean Zoning



Single-Family Homes in Euclid



Buffalo Green Code

- The Buffalo Green Code's Land Use Plan is designed to provide a framework for decision-making about physical development. It outlines the community's expectations and preferences regarding future development.
- The Land Use Plan serves as a bridge between the city's comprehensive plan and zoning code by recommending the appropriate type, intensity, and character of development. It envisions a future for Buffalo built around the restoration of walkable, mixed-use, transit-served neighborhoods and economic centers. The plan focuses on three core strategies: fuel economic generators, restore neighborhoods, and repair environmental assets.

The Unified Development Ordinance

- The UDO implements the community's vision for the development of the city. Responding to considerable input from residents and business owners, it will be a "form-based code," emphasizing neighborhood character, as its organizing principle. This approach was chosen because of its unique capacity to help realize the community's vision for walkable, transit-supportive neighborhoods

3.1.2 N-1C MIXED-USE CORE



A. Purpose

The N-1C zone addresses mixed-use centers of high intensity, in strategic locations such as on the edges of downtown or proximate to light rail rapid transit, and often featuring mid-rise buildings.

B. Building Types

The form requirements of the neighborhood zones are tailored to each building type in accordance with Section 3.2. The following building types are permitted in the N-1C zone:

Attached House	Loft Building
Carriage House	Shopfront
Civic Building	Shopfront House
Commercial Block	Stacked Units
Detached House	Tower
Flex Building	

C. General

All development in the N-1C zone must comply with the form standards of Section 3.2, as well as any applicable standards in other sections, including the following:

Frontage Elements	Section 3.3
Principal Uses	Section 6.1
Accessory Uses	Section 6.2
Temporary Uses	Section 6.3
Landscape	Section 7.1
Fences and Walls	Section 7.2
Stormwater	Section 7.3
Outdoor Lighting	Section 7.4
Corner Visibility	Section 7.5
Site Impacts	Section 7.6
Pedestrian Access	Section 8.1
Bicycle Access and Parking	Section 8.2
Vehicle Access and Parking	Section 8.3
Transportation Demand Management	Section 8.4
On-Premise Signs	Section 9.2
Blocks	Section 10.1
Rights-of-Way	Section 10.2
Nonconformities	Section 12.1

3.2.2 ATTACHED HOUSE

A. Description

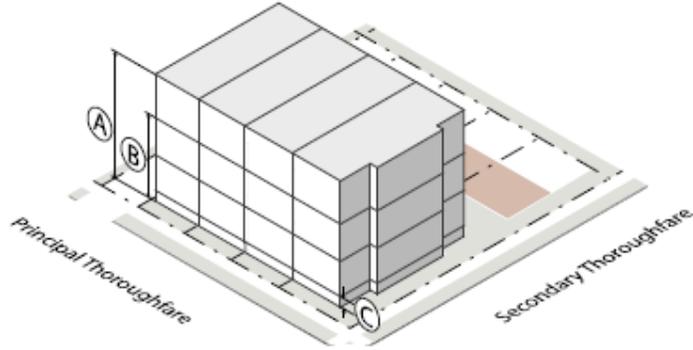
An attached house is a building on a narrow lot that shares a party wall with a building on an adjoining lot, typically designed as a dwelling.

B. Frontage Elements

The following frontage elements are allowed for the attached house building type, subject to the requirements of Section 3.3: Arcade Forecourt Plaza Awning Balcony Porch Stoop Canopy



E. Height



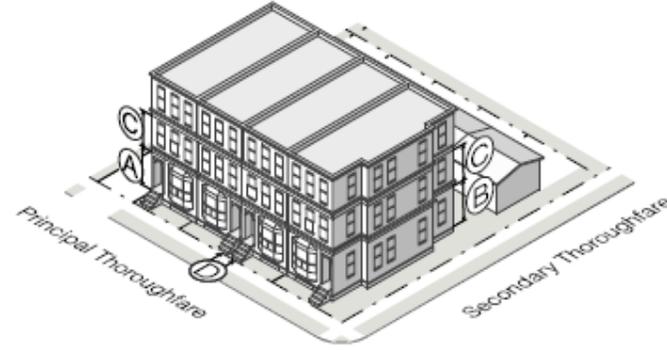
Building Height

Ⓐ	Building height (max)	
	N-1C, N-1S	4 stories, 52'
	N-2E, N-2R, N-3E, N-3R	3 stories, 40' ¹
Ⓑ	Building height (min)	
	N-1C, N-1S	3 stories
	N-2E, N-2R, N-3E, N-3R	2 stories

Supplemental Standards

1. See Section 3.2.1.G for height limit exceptions which apply

F. Activation



Transparency

Ⓐ	Ground floor transparency, front facade (min)	20%
Ⓑ	Ground floor transparency, corner side facade (min)	20%
Ⓒ	Upper floor transparency, front and corner side facades (min)	20%

Pedestrian Access

Ⓓ	Main entrance location (required)	Front facade
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Use Variance

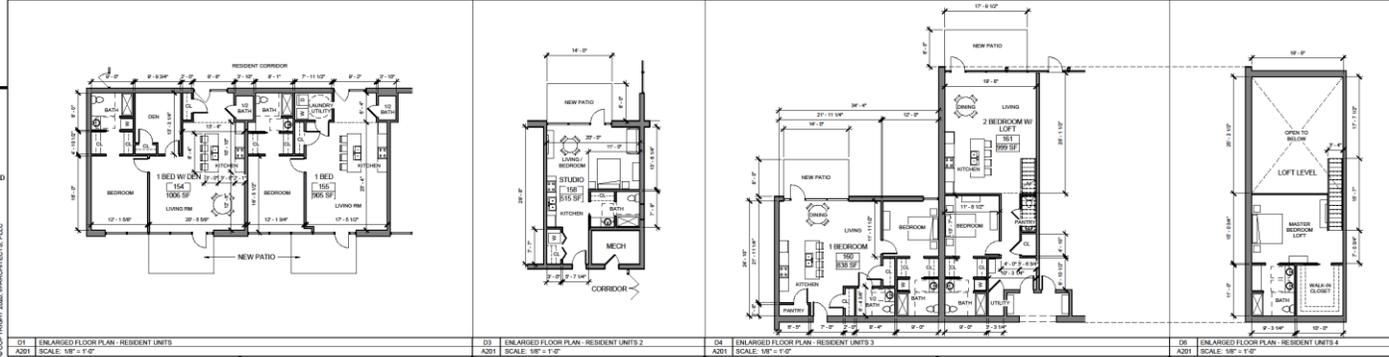
- Town § 267-b(2)(b) “No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, ...”
- A. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- B. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- C. that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- D. that the alleged hardship has not been self-created.

Reasonable Return

Competent Financial Evidence. Applicant must present "proof, in dollars and cents form, of all matters bearing upon the return available under existing zoning" and "show that no permissible use will yield a reasonable return." *Matter of Village Bd. of Vil. of Fayetteville v Jarrold*, 53 N.Y.2d 254, 257-258, 440 N.Y.S.2d 908 (1981). The fact that the present use is not the most profitable use is not relevant. *Crossroads Recreation, Inc. v. Broz*, 4 N.Y.2d 39, 172 N.Y.S.2d 129 (1958).



C1 OVERALL FLOOR PLAN
A201 SCALE: 1/8" = 1'-0"



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KASSON ROAD RESIDENCES
SYRACUSE, NEW YORK

NO.	DESCRIPTION	DATE

FLOOR PLANS

Project Status: PROGRESS
Date: 06/22/2020
Project Number: 20039
Drawn By: AER
Checked By: JWP

A201

Area Variance

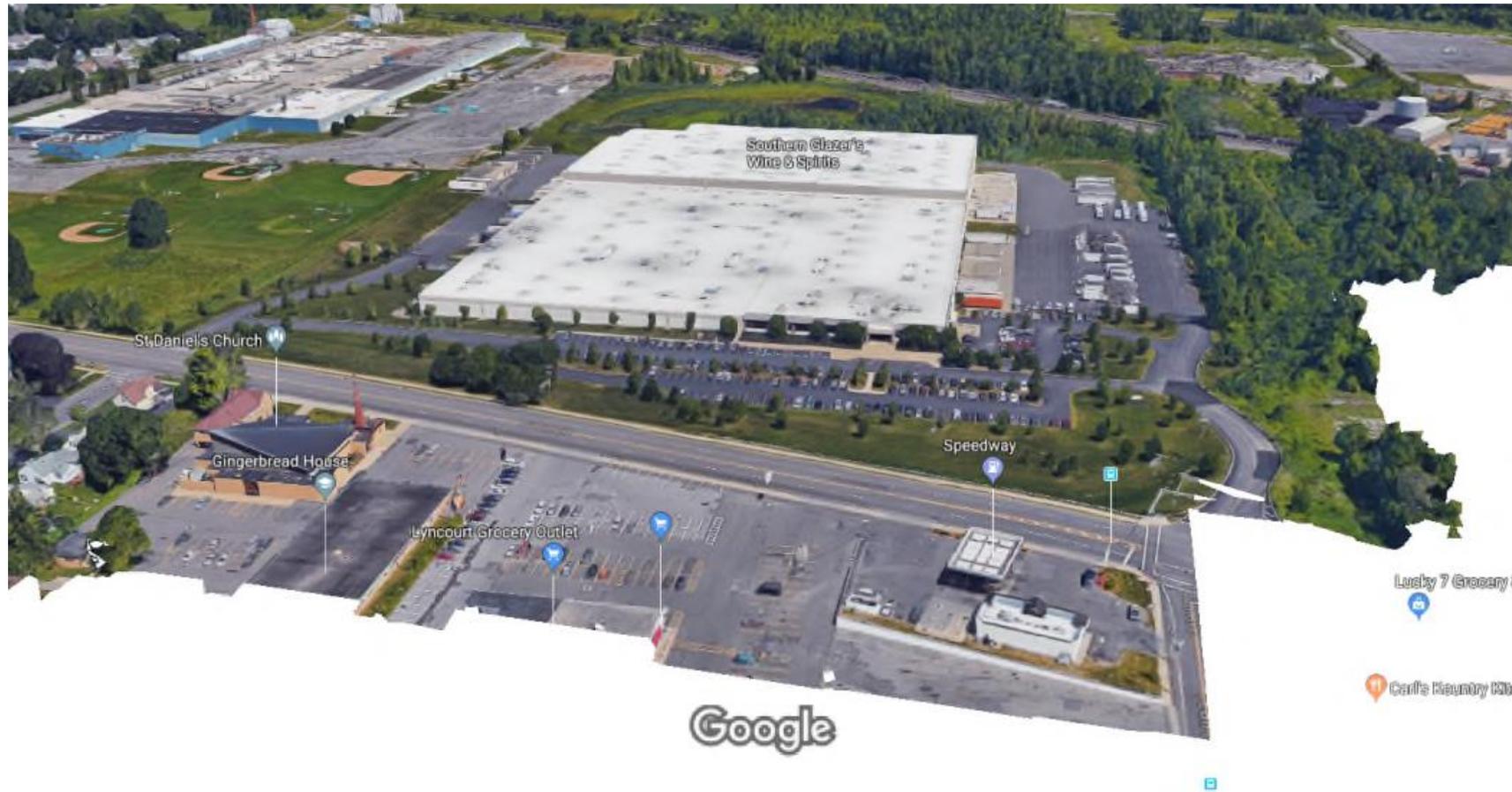
An area variance should be granted when the benefit to the applicant if the variance is granted outweighs the detriment to the health, safety and welfare of the neighborhood or the community. Town Law § 267-b(3). When deciding whether to grant an area variance, the Zoning Board of Appeals should consider the following factors:

- Whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance;
- Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
- Whether the requested area variance is substantial;
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Substantial

- The requested six (6) foot variance is not substantial because it will be difficult to perceive from the point of view of the general public.
- The expanded portion of the Warehouse will be quite far away from the Court Street.
- The height of the expanded portion of the Warehouse will only be twelve (12) feet higher than the elevation at the corner of Teall Avenue and Court Street.
- Virtually every building in the vicinity of the Warehouse has a higher profile than twelve (12) feet when measured from the road grade.
- Moreover, six feet is not a substantial request for a height variance because it is less than one story of a building. The Code even permits sixty (60) foot buildings in this district when they are located on larger lots.

Ex: Large Warehouse Addition



Site Plans and Special Permits

Site plan and special permit review can be expensive due to the need to retain professional assistance. The lengthy approval process in some localities can be burdensome. Issues analyzed include (See Town Law 274-a and 274-b):

- Adequacy of utilities
- Neighborhood impacts
- Ingress/egress
- Light
- Noise
- Odors



Questions



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COVID Update and SCOTUS

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Dobbs and the Workplace

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Title IX and Notice of Proposed Rulemaking

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EEOC Updates re: Nondiscrimination

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Zoning

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New York Employment Law: The Essential Guide

NYS Bar Association Members can buy the book from the bar [here](#).

Non-NYS Bar Association Members can purchase through Amazon [here](#).

Thank You

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It is not to be considered as legal advice.
Laws can change often, and information may become outdated.

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