

Glossary

accessory structure

A detached structure incidental to the principal building on the same lot. For example, a garage or garden shed.

appellate functions

The power given directly from State law to the zoning board of appeals to hear and decide appeals from decisions of those officials charged with the administration and enforcement of zoning regulations.

Article 78 proceeding

An article of the Civil Practice Law and Rules that allows aggrieved persons to bring an action against a government body or officer. This device allows review of state and local administrative proceedings in court. See Civil Practice Law and Rules, Article 78.

building envelope

The space within which a structure may be constructed, in compliance with local minimum setback, maximum height and bulk, and other regulations.

code enforcement officer

A local official charged with enforcing the New York State Uniform Fire Prevention and Building Code and the Energy Conservation Construction Code. The code enforcement officer can also be designated as the local official charged with enforcing local zoning regulations.

county planning agency

A county planning board, commission or other agency authorized by the county legislative body to review proposed actions referenced for inter-community or county-wide considerations. See General Municipal Law Section 239-l.

decisions

Decisions should consist of the date action was taken, the motion that was passed, the type of vote cast by each board member present, and any conditions imposed.

determination of significance

A conclusion by the lead agency under SEQRA as to whether or not an action under review will have at least one significant adverse environmental impact. See State Environmental Quality Review Regulations Part 617.7.

direct appeal

A request to the zoning board of appeals without an action on the part of a zoning enforcement officer first. A direct appeal may be made for an area variance in conjunction with an application for a site plan, subdivision, or special use permit. See Town Law Sections 274-a(3), 274-b(3), and 277(6); Village Law Sections 7-725-a(3), 7-725-b(3), and 7-730(6); and General City Law Sections 33(6), 27-a(3), and 27-b(3).

environmental assessment form (EAF)

An environmental assessment form or EAF is a form used by an agency to assist it in determining the environmental significance or nonsignificance of actions. A properly completed EAF must contain enough information to describe the proposed action, its location, its purpose and its potential impacts on the environment. An agency may use either a full EAF or a short EAF. A short EAF may only be used for unlisted actions.

environmental impact statement (EIS)

An EIS is a written "draft" or "final" document prepared in accordance with the State Environmental Quality Review Act. It provides a means for agencies, project sponsors, and the public to systematically consider significant adverse environmental impacts, alternatives, and mitigation strategies associated with the project at hand. An EIS facilitates the weighing of social, economic, and environmental factors in the planning and decision-making process.

A draft EIS (DEIS) is the initial statement prepared by either the project sponsor or the lead agency and circulated for review and comment before a final EIS (FEIS) is prepared. See State Environmental Quality Review Regulations Part 617.

executive session

That portion of a meeting not open to the general public.

Upon a majority vote of its total membership, taken in an open meeting pursuant to a motion identifying the general area or areas of the subject or subjects to be considered, a public body may conduct an executive session for the below enumerated purposes only, provided, however, that no action by formal vote shall be taken to appropriate public moneys:

- a. matters which will imperil the public safety if disclosed;
- b. any matter which may disclose the identity of a law enforcement agent or informer;
- c. information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- d. discussions regarding proposed, pending or current litigation;
- e. collective negotiations pursuant to article fourteen of the civil service law;
- f. the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
- g. the preparation, grading or administration of examinations; and
- h. the proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.

The executive session is not separate from an open meeting but rather defined as a portion of an open meeting during which the public may be excluded. For more information on executive sessions

and open meetings, read the Committee on Open Government's publication Your Right to Know. See Public Officers Law, Article 7, Section 102.

findings

An analysis which applies law to facts, leading to conclusions.

Freedom of Information Law

A law defining the public's right to access the records of government. For more information on Freedom of Information Law, read the Committee on Open Government's publication Your Right to Know. See Public Officers Law, Article 6.

full statement

All materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form and all other materials required by such referring body in order to make its determination of significance pursuant to the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

When the proposed action referred is the adoption or amendment of a zoning ordinance or local law, "full statement of such proposed action" shall also include the complete text of the proposed ordinance or local law as well as all existing provisions to be affected thereby, if any, if not already in the possession of the county planning agency or regional planning council.

Notwithstanding the foregoing provisions, any referring body may agree with the county planning agency or regional planning council as to what shall constitute a "full statement" for any or all of those proposed actions which said referring body is authorized to act upon. See General Municipal Law Section 230-m(c).

meeting

The convening of a public body for the purpose of conducting public business. See Public Officers Law, Article 7, Section 102.

minutes

The historical record of an officially convened meeting of an organized public body. At a minimum, they shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.

nonconforming use

A land use that is not permitted by a zoning law but which already existed at the time the zoning law or its amendment was enacted. Most nonconforming uses are allowed to continue but may not be expanded or enlarged.

oath of office

A mandatory oath signed by a public officer within 30 days of appointment, which is kept on file with the clerk of the municipality: "I do solemnly swear (or affirm) that I will support the

constitution of the United States, and the constitution of the State of New York, and that I will faithfully discharge the duties of the office of [Zoning Board of Appeals Member] according to the best of my ability." See Section 1, Article XIII New York State Constitution.

Open Meetings Law

A law, which went into effect in New York in 1977, giving the public the right to attend meetings of public bodies. Open Meetings Law also requires that the public be informed of meetings by conspicuous posting of their time and location and informing the news media at least seventy-two hours prior to meetings scheduled more than a week in advance and to the extent practicable for all other meetings. For more information on the Open Meetings Law, read the Committee on Open Government's publication *Your Right to Know*. See Public Officers Law, Article 7.

original jurisdiction

Those duties and functions granted by the governing board to the zoning board of appeals that are not appeals. These may include site plan review and special use permits.

primary structure

The main building on a lot, as opposed to the accessory structure.

public body

Any entity for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the General Construction Law, or committee or subcommittee or other similar body of such body. See Public Officers Law, Article 7, Section 102.

public hearing

A session conducted by local boards to gather information from the public, and to survey public opinion as part of a local law-making, rule-making, decision, or appeals process.

Public hearings are required by statute for a variety of reasons, such as before a board of appeals may grant a variance or rule on an appeal or decide any other matter referred to it under the ordinance or local law; before a local law or ordinance may be adopted; or before a subdivision may be approved.

quasi-judicial

A term applied to some local administrative bodies that have the power to investigate facts, hold hearings, weigh evidence, draw conclusions, and use this information as a basis for their official decisions. These bodies adjudicate the rights of the parties appearing before the body. The zoning board of appeals serves in a quasi-judicial capacity when it hears appeals from the determination of the local zoning enforcement officer.

quorum

At least a majority of the full membership of the board, including any absences or vacancies. See General Construction Law Section 41.

records

The assembled facts.

Robert's Rules of Order

A book containing rules of order intended to be adopted as a parliamentary authority for use by a deliberative assembly. Use of this book of rules by boards and commissions subject to the Open Meeting Law is not required by New York State statutes.

setback

A minimum distance required by local zoning to be maintained between two structures or between structures and property lines or the public right-of-way.

site plan

A rendering, drawing, or sketch that contains specific elements and meets specifications established by the local governing board in a zoning ordinance or local law. See Town Law Section 274-a(1), Village Law Section 7-725-a(1), and General City Law Section 27-a(1).

special use permit

An authorization to use land in a way which is permitted by zoning, subject to requirements designed to assure that the proposed use is in harmony with the zoning law and the use will not adversely affect the neighborhood if the requirements are met. See Town Law Section 274-b(1), Village Law Section 7-725-b(1), and General City Law Section 27-b(1).

standing

One's legal right to bring an appeal. To have standing, the appellant must be sufficiently affected by the matter at hand.

subdivision

The division of a parcel of land into a number of lots, blocks or sites, with or without streets, for the purpose of sale, transfer of ownership, or development. See Town Law Section 277(1); Village Law Section 7-730(1) and General City Law Section 33(1).

Type I Action

An action under the State Environmental Quality Review Act (SEQR) more likely to have a significant adverse environmental impact and more likely to require the preparation of the Environmental Impact Statement (EIS). Type I actions are listed in the SEQR Regulations and more

information about SEQR can also be found in the SEQR Handbook. See State Environmental Quality Review Regulations Part 617.4.

Type II Action

Actions under the State Environmental Quality Review Act (SEQR) categorically determined not to have a significant adverse environmental impact. A Type II action concludes the SEQR process. Examples of Type II actions include maintenance and repair of existing structures; replacement of structures on the same site, in kind, with upgrades to meet building and fire codes; and the granting of individual setback and lot line variances. Type II Actions are listed in the SEQR Regulations and more information about SEQR can also be found in the SEQR Handbook. See State Environmental Quality Review Regulations Part 617.5.

Unlisted Action

An Unlisted action is one that is not included in statewide or individual agency lists of Type I or Type II actions.

Unlisted actions are the largest category of actions subject to review under SEQR. As may be implied from their name, no list has been made of them, in part because it is impossible to anticipate in advance every potential discretionary decision of government. Unlisted actions may range from very minor zoning variances to complex construction activities falling just below the thresholds for Type I actions, or from the granting of minor permits to the adoption of major regulations. [Source: SEQR Handbook] See State Environmental Quality Review Regulations Part 617.

zoning enforcement officer

The administrative official charged with administering and enforcing the local zoning regulations. Appeals of the ZEO's decisions are made to the zoning board of appeals.