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INTRODUCTION

Zoning review can be a very bureaucratic process. It involves handling a lot of paper — site plans, special permits, subdivisions, appeals, building permits, certificates of compliance, and enforcement actions. Properly managing this paperwork and keeping it organized is often difficult, even in the best of circumstances, but it is essential to effective zoning administration and enforcement.

Paperwork must be located where municipal officials can find it — and even more importantly, where they can easily make it accessible to the public. Properly organizing paperwork will help to avoid the unnecessary delays and confusion that can result when records cannot be located, either during the review process or in the years subsequent to the action.

The advice in this publication should make the job of record-keeping easier, and should help a community achieve a record-keeping system that will be efficient and practical.

THE ESSENTIALS OF RECORD-KEEPING

The Importance of Filing. The statute of limitations for challenges to planning and zoning actions generally expires 30 days after a determination is filed.1 This means that if records are not properly filed, the municipality may remain vulnerable to legal challenge for a longer time than necessary. Where a court finds that the municipality violated filing and/or record-keeping requirements, the validity of the final determination is placed at risk.

The Statutory Requirements. The New York planning and zoning enabling statutes contain filing requirements which must be followed precisely. For site plan reviews, special use permits, subdivision plats, and zoning appeals, the board’s determination must be filed in the municipal clerk’s office within five business days.2

What Constitutes Filing? A record is filed when it is placed under the control of the officer having responsibility for its custody. As regards zoning and planning determinations, this usually occurs when the document is presented to the municipal clerk at her office. But if the clerk is actually present in an official capacity when the board’s determination is made, with the clerk’s assent it could be placed “under her control” at that time—and would, therefore, be filed. If you are unsure whether your records are under the control of the clerk, check with your municipal attorney.

1 Gen. City L. §§27-a(11), 27-b(9), 38, 81-c; Town L. §§274-a(11), 274-b(9), 282, 267-c; Vil. L. §§7-725-a(11), 7-725-b(9), 7-740, 7-712-c.

2 Gen. City L. §§27-a(8), 27-b(6), 32(9), 81-a(9); Town L. §§274-a(8), 274-b(6), 276(9), 267-a(9); Vil. L. §§7-725-a(8), 7-725-b(6), 7-728(9), 7-712-a(9).
How Should Records be Filed?  All records should be stamped with the date they are received by the municipal clerk. This will establish the date from which the 30-day statute of limitations is calculated. **File records chronologically, but also according to the location of the property by tax parcel number**, even if parallel filing methods are also used. A parallel system that is especially useful for boards of appeals involves filing records according to the section of the local zoning law that the appeal affected.

Why File by Location?  Many times, it is extremely difficult for a person to remember the exact date that a board’s determination occurred. Often the exact date is not relevant to the concern in question. But a person almost always knows, or can easily look up, the parcel location. Consider common reasons for people to search zoning records:

- a potential home buyer, or his attorney, researching the history of building permits and variances on a property to be purchased;
- a planning board looking into past variances on a site plan before the board;
- a zoning enforcement officer verifying violations of previously approved plans;
- a town assessor looking into improvements on a property being reassessed.

In all these cases, the location of the property is known. The dates of actions taken on these properties is, however, in all likelihood unknown, and impossible to determine without expending enormous time and effort searching chronologically through planning board, board of appeals, or building/zoning permit records.

Methods of Identifying Property Locations.  A simple way to identify location is to use the tax parcel identification system. This is a ready-made filing system that is infinitely expandable. Each new subdivision of land creates new subcategories of numbers. It is a simple system and is readily available for use by public officials. By keeping all records tagged with the tax parcel identification number, it is easy to route every record to its correct file location.

Is More Than One Filing System Necessary?  No. Although some communities may wish to segregate planning board, board of appeals and building/zoning permit records, there is no need to do so. The municipality should consider an integrated record system for both simplicity and comprehensiveness. Simplicity is the key to the effective working of most systems.

Using Checklists.  Review authorities should use procedural checklists as a routine for all project reviews (see examples in the Appendix). These checklists help to: (1) keep the review authority aware of the necessary steps in the review process; and (2) provide a permanent record of the sequence and timing of actions taken, should the procedure be challenged later. These checklists should be tagged with both the tax parcel identification number as well as a chronological project log number for each project. Each decision-maker (enforcement officer, board, etc.)
should maintain a separate project log number sequence (e.g., 08-1, 08-2, 08-3, etc.). The checklist should be retained by the decision-maker, possibly in the form of a notebook. It will provide a permanent cross-referenced record of the location of the associated records in the municipal clerk’s files.

CONCLUSION

It is important to follow the statutory filing requirements of state law, and file all records with the proper officer. File records chronologically, as well as by location using the tax parcel identification number, so that they may be more easily retrieved in the ensuing years. Boards of appeals should also file records by zoning law section. Always use checklists to keep track of project reviews, and to provide a permanent record of where files are located in the proper municipal office.
APPENDIX – MODEL CHECKLISTS
TOWN OF ___________ ZONING PERMIT PROCEDURE

Applicant Name and Address
_____________________________________
_____________________________________
_____________________________________

Phone (    )___________________________
Email:________________________________

Event (as applicable)                       Date
Application received                        ____________
Supplemental material received              ____________
Fee paid, amount: $__________________________
Zoning permit:
  □ issued
  □ denied
Reasons for denial: _____________________________________________
_____________________________________________________________
_____________________________________________________________

Application appealed, ZBA log number:__________________________
Application referred to building inspector _______________________

Zoning inspections: Remarks:
1. __________________________________________________________
2. __________________________________________________________
3. __________________________________________________________
4. __________________________________________________________
5. __________________________________________________________
6. __________________________________________________________
7. __________________________________________________________
8. __________________________________________________________

Certificate of occupancy:
  □ issued
  □ denied
Reasons for denial: _____________________________________________
_____________________________________________________________

Decision filed with town clerk ______________________
TOWN OF ____________ ZONING APPEAL

Applicant Name and Address
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
Phone: (    )_________________________ Email:______________________________

Event (as applicable) Date

Notice of Appeal filed/fee paid
EAF form filed
Type of SEQRA action determined to be:
  □ Type I
  □ Type II
  □ Unlisted
SEQRA determination
  □ Positive (EIS required)
  (Note: Positive determination will initiate steps not on this checklist)
  □ Negative
  □ Conditional negative
Application referred to county planning agency
Application referred to other agencies/officers

County planning agency response received
Resolution to hold public hearing
Notice of hearing published in paper
Notice of hearing mailed to applicant.
Other agencies/entities notified of hearing
Public hearing opened
Public hearing closed
Action taken on application:
  □ Approval
  □ Appeal upheld on interpretation
  □ Variance granted
<table>
<thead>
<tr>
<th>Event Description</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Variance granted with conditions</td>
<td></td>
</tr>
<tr>
<td>Disapproval</td>
<td></td>
</tr>
<tr>
<td>Appeal denied on interpretation</td>
<td></td>
</tr>
<tr>
<td>Variance disapproved</td>
<td></td>
</tr>
<tr>
<td>Resolution addressing county planning agency review</td>
<td></td>
</tr>
<tr>
<td>Report filed with county planning agency</td>
<td></td>
</tr>
<tr>
<td>Determination mailed to applicant</td>
<td></td>
</tr>
<tr>
<td>Determination filed with town clerk</td>
<td></td>
</tr>
<tr>
<td>Order issued to zoning officer</td>
<td></td>
</tr>
<tr>
<td>Zoning permit issued</td>
<td></td>
</tr>
<tr>
<td>Certificate of occupancy issued</td>
<td></td>
</tr>
</tbody>
</table>
TOWN OF _______________
MINOR SUBDIVISION REVIEW PROCEDURE

Project Name                      Applicant Name and Address
_____________________________________ ____________________________________
_____________________________________ ____________________________________
_____________________________________ ____________________________________
_____________________________________ Phone (     )_________________________
                                            Email:______________________________

Event (as applicable)              Date

Sketch plan presented

Plat determined complete/fee paid
EAF form filed

Type of SEQRA action determined to be:
  □ Type I
  □ Type II
  □ Unlisted

SEQRA Determination:
  □ Positive (EIS required)
     (Note:  Positive determination will initiate steps not on this checklist)
  □ Negative
  □ Conditional negative

Application referred to county planning agency
County planning agency response received
Resolution to hold public hearing
Notice of hearing published in paper
Public hearing opened
Public hearing closed

Action taken on the application:
  □ Approval
  □ Conditional approval
  □ Approval with modifications
  □ Disapproval

Resolution approved addressing county planning agency review
Report filed with county planning agency
Determination mailed to applicant
Conditionally approved plat signed
Determination filed with town clerk
Plat filed in the office of the county clerk
Report filed with county planning agency
Tax Parcel Number: Section: ________Block:_________ Lot: ________Log No.: ______________

TOWN OF _______________
MAJOR SUBDIVISION REVIEW PROCEDURE

Project Name       Applicant Name and Address
_____________________________________ ____________________________________
_____________________________________ ____________________________________
_____________________________________ ____________________________________
_____________________________________ Phone (     )_______________________
Email:______________________________

Event (as applicable)             Date
Sketch plan presented. __________
Plat determined complete/fee paid __________
EAF form filed __________
Type of SEQRA action determined to be:
□ Type I __________
□ Type II __________
□ Unlisted __________
SEQRA determination __________
□ Positive (EIS required) __________
(Note: Positive determination will initiate steps not on this checklist)
□ Negative __________
□ Conditional negative __________
Application referred to county planning agency __________
Application referred to other agencies/officers __________

County planning agency response received __________
Resolution to hold public hearing __________
Notice of hearing published in paper __________
Notice of hearing mailed to applicant __________
Other agencies/entities notified of hearing __________
Public hearing opened __________
Public hearing closed __________
Determination on preliminary plat: __________
□ Approval __________
□ Approval with modifications
□ Disapproval

Determination mailed to applicant
Determination filed with town clerk
Final plat accepted as complete/fee paid
Other agencies/entities notified
Resolution to waive or hold public hearing
Notice of hearing published in paper
Public hearing opened
Public hearing closed

Action taken on final plat:
□ Approval
□ Approval with modifications
□ Conditional approval
□ Conditional approval with modifications
□ Disapproval

Bond or other security posted
Resolution addressing county planning agency review
Report filed with county planning agency
Determination mailed to applicant
Determination filed with town clerk
Plat signed
Plat (or first stage) filed with county clerk

Plat & all records filed with town clerk
TOWN OF ____________________________
SITE PLAN REVIEW/SPECIAL USE PERMIT PROCEDURE

Project Name
_________________________________
_________________________________
_________________________________
_________________________________

 Applicant Name and Address
_________________________________
_________________________________
_________________________________
_________________________________

Phone ( )_________________________
Email:______________________________

Event (as applicable)  Date
Application accepted as complete/fee paid
EAF form filed
Type of SEQRA action determined to be:
 □ Type I
 □ Type II
 □ Unlisted
SEQRA determination
 □ Positive (EIS required)
   (Note: Positive determination will initiate steps not on this checklist)
 □ Negative
 □ Conditional negative
Application referred to county planning agency
Application referred to other agencies/officers
County planning agency response received
Resolution to hold public hearing
Notice of hearing published in paper
Notice of hearing mailed to applicant
Other agencies/entities notified of hearing
Public hearing opened
Public hearing closed
Determination made
 □ Approval
 □ Approval with modifications
 □ Disapproval
Resolution addressing county planning agency review
Report filed with county planning agency
Determination mailed to applicant
Determination filed with town clerk
Zoning permit issued
Certificate of occupancy issued