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Record Keeping Tips For Zoning Administration

JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES

A Division of the New York Department of State

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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.

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[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

Tax Parcel Number: Section: _____Block:_____ Lot: _____Log No.: _____

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 _____

Tax Parcel Number: Section: _____Block:_____ Lot: _____Log No.: _____

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	_____
□ Variance granted with conditions	_____
□ Disapproval	
□ Appeal denied on interpretation	_____
□ Variance disapproved	_____
Resolution addressing county planning agency review	_____
Report filed with county planning agency	_____
Determination mailed to applicant	_____

Determination filed with town clerk	_____
Order issued to zoning officer	_____
Zoning permit issued	_____
Certificate of occupancy issued	_____

Tax Parcel Number: Section: _____Block:_____ Lot: _____ Log No.: _____

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 _____

Tax Parcel Number: Section: _____Block:_____ Lot: _____Log No.: _____

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	_____