

February 5, 2009

Guidelines for Streamlining Nassau County Zoning Referrals

The purpose of these guidelines is to provide municipalities with clear direction as to what should be referred to the Nassau County Planning Commission under General Municipal Law Section 239-m, and what need not be so referred.

Any municipalities in Nassau County seeking to take advantage of this streamlined process must first sign a letter agreement (Attachment A) agreeing to this process.

I. Governing Law

New York State General Municipal Law Section 239-m requires that municipalities within the County must refer the following actions to the Nassau County Planning Commission:

- (i) the adoption or amendment of a comprehensive plan pursuant to section 272-A of the town law, section 7-722 of the village law or section 28-a of the general city law;
- (ii) the adoption or amendment of a zoning ordinance or local law;
- (iii) the issuance of special use permits;
- (iv) the approval of site plans;
- (v) the granting of use or area variances;
- (vi) the other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.

All of the above actions must be referred if they apply to real property within five hundred feet of the following:

- (i) the boundary of any city, village or town; or
- (ii) the boundary of any existing or proposed county or state park or any other recreation area; or
- (iii) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
- (iv) the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

(v) the existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

(vi) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

II. Exceptions to the Referral Requirements

County planning agencies may enter into agreements with local municipalities to exempt certain actions from the referral process if such actions are of a local, rather than an inter-community or county-wide concern. Pursuant to this statutory framework, the Nassau County Planning Commission has determined that if a municipality agrees in writing, the following actions by that municipality are of a local, rather than an inter-community or county-wide concern and need only be noticed, but not referred to the Commission, unless otherwise specified:

A. Certain Ordinances and Local Laws that need only be noticed:

1. Enactments or amendments to laws or ordinances that may be part of a zoning code change, but do not relate to zoning, land use or general planning matters.
2. Enactments or amendments to local laws or ordinances which are part of a zoning code change, relating to fee structures or municipal enforcement issues.

B. Certain Proposed Site Plan Reviews and Zoning Actions that need only be noticed:

1. Minor additions or renovations to non-residential properties less than 1,500 square feet of floor area with no change in use or occupancy;
2. Site plans for individual residential lots;
3. Exterior improvements that do not impact dimensional requirements or the structure's footprint for both residential and non-residential properties;
4. Fence variances (except adjacent to county or state rights-of-way, open space, parklands, wetlands or waterways);
5. Sign variances;
6. Telecommunication antennas (being considered for conditional use only) mounted on structures such as buildings or water towers, but not the installation of telecommunication towers and monopoles;
7. Single and separate residential lots that require area variances;

8. Encroachments on residentially-developed properties that require area variances, including but not limited to expanded building footprints, decks, pools and accessory structures; and

9. Parent/child permit requests/renewals.

III. Specific Mandatory Referrals

Notwithstanding the above exceptions, the following actions must continue to be referred to the Nassau County Planning Commission:

A. Actions described in NYS General Municipal Law 239-m that have been given a Positive Declaration pursuant to SEQRA.

B. Actions described in NYS General Municipal Law 239-m in which Nassau County is the lead agency under SEQRA.

C. Actions described in NYS General Municipal Law 239-m in which a state, county or another local municipality objects in writing to such proposed action.

IV. Notice Required for All Actions Excepted:

All municipal actions exempted from referral requirements as stated above must be noticed to the Nassau County Planning Commission, including the information noted in Attachment B. If within seven (7) days after receiving such notice, the Commission notifies the municipality in writing that such action does have inter-community or county-wide concerns, then such actions must be referred pursuant to General Municipal Law 239-m. The thirty (30) day time period for County review will begin when a complete statement is received by the County. If the Commission does not notify the municipality within the seven (7) day time period noted above, then the municipality may proceed with its noticed action.

V. Modifications or Waivers:

The above guidelines may only be modified or waived in writing by the Nassau County Planning Commission, upon thirty (30) days notice to all municipalities which have signed letter agreements pursuant to these guidelines.

Attachment A

[Form Letter Agreement with Municipalities]

Attachment B

Notification need not be in a particular form, but must consist of an e-mail to _____ describing the type of action, title of action, location of affected property and a statement that the action falls within a County Planning Commission category that requires Notification Only. Faxes, to 516-571-3839, or written communications to the Executive Commissioner at the address noted on the letterhead above may be substituted for an e-mail.

Thomas R Suozzi
County Executive

Patrick G. Duggan
Deputy County Executive

Patricia Bourne
Executive Commissioner

Jackie L. Gross
Deputy County Attorney



Nassau County Planning Commission
100 County Seat Drive
Mineola, N.Y. 11501 - 4825
516-571-5847 Fax 516-571-3839

Jeffrey Greenfield
Chair

Michael A. Bellissimo
First Vice-Chair

Neal Lewis
Second Vice-Chair

Philip Como
Clara Gillens-Eromosele
Omar G. Jorge
Mary A. McCaffery
Leonard H. Shapiro

DRAFT (February 5, 2009) Attachment A Letter:

[Date]

[Municipality Address]

Re: Agreement to Streamline Certain Zoning Referrals to Nassau County

Dear _____ :

This letter memorializes the following understandings between Nassau County (hereinafter, the "County") and _____ (hereinafter, the "Municipality") with the intent of streamlining the referral process mandated by New York State General Municipal Law Section 239-m.

1. Term. This Agreement shall commence on the date on which this Agreement is last executed by the Parties (the "Commencement Date") and shall terminate (i) five (5) years from the Commencement Date or (ii) in accordance with the provisions of this Agreement and all applicable riders, addenda or exhibits hereto. The term of this Agreement shall be extended automatically for successive five (5) year terms, unless either Party sends written notice of termination to the other at least thirty (30) days before the end of any term. This Agreement shall terminate upon thirty (30) days written notice by either party to the other.

2. Scope of Agreement. The parties agree that they will abide by the Guidelines for Streamlining Nassau County Referrals, (hereinafter, the "Guidelines"), annexed hereto as Exhibit _____.

3. Notices. Any notice, request, demand or other communication required to be given or made in connection with this Agreement shall be (a) in writing, (b) delivered or sent (i) by hand delivery, evidenced by a signed, dated receipt, (ii) postage prepaid via certified mail, return receipt requested, or (iii) overnight delivery via a nationally recognized courier service, (c) deemed given or made on the date the delivery receipt was signed, three (3) business days after it is mailed or one (1) business day after it is released to a courier service, as applicable, and (d) if to a party or the parties, to the attention of the persons who executed this Agreement on behalf of the respective parties at the

addresses first above written, or in each case to such other persons or addresses as shall be designated by written notice.

Notwithstanding the foregoing paragraph, the notice required to be given by the Village pursuant to the Guidelines shall be given either by e-mail to: _____ @nassaucountyny.gov or by regular mail to Patricia Bourne, Executive Commissioner or by facsimile to 516-571-3839.

4. Entire Agreement. This Agreement represents the full and entire understanding and agreement between the parties with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

If you concur with these understandings, please sign where indicated below, and return an original copy of this letter to Patricia Bourne, Executive Commissioner. This Agreement will be effective upon the County's receipt of a fully-executed original letter.

Sincerely,

By: _____
Name: _____
Title: _____
Date: _____

[MUNICIPALITY]

By: _____
Name: Hon. _____
Title: **[MUNICIPALITY]**

Date: _____