

<b>Topic:</b>	Pre-Application & Consensus Building; Alternative Dispute Resolution; Site Plan Approval
<b>Resource Type:</b>	Regulations
<b>State:</b>	New York
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	Town of Amenia
<b>Year (adopted, written, etc.):</b>	2007
<b>Community Type - applicable to:</b>	Suburban; Rural
<b>Title:</b>	Town of Amenia Special Permits & Site Plan Review
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### ***Abstract***

Preliminary conferences are required. At any point in the application review process the Planning Commission can assign a mediator to address concerns raised by a Special Permit use. The mediator's decision is non-binding and the cost of the mediation will be charged to the applicant as part of the application process.

### ***Resource***

Town of Amenia, N.Y., Zoning Law § 121-62B (July 19, 2007)

Article IX. Special Permits and Site Plan Review

§121-62 Procedure for Special Permits

#### **A. Pre-application Meetings**

Before filing an application, a preliminary conference with the Code Enforcement Official is required to discuss the nature of the proposed use and to classify it as a Major or Minor Project. If the Code Enforcement Official classifies the project as a Major Project, a preliminary meeting with the Planning Board is required to discuss the nature of the proposed use and to determine the information that will need to be submitted in the Site Plan.

#### **B. Mediation Option**

At any point in a project review process the Planning Board may, if it deems appropriate and the parties consent, appoint a mediator to work informally with the applicant, neighboring property owners, and other interested parties to address concerns raised

about the proposed Special Permit use. Any party may request mediation. Such mediation may be conducted by any qualified and impartial person acceptable to the parties and the Planning Board. The mediator shall have no power to impose a settlement or bind the parties or the Planning Board, and any settlement reached shall require Planning Board approval to assure compliance with all provisions of this chapter. The cost, if any, of such mediation may be charged to the applicant as part of the cost of project review, with the applicant's written consent. Such cost may also be paid by the Town, or shared by other parties with their written consent.

### C. Application

(1) Application for a Special Permit shall be made to the Planning Board in the manner prescribed by the Board.

(2) If an application is for a parcel or parcels on which more than one use requiring a Special Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of determining whether the application is a Major or Minor Project, and for SEQRA compliance, all proposed uses on a single parcel or on contiguous or related parcels under single or related ownership shall be considered together.

(3) Application for Area Variance

Notwithstanding any provision of law to the contrary, where a proposed Special Permit contains one or more features which do not comply with the dimensional requirements of this chapter, application may be made to the Zoning Board of Appeals for an area variance pursuant to §121-59F without a decision or determination by the Code Enforcement Official.

### D. State Environmental Quality Review Act (SEQRA) Compliance

Upon receipt of application materials it deems complete, the Planning Board shall initiate the New York State Environmental Quality Review process by either circulating the application and Environmental Assessment Form to all involved agencies (if coordinated review is undertaken) or by issuing its determination of significance within 20 days. Where the proposed action may have a significant effect on the environment, the Planning Board shall issue a positive declaration and require the submission of a Draft Environmental Impact Statement (DEIS). No time periods for decision making in this chapter shall begin to run until either acceptance of a DEIS as satisfactory pursuant to New York State Department of Environmental Conservation regulations or the issuance of a negative declaration.

### E. Referral to County Planning Board and Zoning Board of Appeals

(1) Upon receipt of application materials it deems to be complete, the Planning Board shall refer to the County Planning Board any application for a Special Permit affecting real

property within 500 feet of the boundary of the Town of Amenia, the boundary of any existing or proposed County or State park or other recreational area, the boundary of any existing or proposed County or State roadway, the boundary of any existing or proposed right-of-way for a stream or drainage channel owned by the County for which the County has established channel lines, the boundary of any existing or proposed County or State-owned land on which a public building or institution is situated, or the boundary of a farm operation within an agricultural district as defined in Article 25AA of the Agriculture and Markets Law, pursuant to General Municipal Law, Article 12-B, §§ 239-l and 239-m, as amended.

(2) No action shall be taken on applications referred to the County Planning Board until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Town agree to an extension beyond the 30-day requirement for the County Planning Board's review.

### (3) County Disapproval

A majority-plus-one vote of the Planning Board shall be required to grant any Special Permit which receives a recommendation of disapproval from the County Planning Board before the Planning Board takes action. The Planning Board shall by resolution set forth its reasons for such contrary action.

(4) Any Major Project Special Permit application shall be referred to the Zoning Board of Appeals no later than the time of referral to the County Planning Department. The Board of Appeals shall have a maximum of 45 days to review the application and submit written comments to the Planning Board. The Planning Board shall consider the written comments of the Board of Appeals in making its decision on the application. If no comments are received within the 45-day referral period, the Board of Appeals shall be deemed to have waived its right to comment.

## F. Notice and Hearing

(1) If an agricultural data statement has been submitted, the secretary of the Planning Board shall, upon receipt of the application, mail written notice of the Special Permit application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant.

(2) The Planning Board shall hold a public hearing on a complete Special Permit application within 62 days of its submission. The Board shall give public notice of such hearing by causing publication of a notice of such hearing in the official newspaper at least five days prior to the date thereof. The Board shall also send notices of the hearing by certified mail to owners of contiguous properties. If the application is for a property located within 500 feet of the boundary of an adjacent municipality, notice of the hearing shall be sent to the clerk of the adjacent municipality by mail or electronic transmission at least 10

days prior to such hearing, and such adjacent municipality may appear and be heard. The cost of giving all notices shall be charged to the applicant.

(3) For all major projects, the applicant shall also be required to post a notice on a sign purchased from the Town Clerk stating that there is a pending application on the property, and providing the date, time, and place of the hearing, the place and times the application may be reviewed by the public, and a telephone number to call for further information. This sign shall be posted in public view in a conspicuous location within three days after the Planning Board establishes a public hearing date, shall be updated if more hearing dates are scheduled, and shall remain in place until the day after the hearing is closed.

#### G. Action

(1) The board shall grant, deny, or grant subject to conditions the application for a Special Permit within 62 days after the hearing for a Major Project and within 31 days for a Minor Project. Any decision on a Major Project shall contain written findings explaining the rationale for the decision in light of the standards contained in §121-63 below.

(2) In granting a Special Permit, the Planning Board may impose any conditions which it considers necessary to fulfill the purposes of this chapter. These conditions may include increasing dimensional or area requirements, requiring the set-aside of perpetual open space land pursuant to §121-20, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to preserve environmental resources and minimize the burden on public services and facilities, and requiring action by the applicant, including the posting of performance bonds and furnishing of guarantees to insure the completion of the project in accordance with the conditions imposed.

(3) Every decision on a Special Permit shall be filed in the office of the Town Clerk within five business days after the decision is rendered, and shall be a public record. A copy thereof shall be placed in the permanent file of the property and shall also be mailed to the applicant within the same five-day period.

(4) The Special Permit and accompanying Site Plan shall be implemented as provided in §121-68.

#### H. Expiration, Revocation, and Enforcement

(1) A Special Permit shall expire if the Special Permit use or uses cease for more than 24 consecutive months for any reason, if the applicant fails to obtain the necessary Building Permits or fails to comply with the conditions of the Special Permit within 12 months of its issuance, or if its time limit expires without renewal.

(2) A Special Permit may be revoked by the Planning Board if the permittee violates the conditions of the Special Permit or engages in any construction or alteration not authorized by the Special Permit.

(3) Any violation of the conditions of a Special Permit shall be deemed a violation of this chapter, and shall be subject to enforcement action as provided in §121-57