



## Planning Board

Town of New Lebanon

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Town Supervisor: *Tistrya Houghtling*

Chairperson: *Elizabeth Brutsch*

*Jim Carroll, Planning Board Member*

*Greg Hanna, Planning Board Member*

*Steve Muse, Planning Board Member*

*Becky Segal, Planning Board Member*

*Monte Wasch, Planning Board Member*

*Josh Young, Planning Board Member*

Clerk: *Vacant*

October 21, 2024

To Supervisor Houghtling and Members of the Town Board:

At the October 16, 2024 meeting of the Planning Board, the members present discussed the current list of Columbia County Planning Board's exemptions from their Planning Board review. It has come to our Planning Board's attention that the current list of exemptions that our Board currently operates under dates from the early 1990s. After review of the most current list, we recommend the Town Board adopt the current list of Columbia County Planning Board exemptions. The list and a recommended resolution is attached for your review.

Please let us know if you have any questions on our recommendations above.

Sincerely,

*Elizabeth A. Brutsch*

Elizabeth Brutsch  
Planning Board Chairperson  
Town of New Lebanon

Cc: All members of the Planning Board, Building Department Administrator

**COLUMBIA COUNTY**  
**PLANNING AND ECONOMIC DEVELOPMENT**  
401 State Street  
Hudson, NY 12534



Patrice O. Perry, Director

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# Memorandum

**To:** Chief Elected Officials, Planning & Zoning Board Chairpersons  
**cc:** Timothy Stalker, Chairman Columbia County Planning Board  
**From:** Patrice O. Perry, Director  
**Date:** 13 October 2023  
**Re:** Sample Resolution for Exempt Actions – NYSGML §239

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Several planning and zoning actions must be referred to the Columbia County Planning Board (CCPB) for review and recommendation (New York State General Municipal Law (NYSGML) §239-l, §239-m) prior to final action being taken locally. These actions include:

1. Adoption or amendments of a municipal comprehensive plan
2. Adoption or amendments of a local zoning ordinance or local law
3. Issuance of Special Use Permits
4. Approval of Site Plans
5. Granting of Area or Use Variances
6. Other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law

Mandatory referral may result in delays, and many mandated referrals have no identifiable significant countywide or inter-community impact, based on the criteria set forth in NYSGML §239-l. As such it would appear that this mandatory referral, in some cases, serves no purpose.

The CCPB is authorized to enter into agreements with municipalities exempting certain actions from referral. Some municipalities adopted an agreement previously, and now the CCPB developed a more extensive list of actions for consideration.

Please review the attached “Sample Resolution”. If it is determined that this would be in the best interest of the municipality, the resolution may be adopted by the municipal legislative body and forwarded to the Columbia County Planning Department.

For additional information please contact Patrice Perry at 518.828.3375 or [patriceperry@columbiacountyny.com](mailto:patriceperry@columbiacountyny.com). Thank you for your consideration.

## **2023 Sample Resolution**

### **Resolution Exempting Certain Referrals Mandated by General Municipal Law Section 239-m**

WHEREAS, New York State General Municipal Law Section 239-m requires that certain planning and zoning actions be referred to the County Planning Board before final action is taken by the city, town or village having jurisdiction, and

WHEREAS, many of these mandated referrals have no identifiable countywide or inter-community impact, and

WHEREAS, New York State General Municipal Law, Section 239-m-3-c, allows for the municipality having jurisdiction and the County Planning Board to enter into an agreement that exempts certain actions from mandatory referral, and

WHEREAS, the Columbia County Planning Board has determined that the following actions will not have an identified countywide or inter-community impact:

1. Any area variance seeking relief from a frontyard, sideyard or rearyard setback on an existing or prior approved parcel
2. Any variance, site plan review or special permit for an oversized sign, for additional signage in excess of what is permitted in a specific zone or any sign that exceeds the maximum allowed height.
3. Any variance, site plan review or special permit required for the conversion of a single family residence into a two family residence, providing provisions are included in the local ordinance for Health Department approval of any on-lot system serving such conversion.
4. Any variance, site plan review or special permit required for any temporary use established pursuant to the provisions of the local ordinance.
5. Any variance required for any fence including height, setback, materials or construction methods, except that no fence required by the N.Y.S. Uniform Fire Prevention and Building Code shall be the subject of any variance considered by the local Zoning Board of Appeals.
6. Any Site Plan Review, Special Use Permit or variance required pursuant to a Historic District Review of an existing or new structure.
7. Any area variance required for the creation of an undersized parcel via the subdivision process, providing the Health Department has approved the on-lot well and septic system locations.

8. Any variance, site plan review or special permit required for the expansion of an existing business or commercial use providing the expansion is located in the side or rear yard of the parcel and that the expansion does not exceed 50% of the existing building size.
9. Any variance, site plan review or special permit required to establish a permitted home occupation within an existing residence or accessory structure.
10. Any variance, site plan review or special permit required for the replacement of an existing mobile home with another.
11. Any area variance, site plan review or special permit required for the erection of any permitted accessory structure or use within the required side or rear yards of an existing parcel.
12. Any variance, site plan review or special permit required to establish more than one residence on a single parcel providing that each residence is located in a manner that would allow for a theoretical sub-division at a future date.
13. Any variance, site plan review or special permit for a mining operation of a scale that would not require a Mined Land Reclamation Permit from N.Y.S.D.E.C.
14. Any action by a local municipal board that would establish a temporary developmental moratorium providing the length of the moratorium does not exceed three (3) months.
15. Any area variance, site plan review or special permit required for the installation of any type of radio communication antenna, but not including cellular or digital telephone towers or other personal wireless communications facilities.
16. Any variance, site plan review or special permit required for the installation of any requirements pursuant to the American Disabilities Act.
17. Any variance, site plan review or special permit required for the creation of a pond, provided no N.Y.S.D.E.C. permit is required due to the limited size and/or location of the pond.
18. Any variance, site plan review or special permit required for the establishment of a residential use on the second floor of a structure whose ground floor is occupied by a business or commercial use.
19. Any variance, site plan review or special permit required to establish a dwelling unit that is smaller in size than allowed by the local zoning ordinance.

20. Any variance, site plan review or special permit required to establish a second or subsequent business entity, not exceeding 10,000 square feet, operated by the owners of and located on an active farm operation.
21. Any variance, site plan review or special permit required to establish a residential solar energy system that provides energy for the use of the property.
22. Any Site Plan Review, Special Use Permit, or Area Variance required for a building integrated solar energy system proposed for an existing structure, provided the Local Fire Chief review is required.
23. Any Site Plan Review, Special Use Permit, or Area Variance required to establish a single-family, duplex or two-family residential dwelling in a single structure.
24. Any Site Plan Review, Special Use Permit or Area Variance required to establish a short term rental use in an existing structure, or accessory structure.
25. Any abbreviated, and/or expedited Site Plan Review.
26. Any Site Plan Review, Special Use Permit, or Area Variance required to establish a Home Occupation in an existing primary or accessory structure.
27. Any Site Plan Review, Special Use Permit, or Area Variance required to install an electric vehicle charging device for single-family or multi-family-residential use of four (4) units or fewer, housed in the one (1) structure

Now therefore be it

RESOLVED, that the (City, Village Town) Board of the (City, Village, Town) of \_\_\_\_\_, does hereby concur that the aforementioned exemptions do not have an identified countywide or inter-community impact and agree that such actions shall no longer be referred to the Columbia County Planning Board for review and recommendation, and be it further

RESOLVED, that the (City, Village, Town) Board of the (City, Village, Town) of \_\_\_\_\_, hereby reserves the right to request a review and recommendation on any of the aforementioned exempt actions, if in their opinion such review and recommendation are warranted due to the specific circumstances of the requested action.