



BZA APPLICATION SUBMISSION CHECKLIST

SITE ADDRESS _____

APPLICANT _____

This checklist ensures that Applicant(s) have provided all **required documents** with the BZA Application, prior to its submission to the City of Albany. Applicant(s) are responsible for submitting BZA Applications in **pursuant to §375 of the City Code**. Failure to submit the materials listed below will result in an incomplete BZA Application, and will not be accepted or approved. The Department of Planning and Development will determine the adequacy of the BZA Application submitted within **ten (10) business days** of its receipt.

REQUIREMENTS For All BZA Applications	Applicant Checklist	Not Applicable*	<i>For City Planning Review</i>
Submit (1) HARD COPY of ALL Materials listed below to: City of Albany Department of Planning & Development 200 Henry Johnson Boulevard Albany, New York 12210	<input type="checkbox"/>		<input type="checkbox"/>
Rejection Letter from Buildings & Regulatory Compliance	<input type="checkbox"/>		<input type="checkbox"/>
BZA Application Form	<input type="checkbox"/>		<input type="checkbox"/>
Property Deed	<input type="checkbox"/>		<input type="checkbox"/>
Owner Consent Form	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Photographs	<input type="checkbox"/>		<input type="checkbox"/>
Floor Plans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Site / Plot Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Building Elevations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BZA Application Fee	<input type="checkbox"/>		<input type="checkbox"/>
Electronic Submission to zoning@albanyny.gov PDF Document(s): BZA Application and ALL Materials listed below. Images formatted no larger than 11" x 17"	<input type="checkbox"/>		<input type="checkbox"/>

* See BZA Application for applicable materials to submit.

FOR AGENCY USE ONLY:

Date Accepted:	SEQRA Classification:
Case #:	County 239 Referral:
Public Hearing Date:	Reviewed by:



AREA VARIANCE

Instructions for Applicants

Any party that is unable to reasonably comply with the physical or dimensional provisions of the City of Albany Zoning Ordinance may file an application with the Board of Zoning Appeals within **thirty (30) days** of the date of the issuance of a **letter of denial by the Department of Buildings & Regulatory Compliance**.

Upon submission of your application, the Director of Planning or his designee will review the application for completeness. The Department will make every effort to respond with a determination of completeness within **ten (10) business days** of receipt. Complete applications will be assigned a public hearing date and transmitted to the Board of Zoning Appeals for consideration.

Pursuant to [§375-18](#) of the City Code, a public hearing cannot be scheduled until a complete application has been received and is available to the public. If your application is found to be incomplete, you will be mailed a letter listing the deficiencies or additional information requested. An incomplete application will remain on file for a period not to exceed **thirty (30) days**, or until withdrawn, at which point it will be returned to the applicant and a new submission will be required.

Documents Required for a Complete Application Submission

1. **Application Submission Checklist** – An application checklist is provided for the convenience of the applicant(s) and the City to ensure that the standard application submission requirements are being met. The applicant shall initial that each required item has been submitted and provide a copy of the completed checklist with the application.
2. **Rejection Letter** – A rejection letter is received when, upon submission of a Zoning & Building Permit application, it is determined that a building or use proposal does not meet the provisions of the [City Zoning Ordinance](#).
3. **Application Forms** – Standard forms to be fully completed are attached to this document. These forms ask the applicant(s) to supply some basic information such as property characteristics and contact information. They also require that the applicant(s) provide a written statement in support of each of the statutory criteria that the Board of Zoning Appeals must consider in evaluation of your appeal.
4. **Ownership / Consent** – Documentation of ownership of the property that is the subject of the appeal must be provided. Property deeds can be obtained from the Office of the Albany County Clerk. If the applicant is not the property owner, the owner(s) of record must consent to the filing by endorsing the owner consent form provided with the application.
5. **Photographs** – Photographs are required that depict the existing conditions at the property that is the subject of the appeal. The date that the photographs were taken and the name of the photographer shall be noted.
6. **Drawings** – Submittal of the following additional documents is required on a project-by-project basis as set forth within the following matrix:

Additional Document Matrix	Floor Plans	Site / Plot Plan	Building Elevations
New Construction / Addition	X	X	X
Reuse of Existing Building	X		
Parking Lot or Outdoor Use		X	
Accessory Structure / Fence		X	X
Sign / Design Guidelines			X

- **Site / Plot Plan** – A graphic representation, drawing, or sketch that shows the arrangement, layout and design of the proposed improvements. The plan shall be drawn to scale and include dimensions. Key elements of a site plan are the location of the property boundaries, proposed and/or existing structures, vegetation, landscaping or screening, utility runs, roadways and topography of the project site.
- **Floor Plans** – A graphic representation, drawing, or sketch, of the proposed relationships between rooms, spaces and other physical features of the interior levels within the applicable structure. Floor plans must be drawn to scale and include dimensions.
- **Building Elevations** – A drawing or rendering showing the external façade of the front, rear and sides of the applicable structure. Elevation drawings must be drawn to scale and include dimensions.

Additional Requirements

The City’s Department of Planning and Development may request additional information or clarification of any matter pertaining to your application. Conversely, the appellant may voluntarily provide additional information that it believes is relevant to the appeal. Examples include the following:

- A project narrative providing a more detailed description of the appeal or other relevant information, such as a more detailed description of proposed alterations, relevant history of the property, a description of proposed impacts and/or mitigation measures.
- A business plan describing the nature of a proposed business operation.
- Completion of an Environmental Assessment Form that is required for the project pursuant to the State Environmental Quality Review Act (SEQRA)
- Federal, State, County or Local licensing paperwork.

Public Hearing / Legal Notification

Each application to the Board of Zoning Appeals is the subject of a public hearing. The applicant or a representing agent must attend the public hearing to describe the proposal and answer any relevant questions of the Board; a public hearing on an application will not go forward unless the applicant and/or their representing agent is present. The applicant will be provided an opportunity at the hearing to respond to any questions or comments about the proposal by the Board or the general public. Any party wishing to testify in support of, or in opposition to, the proposal will have the opportunity to do so at the public hearing.

The Planning Department sends out legal notification to the applicant, the applicable Neighborhood Association and Common Council Representative for the area, property owners within a 250-foot radius of the property and other interested parties. The legal notice describes the nature of the application and includes the date, time and location of the public hearing. A copy of the application is also posted on the City’s website. It is incumbent upon the applicant to discuss the application with any relevant or affected parties prior to the public hearing.

In addition to the mailed notification, the applicant is required to post one or more signs (provided by the Planning Department) in/on visually conspicuous locations of the property that is the subject of the appeal. Signs are required to be posed a minimum of **ten (10) days** prior to the public hearing. It is assumed that the applicant will make a reasonable effort to replace postings that are either removed or substantially damaged. The Board may postpone the hearing if adequate evidence exists that the requirements for the public posting have not been met.

Decisions

The Board will make a determination on each appeal, likely within **sixty (60) days** of the public hearing. A copy of the Board’s decision will be mailed to the applicant and filed in the Office of the City Clerk. If approved, the decision may be subject to certain conditions, which may need to be fulfilled prior to a Certificate of Occupancy being issued for the use. Unless otherwise specified by the Board, these decisions shall expire and become null and void if the applicant fails to

obtain any necessary zoning, building, or other permits or otherwise comply with the conditions of the decision within **six (6) months** of the date of signature.

Additional Resources

Zoning Board of Appeals

James A. Coon Local Government Technical Series

New York State Department of State

[https://www.dos.ny.gov/lg/publications/Zoning Board of Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf)

Beginner’s Guide to Land Use Law

Land Use Law Center

Pace University School of Law

<http://www.law.pace.edu/sites/default/files/LULC/LandUsePrimer.pdf>

City of Albany BZA Schedule & Agendas

<http://www.albanyny.gov/Government/Departments/DevelopmentandPlanning/BZA/BZAAgendas.aspx>

APPLICATION SUBMISSION

Submit the following to the **Board of Zoning Appeals** c/o the Department of Planning & Development

(1) HARD COPY of this Application and all required materials (*see BZA Submission Checklist*)

(1) DIGITAL (.pdf) copy via email to zoning@albanyny.gov.

Application Fee

A fee shall be included with each application for an Area Variance, as follows:

1-2 Family Residence	\$	50.00
+ Per additional variance	\$	25.00
All Others	\$	150.00
+ Per additional variance	\$	25.00

Please make checks or money order payable to the **“City of Albany, Treasurer.”**

BZA Contact

City of Albany Board of Zoning Appeals

c/o **Department of Planning & Development**

200 Henry Johnson Boulevard, Suite 3

Albany, New York 12210

zoning@albanyny.gov

(518) 465-6066



City of Albany
Board of Zoning Appeals Application Form

File this Application with the City of Albany
Department of Planning & Development
 200 Henry Johnson Boulevard | Albany, New York 12210
zoning@albanyny.gov
 (518) 465-6066

All Applications are reviewed for completeness before scheduling the BZA case public hearing. Applications are considered complete when all required supplemental documents and fees are received. *(See Submission Checklist)*. Notice of the case public hearing will be mailed to the Applicant, adjacent property owners, and other interested parties. **The Applicant(s), or his/her representative(s), shall appear at the public hearing to substantiate the application.**

REGARDING THE PREMISES AT _____

PROPERTY OWNER _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

PHONE _____ EMAIL _____

APPLICANT _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

PHONE _____ EMAIL _____

AUTHORIZED AGENT _____

AFFILIATION _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

PHONE _____ EMAIL _____

- REQUEST:**
- | | |
|---|--|
| <input type="checkbox"/> SPECIAL USE PERMIT | <input type="checkbox"/> AMENDMENT |
| <input type="checkbox"/> USE VARIANCE | <input type="checkbox"/> INTERPRETATION |
| <input type="checkbox"/> AREA VARIANCE | <input type="checkbox"/> ADMINISTRATIVE APPEAL |
| <input type="checkbox"/> PARKING LOT PERMIT | <input type="checkbox"/> EXTENSION |

Does any New York State officer or employee of the City of Albany or County of Albany, have an affiliation or interest in the Applicant or this Application? YES No

If **yes**, provide the name, address, and nature of the affiliation or interest of the employee:

I, the undersigned **APPLICANT**, hereby authorize the agent to bring the application herein before the Board of Zoning Appeals of the City of Albany. I certify that the information and facts set forth in this application are true to the best of my knowledge and belief.

APPLICANT SIGNATURE _____ **DATE** _____



OWNER'S CONSENT FORM

The undersigned, _____, being the owner(s) of record for the property commonly known as _____ hereby authorizes _____ to file zoning and/or land development petitions or request the applicable permits for the aforementioned address. This consent shall remain in effect until revoked by a written statement filed with the Department of Planning and Development of the City of Albany, New York.

The undersigned, being the owner(s) of the land to which this application relates hereby:

1. Consent to the making of this application and hereby grants the City of Albany the power of entry to carry out inspections in relation to any land or work to which this application relates.
2. Consent to the City of Albany displaying and copying this application and supporting documentation, including designs, for the purpose of obtaining, when necessary, public comment.
3. Certify that the copyright of such supporting documentation, including designs, is vested to me/us.

Executed this _____ day of _____ 201 ____ under penalty of perjury of the laws of the State of New York.

(To be signed by all record owners)

Print Name: _____

Title*: _____

Signature: _____

Print Name: _____

Title*: _____

Signature: _____

*If the owner of record is a corporation or other entity, fill in the office held by signatory.



AREA VARIANCE STANDARDS

An Area Variance is an authorization by the Board of Zoning Appeals (“the Board”) for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations. Each zoning district is provided a Schedule of Area and Height Controls within the Ordinance, which list bulk and coverage requirements, including minimum and permitted lot and yard dimensions, building height and coverage. Elsewhere within the ordinance are supplemental regulatory requirements, some of which are also dimensional in nature and may be the subject of an Area Variance.

In making its determination regarding a request for an Area Variance, the Board will take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community.

In making such determination, the Board will consider the criteria set forth below, as derived from §81-b of New York General City Law and §375-26 of the City Code. The applicant must individually address each of the stated criteria for each dimensional requirement sought to be varied.

[1] NEIGHBORHOOD CHARACTER

The Board will consider whether the dimensional alteration being proposed will result in a configuration that will be out of place within the neighborhood or district where the property is located, and thereby produce an undesirable change in the character of the area. The applicant should examine the prevalence of existing or comparable circumstances within the applicable zoning district when making an appeal.

Attach a statement describing how the granting of the requested variance will not result in a dimensional alteration that is inconsistent with the character of the applicable neighborhood. Include evidence where necessary to support your statements or conclusions.

[2] ALTERNATIVES CONSIDERED

The board will consider whether the benefit sought by the granting of the variance can be achieved by some method feasible for the applicant to pursue, other than seeking the variance. In doing so, the Board will consider any lawful alternatives or site configurations that are available to the applicant under the applicable zoning regulations.

Attach a statement detailing the benefit that is sought to be achieved by the granting of the variance. Describe why such benefit cannot otherwise be reasonably achieved except by the granting of the variance. Detail any alternatives that were considered and rejected, and include evidence where necessary to support your conclusions.

[3] SUBSTANTIALITY

The Board will make a reasoned judgment as to whether the nonconformity being proposed is too great, as compared to the lawful dimensions allowed by the zoning law. The applicant should examine how considerable a variation is being requested as compared to the applicable regulatory requirement.

Attach a statement detailing why the requested dimensional exception is or is not substantial. The applicant may consider using a mathematical analysis applied to the affected or surrounding properties.

[4] ENVIRONMENTAL IMPACT

The Board will consider whether the requested change will have an impact on the physical or environmental conditions within the district or upon adjacent properties, such as drainage, traffic circulation, dust, noise, odor, and impact on emergency services, among others.

Attach a statement detailing why granting the variance will not adversely impact the neighborhood or adjacent properties. Include evidence where necessary to support your statements or conclusions.

[5] SELF-CREATED DIFFICULTY

The Board will consider whether the alleged difficulty complained of has been self-created by the applicant. This consideration may be relevant to the Board's decision but will not necessarily preclude the granting of the variance.

Attach a statement detailing whether the variance request results from circumstances that were known or could have been foreseen by the applicant upon acquisition of the property. Include evidence where necessary to support your statements or conclusions.

[6] MINIMUM NECESSARY

The Board, when granting a variance, shall grant the minimum variance that it shall deem necessary and adequate to relieve the hardship while also preserving and protecting the character of the area and the health, safety and welfare of the community. The Board may also impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

Attach a statement, with supporting evidence, describing why the variance being sought is the minimum necessary that can be granted to relieve the hardship, including any proposed conditions to alleviate or minimize the impact of granting the variance.