

## APPEAL (A CALENDAR) APPLICATION CHECKLIST

### Instructions

Below is a checklist of materials that must be submitted for an interpretive appeal or other Appeal (A) Calendar application, including a New York State General City Law or Multiple Dwelling Law waiver application, common law vested rights appeal, New York City Building Code Appendix G variance application, application by the Department of Buildings to revoke or modify a certificate of occupancy, and an amendment of a prior A-Calendar grant. The checklist describes each of the materials, references other relevant documents and webpages, and specifies which items are required for each type of appeal or application.

For the initial filing, the [Appeal Application Form](#), required materials, and this completed checklist must be emailed to [bsafilings@bsa.nyc.gov](mailto:bsafilings@bsa.nyc.gov). Items marked “\*Post-Filing\*” may be submitted after the initial filing and must be emailed to [submit@bsa.nyc.gov](mailto:submit@bsa.nyc.gov). For more information about initial filing and subsequent submission requirements, see the [BSA Filing and Submission Instructions](#). BSA has the authority to request supplemental items that are not listed in the below checklist. For additional information, please contact BSA staff at (212) 386-0009.

### Checklist

#### 1. Appeal (A Calendar) Checklist

The applicant must complete and submit this checklist to the Board as part of its initial application. For Post-Filing items, the applicant must select the applicable checkboxes to represent that they will submit these required items at the appropriate time after the initial filing

#### 2. Affidavit of Ownership and Authorization

This is a notarized affidavit to affirm the identity of the applicant and applicant’s representative and authorize the representative to file the application before the Board. See Board’s Rules of Practice and Procedures (“Board’s Rules”) § [1-09.4 Owner’s Authorization](#).

#### 3. Department of Buildings (or Other Relevant Agency) Decision

To file an appeal or other A-Calendar application in response to a Department of Buildings (“DOB”) decision, the applicant must file a copy of the DOB decision. The decision generally must be to approve, deny, or object to an application for a DOB permit, a job application (such as an alteration, alteration CO, new building, or sign application), or an issuance of a certificate of occupancy. The decision document(s) must be marked with *approved*, *denied*, or *objection(s)*, or otherwise demonstrate a final determination of the DOB commissioner, deputy commissioner, or borough superintendent (acting under a written delegation of power from the DOB commissioner filed in accordance with NYC Charter §§ [642](#) or [645](#)) and the document(s) must include that DOB official’s signature and seal. For more information on DOB determinations, see [DOB NOW: Build: Determinations and Appeals](#).

The Board also has the authority to decide an appeal or other A-Calendar application from (i) a Fire Department (“FDNY”) order, requirement, decision, determination, rule, or regulation; and (ii) a Small Business Administration (“SBS”) order, requirement, decision, or determination made in relation to the structures or uses on waterfront property under SBS jurisdiction in connection with the application or enforcement of the provisions of the Zoning Resolution and other laws, rules, and regulations governing the construction, alteration, maintenance, use, occupancy, safety, sanitary conditions, mechanical equipment, and inspection of structures in the city (such as the Construction Code). To file an appeal or other A-Calendar application in response to an FDNY or SBS decision, the applicant must file a document that represents a type of decision within the Board’s jurisdiction and the document must include the signature of the commissioner of FDNY or SBS; indicate that the decision is final; and cite the relevant sections of law for which the Board has jurisdiction (such as the Zoning Resolution or Building Code).

## 4. Notice Documents

### A. Proof of Notice of Initial Filing

Applicants must provide notice of the initial application and a copy of the entire application package, containing all materials the applicant submitted to the Board, to affected government entities and submit proof to the Board in the format and time period required by the Board's Rules and summarized in [Appendix A – Summary of Application Referral, Hearing Notice, and Proof of Service Requirements](#). Note that notice of initial filing to affected government entities may be completed by email as described in [Notice re Digital Applications](#). See Board's Rules §§ [1-06.4 Application Referral](#) and [1-10.7. Proof of Service for Application Referral and Hearing Notice](#), and [Appendix A – Summary of Application Referral, Hearing Notice, and Proof of Service Requirements](#).

### B. Proof of Notice of Hearing – \*Post-Filing\*

Applicants must provide notice of the initial public hearing to affected government entities and submit proof to the Board in the format and time period required by the Board's Rules. Note that notice to affected government entities may be completed by email as described in [Notice re Digital Applications](#). See Board's Rules §§ [1-06.5 Hearing Notice](#) and [1-10.6 Application Referral and Hearing Notice](#), and [Appendix A – Summary of Application Referral, Hearing Notice, and Proof of Service Requirements](#).

### C. Submission Notice(s) and Cover Letter(s) – \*Post-Filing\*

If the applicant submits new or revised materials after the initial application filing, then the applicant must provide notice and copies of the materials to the applicable affected entities and the Board with a cover letter explaining (i) the content of the new submission(s), (ii) any deviations from previously submitted materials, and (iii) the reasons for the changes, including whether the changes were made in response to directions from the Board or staff. The submission notice and cover letter may be sent by email as described in [Notice re Digital Applications](#).

## 5. Community Board Materials

### A. Community Board Presentation Materials – \*Post-Filing\*

If the applicant presents its BSA appeal or other A-Calendar application at a community board's public hearing, then the applicant must submit a copy of the presentation materials to the Board. See BSA's [Administrative Notice Re Community Board Materials](#).

### B. Certification of Materials Presented at Community Board Hearings – \*Post-Filing\*

If the applicant presents its BSA appeal or other A-Calendar application at a community board's public hearing, then the applicant must submit a [Certification of Presentation Materials Used at Community Board \(CB\) Hearings](#) to affirm to the Board that the attached presentation materials were in fact presented to the community board. See BSA's [Administrative Notice Re Community Board Materials](#).

## 6. City Environmental Quality Review (CEQR) Materials:

All applications and appeals filed at the Board are subject to CEQR. Applicants must first review the BSA [CEQR Type II Checklist](#) and [CEQR Type II Checklist Instructions](#), which will help to determine if the application is classified as a "Type II," "Unlisted," or "Type I" application under CEQR. If the appeal or other A-Calendar application is a Type II action, then the applicant must complete and submit the Type II Checklist and any supporting materials, if required. If the application is an Unlisted application, then the applicant must complete the [EAS Short Form](#) and prepare and submit an EAS. If the application is a Type I application, then the applicant must complete an [EAS Full Form](#) and prepare and submit an EAS. Some applications may also be eligible for the [Green Fast Track program](#), which is a streamlined CEQR review for some housing development projects. See Board's Rules § [1-08 City Environmental Quality Review \(CEQR\)](#); the [2021 CEQR Technical Manual](#); [N.Y. Environmental Conservation Law, Article 8](#); and [6 NYCRR Part 617](#).

## 7. Most Recent Certificate of Occupancy

The applicant must submit a copy of the most recent certificate of occupancy (“CO”), if existing. If the property does not currently have a valid CO but has a temporary CO (“TCO”), then the applicant must submit a copy of the TCO. If the property does not have a current, valid CO or TCO, then the applicant must state that fact in the statement of facts ([Item 16.A](#)).

## 8. BSA Certification Form(s)

This form confirms the identity of the preparer of a submission. **A separate [BSA Certification Form](#) must be submitted for each preparer of application materials.** For example, if an architect, lawyer, and environmental consultant are the only members of an application team that prepared materials, then each of the three must submit a form. For post-filing submissions, the preparer must submit a form if they have not previously submitted one. See [Admin Notice Re Certification of Submissions](#).

## 9. Maps

### A. Tax Map

The applicant must submit a section of the NYC Tax Map depicting the subject property. See NYC’s [Digital Tax Map](#) located within the Department of Finance’s Property Information Portal.

### B. Zoning Map

The applicant must submit a copy of the relevant Zoning Map Section depicting the subject property. The Zoning Map Section may be found by navigating to the property on NYC’s [Digital Zoning and Land Use Map](#) (“ZoLa”), then clicking the “Zoning Map” link under the “Zoning Details” header.

### C. Radius Diagram and Land Use Map

The applicant must prepare and submit a map/diagram that adheres to BSA’s [Guidelines for Radius Maps](#) and depicts the land uses within the radius of the affected area of the site. The affected area radius is defined in the Board’s Rules § [1-02 Definitions \(“Affected area”\)](#); it is usually a 400-foot radius from the center of the property but differs depending on the size of the property and the use.

### D. Federal Emergency Management Agency (“FEMA”) Flood Insurance Rate Map (“FIRM”)

The applicant should submit the applicable FEMA FIRM panel map depicting the subject property. If no FEMA FIRM panel map was produced that includes the subject site, then the applicant should clearly indicate this in their statement of facts ([Item 16.A](#)) and submit, if available, a FIRM index map to indicate this. See FEMA’s [Map Service Center](#).

## 10. Violation History

The applicant must submit printouts or screenshots of the DOB [Building Information System \(“BIS”\) Property Profile Overview Violations](#) pages (both “Violations-DOB” and “Violations-OATH/ECB”) to confirm the status and nature of any DOB-related violations for the property. The applicant must also submit proof of any violations from other city, state, or federal agencies that may affect the applicant’s BSA application. If there are active violations for the Premises, the applicant should provide an anticipated timeline of curing the violations.

## 11. Photographs with Photographic Key Map

The applicant must submit photographs of the Premises, including the entire lot and any improvements, from various angles. These photographs must also include a photographic key map, consisting of a map of the lot and surroundings with arrows at the location of each photograph pointing in the direction of the particular photograph, and each photograph and arrow must be numbered consistently with the corresponding photograph.

Please review the [Guidelines for Photographs of Existing Conditions](#) and ensure your photographs adhere to the requirements stated in the Guidelines.

For common law vested rights appeals, the photographs must also document the extent of construction completed at the site and should include multiple views that together depict the entire site from each corner and should be dated to indicate that they reflect the status of construction as of the date of the permit lapse.

## 12. Board History

### A. Copies of All Prior Board Resolutions, Letters of Substantial Compliance, and Letters of No Objection (Denied or Granted)

For applications involving properties that have previously been before the Board, applicants must submit copies of all prior Board resolutions, Letters of Substantial Compliance, and Letters of No Objection. To obtain past resolutions and letters, you may visit the Board's website [Search for Resolutions](#) page to search for resolutions from 1998 to the present, or you may contact [resolutions@bsa.nyc.gov](mailto:resolutions@bsa.nyc.gov) to obtain resolutions from prior to 1998 and letters for the Premises. In your request, provide the BSA calendar number(s) of the previous case(s) and the street address and block and lot numbers.

### B. Conditions Compliance Chart

For applications/appeals involving properties that have previously been before the Board, the applicant must submit a Conditions Compliance Chart, which may be either independent from or included within the statement of facts ([Item 16.A](#)), to affirm the status of compliance with previous Board conditions. Please review the Board's [Guidelines for Compliance Chart](#) for more information.

### C. Most Recent Previously Approved Plans

For applications/appeals involving properties that have previously been before the Board, the applicant must also submit the most recent Board-approved plans. If the plans from the prior application were electronically submitted to BSA, they may be obtained by contacting staff at (212) 386-0009 or [records@bsa.nyc.gov](mailto:records@bsa.nyc.gov) and requesting the PDF file. State the BSA calendar numbers, street addresses, and block and lot numbers. If the previously approved plans were submitted to the Board as paper copies, the applicant must fill out the [Archive Request Form](#) and email to [records@bsa.nyc.gov](mailto:records@bsa.nyc.gov). A \$50 fee, per case, is required and copies are available at a cost of twenty-five (\$.25) cents per page.

## 13. Plans

### A. Site Survey

*\*Not required for common law vested rights appeals*

The applicant must submit a standard site survey of lot conditions and boundaries—and, if relevant to the subject application, a topographic survey—prepared, signed, and sealed by a licensed land surveyor, to demonstrate existing conditions at the site. All elevations listed on the survey shall use the North American Vertical Datum of 1988 (“NAVD88”) and the use of NAVD88 must be noted on the survey. The survey and surveyor's seal and signature must also comply with N.Y. Ed. Law, Art. 45, and all other applicable laws and regulations

### B. As-of-Right Plans

*\*Required only for GCL § [35](#) waiver applications seeking bulk waivers pursuant to Z.R. § [72-01\(g\)](#) and MDL waiver applications.*

If the appeal is seeking approval of a non-complying or non-conforming condition, such as a GCL § [35](#) waiver application seeking bulk waivers pursuant to Z.R. § [72-01\(g\)](#) or an MDL waiver application, then the applicant must submit as-of-right plans, in addition to proposed plans, as specified by the [Guidelines for Drawings](#).

### C. Existing and Proposed Conditions Plans

*\*Only for Proposed Construction or Legalization*

If the appeal is seeking approval of new construction or legalization, then the applicant must submit existing and proposed conditions plans as described in the [Guidelines for Drawings](#). The BSA project manager assigned to the case will provide further guidance on plan revisions.

## D. Any Relevant Plans Previously Submitted to DOB or Other Relevant Agency

The applicant must submit copies of any plans it submitted to DOB or any other relevant agency which the agency approved, denied, or otherwise finally decided upon, and from which the applicant appeals or seeks a waiver. The applicant must also submit any other relevant plans submitted to DOB or the other agency (i.e., if the history of the action involved multiple agency examinations of multiple revised plan sets, then the applicant must submit all relevant iterations of these plans.)

## E. Draft Builders Pavement Plans – \*Post-Filing\*

The applicant must submit a draft Builders Pavement Plan (“BPP”) for any GCL waiver application proposing street, sidewalk, or curb improvements.

## F. Most Recent Previously Approved Plans

(See [Item 12.C](#)) above)

## 14. Other BSA Forms

### A. BSA Zoning Analysis Form

If the appeal or other A-Calendar application involves an analysis of zoning bulk regulations as applied to the subject property, then the [Zoning Analysis Form](#) must be filled out, signed, and sealed by a registered architect or licensed engineer. See [Guidelines for BSA Zoning Analysis Form](#).

### B. BSA Signage Analysis Form

If the appeal or other A-Calendar application involves an analysis of zoning signage regulations as applied to the subject property, the [Signage Analysis Form](#) must be filled out, signed, and sealed by a registered architect or licensed engineer. The applicant must complete a separate analysis form for each building street frontage with existing or proposed signage. See [Guidelines for BSA Signage Analysis Form](#).

## 15. Other Appeal Evidence

### A. Interpretive Appeal of DOB or Other Agency Decision

To support an interpretive appeal, the applicant must provide all documents relevant to the underlying agency decision and the associated project or other action, including any relevant plans, objection or denial determinations, permits, audits (including the dates and outcomes of the audits), or correspondence; any pertinent reports, data, charts, maps, diagrams, or other drawings; any relevant text of applicable laws, regulations, policies, or guidance; and copies of relevant judicial or agency decisions (“precedent”).

It is crucial to clearly describe the history of the appeal and the argument in support of the proposed interpretation or other action in the written statements described below ([Item 16](#)), and the argument should analyze all applicable evidence submitted to the record and all relevant precedent.

### B. Application by DOB to Revoke or Modify a Certificate of Occupancy (or Other Application by DOB/FDNY)

Appeals by DOB or FDNY (or other relevant agency) must provide all documents relevant to the underlying agency decision and the associated project or other action, including any relevant plans, objection or denial determinations, permits, audits (including the dates and outcomes of the audits), or correspondence; any pertinent reports, data, charts, maps, diagrams, or other drawings; any relevant text of applicable laws, regulations, policies, or guidance; and copies of relevant judicial or agency decisions (“precedent”).

It is crucial to clearly describe the history of the appeal and the argument in support of the proposed interpretation or other action in the written statements described below ([Item 16](#)), and the argument should reference all applicable evidence submitted to the record and all relevant precedent.



## C. Application for Waiver of N.Y.S. General City Law (“GCL”) §§ [35](#) or [36](#)

Applications for waivers of GCL must provide evidence of street status, including whether the City of New York has title to (ownership of) the relevant portion(s) of the subject street, the date the street, widening/extension, or amendment was most recently adopted on the City Map, and whether the street is improved or unimproved. Examples of materials to demonstrate street status include street status letters from the Office of the Borough President; Corporation Counsel Opinion of Dedication documents; excerpts from the current and/or historical City Map.

For applications proposing street, sidewalk, or curb improvements, applicants must submit a Draft Builders Pavement Plan (“BPP”). The Draft BPP may be submitted \*Post-Filing\*.

Note that applications for waivers of GCL § [36](#) must demonstrate hardship preventing the lot from accessing a mapped street. This must be explained thoroughly in the statement of findings described below and supported by reference to submitted maps, diagrams, surveys, plans, or other evidence. Applications for waivers of GCL § [35](#) seeking bulk waivers under Z.R. § [72-01](#) must note the Z.R. sections for which the application seeks a waiver and submit an as-of-right site plan to demonstrate the hardship and need for the waiver(s).

## D. Application for Waiver of N.Y.S. Multiple Dwelling Law (“MDL”)

MDL waiver applications must include both complying (“as-of-right”) and proposed plans. Note that some types of applications for waivers of MDL must demonstrate hardship preventing the building from complying with MDL. The must analyze the hardship thoroughly in the statement of findings and reference all applicable evidence in the record, including both the proposed and as-of-right plans.

## E. Application for Variance of Building Code Appendix G

Appendix G variances require substantial evidence as guided by the detailed conditions and findings of the section, Building Code § [G105](#). BSA strongly encourages the applicant to retain an engineer or architect with expertise in flood-resistant construction to ensure that all materials relevant to these findings are prepared and submitted, including all necessary existing, proposed, and as-of-right plans, flood risk analyses, all floodproofing and other mitigation measures, and the details of any proposed restrictive declarations for the property to ensure it remains safe for occupancy. The statement must also reference all materials submitted in support of the variance and the sections of Appendix G the applicant seeks to waive.

## F. Common Law Vested Rights Appeal

The applicant must submit evidence of the following:

### (i) Permit Lawfulness

The applicant must demonstrate that DOB lawfully issued the subject permit to allow the proposed project pursuant to the Zoning Resolution in effect prior to the text amendment that rendered the proposed project non-complying and/or non-conforming. This evidence must include copies of the original permit and the DOB-approved plans and often includes a letter from DOB affirming that the permit was lawfully issued.

### (ii) Record of the Zoning Text Change

The applicant must document the zoning text amendment. This evidence must a copy of the City Planning Commission report for the text amendment, a record of the date of the City Council vote of adoption and the effective date, and citations to the applicable prior and new Z.R. sections.

## (iii) Substantial Construction

This evidence must demonstrate that “substantial construction” has been completed toward the project as of the date of the lapse of the permit. Substantial construction generally includes at least 100% of excavation and all or most of the required foundation work; however, please note that the Board assesses vested rights cases individually and there is no prefixed threshold for determining substantial construction.

Substantial construction evidence should include dated construction photographs showing the status of construction as of the date of permit lapse (see [Item 11](#) for more information about photograph requirements); references to relevant financial data evidencing completion of work; periodic reports or affidavit(s) of construction managers and/or property managers during the pendency of construction; a construction timeline/schedule; illustrative, color-coded plans indicating the percentage of construction completed as of the date of permit lapse (optional); and a table/chart and written narrative summarizing this information in the statement of facts and findings. The applicant must update this information as work progresses, if applicable (i.e., if the applicant has filed the vested rights application before the Board prior to the date of the permit lapse).

The construction evidence must also indicate the total amount of construction required to complete the building and the percentage completed as of the date of permit lapse (or to date, if filing early).

## (iv) Substantial Expenditures

This evidence must demonstrate that “substantial expenditures” have been incurred as irrevocable commitments or paid toward the completion of the project that DOB lawfully permitted pursuant to the Zoning Resolution as of the date of the lapse of the permit.

This evidence should include materials such as check registers, canceled checks, bank statements, and a table/chart and written narrative summarizing this information in the statement of findings ([Item 16.B](#) below). The summary must also specify the goods or services associated with each particular cost item; reference the relevant direct financial evidence associated with each cost item, such as the submitted canceled checks; separate hard costs from soft costs; and indicate the total irrevocable financial commitments incurred and the total paid toward work completed pursuant to the permit.

The applicant must update this information as work progresses, if applicable (i.e., if the applicant has filed the vested rights application before the Board prior to the date of the permit lapse).

## (v) Serious Loss

This evidence must include an analysis of the losses that the property would incur if the Board denied the application to renew the building permits and the applicant proceeded with as-of-right development.

The analysis should specify the projected costs of demolishing or repurposing the existing improvements, depending on whether the existing improvements are usable for an as-of-right building, as well as the costs of constructing the remaining improvements for as-of-right development. This as-of-right scenario must not merely generate a lesser profit than the proposed project; it must result in “serious loss” to the owner. The applicant must update this information as work progresses, if applicable (i.e., if the applicant has filed the vested rights application before the Board prior to the date of the permit lapse).

## G. Amendment of Previously Granted Appeal

The applicant must fully describe its requested amendment in its statement of facts and findings and describe how the requested action would comply with all applicable laws and rules, including any findings or conditions of the Board’s resolution(s) of the prior appeal, and attach supporting evidence, including from the prior proceedings before BSA, DOB, or other relevant agency and demonstrating any relevant events that occurred after the Board’s decision on the appeal. Include any relevant documents from the list of evidence for interpretive appeals (see [Item 15.A](#)) above)

## 16. Written Statements

The statement of facts and findings, which may be submitted as separate documents or combined, is the primary written component of all types of BSA applications and appeals. The statements must include, at a minimum, the following information:

### A. Statement of Facts

The statement of facts must describe the basic property and appeal information, including the site location (i.e., street address(es), block and lot numbers, zoning district(s), any other special districts or designations, the surrounding land uses, and relevant neighborhood conditions); existing site conditions (i.e., zoning lot boundaries, street frontages, and improvements); a detailed history, including any history before the Board, all relevant history of the underlying agency action (i.e., the history of the DOB or other agency application and decision), and the history of the site itself, if applicable; and a brief summary of the appeal request. The summary of the appeal request should describe the relief sought (i.e., a reversal or modification of the underlying agency determination, waiver of applicable law, or recognition of a vested right to complete construction, etc.); the text of the applicable law, regulation, City Planning Commission Report, or other judicial or administrative agency decision relevant to the underlying agency determination; and any request for legalization or waiver of any existing or proposed non-compliance or non-conformance with the Zoning Resolution, Construction Code, or other applicable law. If the applicant seeks legalization or waivers, then it must describe the applicable sections of law and the dimensions of the non-compliance or non-conformance.

### B. Statement of Findings

The statement of findings must include a detailed discussion—with reference to the appeal evidence and other materials—of how the applicable laws support the appeal and why the proposed appeal should be granted. For example, a statement of findings for an interpretive appeal challenging a DOB denial of a proposed application due to non-compliance and/or non-conformance should demonstrate how the proposed design is not non-compliant or non-conforming and is permitted by applicable law or is lawfully non-complying or non-conforming. Statements of findings for GCL § 35 applications must analyze whether there are capital projects at the Premises, GCL § 36 statements must describe the site's hardship in providing access to a mapped street; and applications for some MDL waivers also require demonstration of hardship in complying with the applicable requirements. For common law vested rights appeals, the statement must contain a detailed discussion of the relevant findings, including specific reference to the submitted photographic, architectural, and financial materials; a clear statement of the percentage of total construction completed and total expenditures made; and a detailed description of the serious loss that would result from denial of the application.

**If the statement references sections of law, regulation, or judicial or administrative decisions**, then the statement must analyze the text and its applicability to the subject appeal or other A-Calendar application; the statement **must illustrate** how the cited law, regulation, decision, or other precedent is relevant to the appeal by comparing both the factual and legal material of the precedent to the factual and legal material of the subject appeal or application.

### C. Copies of Cited Precedent (i.e., all cited laws, regulations, and judicial or administrative decisions)

The applicant should provide the relevant excerpts of all laws and regulations it cites and full copies of all judicial and/or administrative agency decisions that it references in its written statements or in testimony during a public hearing (if applicable)

**For more information about these items and/or the requirements for processing applications before the Board, contact the BSA office at (212) 386-0009.**