

## ZONING (BZ CALENDAR) APPLICATION CHECKLIST

### Instructions

Below is a checklist of materials that must be submitted for a variance, special permit, or reinstatement application. The checklist describes each of the materials, references other relevant documents and webpages, and specifies which items are required for each type of application.

For the initial application filing, the [BZ Application Form](#), required application 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 application 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. Zoning (BZ 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 (Objection/Denial) Decision Sheet

*\*Only required for variances, special permits, and reinstatements to previously approved plans that would affect the degree of non-compliance or non-conformance pursuant to Z.R. §§ 11-412 or 11-413*

This document must represent a decision of the Department of Buildings (“DOB”) on the proposed project which must be marked as an objection/denial and signed and stamped by the commissioner of buildings or a deputy commissioner of buildings or any borough superintendent of buildings acting under a written delegation of power from the commissioner of buildings filed in accordance with the provisions of NYC Charter §§ [642](#) or [645](#).

The form must cite all sections of the Zoning Resolution that the applicant seeks to be varied or modified and the authorizing sections (i.e., Z.R. § 72-21 if the application is for a variance, the appropriate special permit authorizing section if the application seeks a special permit, and Z.R. §§ 11-412 or 11-413 for reinstatements seeking to affect the degree of non-compliance or non-conformance). The DOB official's objection/denial must also be dated **within 30 days of the date of filing the BSA application**. If the scope of the project changes during the Board's review of the application, the applicant may need to submit a revised DOB objection document. For more information, see [DOB NOW: Build: Determinations and Appeals](#).

#### 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 §§ [1-05.4. Application Referral](#), [1-10.6. Application Referral and Hearing Notice](#), and [1-10.7. Proof of Service for Application Referral and Hearing Notice](#); and [BSA Filing and Submission Instructions](#).

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

Applicants must provide notice of the initial public hearing to affected government entities and neighbors 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 to affected government entities may be completed by email as described in [Notice re Digital Applications](#). See Board's Rules §§ [1-05.6 Hearing Notice](#) and [1-10.6 Application Referral and Hearing Notice](#); and [BSA Filing and Submission Instructions](#).

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

If the applicant submits new or revised materials after filing, 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. Submission notices and cover letters must be submitted in the time period required by the Board's Rules and summarized in the [BSA Filing and Submission Instructions](#). The submission notice and cover letter may be sent by email as described in [Notice re Digital Applications](#). See Board's Rules § [1-05.9 Revised Application and Additional Submissions](#).

## 5. List of Affected Property Owners and Tenants

The applicant must obtain names of affected property owners and submit a list to the Board as required by the Board's Rules. See Board's Rules §§ [1-05.7 Source List of Affected Property Owners](#) and [1-02 Definitions](#) ("Affected property owner").

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

All applications 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 application is a Type II action, then the applicant must complete and submit the Type II form 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 N.Y.C.R.R. 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 17.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. Community Board Materials

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

After the applicant presents its BSA application at a community board's public hearing, the applicant must submit a copy of the materials to the Board. See Board's Rules § [1-05.5 Community Board Review](#) and BSA's [Administrative Notice Re Community Board Materials](#).

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

After the applicant presents its BSA application at a community board's public hearing, 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 Board's Rules § [1-05.5 Community Board Review](#) and BSA's [Administrative Notice Re Community Board Materials](#).

**C. Copy of Community Board Recommendation or Waiver – \*Post-Filing\***

After reviewing the BSA application, the community board may issue an advisory recommendation on the BSA application or waive its right to recommendation. The applicant must remain in contact with the community board to review the status of the community board's recommendation or waiver and ensure that the community board submits a recommendation or communicates a waiver. Note that, by selecting this checkbox, the applicant is not agreeing to submit this item, but rather is agreeing to remain in contact with the community board to ensure the community board provides its recommendation or waiver. See Board's Rules § [1-05.5 Community Board Review](#) and BSA's [Administrative Notice Re Community Board Materials](#).

**10. 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 17.A](#)) and submit, if available, a FIRM index map to indicate this. See FEMA's [Map Service Center](#).

**11. 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 local, 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.

**12. 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.

### 13. 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 and Certification of Inspection and Compliance

For applications 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 17.A](#)), to affirm the status of compliance with previous Board conditions as described in the Board's [Guidelines for Compliance Chart](#) for more information.

#### C. Most Recent Previously Approved Plans

For applications 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, then the applicant must fill out the [Archive Request Form](#) and email it 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 (\$0.25) cents per page.

### 14. Plans

#### A. Site Survey

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 survey must have a note indicating the use of NAVD88. The survey and surveyor's seal and signature must also comply with New York State Education Law, Article 45, and all other applicable laws and regulations.

#### B. Existing Conditions Plans

The applicant must submit existing conditions plans as described in the [Guidelines for Drawings](#). The BSA project manager assigned to the application will provide further guidance on plan revisions.

#### C. Proposed Conditions Plans

The applicant must submit proposed conditions plans as described in the [Guidelines for Drawings](#). The BSA project manager assigned to the application will provide further guidance on plan revisions.

#### D. As-of-Right Plans

*\*Variances and Some Special Permits Only*

For variances, a set of as-of-right plans in conformance with the [Guidelines for Drawings](#) is always required. Applications for certain special permits may also require as-of-right plans, as directed by the Board.

#### E. Most Recent Previously Approved Plans

(See [Item 13.C](#) above)

## 15. Other BSA Forms

### A. BSA Zoning Analysis Form

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

For sites with existing or proposed signage, 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](#).

## 16. Evidence to Establish the Findings of the Variance, Special Permit, or Reinstatement

### A. Variances (Z.R. § [72-21](#))

#### (i) Finding (a): Hardship and Uniqueness

##### (a) For-Profit Projects

*\*Evidence of Hardship, Uniqueness Study, and As-of-Right and Proposed Plans Required*

For variance applications for private entities, evidence to support the (a) finding must be provided. **Evidence of Hardship** may include but is not limited to topographic maps/surveys to demonstrate inadequate lot size or shape; environmental and/or engineering reports to demonstrate subsurface geological or contamination-based hardships (and in the case of contamination, back-up documentation from the relevant city, state, or federal government agency must be provided); or architectural and/or engineering reports to demonstrate obsolescence or other structural issues.

The applicant must also submit As-of-Right Plans per [Item 14.D](#) to demonstrate hardship in complying with existing zoning regulations.

To demonstrate the uniqueness of the hardship as compared to surrounding properties, the applicant must submit a **Uniqueness Study** showing the relevant dimensions of the lots/buildings in the affected area as 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 use and size of the property.

##### (b) Not-For-Profit Projects (Those Not Entitled to Deference)

*\*Evidence of Hardship, Uniqueness Study, and As-of-Right and Proposed Plans Required*

For variance applications for not-for-profit entities that are not entitled to deference (i.e., all not-for-profit applicants other than religious, educational, and certain affordable housing projects), evidence to support the (a) finding must be provided.

**Evidence of Hardship** may include but is not limited to topographic maps/surveys to demonstrate inadequate lot size or shape; environmental and/or engineering reports to demonstrate subsurface geological or contamination-based hardships (and in the case of contamination, back-up documentation from the relevant city, state, or federal government agency must be provided); or architectural and/or engineering reports to demonstrate obsolescence or other structural issues.

The applicant must also submit As-of-Right Plans per [Item 14.D](#) to demonstrate hardship in complying with existing zoning regulations.

To demonstrate the uniqueness of the hardship as compared to surrounding properties, the applicant must submit a **Uniqueness Study** showing the relevant dimensions of the lots/buildings in the affected area as 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 use and size of the property.

## (c) Religious and Educational Institutions (Entitled to *Cornell* Deference)

*\*Programmatic Needs Statement & As-of-Right and Proposed Plans Required*

For variance applications for religious and educational institutions, hardship and uniqueness ((a) finding) evidence is **not** required; instead, for these applications, a **Programmatic Needs Statement** is required. This statement may be submitted as part of the statement of facts and findings described below ([Items 17.A and B](#)) or as a separate document. The programmatic needs statement must reference relevant evidence and application materials, including the required **As-of-Right** and **Proposed Plans**, and describe, in detail, the needs of the institution; the basis for the needs, including the growth of the institution's membership or other reasons; and quantitative analyses of the proposed room capacities, anticipated daily usage, and projected population/membership growth of the institution. **The variance application must still satisfy findings (c) and (e) as explained below.** See [Cornell Univ. v. Bagnardi](#), 68 N.Y.2d 583 (N.Y. 1986) (established deference for religious and educational variances).

## (d) Affordable Housing (Entitled to Limited Deference)

*\*Programmatic Needs Statement (Including Financial Need Study) and As-of-Right and Proposed Plans Required*

Applicants for variances for affordable housing projects that seek to receive deference must demonstrate that (i) the project would be sponsored by a not-for-profit entity that has the necessary level of experience as a developer of affordable housing; (ii) the project would provide long-term, deeply affordable housing; (iii) the applicant has obtained, at least, the initial soft agreement(s) and/or has achieved some other form of documented coordination with the New York City Department of Housing Preservation and Development and/or other relevant government agencies to obtain the funding necessary for a feasible project; and (iv) has designed the project to be the minimum necessary to achieve a viable development.

To substantiate the (a) and (e) findings, applicants must submit, as part of the **Programmatic Needs Statement**, a **Financial Need Study** (or "stress test") showing that the proposed quantity of affordable dwelling units at the proposed Area Median Income ("AMI") rates is critical to making the project feasible and attractive to the necessary financiers of affordable housing. **The applicant must still submit As-of-Right and Proposed Plans and the variance application must still satisfy findings (c) and (e) as explained below.** See, e.g., BSA Cal. Nos. [2017-190-BZ](#), [2018-156-BZ](#), [2019-205-BZ](#), [2020-84-BZ](#), and [2024-42-BZ](#) (applied limited deference to variances for affordable housing).

## (ii) Finding (b): Financial Feasibility

### (a) Religious, Educational, Not-for-Profit, and One-, Two-, and Three-Family Residential Projects

*\*Financial Analysis Not Required*

Financial evidence to establish the (b) finding is not required for variance applications for religious and educational institutions, not-for-profit applicants, and applications to develop a one-, two-, or three-family residence. However, please note that applicants for variances for affordable housing that seek deference must still submit, as part of the Programmatic Needs Statement, the Financial Need Study described above to substantiate the (a) and (e) findings and support the request for deference.

## (b) For-Profit Projects

### *\*Financial Analysis Required*

To satisfy this finding, a Financial Analysis (also called Financial Feasibility Study, etc.) must be submitted to demonstrate the degree of hardship claimed pursuant to Z.R. § [72-21\(a\)](#). The analysis must show how a reasonable return on the property could not be obtained if an as-of-right project is built or maintained, and how the proposed variance would be the minimum variance necessary to provide relief. The following guidelines apply to the submission of financial data for the (b) finding:

- (1) All financial submissions must be prepared by a qualified real estate professional, other than the applicant. The qualifications of the financial submission preparer must be included with the submission.
- (2) The economic hardship that is stated in the uniqueness finding must be quantified for all financials to substantiate the hardship (a) finding and the minimum variance (e) finding. The hardship must relate to the unique conditions claimed and not be the result of general conditions. Where applicable, the cost to remedy the hardship should be given in a dollar figure.
- (3) Generally, the Board expects to see the following data for all properties: market-based acquisition costs; hard and soft costs (if applicable); total development costs; and construction/rehabilitation financing (if applicable). Hard and soft costs shall be calculated using the Marshall and Swift Cost Estimator ("SwiftEstimator"); the Board does not accept any costs calculated by other cost estimation tools or independent cost estimators at this time.
- (4) Costs related to remediation, such as cleanup of soil, soil-vapor, and/or groundwater contamination, must be substantiated with government documentation and classification of the presence of hazardous materials, including but not limited to New York City Department of Environmental Protection review of hazardous materials assessments; New York State Department of Environmental Conservation documentation of the subject property as a Brownfield, State Superfund, and/or petroleum and/or chemical spill site; and/or United States Environmental Protection Agency designation of the subject property as a federal Superfund site. Costs offset by tax credits or other financial benefits of government-funded remediation programs must be factored into the financial analysis.
- (5) For rental properties, provide a breakdown of rental income by floor and square footage, gross income; vacancy/collection loss percentage and estimate; effective income; operating expenses; real estate taxes; water and sewer charges; net operating income; and calculation of overall return, i.e., net operating income divided by total development cost.
- (6) For cooperatives or condominium properties, provide a breakdown of projected sellout/value by square footage, floor and unit mix; sales/marketing expenses; capitalized value of leased portions; net sellout value; net profit (net sellout value less total development costs); and calculation of return percentage (net profit divided by total development cost).
- (7) All rental and/or sellout estimates must be substantiated with comparables with narrative adjustments for time, location, age, zoning, and physical characteristics.
- (8) The applicant must submit separate financial analyses for each as-of-right, proposed, and lesser variance design submitted in support of the application; if the applicant revises its designs, then it must revise its financial analyses accordingly, as applicable. See [Item 16.A.\(v\)](#) below for more information about lesser-variance scenarios.

**(iii) Finding (c): Neighborhood Character**

*\*Neighborhood Character Study Required for All Variance Applications*

Neighborhood character evidence consists of Neighborhood Character Studies and other supporting evidence. Neighborhood Character Studies are maps/diagrams/studies showing the relevant building dimensions and other relevant land use characteristics of the lots in the affected area (as 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 lot size and use; the assigned BSA project manager may direct the applicant to show a larger radius).

The graphic Neighborhood Character Studies must demonstrate that the requested use or bulk variation(s) of zoning regulations would result in a development that would not disturb the character or welfare of the neighborhood. The study should clearly indicate the relevant dimensions and characteristics of all surveyed properties within the radius so that BSA staff and commissioners can conduct an accurate, concrete, percentage-based analysis of neighborhood character. If multiple unique waivers are sought, then **every single waiver should be thoroughly examined, graphically and numerically, in the study**, and the study must correlate with a sufficiently detailed written description of neighborhood character in the statement of findings ([Item 17.B](#) below).

The applicant must also summarize relevant safety measures, including traffic, parking, and fire safety measures in its statement of findings, and if the site has proposed exterior lighting, the applicant should demonstrate that the lighting faces away from residential neighbors.

Please note that the Board may request a **lumen study**, prepared by a qualified consultant, if the site is of a type that has substantial lighting, such as a gasoline service station, convenience store, or other community facility, commercial, or manufacturing use that is adjacent to residential properties.

**(iv) Finding (d): Self-Created Hardship**

*\*Ownership Study Required for All Variance Applications*

To demonstrate that the hardship claimed was not created by the applicant or a predecessor in title as required by Z.R. § [72-21\(d\)](#), the applicant must conduct an **Ownership Study** consisting of a title search of the Premises and every abutting lot, copies of the deeds discovered in each search, **and** a table or chart (with a written executive-summary narrative) identifying each conveyance and the dates and parties of the conveyances to demonstrate that the Premises were not owned simultaneously with adjacent properties since December 15, 1961.

If the applicant claims contamination as hardship, then the applicant must provide a detailed narrative, with reference to site history and government-backup data of contamination and remediation, of the following: how the present applicant/owner/operator did not create the contamination hardship; whether a neighboring site caused the contamination, and not a predecessor in title (which must be supported by evidence of a judicial or other government determination of the liability of the responsible party); and, if a predecessor in title did or likely did create the contamination, a detailed examination of how the contamination was latent and/or caused prior to the enactment of relevant hazardous materials laws and regulations (including, but not limited to, the 1980 enactment of the Comprehensive Environmental Response, Compensation, and Liability Act (known as "CERCLA"), 1976 enactment of the Resource Conservation and Recovery Act ("RCRA"), or the date of enactment of any other relevant city, state, or federal hazardous materials law or regulation), and how the applicant has and/or proposes to remediate the contamination. As stated in [ii. Finding \(b\)](#) above, any tax credits or financial benefits resulting from participation in a government-sponsored remediation program must be factored into the financial analysis submitted in support of the (b) finding (as applicable to the particular project).

**(v) Finding (e): Minimum Necessary**

*\*Minimum Variance Analysis and As-of-Right Plans Required for All Variance Applications*

*\*Some Cases May Also Require Lesser Variance Plans*

The applicant must provide in its statement of findings ([Item 17.B](#) below) a **Minimum Variance Analysis** that describes how the proposed variance is the minimum necessary to afford relief to the site and analyzes all relevant evidence, including the **As-of-Right Plans**.

Additional plans for a lesser-variance scenario (**Lesser Variance Plans**) may also be requested by the Board or voluntarily prepared and submitted by the applicant to support the (e) finding argument. If the applicant submits lesser variance plans, then the applicant must clearly describe these plans and explain how they support the (e) finding in its minimum variance analysis. Lesser variance plans must also adhere to the Board's [Guidelines for Drawings](#).

For **for-profit** variance applications, the applicant must ensure that its financial analyses evaluate not only the proposed but also each as-of-right and lesser variance design submitted in support of the application; if the applicant revises its as-of-right and/or lesser variance design(s), then it must revise its financial analysis accordingly, as applicable.

**B. Special Permit**

**(i) Evidence to Establish Specific Special Permit Findings (of Applicable Authorizing Section of Z.R. § [73-00](#))**

Special permit findings vary depending on the purpose of the particular permit. While findings evidence for special permits may be similar to evidence required for variances, not all variance evidence will be required for special permits. If applicable, refer to BSA's [Guidance for ZR 73-133 Special Permit Applications](#) (Schools).

**(ii) Evidence for General Special Permit Findings (Z.R. § [73-03](#))**

All special permit applications must comply with the general special permit findings of Z.R. § [73-03](#). Every special permit application must include a narrative in the statement of findings ([Item 17.B](#) below) that references the findings evidence and other application materials, as applicable, to describe and demonstrate that the application would satisfy the requirements of Z.R. § [73-03](#).

**C. Reinstatement**

*\*Pre-1961 Use Grants Only*

**(i) Waiver of Board's Rules (Section [1-07.3\(4\)\(i\)](#))**

When the term of a **use** variance, special permit, or exception **that the Board originally granted prior to December 15, 1961**, has been **expired for more than ten years**, and the applicant seeks to renew the term of the grant, the applicant may file an application for a reinstatement on the Zoning (BZ) Calendar in accordance with Board's Rules § [1-05](#), provided that the applicant requests a Waiver of Board's Rules § [1-07.3\(4\)\(i\)](#), submits the evidence § [1-07.3\(4\)\(i\)](#) requires, and pays the associated waiver fee.

The three requirements to request a waiver of Board's Rules § [1-07.3\(4\)\(i\)](#) are the following: the applicant must demonstrate (1) that the use has been continuous since the expiration of term ("**Proof of Continuous Use**"), (2) that substantial prejudice would result without such a waiver ("**Substantial Prejudice Statement**"), and (3) that the use permitted by the grant does not substantially impair the appropriate use and development of adjacent properties ("**Evidence of No Impairment**"). Below are descriptions of these three items.

**(a) Proof of Continuous Use**

Proof of continuous use can be a combination of indirect and direct evidence. Direct evidence may include photographs clearly depicting the operation of the use at the site or other direct evidence of services or operations. Indirect evidence of continuous use may include copies of documents from a government agency showing continued approval of a business-related function; utility bills; and/or other evidence that the site was being actively operated (this does not include tax documentation, as such documentation does not accurately represent actual use of the property). Please also review the BSA [Guidelines for Proof of Continuous Use](#) and ensure your submissions adhere to the requirements stated in the Guidelines.

**(b) Substantial Prejudice Statement**

The applicant must also describe in its statement of findings ([Item 17.B](#) below), with reference to the proof of continuous use and other relevant evidence, how the Board's decision to deny the waiver would result in substantial prejudice. For example, this description may elaborate on (i) the negative consequences of ceasing the existing use and complying with the zoning district regulations, such as the time and cost commitments of demolishing existing buildings and other improvements and replacing them with as-of-right structures; and (ii) the negative effects that ceasing the existing use would impose on the neighborhood, such as the burden of traveling further to find the services provided by the existing use and the loss of a longstanding community institution (applicants should state the number of years that the business has continually operated at the site).

**(c) Evidence of No Impairment**

The applicant must demonstrate that the continuation of the use permitted by the grant would not substantially impair the appropriate use and development of adjacent properties by providing a detailed description in the statement of findings ([Item 17.B](#) below) which must reference submitted evidence, including but not limited to photographs of the site and surroundings, an operational plan, DOB and/or other agency violation reports, the radius map and land use diagram (see [Item 10.C](#) above), plans, and other relevant materials.

**17. Written Statements**

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

**A. Statement of Facts:**

The statement of facts must describe the basic property and application 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); the type of request being made (special permit, variance, or reinstatement [with or without Z.R. §§ 11-412 or 11-413]); the waivers requested (i.e., the particular dimensions of bulk waivers or use approval requests); whether the application seeks to legalize existing or retain pre-existing (i.e., pre-1961) non-compliance or non-conformance and the dimensions of such non-compliance or non-conformance; the sections of the Zoning Resolution under which the property is proposed to be non-compliant or non-conforming and the authorizing sections of the variance and/or special permit; and the history of the site, including any history before the Board, as applicable.

## B. Statement of Findings:

This must explain how the proposed application satisfies all findings of the Zoning Resolution and must analyze all relevant application materials. For example, a statement of findings for a variance must address every subsection of Z.R. § [72-21](#) (i.e., all five findings, from (a) through (e)) while a special permit application must address every subsection of the particular special permit **and** every subsection of the general special permit findings of Z.R. § [73-03](#).

**If the statement references any sections of law, regulation, or judicial or administrative decisions;** then the statement must analyze the text and its applicability to the subject 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 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 and 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.**