

STATUTORY VESTED RIGHTS (BZY CALENDAR) APPLICATION CHECKLIST

Instructions

Below is a checklist of materials that must be submitted for an application to renew building permits and complete construction of a project that has become *non-compliant* (i.e., contrary to zoning bulk regulations) or *non-conforming* (i.e., contrary to use regulations) due to a change to the Zoning Resolution, pursuant to a statutory vested right under Z.R. § 11-30. The checklist describes each of the required materials and references other relevant documents and webpages.

For the initial application filing, the [BZY Application Form](#) required application materials, and this completed checklist must be emailed to 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. 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. Statutory Vested Rights (BZY 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. City Environmental Quality Review (CEQR) Materials

All applications filed at the Board are subject to CEQR. For BZY cases, the applicant must complete and submit the [CEQR Type II Checklist](#). See Board’s Rules § [1-08. City Environmental Quality Review \(CEQR\)](#); [BSA CEQR Type II Checklist Instructions](#); the [2021 CEQR Technical Manual](#); [N.Y. Environmental Conservation Law, Article 8](#); and [6 N.Y.C.R.R. Part 617](#).

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](#), [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 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 §§ [1-06.5 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 the content of the new submission(s), any deviations from previously submitted materials, and 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. 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 13.A](#)).

6. 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](#).

7. Maps
A. 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.

B. 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.

8. 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.

9. 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.

The photographs submitted for a vested rights application 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 effective date of the text amendment (Z.R. § [11-331](#)) or the permit lapse (Z.R. § [11-332](#)).

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

10. Board History

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

If the site has previously been before the Board, then the applicant 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 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. Most Recent Board-Approved Plans

If the site has previously been before the Board, then 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 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 it to 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.

11. DOB-Approved Plans

The applicant must submit a copy of the DOB-approved plans for the proposed project (and, as noted above, if the site has previously been before the Board, the applicant must also submit a copy of the most recent Board-approved plans). If the applicant elects or the Board requests the applicant to submit additional, illustrative, proposed conditions plans, then such plans must not deviate from the conditions proposed in the DOB-approved plans and must conform to the Board's specifications as described in the [Guidelines for Drawings](#).

The applicant may also choose or the Board may request that the applicant color-code the illustrative plans to demonstrate the status of construction as of the effective date of the text amendment (Z.R. § [11-331](#)) or the permit lapse (Z.R. § [11-332](#)). BSA staff and the Board will provide further guidance on necessary plan revisions or supplements.

12. Evidence to Establish the Findings of Z.R. §§ 11-331 and 11-332

A. For both Z.R. §§ 11-331 and 11-332 applications, 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 text 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 include 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.

B. For Z.R. § 11-331 applications, the applicant must submit evidence of the following:

(i) Substantial Progress on Foundations

This evidence must demonstrate that "substantial progress" has been made on the foundations for the project that DOB lawfully permitted pursuant to the Zoning Resolution prior to the effective date of the text amendment that rendered the proposed project non-complying and/or non-conforming. Substantial progress generally includes at least 100% of excavation and a portion of the other required foundation work; however, please note that the Board assesses vested rights cases individually and there is no prefixed threshold for determining substantial progress.

The evidence should include dated construction photographs showing the status of construction as of the effective date of the text amendment (see [Item 9](#) above for more information about photograph requirements); references to relevant financial data evidencing completion of work (such as check registers, canceled checks, bank statements, and an accompanying tabular summary); periodic reports or affidavit(s) of construction managers and/or property managers during the pendency of construction; a construction timeline/schedule; color-coded plans indicating the percentage of proposed construction completed (optional; see [Item 11](#) above); a table/chart and written narrative summarizing this information in the statement of facts and findings; and updates to this information as work progresses if applicable.

The construction evidence must also indicate the total amount of construction required to complete the foundations and the percentage completed as of the effective date of the zoning text amendment. The applicant must also update this information as work progresses, if applicable (i.e., if the applicant has filed the vested rights application after the adoption of the subject text amendment but prior to the amendment's effective date).

C. For Z.R. § 11-332 applications, the applicant must submit evidence of the following:

(i) Substantial Construction

This evidence must demonstrate that “substantial construction” has been completed toward the project permitted by the subject permit prior to the date of the permit’s lapse. 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.

The evidence should include dated construction photographs showing the status of construction as of the date of permit lapse (see [Item 9](#) above for more information about photograph requirements); references to relevant financial data evidencing completion of work (see “substantial expenditures” below), periodic reports or affidavit(s) of construction managers and/or property managers during the pendency of construction; a construction timeline/schedule; color-coded plans indicating the percentage of proposed construction completed (optional; see [Item 11](#) above); a table/chart and written narrative summarizing this information in the statement of facts and findings; and updates to this information as work progresses, if applicable (i.e., if the applicant has filed the vested rights application 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).

(ii) Substantial Expenditures

This evidence must demonstrate that “substantial expenditures” have been incurred as irrevocable commitments or paid toward the completion of the project permitted by the subject permit prior to the date of the permit’s lapse.

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 facts and findings. 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 prior to the date of the permit lapse).

13. 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

This must describe, with reference to the application materials, as necessary, 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); the permit history; the text amendment history; and the construction history, including site-specific reasons for the delay in completing construction.

B. Statement of Findings

This must contain a detailed discussion of the relevant findings of Z.R. § [11-30](#). It must discuss and analyze the substantial construction completed, including reference to the submitted photographic, architectural, and financial materials (see [Item 12.C.\(i\)](#) above) and the substantial expenditures made, including both the total irrevocable commitments incurred and total costs paid to date, including reference to the submitted financial materials (see [Item 12.C.\(ii\)](#) above), as of the effective date of the text amendment (Z.R. § [11-331](#)) or the permit lapse (Z.R. § [11-332](#)).

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 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 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.