



**CITY OF NEW YORK
BOARD OF STANDARDS AND APPEALS**
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<http://www.nyc.gov/html/bsa/>

INSTRUCTIONS FOR COMPLETING A BZY APPLICATION

Pursuant to Section 11-30 of the Zoning Resolution, BZY applications involve requests for the renewal of a building permit that was lawfully issued before the effective date of an applicable zoning amendment. These applications involve an extension of time to complete construction on foundations, and/or complete construction and obtain a certificate of occupancy.

All BZY applications must be filed within thirty (30) days from the date of permit lapse.

Under Section 11-331, building permits lapse automatically on the effective date of the amendment (i.e., the date that the amendment is voted into law by the City Council). Under Section 11-332, for permits renewed under Section 11-331, a building permit lapses if construction permitted has not been completed and a certificate of occupancy has not obtained within two years of the effective date of the zoning amendment.

Information regarding the filing of a BZY application may be obtained by contacting the Application Desk at (212) 386-0009 or by calling the Appeals examiner at (212) 386-0085. All applicants should also review the Board's Rules of Practice and Procedures.
http://www.nyc.gov/html/bsa/downloads/pdf/forms/rules_of_practice_procedure_2012.pdf

Filing Instructions

Submit one original and two (2) copies of the completed BZY Application Form and all Attachments (Items 1 through 11) to the Board office. Each subject building permit requires a separate application form and fee. However, multiple building permits on the same zoning lot may be packaged as one application (one set of attachments) for purposes of review.

Once the entire application has been reviewed by a staff examiner, a Notice of Comments will be issued. After the application has been revised in response to the Notice of Comments, submit one original and two (2) copies of the revised application. In addition, the revised application must also be either emailed or a CD must be included with the in-person paper submission. See "REQUIREMENTS FOR FILING BY EMAIL AND CD" for more details on the filing of submissions by email and CD.

Pursuant to Section 1-09.1 of the Board's Rules, all filings of hard copies shall be made in person at the Board office, and incomplete applications shall not be accepted. The applicant, and not Board staff, is responsible for stamping and clocking all copies of the application at the Board office. The first page of each individual document, and all plans, must be stamped and clocked.

BZY APPLICATION FORM

https://www1.nyc.gov/assets/bsa/forms/bzy_form.pdf

Section A: Applicant/Owner

- Provide the applicant's name, address, phone number and email address;
- Provide the name and address of the owner of record;
- If applicable, provide the name and address of the lessee / contract vendee of the property.

Section B: Site Data

- Provide the address (street and house number);
- Provide the exact location of the subject property. For example: "Property is situated on the west side of Fifth Avenue, 100 feet north of the corner formed by the intersection of X street and Fifth Avenue.";
- Provide the block number and lot number(s), the borough and the community board district within which the property is located. If the property is located in the borough of Queens, identify the borough as follows: "Woodside, Queens". If the site is located within the boundaries of two Community Boards, both should be listed. In addition, the applicant should note if the premises are identified by another address (A/K/A);
- Provide the number of the Certificate of Occupancy, if issued, and attach a copy to the application;
- Identify the Zoning District that the property is located within, and Special District, if applicable, with the map section as it appears in the New York City Zoning Resolution;
- Provide the City Councilmember whose district the property is located within;
- Identify if site is located within a NYC Historic District

Section C: Application Description

Identify the appropriate section of the Zoning Resolution and identify whether the application involves a "Minor development", "Major development" or "Other construction" as defined in Section 11-31 of the Zoning Resolution;

- **§11-331, *Right to construct if foundations completed***. Such application involves a minor development or a major development where the required foundation work has not been completed (for a minor development, all work on foundations must be completed prior to the effective date of an applicable amendment; for a major development, the foundations for at least one building of the development must be completed prior to the effective date of an applicable amendment);
- **§11-332, *Extension of period to complete construction***. Such application involves construction permitted under Section 11-331 that has not been completed and for which a certificate of occupancy (including a temporary of occupancy) has not been issued within two years of the effective date of the applicable zoning amendment, or it involves "other construction" as defined in Section 11-31, for which construction has not been completed on the effective date of an applicable amendment.

Section D: Permit Information

- Identify the effective date of the applicable zoning amendment (date which the City Council approved the zoning amendment);
- Identify all building permits to be renewed, by number. This includes both new building and alteration permits;
- Identify the date of issuance of such permit (and any subsequent post approval amendment);
- Identify the date on which such permit lapsed:
 - For applications under Section 11-331, the lapse date is the effective date of the applicable zoning amendment;

- For applications under Section 11-332 involving a minor development or a major development, the lapse date is two years after the effective date of the applicable zoning map amendment;
- For applications under Section 11-332 involving “other construction,” the lapse date is the effective date of the zoning amendment; and
- For subsequent renewals, the lapse date will vary based on when previous approvals expired.
- Indicate whether Department of Buildings (DOB) has notified the owner that the permit(s) lapsed. If so, provide copies of such notices (including letters, DOB objections, violations, stop-work orders);
- Provide supporting evidence and material related to permits in **Attachment - Item 4: Permit Information.**

Section E: Construction Information

- Identify the Section of the Zoning Resolution under which the application is made;
- In describing in detail construction work completed, provide appropriate and accurate dates associated with work performed under lawful permits (as of the effective date of applicable zoning amendment);
- For applications under Section 11-331, note whether excavation was completed and as of what date;
- For applications under Section 11-332, note how the building permits were vested in order to continue construction past the effective date of the zoning amendment;
- Provide supporting evidence and material related to construction in **Attachment - Item 5: Construction Information.**

Section F: Financial Information

- Identify the Section of the Zoning Resolution under which the application is made;
- For applications under Section 11-331, provide the monetary value or costs associated with the total construction of foundations, and with the foundation work completed and any irrevocable financial commitments made prior to the effective date of the applicable zoning amendment. Do not include expenditures related to demolition, site clearance or excavation work.
- For applications under Section 11-332, provide the monetary value or costs associated with the total construction of the building, and with the construction work completed and any irrevocable financial commitments made prior to the effective date of the applicable zoning amendment;
- Provide supporting evidence and material related to construction costs in **Attachment – Item 6: Financial Information.**

Section G: Signature

BZY Application Form must be signed by the Applicant, Corporate Officer or Other Authorized Representative affirming that all statements contained within the Application Form and attached materials are true. The Application Form must also be notarized by a notary public, pursuant to all applicable notary laws.

ATTACHMENT TO BZY APPLICATIONS

In order to process an application efficiently, applicants should submit the following attachments at the time of filing an application.

Item 1: Statement of Facts

Attach a typewritten Statement of Facts which discusses the principle points of the application. This statement should include, but is not limited to, the following items:

- An introductory paragraph that describes the property's address, location and neighborhood, the proposed project or construction, the zoning district under which the permit was issued, the new zoning district or amendment, and an explanation of the application and identification of the applicable Section of the Zoning Resolution (11-331 or 11-332).
- Permit History including date of approval and issuance, any subsequent amendments, and any explanation for delay or unlawful work performed on site.
- Description of any past approvals to vest permits by the Department of Buildings or by the Board.
- Description of construction, including when construction commenced; the scope of construction and the amount completed at the time of permit lapse, the expenditures made towards such construction, and the time taken towards such construction.
- Description and status of any DOB or ECB violations.

Item 2: Statement of Findings

Attach a typewritten Statement of Findings which should include the following:

- Statement must address findings under 11-331 and/or 11-332 as applicable.
- For 11-331 applications, applicant must describe when excavation commenced and was completed.
- In support of findings related to "substantial construction" (on foundations and/or building), the applicant should explain and document: the scope and amount of construction performed and/or materials installed versus the scope or amount of construction remaining to complete foundations (for 11-331 applications) or construction of building (for 11-332 applications); the time spent on excavation and foundation, and /or above grade construction; and/or the complexity, from an engineering and/or architectural standpoint of the work completed versus the time needed or complexity of the remaining work to complete foundations and/or the building.
- In support of findings related to "substantial expenditures", the applicant should provide a description and supporting evidence of expenditures made towards lawful construction performed. This includes but is not limited to itemized hard costs related to the scope of work described above, and the total hard costs for foundation work and/or for the project.

Item 3: Affidavit of Owner

Per Section 1-09.4 of the Board's Rules, the owner of record or other entity or person legally authorized to act for such owner must consent to the filing of the application. The Board's Affidavit of Ownership form must be completed, signed and notarized. If the property is part of a larger zoning lot, the declaration of zoning lot restrictions and certification of parties-in-interest must be attached.

<http://www.nyc.gov/html/bsa/downloads/pdf/forms/affidavit-of-ownership2.pdf>

Item 4: Building Permit Information

This attachment should include copies or printouts of all relevant material associated with permits to be vested under the subject application. Please note that the requested information may be available from the Department of Buildings (DOB) website. These include but are not limited to the following:

- DOB stop work order and/or DOB objections
- New building or alteration permits
- All permits, and renewals and extensions
- Any permit variances for after-hours work
- DOB Building Information System (BIS) printouts of permit history
- DOB and ECB violations and history pertaining to permits/construction on the site, including individual printouts of such violations and their status
- Provide a chart or table identifying all violations, their status and resolution
- Proof of any previous vesting actions by the DOB or the Board. This may include any written material from DOB, previous Board resolutions, and/or court actions

Item 5: Construction Information

This attachment should provide information and evidence that establishes the amount and time of construction on the site, including but not limited to:

- Construction table comparing items of work performed and the amount completed to the total amount of work necessary to complete the scope of work;
- Chronology of construction including dates of filing, approval, issuance and amendments of permits, any stop-work orders and lifts, the lapse date (effective date of zoning amendment), excavation, underpinning, pouring of foundations, completion of foundations, super-structure work, infrastructure etc.
- Evidence of time when work was performed including dated photographs, contractor's construction logs, carting invoices, concrete pour tickets, on-site construction survey, and affidavits from professionals establishing time and date of work
- Illustrative color-coded plans (foundation, cellar, and/or floor plans) and sections indicating amount of construction lawfully completed versus amount of work remaining to complete.

Item 6: Financial information

This attachment should include information and evidence that establishes the costs and expenditures undertaken after the issuance of the permit. This may include but is not limited to:

- Expenditure table comparing costs expended for items of work, to costs remaining to be expended and total for each item of work. Items of work may include excavation, shoring, underpinning, piles, foundation walls, above grade construction, electricals, finishes etc.
- Construction cost schedule
- Contracts for items of work performed
- Invoices/ Payments receipts
- Cancelled Checks
- Signed and notarized liens waivers
- Affidavits

Item 7: Zoning Map

Clearly identify the subject site on a copy of the NYC zoning map.

http://nyc.gov/html/dcp/html/zone/zh_zmactable.shtml

Item 8: City Planning Commission Report on Zoning Amendment

Provide a copy of the City Planning Commission Report related to the adoption of the zoning amendment. Such report may be accessed from the Department of City Planning website.

<http://a030-cpc.nyc.gov/html/cpc/index.aspx>

Item 9: Department of Building Plans

Submit: one (1) full set of plans for the entire building and seven (7) reduced sets of plans as submitted to, and approved by, the Department of Buildings for permits subject to the application. Plans of any post approval amendments should be provided in consultation with the Appeals Examiner.

Item 10: Photographs

A set of 8 ½" x 11", color photographs must be submitted with the application, as follows:

- Photographs must show and document the amount and extent of construction completed at the site. It should include multiple views and cover the entire site from each corner.
- All photographs must be dated and have been taken no later than the effective date of amendment (11-331) or the date of permit lapse (11-332).
- The back of the photograph must indicate the name and address of the photographer and the date the photograph was taken. The address of the subject site should be included.
- Attach an 8" x 10" sketch to each set of photographs and identify the point at which each photograph was taken. Show compass points and indicate the point at which each photograph was taken by means of a number within a circle and an arrow showing the direction in which the camera faced when each photograph was taken.

Item 11: BZY Checklist

At the time of filing at the Board office, complete the BZY checklist with Board staff to ensure that all items are included in your application.

http://www.nyc.gov/html/bsa/downloads/pdf/forms/bzy_checklist_august_2010.pdf

Item 12: Notification of Filing

A copy of each application, with all supporting documentation, should be sent to:

- Affected Community Board(s) or Borough Board
- Affected City Councilmember;
- Borough President
- Department of Buildings, General Counsel; and
- City Planning Commission

The applicant may forward the application to the above listed entities prior to filing at the Board or within three (3) business days after filing the application. If, at the time of filing, the applicant has already forwarded the application to the above listed entities, a copy of the required proof may be submitted to the Board with the application. If the applicant notifies the above listed entities after filing, the required proof, per 1-10.7 of the Board's Rules, must be forwarded to the Board within ten (10) days of filing with the Board.

Disclaimer: While applicants should follow the above instructions, the Board recognizes that some applications may result in deviations from the instructions; for example, some of the attachment items may not be applicable and therefore not required for certain applications, while additional attachment items not identified in the instructions may be required upon the Board's request.

February 3, 2014