

**Board of Municipal and
Zoning Appeals**

BMZA
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Rules Relative to Zoning Appeals

GENERAL RULES

1. Public hearings on Zoning Appeals and zoning matters shall be held regularly in the Board of Estimates Room No 215, City Hall at 1:00 P.M., on Tuesdays or at such other times and places as the Chairman or the Executive Director may determine. (Sec. 89 of City Charter; Par. 7, Zoning Enabling Act; Title 2 Part III Sec. 2-114 Zoning Code)
2. Any request for a postponement of a case that has been scheduled must be received by the Board in writing not less than 48 hours prior to the date of the hearing. This requirement may be waived at the discretion of the Executive Director or the Board.
3. All appeals from the action of the Zoning Administrator shall be noted within ten (10) working days from the date of the action appealed from and in the manner hereinafter prescribed. The date of the decision of the Zoning Administrator shall not be counted, but the last day shall be counted. (Sec. 17-202 Zoning Code)
4. The owner, appellant or a duly authorized representative shall be present at the public hearing. The Board reserves the right to compel both the owner and appellant to appear in person.
5. Appeals on applications which have been disapproved and applications which have been referred to the Board, by the Zoning Administrator shall be known as POSITIVE APPEALS. Appeals to prohibit buildings or uses, permits for which have been approved or issued by the Zoning Administrator shall be known as NEGATIVE APPEALS.
6. Public notice of hearings on Positive Appeals shall be by posting of notice on the premises in question, as hereinafter prescribed.
7. Public notice of hearings on Negative Appeals shall be by letters sent by regular U.S. mail to the appellant and to the owner of the property or applicant for the permit, at the addresses given on the appeal form, on the application or on the permit. (Sec. 91 of City

Charter). Such notice shall be mailed at least five (5) days prior to the date of public hearing.

8. Whenever the Board shall make a decision, it shall give reasonable notice thereof by mail to all parties who seem to be parties in interest. (Sec. 100 of City Charter, Sec. 17-204 Zoning Code).

PROCEDURES FOR POSITIVE APPEALS

9. When the Zoning Administrator disapproves an application or notes that a referral with a condition that a public hearing by the Board is required, the DECISION will be issued and placed on the application. If the applicant requests an appeal the Zoning Administrator will process a Notice of Appeal and determine the Zoning Appeal Fee. The notice of appeal along with any required site plan, drawings and supporting evidence will be referred to the Board.
10. To note an appeal it will be necessary for the appellant or authorized agent to appear at the office of the Zoning Board for further processing and scheduling of the public hearing.
11. The appellant will then be given an Ownership Affidavit Form to be completed verifying the authority to proceed with the appeal. If the appellant is other than the property owner, the appellant shall include a written statement, setting forth (a) the nature of the appellant's interest in the property that establishes the right to maintain the appeal; (b) a copy or description of the relevant terms of the document(s) that establish the Appellant's interest (for example, any lease, contract of sale, or option agreement), and (c) the identity of any person or party whom the appellant is representing in connection with the appeal. The Appellant shall also indicate whether there is any financial interest, in the application that may be a "conflict of interest" (even in unrelated matters) with a member of the Zoning Board.

DRAWINGS - PLATS - FLOOR PLANS

12. DRAWINGS AND PLATS REQUIRED FOR POSITIVE APPEALS. A minimum of six copies of a Zoning Plat Map showing the general neighborhood within the limits of the territory affected by the proposed request will be provided by the Board.

ZONING SITE PLAN

In cases involving new construction, structural alterations, [changes to off-Street parking areas](#), additions, accessory structures, and increases in the number of dwelling, efficiency, or rooming units a Zoning Site Plan [shall](#) be provided by the appellant. The Zoning Site Plan must include the following:

- A minimum of six (6) - The plan shall be legible and clear enough to be scanned or micro-filmed preferably on 8 1/2 by 11 inch

- paper, in no case can it be larger than 11 X 17 inches;
- The address including the Block and lot number(s);
 - The Site Plan shall be drawn to scale - with the scale used and a marker showing North;
 - The Site Plan shall include an outline of the lot(s) with the location and dimensions of all of the property lines;
 - The Site Plan shall show the use, dimensions, height and location of all existing buildings and improvements on the lot, including building - to property line and building - to building accurate dimensions;
 - Where there are exterior alterations, additions or accessory structures, they must be clearly shown with a brief but adequate addendum to indicate the proposed construction material;
 - The Site Plan shall show the location size and number of off-street parking spaces including access drives, curb cuts and any loading and unloading areas on the premises;
 - Note - some site plans will need additional information that may be required by the Zoning Board for proper review of the application, for example landscaping requirements, signage, and drive through lanes for restaurants, banks, automobile sale lots, and other similar uses.

Floor Plan Requirements

For one and two family dwellings, increase in the number of dwelling units in new and existing multiple family dwellings, uses that require the calculation of floor area and seating capacity to determine the number of off-street parking spaces required, and in cases involving extension of existing nonconforming uses a minimum of six (6) copies of a floor plan shall be provided by the appellant. The Floor Plan shall preferably be on an 8 1/2 by 11 inch paper and in no case larger than 11 by 17 inches and must include the following:

- ❖ Address, including Block and Lot number;
- ❖ drawn to scale - with scale used indicated;
- ❖ each floor indicated on the plan;
- ❖ room dimensions (label the use of each room);
- ❖ grade - if floor is below grade;
- ❖ primary and secondary egress;
- ❖ bathroom and kitchen facilities ;
- ❖ seating area where required, and
- ❖ storage and interior parking areas.

PUBLIC NOTICE

13. The appellant will be given a POSTING FORM in duplicate specifying the character of the sign to be posted, the wording for the sign and the time and manner of posting. The wording for the sign shall specify the purpose of the appeal and the time and place of the public hearing thereon. The appellant shall execute and file at the office of the Zoning Board, before the public hearing, the certificate of posting at the bottom of the posting form.

14. SPECIFICATIONS FOR POSTING SIGNS

- A. The sign shall be no more than four (4) feet long and three (3) feet high, with black lettering not less than two (2) inches high, white background.
- B. The sign shall be posted in a conspicuous manner, not over ten (10) feet above ground level, and where it will clearly visible and legible to the public. Where proposed structures or uses are to be on the rear of the lot, the sign shall nevertheless be posted on the front of the premises.
- C. The sign shall be posted not later than ten (10) days prior to the date of the public hearing and shall be maintained in good condition until after the public hearing.
- D. The appellant shall remove the sign within ten (10) working days following the public hearing.

PRECEDURES FOR NEGATIVE APPEALS

15. Negative appeals shall be noted by any person aggrieved, by filing a letter at the office of the Board within the time hereinbefore specified, and one at the office of the Zoning Administrator giving notice of the appeal and specifying the grounds thereof. The notice of appeal shall state the specific action of the Zoning Administrator appealed from and the date of that action.

16. Upon acceptance of a notice of a negative appeal, the Executive Director shall direct a letter by U.S. mail, registered, receipt requested, to the applicant for or recipient of the permit in question informing him of the filing of the Negative Appeal. The letter shall also inform the applicant for or recipient of the permit that any continuation of the work or use authorized by the permit by the recipient is at their own risk subject to the outcome of the Negative Appeal. A copy of this letter shall be sent to the Zoning Administrator as notice to him that a Negative Appeal has been filed.

17. The Executive Director shall also direct a letter, by registered mail, receipt requested to the appellant, requiring him to file an Appeal Form, as provided by the Board, and any additional drawings, photographs and other information that the appellant needs to support the Negative Appeal within ten (10) working days from the date such letter is received.

18. The Board or the Executive Director, upon good and sufficient reason shown, may extend the time for perfecting a negative appeal, but otherwise, negative appeals not perfected in the required time shall be dismissed at the next ensuing meeting of the Board.

19. Upon receipt of required data, the Executive Director shall schedule the case for Public Hearing and give notice of such hearing as provided in Rule 7.