

TOWN OF EASTCHESTER

BUILDING AND PLANNING DEPARTMENT

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ZONING BOARD OF APPEALS (ZBA) APPLICATION PACKAGE

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NOTES:

1. **Regarding Variances and Notices of Denial:** All applications to the Zoning Board that require variances MUST include a Notice of Denial (NOD) from the Building Inspector. The application for the NOD must be submitted to the Building Inspector no less than 2 weeks prior to the submission deadline for the Zoning Board meeting. The application for the NOD must include all information necessary for the Building Inspector to issue the denial. Applications for NOD's that are not complete (do not provide sufficient information) will be returned to the applicant.
2. **Regarding Special Permits:** All applications for Special Permits must include a statement of how the application meets the requirements of Section 12.D. of the Zoning Law (which is applicable to all Special Permits) and how the application meets the specific Special Permit requirements as enumerated in Section 12.H. of the Zoning Law. If the application does not meet one or more of the requirements, then area variances will be required (and must be noted in the NOD).
3. **Regarding Resolutions:** The ZBA will not make a determination (adopt a resolution) on an application at the first meeting at which the application is heard. After the ZBA has reviewed all necessary information and conducted a public hearing a resolution will be adopted at the following month's meeting.

October 31, 2017

GENERAL INFORMATION AND SUBMISSION REQUIREMENTS ZONING BOARD OF APPEALS (ZBA)

DESCRIPTION OF THE ZONING BOARD OF APPEALS

The Zoning Board of Appeals (ZBA) is the approval authority for all variances from the requirements of the Zoning Law and for a number of special permit uses. In addition, the ZBA decides questions involving the interpretation of provisions of the Zoning Law.

REVIEW PROCEDURE

Applications for Site Plan Approval from the Planning Board Requiring a Variance:

- One- and Two-Family Residences: All applications for one- and two-family residences for site plan approval that also require a variance must first appear before the ZBA for a consideration of the variance. If the variance is granted, the ZBA will refer the application to the ARB for architectural review. Once the ARB has completed its review, the application will be referred to the Planning Board for final review and approval.
- Commercial and Multi-Family Structures: All applications for commercial and multi-family structures for site plan approval that also require a variance must first appear before the Planning Board. Once the Planning Board has completed its preliminary review, it will refer the application to the ZBA for a consideration of the variance. If the variance is granted, the ZBA will refer the application to the ARB for architectural review. Once the ARB has completed its review, the application will be referred back to the Planning Board for final review and approval.

Applications for Subdivision Approval from the Planning Board Requiring a Variance: All applications for subdivision approval that also require a variance must first appear before the Planning Board for preliminary review (public hearing not required). Once the Planning Board has completed its preliminary review, it will refer the application to the ZBA for a consideration of the variance. If the variance is granted, the application will be referred back to the Planning Board for final review and approval.

Applications Requiring a Special Permit from the ZBA: All applications for special permits from the ZBA will be directed to the Zoning Board of Appeals for consideration of the special permit.

Applications Requiring a Special Permit from the ZBA that also Require Site Plan Approval: All applications that require a special permit from the ZBA must first appear before the ZBA. If the ZBA grants the special permit, the application will be referred to the appropriate board in accordance with the site plan approval procedures noted in the Planning Board application package and in the Zoning Law.

Applications Requiring a Special Permit from the Planning Board that also Require a Variance: All applications that require a special permit from the Planning Board and require a variance, must first appear before the Planning Board for preliminary review (public hearing not required). Once the Planning Board has completed its preliminary review, it will refer the application to the ZBA for consideration of the variance. If the ZBA grants the variance, the application will be referred back to the Planning Board for consideration of the special permit. If site plan approval is required, the application will then follow the appropriate site plan approval procedures as noted in the Planning Board application package and in the Zoning Law.

Applications for Building Permits that Require a Variance but Do Not Require any Approvals from the Planning Board: All applications for building permits that require a variance will receive a Notice of Denial and will be directed by the Building Inspector to the Zoning Board of Appeals for consideration of the variance(s).

PUBLIC HEARINGS AND LEGAL NOTICES

A public hearing must be held for all applications that appear before the ZBA. The applicant is responsible for sending a legal notice indicating the date, time and nature of the public hearing to: (1) a newspaper of general circulation within the Town of Eastchester; and, (2) to all property owners within 200 feet of the site boundaries. Directions for determining the 200 foot radius around the property can be found on the Building Department Website (www.eastchester.org) under "[Surrounding Properties Map & List Link](#)." **After creating the list of owners and addresses from this site, verify the list with the Eastchester Tax Assessors Office.** Notices must be posted in the newspaper and post-marked no less than 10 days prior to a ZBA meeting. Notices to property owners within 200 feet of the site must be sent by Certified Mail (the Building Department does not require Return Receipts). Proof of mailing shall be provided by way of an affidavit of mailing (see form included in this package) and submission to the Planning and Building Department of the original certificates of mailing.

Newspapers of general circulation in the Town of Eastchester include (notice in only one newspaper is required):

1. **The Journal News** Phone: 694-5123 Fax: 696-8403
2. **The Eastchester Rising** Phone: 965-4000 Fax: 965-2892
3. **The Eastchester Review** Phone: 653-1000 Fax: 653-5000

MEETING SCHEDULE

The ZBA meets the second Tuesday of each month at 7:00 p.m. in Town Hall, unless otherwise noticed or announced (a full schedule of meeting dates and submission deadlines is available on the Town's web site (www.eastchester.org) and in the Planning and Building Department. Agendas for upcoming meetings are posted on Channel 19, the Town's web site and in the Planning and Building Department, generally within one week of the meeting.

SUBMISSION REQUIREMENTS

1. TEN complete application packages (including all items listed on the Application Checklist) shall be submitted to the Planning and Building Department for preliminary review by no later than 4:00 p.m. on the submission date listed on the Meeting Dates and Submission Deadlines schedule available on the Town's website (www.eastchester.org) and in the Planning and Building Department. This application will be reviewed by the Planning and Building Department staff, who will notify the applicant if additional information is required. If the application is incomplete, the application will be held from that month's agenda and the applicant will be required to re-submit ten new complete application packages prior to the submission deadline for the following month's meeting. If the application is deemed complete, the application will be included in that month's Zoning Board agenda.
2. Each of the 10 sets must be complete and collated (include all information in each set). Sets that are not collated, are incomplete, or are presented in inappropriate or illegible format, will not be considered for the next scheduled meeting. It is wholly the applicant's responsibility to ensure that an application is accurate and complete. Meeting the submission deadline does not guarantee placement on the next agenda.
3. All items listed on the attached Application Checklist must be included in submissions to the ZBA unless an item is clearly not applicable to a specific application. Check (✓) the box in the appropriate column to indicate which items are included in the submission. **Note:** Additional information may be required by the ZBA or by the Planning and Building Department.
4. All resubmissions to the ZBA or applications that have been referred to the ZBA from the Planning Board or the ARB, must include a written statement cover letter clearly and thoroughly listing all additional information and/or plan revisions requested/required by the ARB, Planning Board or the ZBA. It is the applicant's responsibility to take notes at the meetings to ensure compliance with the Board's requests.

Please note: All applicants should be prepared to present their application to the ZBA at the scheduled meeting and should come prepared with the appropriate drawings and any other relevant presentation materials.

ZONING BOARD OF APPEALS APPLICATION

Project Name, If Applicable: _____

Project Street Address: _____

Section: _____ Block: _____ Lot(s): _____ Zone: _____

Applicant: _____

Address: _____

Phone #: _____ Email: _____

Owner: _____

Address: _____

Phone #: _____ Email: _____

Architect/Engineer: _____

Address: _____

Phone #: _____ Email: _____

Attorney: _____

Address: _____

Phone #: _____ Email: _____

Application is for:

_____ An interpretation of the Zoning Law or a determination of the Building Inspector

_____ Area variance(s)

_____ Use Variance

_____ Special Permit Use

Description of the proposed project and nature of the interpretation, variance(s) and/or special permit being sought: _____

ZONING BOARD OF APPEALS APPLICATION CHECKLIST

Submission Items	√
All applications submitted to the ZBA must include:	
Cover Letter to the ZBA including, but not necessarily limited to:	
1. The zoning district within which the subject site is located	
2. A brief description of the application and the interpretation, variances and or special permit being sought	
3. A statement of how the application meets the tests for area or use variances or meets the special permit requirements (A list of the tests for area and use variances is attached)	
4. Resubmissions to the ZBA, after an initial hearing, must include a statement of any additional information that was requested by the ZBA at the hearing and must indicate the response to such requests.	
Completed ZBA Application and Application Checklist	
Application Fee (see Fee Schedule, available in the Planning and Building Department or on the Town's website)	
Completed Zoning Compliance Table (see attached zoning compliance tables)	
Notice of Denial Letter	
Short Environmental Assessment Form Part 1* (not required for single-family residences)	
Site Location Map – showing the project site and all properties within 200 feet of the site boundaries.	
List of properties within 200 feet of the site boundaries – including: section, lot and block, property owner name and street address (necessary to meet notice requirements).	
Zoning Map – indicating the zoning district within which the site is located and all zoning district boundaries within 200 feet of the site boundaries. (May be shown on the Site Location Map)	
Color photographs of the project site – labeled “Project Site” and where appropriate indicating views (e.g., front elevation, rear elevation, etc.); 2 photographs per page.	
Color photographs of all properties within 200 feet of either side of the project site and directly opposite the project site (on the other side of the road), keyed to the Site Location Map (labeled by street address); 2 photographs per page. Additional photographs may be submitted if considered beneficial to the understanding of a project.	
Current Property Survey and Existing Conditions Survey, prepared and certified by a Land Surveyor licensed in the State of New York including (but not necessarily limited to): (1) boundary lines including metes and bounds; (2) existing easements; (3) existing structures; and (4) setbacks of all existing structures.	
Copy of the completed legal notice (sent to the newspaper and property owners within 200 feet of the site boundaries)	
Signed and notarized affidavit of mailing and publication (may be brought to the ZBA meeting)	
Copies of certificates of mailing (may be brought to the ZBA meeting)	
All applications for variances or special permits related to additions, alterations or new construction, must also include:	
Plans, signed and sealed by an Architect or Professional Engineer licensed in the State of New York, including:	
1. Proposed site plan drawing(s), based on and citing the certified property survey, showing:	
• required, existing and proposed zoning setbacks	
• existing and proposed structures	
• dimensions	
• elevation of the <u>existing</u> grade at the four or more principal building corners	
• elevation of the <u>proposed</u> grade at the four or more principal building corners	
2. Proposed floor plans	
3. Proposed building elevations, including:	
• dimensions	
• spot elevations at building corners and other relevant locations	
• elevation of the principal eave, based on a surveyed bench mark	
• elevation of the highest roof ridge line, based on a surveyed bench mark	
All applications for variances related to proposed subdivisions must also include:	
Proposed subdivision map, signed and sealed by an Architect, Professional Engineer or Surveyor licensed in the Sate of New York, citing the certified survey upon which the map is based, including:	
▪ proposed lot dimensions	
▪ proposed lot areas	
▪ required and proposed zoning setbacks	
▪ effective square	
▪ all existing structures to be removed and/or to remain	

*Short Environmental Assessment Form is available on the Town's website at www.eastchester.org.

ZONING COMPLIANCE TABLE
ONE- AND TWO-FAMILY RESIDENCES
(New Construction and Additions)

ZONE: _____

Notes: Information must be based on definitions in the current Zoning Law of the Town of Eastchester. If not applicable, leave box blank. Check box in far right column if variance is required (even if already approved by the ZBA).

	Existing	Required/ Permitted	Proposed	Variance Required
LOT INFORMATION				
Lot Area (sf)				
Lot Frontage (ft)				
Yard Setbacks (ft):				
Front Yard				
Rear Yard				
First Side Yard				
Second Side Yard				
Side Yard Adjoining Street				
PRINCIPAL BUILDING INFORMATION				
Gross Floor Area (sf)				
Building Height:				
Stories				
Height to Principal Eave (ft)				
Height to Highest Roof Ridge (ft)				
ACCESSORY STRUCTURES				
Detached Garage				
Setbacks:				
To Principal Building				
To Side Lot Line				
To Rear Lot Line				
Building Height:				
Height to Principal Eave (ft)				
Height to Highest Ridge (ft)				
Other Accessory Structure (indicate type of structure – shed, pool, etc.)				
Type of Structure				
Setbacks:				
To Principal Building				
To Side Lot Line				
To Rear Lot Line				
Building Height:				
Height to Principal Eave (ft)				
Height to Highest Ridge (ft)				
BUILDING COVERAGE				
Principal Building Coverage (sf)				
Principal Building Coverage (%)				
Accessory Building Coverage (sf)				
Accessory Building Coverage (%)				
IMPERVIOUS SURFACE COVERAGE				
Impervious Surface Coverage (sf)				
Impervious Surface Coverage both (%)				

Note: See Section 13 of the Zoning Law for requirements related to driveways (e.g., pavement width, curb cuts, setbacks grades; requirements for circular driveways, etc.). See Section 8 of the Zoning Law for requirements related to fences and walls.

Are any variances required (or were any variances approved by the ZBA) that are not listed on the table above?

_____ Yes _____ No

If yes, describe all additional variances: _____

ZONING COMPLIANCE TABLE
MULTI-FAMILY RESIDENTIAL APPLICATIONS
(New Construction and Additions)

ZONE: _____

LOT AREA (SF): _____

TOTAL NUMBER OF UNITS: _____, **Including:**

- **1-BEDROOM UNITS:** _____
- **2-BEDROOM UNITS:** _____
- **3-BEDROOM UNITS:** _____
- **4-BEDROOM UNITS:** _____

Notes: Information must be based on definitions in the current Zoning Law of the Town of Eastchester. If not applicable, leave box blank. Check box in far right column if variance is required.

	Existing	Required/Permitted	Proposed	Variance Required
Lot Size				
Yard Setbacks:				
Front Yard				
Rear Yard (from principal building)*				
Rear Yard (from parking area)*				
First Side Yard				
Second Side Yard				
Principal Building Coverage (sf)				
Principal Building Coverage (%)				
Principal Building Height (stories)*				
Principal Building Height (ft)*				
Accessory Building Height (stories)				
Accessory Building Height (ft)				
Total Parking Spaces				
HC Accessible Parking Spaces				
Impervious Surface Coverage (sf)				
Impervious Surface Coverage (%)				

Note: See Section 13 of the Zoning Law for additional requirements related to landscaping, loading, parking, and driveways. See Section 8 of the Zoning Law for requirements related to fences and walls.

*Is the Site within 150 feet of a One- or Two-Family Residence District? _____No _____Yes

If yes, see Section 7.C of the Town of Eastchester Zoning Law and provide zoning compliance information accordingly.

Are any variances required that are not listed on the table above? _____No _____Yes

If yes, indicate what additional variances are require and provide additional information as necessary: _____

AFFIDAVIT OF MAILING

Check One:

- _____ Planning Board
- _____ Zoning Board of Appeals
- _____ Architectural Review Board

Name and Location of Project: _____

Section _____, **Block** _____, **Lot(s)** _____

State of New York }
 County of Westchester } ss:

I, _____, being duly sworn, depose and say as follows:

1. I am the agent, owner or legal representative of the referenced property.
2. I have prepared a list of property owners located within 200 feet of the boundaries of the referenced property, by street address and section, block and lot.
3. I have sent, by certificate of mailing, a copy of the legal notice to each and every property owner within 200 feet of the boundaries of the referenced property.
4. I have published the legal notice in a newspaper of general circulation in the Town of Eastchester on _____, 20____, no less than 10 days prior to a Planning Board or Zoning Board of Appeals meeting and no less than 5 days prior to an Architectural Review Board meeting.
5. I have attached the affidavit of publication from the publisher of the newspaper.
6. I understand that I must bring this signed and notarized Affidavit of Publication, along with the certificate of mailing receipts, to the noticed meeting and that I must submit these items to the Board prior to being heard.

(print name)

(signature)

Sworn to me this _____ day of _____, 20____

(Westchester County Notary Public)

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****NOTICE OF PUBLIC HEARING****

NOTICE IS HEREBY GIVEN:

that the Zoning Board of Appeals of the Town of Eastchester will hold a public hearing

on _____, _____, 20_____, at _____, p.m.
(day of week) (month and date) (year) (time)

at the Town of Eastchester Town Hall, 40 Mill Road, Eastchester New York on the

application of _____,
(name of application, applicant, or property owner)

for _____
(area variance, use variance, interpretation, and/or special permit approval)

to _____
(describe nature of application)

affecting the premises known as Section _____, Block _____, Lot(s) _____

on the Tax Map of the Town of Eastchester, New York and known as

(street address)

TESTS FOR AREA VARIANCES

Applicants for area variances must indicate in writing how the application meets the following 5 tests for area variances (restate each test and follow with a response).

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making its determination, the Board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The Zoning Board of Appeals, in granting area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

TEST FOR USE VARIANCES

Applicants for use variances must indicate in writing how the application meets the following 4 tests for use variances (restate each test and follow with a response).

A use variance shall not be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particulate district where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood.
4. That the alleged hardship has not been self-created.

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.