

**ZONING BOARD OF APPEALS  
TOWN OF OYSTER BAY, N.Y.  
RULES OF PROCEDURE**

**I Application for a Variance**

Application for a Variance shall be made by filing with the Board of Appeals a completed, typewritten or printed application form supplied by the Division of the Zoning Board of Appeals, having thereon, a complete statement of the relief or the variance sought by the applicant and a detailed statement of the practical difficulties and/or unnecessary hardship allegedly created or existing because of existing zoning regulations relating to the particular premises.

**THE FOLLOWING MUST BE SUBMITTED WITH YOUR APPLICATION:**

- 1) Two (2) copies of the **Board of Appeals Application** with executed signature of fee owner.
- 2) The **rejected building permit application** together with three (3) sets of building plans.
- 3) Fourteen (14) legible copies of a **survey** of the subject property prepared by a licensed surveyor, showing all existing and/or proposed structures, drawn to scale indicating setbacks from property lines.
- 4) For proposed structures/additions, an additional fourteen (14) legible copies of a **plot plan** showing the proposed structures/additions indicating setbacks from property lines is also required. The plot plan **cannot** be substituted for surveys.
- 5) Fourteen (14) copies of a **radius map**, drawn to scale, showing the size and location of all parcels located within a radius of 100 feet (300 feet for commercial parking) measured from all points of the subject property and indicated thereon the name and mailing address and section, block and lot for each parcel shown.
- 6) A **Disclosure Affidavit** pursuant to the Building Zone Ordinance (For Applicant and Representative of Applicant).
- 7) A **Prior Application Affidavit** listing all prior applications affecting subject property made to the Zoning Board of Appeals and/or the Town Board either for change of Zone or Special Permit. If prior application has been made, include a copy of Town Board Resolution.

**FEES**

- 8) Once your application has been reviewed by the Division of the Zoning Board of Appeals, a **fee** will be calculated and you will be notified by post card of that fee.

**PROOF OF NOTICE**

- 9) A **Notice to Owners and Occupants** form will be mailed to you by the Division of Zoning Board of Appeals **18-20 days** prior to your hearing date. You or your representative must send this form by mail to each owner, occupant and contract vendee (if any) of all parcels of property located within a radius of 100 feet (300 feet for commercial parking) measured from all points of the subject property lines. However, such notice must be sent by Certified Mail, Return Receipt Requested to those owning or occupying all properties abutting the subject property and an additional notice to be addressed "Owner/Occupant" to all abutting properties. Said notice shall be postmarked **not less than TEN (10) days** prior to the date set for the Public Hearing.
- 10) Along with the "**Notice**" you will be mailed an "**Affidavit of Mailing**". This Affidavit, having attached thereto a true and complete copy of the "Notice to Owners and Occupants" together with U.S. Postal Receipt or "Certificate of Mailing" for each Certified letter mailed to the abutting property owners, must be filed with the Zoning Board **not less than ONE day** prior to the date of the scheduled Public Hearing.

**NOTE:** 1) A separate application for a variance or permit shall be required in the following cases even though the applications relate to the same property or premises: a) for each building if more than one; b) for each special exception requested; c) for each use variance required; d) for each special permit requested. (When applications relating to the same premises are filed simultaneously, the applicant shall be required to file only one completed set of surveys and maps with only two additional for each additional separate applications. 2) In the case of application for **Variance from the plot area and/or width requirements of the Ordinance**, the following shall be annexed to and made part of the application in addition to the foregoing. A) An **abstract of title** affirmed or sworn to by an attorney or by a recognized title examiner, in the form required by the Board, setting forth the Chain of Title (all records of conveyance) of the subject property and all adjacent and abutting plots on and from January 26, 1953 to date. **IMPORTANT:** The abstract of title shall be typewritten or printed on a letter or legal size paper and shall fore each conveyance recorded, show the full name of the grantor and the grantee, the date of deed, the date of recording and the liber and page. Each conveyance recorded concerning any lot must indicate all other lots or property conveyed in the same instrument. If new lot numbers have been assigned since January 1953, the abstract shall indicate both the prior lot numbers and the new lot numbers.

## **II APPLICATION FOR REVIEW OF ORDER OR DECISION**

Any person or claimant who is aggrieved by the granting or denial of a permit by the building Department, or from any order, requirement, decision, or determination by an administrative official charged with the enforcement of any Ordinance adopted pursuant to Article 16 of the Town Law, shall have thirty (30) days from the date of issuance of said permit, denial, or order to appeal to the Board of Appeals of the Town of Oyster Bay.

1. Such appeal shall be taken by filing with the officer from whom the appeal is taken and with the Board of Appeals a Notice of Appeal, specifying the grounds thereof.
2. All applications for an appeal as herein before described shall be applied for and heard in the same manner as an application for a Variance.

## **III APPLICATION FOR A PERMIT**

All applications to the Board of Appeals seeking a permit, which the Board of Appeals has original jurisdiction to grant, shall be applied for and heard in the same manner as all applications for a Variance.

## **IV APPLICATION FOR SPECIAL PERMIT OR USE VARIANCE**

In the case of an application for a **Special Permit**, or a **Use Variance**, the applicant, shall submit the following in addition to rules 1 through 7:

- (a) Fourteen (14) copies of a **survey radius map**, prepared by a Licensed surveyor, indicating the parcel under consideration: all existing and proposed thereon, and all parcels located within a radius of **300 feet**, measured from all points of the subject plot property lines. This survey radius map shall also include the zoning designation of the properties within the area as they exist on the official map of the Town of Oyster Bay, and the name and mailing address of the owner of each parcel shall be shown on said survey radius map as well as indication of all uses.
- (b) **“NOTICE TO OWNERS AND OCCUPANTS”** As provided for in Rule No. 1 (5) above shall be sent to each property owner shown in the **300 foot radius** area.
- (c) A last owners search by a recognized title company or affidavit by an attorney for all properties located within the three hundred (300 foot radius).

## **V APPLICATION FOR SPECIAL PERMIT (PAVED PARKING)**

In the case of a **SPECIAL PERMIT** to install a paved parking facility of less area than required by the Ordinance, where sufficient vacant land is kept in reserve to provide required parking, a survey radius map as described in Rule No. IV (A) is not required. A Survey of the subject property and adjacent properties as provided in Rule No. 1 (30 above is sufficient and property owners should be notified of the Public Hearing in the manner provided for in Rule No. 1 (5).

## **VI APPLICATION FOR REDUCTION OF OFF-STREET PARKING**

In the case of an application for a Variance for the reduction of off-street parking in a non-residence zone, a **“NOTICE TO OWNERS AND OCCUPANTS”** shall be sent to each property owner shown within a **300 foot radius** area. In the case of an application for a Variance for the reduction of off-street parking in a residential zone, for any use other than residential, a **“Notice to Owners and Occupants”** shall be sent to each property owner shown within a **300 foot radius** area.

## **VII APPLICATION FOR REHEARING, AMENDMENT OR EXTENSION OF TIME**

In the case of an application for a public hearing for a **Rehearing**, the application must be filed with the Board of Appeals within **Ninety (90) days, Amendment or Extension of Time (180) days** following the filing of the Board’s decision or prior to a specified expiration time indicated on the decision. If the application is filed after the one-hundred & eighty (180) day period, fees will be imposed as set forth under Rule VII F-3. Any time granted by the Board under this provision shall be continuous from the date the decision is first filed in the Town Clerk’s Office.

The application shall be in writing (on form supplied) and shall set forth the reasons for such request. Should the Board act unanimously to grant such rehearing, a date for rehearing shall be assigned and the applicant shall notify all property owners of such rehearing and purpose thereof, as in an original application (see Rule 5).

## **VIII SIGNS**

- (a) In case of an application for a Variance from the provisions of Sections 246-37 the erection of a sign, the applicant must comply with the Rules of Procedure for a Variance. Additionally, fourteen (14) copies of sign renderings for each sign must be submitted.
- (b) In case of an application for a **SPECIAL PERMIT** from the provisions of **Section 246-37-(I)**, for the erection of a sign, the applicant must comply with the Rules of Procedures for a Special Permit (IV) above.
- (c) In all cases where an illuminated sign is contemplated (other than black and white) a color rendering shall be submitted with intensity data included.
- (d) All signs for extension of time pursuant to Sec. 246-37 shall follow requirements as set forth in the Rules of Procedure for a Variance.

## **TOWN OF OYSTER BAY CODE OF ORDINANCES**

### **FEES FOR VARIANCE**

All fees charged by the Zoning Board of Appeals shall be in the amount indicated in the Town of Oyster Bay fee schedule as approved by the Town Board as of July, 2012.