

ZONING

139 Attachment 1

Village of Hempstead

Appendix A

**Rules of Board of Zoning Appeals
[Amended 8-4-1992 by L.L. No. 11-1992]**

Rule 1. Form and execution of application or appeal.

All applications or appeals to the Board of Zoning Appeals shall be filed in triplicate on forms supplied by the Board, and all copies shall be signed and sworn to by the applicant.

Rule 2. Application for building or use permit prerequisite to application or appeal to Board.

No application or appeal to the Board of Zoning Appeals shall be considered until the applicant or person taking the appeal shall have first applied to the Superintendent of the Building Department for a permit for the proposed building, alteration or use affected by said appeal or application.

Rule 3. Information to accompany petition and application.

Every petition and application to the Board of Zoning Appeals, except renewal petitions and applications, shall be accompanied by:

- (a) A complete and accurate list of the names and addresses of the fee owners of all of the lands within a radius of 200 feet of the boundary lines of the property which is the subject of such petition or application; and
- (b) Six copies of a plot plan of the subject premises and six copies of a map of all properties within 200 feet of the lines of the subject property, showing the size of each plot and whether the same are vacant or improved with residence or business structures and the zoning of all such lands shown.

Rule 4 Time of appeal.

Such appeal shall be taken within 60 days after the filing of any order, requirement, decision, interpretation or determination of the administrative official charged with the enforcement of the local law which is the subject of said appeal, by filing with such administrative official and with the Board of Zoning Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

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Rule 5. Application or appeal by owner or other person.

An application or appeal to the Board of Zoning Appeals may be brought by the fee owner of the subject property or any other aggrieved person, but if the applicant is a person other than the fee owner, the application or appeal shall be consented to in writing and duly acknowledged by the fee owner. Such appeal may also be taken by an officer, department, board or bureau of the Village of Hempstead.

Rule 6. Hearing on appeal.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official newspaper of the Village, at least five days prior to the date thereof.

Rule 7. Additional notices Of hearing.

The Clerk of the Board of Zoning Appeals shall not be required to give any other notice except the publication hereinabove described.

Rule 8. Service of notice upon surrounding property owners.

A notice on the form provided by the Board of Zoning Appeals shall be served by the applicant at his own expense upon each owner of real property situated within a radius of 200 feet of the boundary lines of the property affected by said petition or application, as follows:

- (a) As to owners whose property abuts the subject plot, by registered or certified mail, return receipt requested.
- (b) As to the owners of nonabutting property located within the two-hundred-foot radius:
 - (1) Who reside upon such property, by ordinary mail directed to each of such owners at his residence addresses.
 - (2) Who do not reside upon such property, by ordinary mail directed to each of such owners at his actual place of residence or at the address appearing on the real property tax records of the Village.

Rule 9. Execution; contents of notice to owners.

Each notice sent pursuant to Rule 8 shall be signed by the petitioner or applicant, his agent or attorney, identifying the property affected thereby and shall set forth the relief requested and the date, hour and place fixed by the Board for a hearing thereon.

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Rule 10. Time for mailing notices to surrounding property owners.

Any notice required to be sent pursuant to these rules shall be mailed not less than 10 days, nor more than 20 days, prior to the date set for public hearing.

Rule 11. Consent in lieu of notice.

In lieu of the mailing of notice to any owner entitled thereto as aforesaid, an applicant may submit a written consent to the relief requested. Such consent shall be duly executed by the owner and acknowledged in form for recording.

Rule 12. Affidavit of personal service in lieu of notice.

In lieu of the mailing of notice to any owner entitled thereto as aforesaid, an applicant may make or cause to be made personal service of notice upon such owner, provided that such service is effected not less than 10 days, nor more than 20 days, prior to the date set for public hearing.

Rule 13. Filing proofs of service.

Proofs of service of notice to all owners entitled thereto as aforesaid, in the form provided by the Board of Zoning Appeals, shall be filed with the Clerk of the Board at least five days before the date of the public hearing. The same shall consist of an affidavit of mailing with required return receipts attached thereto or an affidavit of personal service.

Rule 14. Records of Superintendent of Building Department at hearing.

The Superintendent of the Building Department shall make available to the Board of Zoning Appeals all records of the Building Department pertaining to the matter being heard and shall give to the Board of Zoning Appeals a report thereon, if requested.

Rule 15. Fees received by Clerk.

Filing fees shall be paid to the Clerk at the time of filing the application or appeal. Said fees as set forth in § 139-141 shall be deemed to include the cost of publishing any notices relating to such application or appeal; except that if a new hearing or adjournment of hearing is required, the cost of publishing any notice and renotifying the owners described in Rule 8 hereof relating to the same shall be imposed upon the applicant, unless otherwise directed by the Board of Zoning Appeals.

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Rule 16. Record of applications, appeals and decisions to be kept by Clerk.

The Clerk of the Board of Zoning Appeals shall keep a record of all applications and appeals received and shall keep an index thereof, together with the date on which each application and appeal was received and the decision rendered thereon.

Rule 17. Concurring majority of Board.

The concurring vote of a majority of the members of the Board of Zoning Appeals shall be necessary to reverse any order, requirement, decision or determination of an administrative official, to grant a use variance or area variance or to grant any other appeal or application provided for in this chapter.

Rule 18. Time of decision.

The Board of Zoning Appeals shall decide any application or appeal within 62 days after the conduct of the public hearing. The time within which the Board of Zoning Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

Rule 19. Filing of decision and notice.

The decision of the Board of Zoning Appeals on the application or appeal shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.