

**VILLAGE OF BAXTER ESTATES
315 MAIN STREET
PORT WASHINGTON, NY 11050
Telephone (516) 767-0096
Facsimile (516) 767-0058
Email: building@baxterestates.org**

BOARD OF ZONING AND APPEALS APPLICATION PACKET

PLEASE READ ALL APPLICATIONS INSTRUCTIONS (I1- to I6) before proceeding with the checklist below.

Each complete Board of Zoning and Appeals Application MUST include **two separate checks** made out to the "**Village of Baxter Estates**":

1. Residential and Commercial applications for a singular project of a fence, air conditioning unit, or generator require a \$100 application fee. Any other project, or a combination of any project, requires a \$500 deposit.
2. \$1,500.00 check for legal fees, legal notices & court reporter for Residential or \$3,000.00 for Commercial - *Any monies not expended will be refunded to the applicant. Additional money may be required if expenses exceed the deposit.*

APPLICATION CHECKLIST: SUBMIT ONE (1) ORIGINAL AND SEVEN (7) COPIES OF A FULL APPLICATION, WHICH IS TO INCLUDE:

- ☐ Application [A1-A2]
- ☐ Affidavit To Be Completed by Owner/Agent/Corporate Owner/LLP Partner (one affidavits must be completed) [A3-A4]
- ☐ 200' Radius Affidavit, Map and Listing [A5]
- ☐ Affidavit of Disclosure in Compliance with Section 809 of the General Municipal Law [A6-A7]
- ☐ Inspection Authorization Forms [A8]
- ☐ Applicant Acknowledgment of Deposit Obligations [A9]
- ☐ Short Environmental Assessment Form (SEQRA)
- ☐ Denial Letter
- ☐ Denied Building Permit Application
- ☐ Affidavit in Lieu of Current Survey **or** Current Survey [S1]

Please note that ALL pages beginning with an "A" are REQUIRED with every submission. All pages beginning with an "S" may still be required, consult with your architect, contractor, or the Village Building Department. No copies shall be made by the Clerk's Office upon submittal.

Required after Submittal:

- ☐ **Affidavit of Mailing** [S2] – An Affidavit of said mailing, setting forth the date of the mailing and the names, addresses, and tax lot designations of the addresses, together with a copy of the Legal Notice. Affidavit shall be filed with the Village Clerk not less than 5 days before the public hearing, recommended to file with the Certified Mail Receipts.

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- ☐ **Certified Mail Receipts** – White and Green slip received when dropping off the mailing. Must be filed with the Village Clerk not less than 5 days before the public hearing, recommended to file with the Affidavit of Mailing.
- ☐ **Green Certified Mailing Cards** – These will be returned to you in the mail after the mailing is done up to the hearing date. They must be filed with the Village Clerk prior to the commencement of the public hearing. You may bring them the night of the hearing and hand them to the clerk before 7:30 PM.

Also, if applicable to your application:

- Floor plans- If the application involves a commercial property or the addition to an existing building (including a single family home), floor plans of the entire building as it exists and as proposed.
- A copy of any previous determination, if applicable- If the subject premises are subject to the terms of a previous Board determination.
- A copy of any outstanding notices, if applicable- of violation, summonses, or appearance tickets with regard to the premises
- In an appropriate proceeding involving new construction which may substantially impact upon adjacent properties, the Board may additionally request a radius map showing all of the structures on all of the properties within sixty (60) feet of the subject premises.
- In an appropriate proceeding involving issues of traffic and/or parking, the Board may additionally request a traffic and/or a parking study.
- If the application involves a commercial property and a change of use, floor area, building area, or site plan, a site plan showing the existing and proposed parking and landscaping.

Definitions and Specifications:

- **Survey** guaranteed to an owner, a title company or a bank showing all of the structures (including, but not limited to, decks, basketball courts, handball courts, fences, sheds, and retaining walls) on the premises, whether or not those structures relate to the specific application; and, if the request relates to setback requirements or distances between structures all of the distances which affect the Board's consideration. No changes or sketches or markings on a survey will be accepted. If a survey is not current, dated or recertified within the previous six months, an affidavit in lieu of current survey [S1] stating there have been no physical changes to the premises, including, but not limited to, the boundaries and contours of the land and the sizes and locations of all of the buildings, structures, and utility lines thereon or overhead, which are not shown on the survey, and that the survey properly shows the premises as they currently exist.
- **Site Plan** showing all of the proposed structures- Separate site plans shall be submitted showing existing improvements and any change being requested to change or add to the existing improvements. Setbacks shall always be measured from the closest point of a structure to the relevant property line.

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- **Building Plans** prepared by Licensed Design Professional, Engineer or Surveyor, as applicable.
- **Denied Building Permit Application identifying variances required, or Determination of Superintendent of Buildings for which review is sought.**
- **Denial letter** - issued from the Building Superintendent, this is received after the building permit is submitted.
- **Affidavit of Mailing** - An Affidavit of said mailing, setting forth the date of the mailing and the names, addresses, and tax lot designations of the addresses, together with a copy of the Legal Notice, shall be filed with the Village Clerk not less than 5 days before the public hearing. All of the return receipts and signed light green certified mailing cards received by the applicant prior to the public hearing shall be filed with the Village Clerk prior to or at the public hearing.

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VILLAGE OF BAXTER ESTATES

INSTRUCTIONS FOR APPLICANTS TO BOARD OF APPEALS

NOTE: If your application is for a zoning variance in connection with a project that also requires a conditional use permit or similar use permit, or the approval of the Landmarks Preservation Commission, then you may need to make application to one or more of the Board of Trustees or the Landmarks Preservation Commission and receive a decision therefrom before a decision will be rendered with respect to your application for zoning variance.

A. THE APPLICATION

You must submit an original and seven (7) copies of a signed and completed Village of Baxter Estates Application to the Board of Appeals for Variance, see I1 for details. In addition, the following must be understood;

- a. **NON-REFUNDABLE FEE.** Pay a non-refundable fee of five hundred dollars (\$500.00), by check made payable to the Village of Baxter Estates.
- b. **COSTS.** On all applications to the Board of Appeals for variances or to review a determination of the Village Building Superintendent, or for other relief, the applicant shall be liable for and shall pay the following costs which may be incurred by the Village in processing the application:
 - i. Publication of Legal Notice of Hearing;
 - ii. Stenographic minutes of meetings and hearings;
 - iii. Fees, costs and expenses payable by the Village to the Village Attorney, which shall be charged at an hourly rate approved by the Board of Trustees, for time that the office of the Village Attorney spends on the application;
 - iv. Recording fees;
 - v. Engineering, planning, sound, traffic, environmental or other specialized study or consultant's fees, costs and expenses incurred by the Village in considering such application, consistent with the fees for services then prevailing in the community.
- c. **DEPOSITS.** In addition to the required non-refundable fee, the applicant shall deposit with the Village Clerk the sum of \$1,500.00 for residential applications and \$3,000.00 for commercial, by check made payable to the Village of Baxter Estates, to be used by the Village against the expenses listed under "COSTS" above, which are actually and necessarily incurred by the Village in processing and reviewing the application.
 - i. If at any time the amount of the deposit is insufficient to cover the "COSTS" incurred in connection with the application, then the applicant shall, at such time as is fixed by the Village Clerk, deposit with the Village an additional amount to be applied to such COSTS. Further processing of

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your application by the Village, including by the Board of Appeals, will be suspended until any such required deposits are received by the Village. If the amount deposited with the Village exceeds the actual COSTS which are actually and necessarily incurred by the Village, then the unused portion of such deposit shall be returned to the applicant within sixty (60) days after the decision on the application is filed.

- d. The applicant or a representative must be present at the hearing on the application. The Board of Appeals will consider your application in accordance with the standards for review applicable thereto under the New York State Village Law and the Village Code.

*For purposes of these Instructions, CURRENT SURVEY of the Subject Premises shall mean a survey by a duly licensed land surveyor – “current” means one that is not more than one (1) year old. In lieu of a current survey, an applicant may furnish an older survey, accompanied by an affidavit by the owner of the Subject Premises, or a licensed land surveyor, stating that the survey is an accurate representation of the existing conditions on the premises. This must be attached to each copy of the survey. Notwithstanding the foregoing, the Board may at any time during its consideration of your application require that a current survey be submitted.

**B. REQUIREMENTS NEEDED ON PLANS FOR NEW CONSTRUCTION
REQUIRING VARIANCE(S).**

The applicant shall cause proposed construction plans to be prepared by a duly licensed design professional at a scale of not less than “one (1) inch equals thirty (30) feet,” and not more than “one (1) inch equals ten (10) feet.” The plans shall include the elements listed below unless one (1) or more thereof are waived by the Board.

- a. Legal Data:
 - i. Name and address of the owner of record.
 - ii. Name and address of person, firm or organization preparing the plans.
 - iii. Date, north arrow and written graphic scale.
 - iv. Sufficient description or information to define precisely the boundaries of the property. All distances shall be feet and tenths of a foot. All angles shall be given to the nearest ten (10) seconds or closer. The error of closure shall not exceed one (1) in ten thousand (10,000).
 - v. The lot lines and owners, as shown on the latest tax records, and description of uses, of all adjoining lands.
 - vi. The locations, names and existing widths of adjacent streets and curb lines.
 - vii. The locations, widths and purposes of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.

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- viii. A complete outline of existing deed restrictions or covenants applying to the property.
- ix. Existing zoning, setting forth requirements and actual dimensions for the Subject Parcel.
- x. Nassau County land and tax map, section, block and lot numbers.
- xi. Zoning use district (if more than one district, reflect exact boundary lines of each district in which a portion of the Subject Premises is located).
- xii. Indicate whether any portion of Subject Premises is within 500 feet of any Village or Town of North Hempstead boundary.
- xiii. Location and types of sidewalk, curb and pavement on existing streets surrounding Subject Premises.
- xiv. Existing and proposed drainage structures (showing invert elevations).
- xv. Proposed curb cuts onto or abutting public streets.
- xvi. Show curb cuts on adjacent properties and properties across the public street and within 100 linear feet of the Subject Premises.
- xvii. Proposed finished elevation of all contemplated buildings and structures.
- b. Natural Features:
 - i. Existing contours with intervals of five (5) feet or less referred to a datum satisfactory to the Building Department.
 - ii. Approximate boundaries of any areas subject to flooding or storm water overflows.
 - iii. Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of six (6) inches or more, measured three (3) feet above the base of trunk, and any other significant existing natural features.
- c. Existing Structures and Utilities:
 - i. Outlines of all structures and location of all uses not requiring structures.
 - ii. Paved areas, sidewalks and vehicular access between the site and public streets.
 - iii. Locations, dimensions, grades and flow direction of any existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
 - iv. Other existing development, including fences, landscaping and screening.
- d. Proposed Development
 - i. The location of proposed buildings or structural improvements.
 - ii. The location and design of all uses not requiring structures, such as off-street parking and loading areas and any common spaces and/or recreation areas.
 - iii. The location and plans for any outdoor signs.
 - iv. The location, arrangement and materials of proposed means of ingress and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading cross sections showing width of roadway, location and

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size of water and sewer lines. Any proposed direct pedestrian connection to public parking lots or structures will also be shown.

- v. A planting plan, prepared by a qualified landscape architect or architect, showing any proposed screening and other landscaping.
- vi. The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
- vii. An outline of any proposed easements, deed restrictions or covenants.
- viii. Any contemplated public improvements on or adjoining the property.
- ix. Any proposed new grades, indicating clearly how such grades will meet existing grades or adjacent properties or the street.
- x. Elevations of all proposed principal or accessory structures.
- xi. Any other information reasonably deemed by the Building Department or the Board to be necessary for the Board's determination that the proposed project (or, in the case of an application to legalize an existing circumstance, then the relevant existing circumstances) conforms with the spirit and intent of the Zoning Code of the Village.

C. PLEASE NOTE:

- a. The Applicant must notify the owners of all property within a 200-foot radius of the Subject Property of the public hearing for the application. Such notice must be mailed Certified Mail, Return Receipt Requested, to each record owner of each such parcel, not less than 10 days and not more than 25 days prior to the date set for the Public Hearing on the Application. An Affidavit of Mailing must be filed with the Village Clerk not later than five (5) days prior to the date of the Public Hearing, and all Certified Mail receipts and Return Receipts must be filed with the Village Clerk.
- b. In the event that revisions are made to plans that had been reviewed by the Board, all such re-submissions must be highlighted to reflect any and all changes requested by the Board from the most recently submitted version thereof.

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APPLICATION TO BOARD OF APPEALS FOR VARIANCE

Location of Property: _____

Nassau County Tax Map – Section: _____ Block: _____ Lot(s): _____

Bounded by or abutting what street(s)? _____

Name, address, and telephone number of owner: _____

Name, address and telephone number of applicant: _____

Name, address, telephone number and license number of architect or engineer or land surveyor:

This property is in Use District _____ under the Zoning Code of the
Village of Baxter Estates.

Total area in square feet of the property: _____

Is property within 500' of a Village boundary? _____

If so, give details: _____

Date of Deed or Deeds recorded in the Nassau County Clerk's Office establishing Owner's
record title of Subject Premises: _____

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How is the property presently used? _____

Identify Village Code Section from which variance(s) is/are sought in this application, or the determination of the Building Superintendent for which review is sought (provide copies thereof: _____

11. Explain difficulty, problem, hardship or other reason(s) for application: _____

12. List all additional documentation being submitted by Applicant in connection with this application (e.g., surveys, plot plans, affidavits, photos, deed, etc.) _____

Date

Signature

Print Name

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ONE OF THE FOLLOWING AFFIDAVITS MUST BE COMPLETED

AFFIDAVIT OF OWNERSHIP (NOT A CORPORATION)

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

I, _____, being duly sworn, deposes and says that they reside at _____, in the County of _____, State of _____; that they are the owner of _____, which is the subject premises described in the foregoing application, shown on the Nassau County Tax Map as Section _____ Block _____ Lot(s) _____; that they have authorized _____ to make the foregoing application and that the statements of fact contained in the foregoing application are true.

Sworn to before me this
____ day of 20____.

Owner's Signature

Notary Public

AFFIDAVIT TO BE COMPLETED BY AGENT

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

I, _____, being duly sworn, deposes and says that they are the agent named in the foregoing application to the Board of Appeals of the Village of Baxter Estates that they has been duly authorized by the owner in fee to make such application and that the foregoing statements are true to the best of his/her knowledge and belief.

Sworn to before me this
____ day of 20____.

Signature

Notary Public

Print Name

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AFFIDAVIT OF OWNERSHIP (CORPORATION)

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

I, _____, being duly sworn, deposes and says that they reside at _____, in the County of _____, State of _____; that they are the _____ Officer of _____, the Corporation which is the Corporate Owner of the premises known as _____, also described as Section _____ Block _____ Lot(s) _____ on the Nassau County Tax Map; that they have been authorized by the Board of Directors of the said corporation to make the foregoing application and that the statements of fact contained in the foregoing application are true.

Sworn to before me this
____ day of 20____.

Officer's Signature

Notary Public

AFFIDAVIT OF OWNERSHIP (LIMITED LIABILITY PARTNERSHIP)

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

I, _____, being duly sworn, deposes and says that they reside at _____, in the County of _____, State of _____; that they are the _____ Officer of _____, the Limited Liability Partnership which is the Owner of the premises known as _____, also described as Section _____ Block _____ Lot(s) _____ on the Nassau County Tax Map; that they have been authorized by the Board of Directors of the said corporation to make the foregoing application and that the statements of fact contained in the foregoing application are true.

Sworn to before me this
____ day of 20____.

Officer's Signature

Notary Public

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AFFIDAVIT OF LIST OF HOMEOWNERS WITHIN THE 200 FEET RADIUS

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

_____, being duly sworn, deposes and says that they are the owner in fee of the property described in the foregoing application to the Board of Appeals and that annexed hereto is a list of the names and addresses of the owners of record of properties within a radius of 200 feet of the property which is the subject of the foregoing application.

Sworn to before me this
____ day of 20____.

Signature

Notary Public

*Please attach the radius map and listing here.

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GENERAL MUNICIPAL LAW, § 809 provides as follows:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
2. For the purposes of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them is:
 - a. the applicant or is an officer, director, partner or employee of the applicant, or legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.
3. In the County of Nassau the provisions of subdivisions one and two of this section shall also apply to a party officer. "Party officer" shall mean any person holding any position or office, whether by election, appointment or otherwise, in any party as defined by subdivision four of section two of the Election Law.
4. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
5. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

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**AUTHORIZATION BY OWNER FOR REPRESENTATIVES OF THE VILLAGE OF
BAXTER ESTATES TO GO UPON SUBJECT PREMISES**

I _____ hereby authorize the members of the Board of Appeals, the Superintendent of Buildings, the Village Engineer or other professional consultant, and legal counsel to the Board of Appeals to enter upon and inspect my property prior to the Board rendering a determination with regard to my application submitted to such Board.

(Signature of Owner)

Owner's Name: _____
(Print)

Date: _____

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VILLAGE OF BAXTER ESTATES LAND USE APPLICATION
APPLICANT ACKNOWLEDGEMENT OF DEPOSIT OBLIGATIONS

The undersigned, an applicant to a board, department or agency of the Village of Baxter Estates with respect to the development or use of a parcel of real property within the Village, hereby acknowledges that Village Code §§102-1, 175-2 and 175-83, and resolutions adopted by the Board thereunder, require that the undersigned, as a land use applicant to the Village, is liable and shall pay for those fees, costs and expenses set forth in said Code Sections or resolutions, including engineering, legal, advertising, stenographic and consultant expenses, that are incurred by the Village in connection with my application.

I understand that my initial deposit made against such expenses may be insufficient, depending upon the circumstances of my application, and that I shall be responsible for replenishing the amount on deposit upon request of the Village Clerk, and that all amounts due and owing must be paid before a certificate of occupancy or a certificate of completion with respect to my project will be issued by the Village.

The undersigned, as owner of the affected parcel, acknowledges that any unpaid balance of such expenses shall constitute a lien upon the parcel that is the subject of this application, pursuant to Village Code §102-7.

Signature of Property Owner-Applicant

Date

Signature of Applicant
(if different from Property Owner)

Date

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AFFIDAVIT IN LIEU OF CURRENT SURVEY

Use this form if you do not have a current survey. *

STATE OF NEW YORK)

) ss:

COUNTY OF NASSAU)

I, _____ (print name), hereby certify that I am the legal owner of the parcel of land together with any and all structures erected thereon, described as Section _____ Block _____ Lot(s) _____ on the Land and Tax Map of the County of Nassau and commonly known as _____ (street address), and furthermore, that the survey entitled, " _____ " dated _____ by _____ (surveyor) is a true and accurate survey of the present conditions, structures and improvements of the said parcel of land, as of the date set forth below.

Sworn to before me this
____ day of 20____.

Owner's Signature

Notary Public

Date

*For purposes of these Instructions, CURRENT SURVEY of the Subject Premises shall mean a survey by a duly licensed land surveyor – “current” means one that is not more than one (1) year old. In lieu of a current survey, an applicant may furnish an older survey, accompanied by an affidavit by the owner of the Subject Premises, or a licensed land surveyor, stating that the survey is an accurate representation of the existing conditions on the premises. This must be attached to each copy of the survey. Notwithstanding the foregoing, the Board may at any time during its consideration of your application require that a current survey be submitted.

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AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss:
COUNTY OF NASSAU)

_____, being duly sworn, deposes and says that on the ____ day
of _____, 20__ they served the Notice attached hereto upon the annexed list of
property owners: by depositing same securely enclosed in a postpaid wrapper in the Post Office
regularly maintained by the United States Government in the County of Nassau, State of New
York,

That said notice was mailed by certified mail, return receipt requested, as per attached list.

(Signature)

Sworn to before me this
____ day of _____ 20__.

Notary Public

* This form must be filed with the Village Clerk not later than five (5) days prior to the date of the Public Hearing,
and all Certified Mail receipts and Return Receipts must be filed with the Village Clerk on or before the hearing.