

Decision Making



It Starts with a Good Application

Why Are Applications Important?

- ∞ Basis for a property owner/developer to build or change the use of a property
- ∞ Provide detailed information about a proposal
- ∞ Can require additional materials/documents
- ∞ Part of the official municipal record
- ∞ Potential source of revenue

Types of Applications

- ✎ Building Permits
- ✎ Zoning Compliance
- ✎ ZBA Interpretation, Area & Use Variances
- ✎ Site Plan Review
- ✎ Subdivision Review (Minor & Major)
- ✎ Planned Development District
- ✎ Special Use Permit

Application Examples

Actual examples of applications that are:

☞ Not Very Good

☞ Pretty Good

☞ Very Good

ZONING BOARD OF APPEALS

TOWN OF [REDACTED] N.Y.

OFFICE USE ONLY

Case No. _____

Date Rec'd BA _____

Date Hearing _____

Date Action _____

Action _____

To the Zoning Board of Appeals:

A. Statement of Ownership and Interest

1. The applicant (s) _____

(is) (are) the owner (s) of property situated at _____

2. The applicant's appeal concerns the property owned by _____

_____ and located at _____

B. Request

Signatures _____

Telephone No. _____

Town of [REDACTED]

ZONING BOARD OF APPEALS VARIANCE APPLICATION

- 1. Address of property: _____
- 2. Tax Map Number: _____
- 3. Property Dimensions: _____ Lot Frontage _____ Lot Depth _____ Total Sq.Ft.
- 4. Applicant's Name: _____

 (Street Address) (State) (Zip)

 (Phone Number) (E-mail address)
- 5. Requesting: Use Variance: _____ Area Variance _____ Other _____
- 6. Area Variance requested: Front _____ Rear _____ Side _____ Side _____
- 7. Proposed uses on the property , if application is approved, are: _____

Please attach an accurate sketch and/or survey map of the property in question. (Include locations and outlines of all buildings, measurements to property lines, etc.)

List the owners of record of all properties adjacent to, and across the road from, the property for which the application is being filed. These parties will be notified by the Town of [REDACTED] prior to the public hearing.

TAX MAP NUMBER	OWNER'S NAME	MAILING ADDRESS

The following four factors will be considered by the Board of Appeals and should be addressed by the variance application:

- 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 variance.
- 2. Whether the proposed variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
- 3. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the variance.
- 4. 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 variance.

THE APPLICANT'S SIGNATURE BELOW INDICATES THE INFORMATION CONTAINED IN THIS APPLICATION AND ON ANY ACCOMPANYING DOCUMENTS IS TRUE AND ACCURATE, AND THAT **ANY ATTORNEY'S FEES OR ENGINEER'S FEES INCURRED BY THE TOWN RELATIVE TO THE REVIEW OF THIS PROJECT SHALL BE PAID BY THE APPLICANT.**

Dated: _____ Signature of Applicant _____

THE FILING FEE OF \$50.00 IS DUE UPON THE SUBMITTAL OF THIS APPLICATION.

*****OFFICIAL USE ONLY*****

Zoning Board of Appeals Filing Fee \$ 50.00 Date Paid: _____

Date of Public Hearing: _____

Date Variance Granted: _____ Date Variance Denied: _____

Reason Variance Denied: _____

Cayuga County
Zoning Board of Appeals
Sample Application for Use Variance ZBA Appeal



Appeal No. _____

Appeal No.: _____
Hearing Date: _____
Receipt No.: _____

1. Type of Appeal

Appeal is made herewith for a use variance from the Zoning Ordinance.

2. Appellant Information

APPELLANT:

(Name)

(Address) (City) (State) (Zip Code)

(Phone) / _____ / _____
(Fax) (Email)

PROPERTY OWNER (if different)

(Name)

(Address) (City) (State) (Zip Code)

(Phone) / _____ / _____
(Fax) (Email)

3. Location of Property

(Number and Street) / _____ / _____
(Tax Map Number) (Use District on Zoning Map)

4. Provision(s) of the Zoning Ordinance Appealed (Indicate the article/section/subsection/paragraph)

5. Previous Appeal

A previous appeal () has () has not been made with respect to this proposal and was (were) made in

Appeal No. _____, dated _____
Appeal No. _____, dated _____
Appeal No. _____, dated _____
Appeal No. _____, dated _____

6. Description of the Appeal

- A. What uses are permitted in the Zoning District? _____

- B. What use, not currently permitted, are you seeking for your property? _____
- C. Describe the project that requires the appeal _____

7. Criteria for Use Variance Review

State statute requires the appellant to prove that the Zoning Ordinance has caused an "unnecessary hardship". In order to prove such an unnecessary hardship the applicant must demonstrate to the Board of Zoning Appeals the following information for each and every use permitted in the zoning district:

- A. the appellant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence.
- B. that the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district.
- C. that the requested use variance, if granted, will not alter the essential character of the neighborhood
- D. that the alleged hardship has not been self-created.
- E. that the requested use variance is the minimum variance necessary and adequate to address the unnecessary hardship while at the same time preserving and protecting the health, safety and welfare of the community.

Given these requirements:

- A. Use the "Worksheet for Use Variance Application" to demonstrate that you cannot realize a reasonable return from any of the permitted uses in the Zoning District.
- B. What evidence can you provide that the alleged hardship relates only to your property and not to a substantial portion of the Zoning District? _____

C. What evidence can you provide that the use variance will not alter the essential character of the neighborhood? _____

D. What evidence can you provide that the alleged hardship has not been self-created? _____

E. Why is the use variance you are requesting the minimum variance necessary and adequate to address the alleged hardship? _____

8. Certification

I certify that the information submitted with the appeal is true to the best of my knowledge and belief, and that I have read and am familiar with those sections of the Town/Village of _____ Zoning Ordinance that apply to this appeal. I also acknowledge that the Board of Zoning Appeals may visit the property and specifically permit such visits.

(Signature of Land Owner)

(Date)

*****OFFICE USE ONLY*****

SEQR Classification: () Unlisted () Type 2
Environmental Assessment Forms Used: () Short EAF () Long EAF
() Lead Agency () Determination of Significance
SEQR Determination of Significance: () Negative Declaration () Positive Declaration
Building Permit Application No. (if any) _____
Date Received _____
Date of First Hearing _____
GML 239 Review Required? () Yes () No
GML 239 Review Determination _____
Town/Village Planning Board Review Required? () Yes () No
Town/Village Planning Board Recommendation: _____

Preliminary Subdivision Review

Preliminary Plat Review Checklist: Basic Items to Require

- Proposed subdivision name, a true-north arrow, the map scale, and the names, addresses and phone numbers of all owners of record, the sub-divider, and the engineer or surveyor, including license number and seal.
- The names of the owners of record of all adjacent property.
- The locations of existing property lines, easements, buildings, watercourses, and wooded areas.
- The locations of existing sewers, water mains, culverts, and drains on the property, with pipe sizes, grades and direction of flow.
- A grading plan
- The width and location of any proposed streets
- The location and size of all proposed water lines and sewer lines
- A storm-water management plan
- The proposed lot lines with the approximate dimensions and area of each lot.
- An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor.
- A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.

Site Plan Review

Site Plan Review Checklist: Basic Items to Require

- Title of drawing, including name and address of applicant and person responsible for preparation of such drawing.
- North arrow, graphic scale and date.
- Boundaries of the property, plotted to scale.
- The location of existing easements, structures, streets, driveways,
- Grading and drainage plan,
- Location, proposed use, and height of all buildings.
- Number, location, design and construction materials of all parking and loading areas,
- Building elevation(s) showing building massing, window and door spacing; and indication of building materials.
- Location, size, design and construction materials of all proposed signs.
- Location, type, height, brightness and control of outdoor lighting facilities.
- A landscaping plan and planting schedule that includes the location of proposed buffer areas, including existing vegetative cover.
- All forms and information pursuant to New York State Environmental Quality Review Act (SEQRA).

Checklists for Applications

- ∞ Provides a mechanism to gather all required materials/information to make informed decisions
- ∞ Easier way to determine if a submission is complete
- ∞ Helps applicants know what is required for a submission
- ∞ Makes the approval process smoother from start to finish

Area & Use Variances

- ∞ Separate applications for each type of ZBA action
- ∞ Easier for applicants and Board especially with different State Statute criteria for making a decision
- ∞ Reinforces correct procedures for each type of action for the Board

Applications on Municipal Websites

- ✎ All municipalities that have a website should put their applications and supporting information/regulations online as a service to their residents
- ✎ Especially those with limited staff/office hours
- ✎ Less likely for property owners to build or split parcels illegally if the requirements and applications are available online as well as in person at the municipal office.

Public Information / Notification

- Provide information to your community's property owners regarding the types of applications and review procedures required:
 - Online
 - In a newsletter
 - Posted at the Clerk's Office
 - With a water bill
 - In a local newspaper, etc.

Complete Application Submittals

- ✎ Establish a process for the Clerk and Code Enforcement Officer to follow to determine if an application submission is complete
 - Internal Checklist
- ✎ If the application submission is not complete DO NOT ACCEPT IT!
- ✎ Acceptance of an application package starts the review/decision clock
- ✎ Have submittal deadlines

Part of Official Municipal Records

- ✎ The application and all materials submitted with it are official public records once received by the municipality
- ✎ Applicant testimony is important, but application provides basis of the case/decision
- ✎ Testimony should be used to confirm information provided on application and to gather new facts
- ✎ Submitted applications and supporting case materials can be FOILED!

Fees & Revenue Generation

- ⌘ Applications should have a fee required for submission
- ⌘ Fees should be reasonable
- ⌘ Fees should be clearly written on the application
- ⌘ Municipal fee schedule should be publicly accessible
- ⌘ Different fees for different types of applications and reviews

Conclusion

- ✧ A clear process and expectations for each type of application is crucial for the public, staff and Boards
- ✧ Applications are the foundation for findings and land use decisions
- ✧ Applications and review procedures should be updated periodically

Questions?

