

TOWN OF CONKLIN ZONING BOARD OF APPEALS PROCEDURE

The Zoning Board of Appeals (ZBA) hears applications for code interpretations, use variances, and area variances. A code interpretation is a request for an interpretation of a specific code provision in the Town of Conklin Ordinance.

A use variance is a request to use a property in a way that is not permitted by the Town Code. The standards for a use variance are very strict and require proof of unnecessary hardship: 1) First, an applicant must prove, by competent financial evidence, that he or she is unable to realize a reasonable return from the property under any permitted use; 2) Second, the applicant must provide that the hardship is unique to the property in question; 3) Third, the applicant must show that the proposed use will not alter the essential character of the neighborhood; and 4) Finally, the applicant must prove that the hardship was not self created. All four of these standards must be met in order to obtain a use variance.

An area variance is a request to alter a dimensional requirement of the Town Code, such as a set back, a lot size requirement, or a height restriction. For an area variance, the ZBA must weigh the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community. In doing so, the ZBA must take into account the following factors: 1) whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created; 2) whether the proposal can be achieved by some other feasible alternative which does not require an area variance; 3) whether the area variance is substantial; 4) whether the variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district; and 5) whether the difficulty was self created.

The ZBA may impose reasonable conditions on any use or area variance, so long as those conditions are directly related to the use of the land, consistent with the spirit and intent of the ordinance, and intended to minimize any potential impact on the neighborhood or community.

STEP 1: Please be advised that a 239 County review is required if the property is located within:
500' of a County or State road
500' of a Federal or NYS river or stream or wet land
500' of a Municipal border

The 239 process can take up to 30 days from date the paper work is submitted to the Town of Conklin Code Enforcement Officer. The ZBA will not be able to take action on this case until a response is received from the County. This may delay your case for 30 days.

Step 2: A public hearing is required for all ZBA applications. The ZBA may want to continue a public hearing if the ZBA feels this is necessary. This may also hold the case over for another 30 days.

Step 3: The ZBA may request a short or long Environmental Form.

Step 4: Please submit a scale drawing of the project being considered, showing the following:

- a) Front property line set backs in feet and inches. Front property line does not mean the road shoulder; it means your front property line.
- b) Set backs in feet and inches from side property lines.
- c) Set backs in feet and inches from rear property line.
- d) Set backs in feet and inches from any right of ways or easements.
- e) Set backs in feet and inches from electric lines. If the project is to be built under electric lines, you will need approval letter from NYSEG.
- f) Set backs in feet and inches from well and septic systems.
- g) Height of building from ground level.
- h) Please show all buildings and size of buildings on your lot and how far from existing buildings the new project will be located in feet and inches.

- i) Indicate North arrow on map, also indicate the main road the property is located on and directions to the property.

Step 5: A letter of intent is required with reason for appeal.

Step 6: Be advised that the neighbors who live within a 500' radius of your property will be notified so their comments on your request can be heard.

Step 7: All applications must have tax map number on them and be notarized.

Step 8: The final approval does not mean the project can be started until you obtain the permits you may need. The following are some examples:

- a) Building Permit
- b) Flood Plain Development Permit
- c) Sign Permit
- d) EPA or DEC Permit
- e) State or Federal Permit
- f) Health Department Permit

Step 9: All pictures of the property are very helpful to the ZBA.

Step 10: All paperwork must be submitted to the Town of Conklin Zoning Officer no later than 30 days before the date and fees must be paid at this time.

Step 11: The ZBA hearings take place on the first Tuesday of the month unless a legal holiday

Step 12: If the property is owned by another person, a notarized letter from the owner will be needed, consenting the project.

If you have any questions on the procedure or ZBA checklist, feel free to call the Code Enforcement Officer at 607-775-3456.

You are herewith requested to be present in person or represented by agent or attorney to present your case. Failure to notify the Code Enforcement Officer of your absence may result in your application being denied.

DATE _____

SIGNATURE _____

**Variance Application
Facts Supporting this Request**

IMPORTANT NOTE

****All requests for AREA and USE variances SHALL include a sketch showing 1) existing conditions AND 2) proposed conditions/new construction.**

****USE variances shall include a narrative.**

Is the requested variance a USE variance or an AREA variance*? _____

*For assistance in answering this question, please speak to the Town Manager or the Code Enforcement Official.

For Use Variances, complete Section A only.

For AREA variances, complete Section B only.

For both USE and AREA variances, complete Sections A & B.

1) The variance will not be contrary to the public interest because:

2) Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship because:

A. USE VARIANCE. Unnecessary hardship (Simplex Factors):

i. The zoning restriction as applied to this property interferes with a landowner's reasonable use of the property, considering the unique setting of the property in its environment by/because:

ii. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property because:

iii. The variance would not injure the public or private rights of others because:

B. AREA VARIANCE. Hardship calculation (Boccia Factors):

i. Is an area variance needed to enable the applicant's proposed use of the property given the special conditions of the property? (Please discuss the special conditions of the property which make it difficult or impossible to comply with applicable setbacks or other restrictions.) If so, why/how:

ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance?

Yes No

Discuss: _____

(Is there a reasonably feasible method or methods of effectuating the proposed use without the need for variances?) (Consideration of whether the variance is necessary to avoid an undue financial burden on the owner will be taken into account.)

3) The variance is consistent with the spirit of the ordinance because:

4) Substantial justice will be done because:

5) The variance will not diminish the value of surrounding properties because:

Approved as to Legal Form

Date

****Application is NOT complete without sketch and/or narrative. (See page one of this form.)****
Use this area for sketch or narrative

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor:		Telephone:	
		E-Mail:	
Address:			
City/PO:		State:	Zip Code:
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____		acres	
b. Total acreage to be physically disturbed? _____		acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____		acres	
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A	
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ _____	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
	b. Are public transportation service(s) available at or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>		
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
	9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>		
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
	b. Is the proposed action located in an archeological sensitive area?	NO	YES	
<input type="checkbox"/>	<input type="checkbox"/>			
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
	b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
<input type="checkbox"/>	<input type="checkbox"/>			
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban				
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
16. Is the project site located in the 100 year flood plain?	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES _____ _____	NO	YES		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		
	<input type="checkbox"/>	<input type="checkbox"/>		

<p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: _____ Date: _____</p> <p>Signature: _____</p>		