

## **TOWN OF CONKLIN ZONING BOARD OF APPEALS PROCEDURE**

**CODE INTERPRETATION** IS A REQUEST FOR AN INTERPRETATION OF A SPECIFIC CODE PROVISION IN THE TOWN OF CONKLIN ORDINANCE.

**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:

**ALL FOUR OF THESE STANDARDS MUST BE MET IN ORDER TO OBTAIN A USE VARIANCE**

- 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.
- 4) FINALLY, THE APPLICANT MUST PROVE THAT THE HARDSHIP WAS NOT SELF CREATED.

**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.

**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
- 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.

## INSTRUCTIONS

STEP 1 A LETTER OF INTENT STATING THE REASON YOU ARE REQUESTING AN APPEAL.

STEP 2 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'S YOUR ACTUAL PROPERTY LINE)
- B) SET BACKS IN FEET AND INCHES FOR ALL PROPERTY LINES.
- C) SET BACKS IN FEET AND INCHES FROM ANY RIGHT OF WAYS OR EASEMENTS.
- D) SET BACKS IN FEET FROM WELLS AND SEPTIC SYSTEMS.
- E) HEIGHT OF BUILDING FROM GROUND LEVEL.
- F) SHOW ALL PROPOSED AND EXISTING BUILDINGS ON PROPERTY AND DISTANCE FROM PROPERTY LINES.
- G) INDICATE NORTH ARROW ON MAP. ALSO INDICATE THE MAIN ROAD PROPERTY IS LOCATED ON.

THE ZBA MAY REQUEST A SHORT OR LONG ENVIRONMENTAL REVIEW. (SEQR FORM)

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 WETLAND
- 500' OF A MUNICIPAL BORDER

THE 239 PAPERWORK IS COMPLETED BY THE CODE OFFICE. THE 239 PROCESS CAN TAKE UP TO 30 DAYS FROM THE DATE THE PAPER WORK IS SUBMITTED TO THE TOWN OF CONKLIN CODE ENFORCEMENT OFFICER. THE ZBA WILL NOT BE ABLE TO TAKE FINAL ACTION ON THIS CASE UNTIL A RESPONSE IS RECEIVED FROM THE COUNTY. THIS MAY DELAY YOUR CASE FOR 30 DAYS.

A PUBLIC HEARING IS REQUIRED FOR ALL ZBA APPLICATIONS.

BE ADVISED THAT THE NEIGHBORS WHO BORDER YOUR PROPERTY WILL BE NOTIFIED SO THEIR COMMENTS OR CONCERNS ON YOUR REQUEST CAN BE HEARD.

**VARIANCE APPLICATION**

DATE \_\_\_\_\_ PHONE \_\_\_\_\_

NAME \_\_\_\_\_

LOCATION \_\_\_\_\_

TAX MAP \_\_\_\_\_ ZONING \_\_\_\_\_

**AREA VARIANCE - COMPLETE PART A ONLY**

**A.** 1) WILL AN UNDESIRABLE CHANGE BE PRODUCED IN THE CHARACTER OF THE NEIGHBORHOOD, OR A DETRIMENT TO NEARBY PROPERTIES. (Explain why)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2) CAN THE PROPOSAL BE ACHIEVED BY SOME OTHER FEASIBLE ALTERNATIVE WHICH DOES NOT REQUIRE AN AREA VARIANCE. (Explain why)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3) IS THE AREA VARIANCE SUBSTANTIAL? (Explain why)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4) WILL THE VARIANCE HAVE AN ADVERSE IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD. (Explain why)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5) WAS THE DIFFICULTY SELF-CREATED? (Explain why)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# *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.

<b>Part 1 – Project and Sponsor Information</b>			
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 government 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, are adjoining or near the proposed action:			
5.     Urban           Rural (non-agriculture)           Industrial           Commercial           Residential (suburban)			
<input type="checkbox"/> Forest       Agriculture                   Aquatic           Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<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? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<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"/>	
	<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 project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	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? 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"/>	
	<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    Agricultural/grasslands    Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban    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 plan?	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? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
49. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>  Applicant/sponsor/name: _____ Date: _____  Signature: _____ Title: _____		