

ZONING BOARD OF APPEALS
USE VARIANCE APPLICATION

1. GENERAL INSTRUCTIONS:

The Village Staff will advise you about the procedure and help you as much as possible; However you must do the work. Attached is a copy of Section 305-54, Variances, for your convenience. The standards are contained within this Section that must be met to allow the granting of a Use Variance, however just by applying for the Use Variance does not guarantee a Use Variance will be granted. Every application is taken on a case by case basis, and the applicant should prior to submitting the application to the Zoning Board, consult with an attorney to be sure all information needed has been provided within the application.

305-54- VARIANCES

A. Except as otherwise provided in this chapter or the Village Law, the jurisdiction of the Zoning Board of Appeals is appellate only and is limited to hearing and deciding appeals from reviewing any order, requirement, decision, interpretation or determination made by the Building Inspector. On appeal from the decision or determination of the Building Inspector, the Board shall have the power to grant use variances and area variances as specified in Subsection C of this section.

B. GUIDING PRINCIPLES:

- (1) Every decision by the Zoning Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.
- (2) Every variance granted by the Zoning Board of Appeals may be subject to conditions and safeguards as the Board shall deem to be applicable to the particular case. Violations of such conditions or safeguards are a part of the Board's decision shall be deemed a violation of this chapter, punishable under the provisions of 305-65.
- (3) Any variances granted by the Zoning Board of Appeals pursuant to the provisions of this section shall be construed to be a non-conforming use.

C. GENERAL STANDARDS:

- (1) Use Variances. NO use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that APPLICABLE ZONING REGULATIONS AND RESTRICTIONS HAVE CAUSED UNNECESSARY HARDSHIP. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (a) The applicant cannot realize a reasonable return, provided that 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 or neighborhood.
 - (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.
- (2) Area Variance. In making its determination on an application for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider whether:
- (a) 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 area variance.
 - (b) The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
 - (c) The requested area variance is substantial.
 - (d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - (e) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board but shall not necessarily preclude the granting of the area variance.
- (3) In granting use or area variances, the Board shall grant the MINIMUM VARIANCE that it shall deem necessary and adequate and at the same time reserve and protect the character of the neighborhood and the health, safety and welfare of the community.

VILLAGE OF WALDEN
ZONING BOARD OF APPEALS
USE VARIANCE APPLICATION

ENCLOSED HEREWITH:

- _____ Application
- _____ Disclosure Addendum Statement
- _____ Environmental Assessment Form
- _____ Affidavit of Regularity (Proof of Mailings)

YOU SHOULD DO AND OBTAIN THE FOLLOWING INFORMATION THAT IS TO BE ATTACHED TO THE APPLICATION:

- _____ Property Deed
- _____ Portion of Tax Map on which property has been outlined in red.
- _____ Notice of Refusal of the Building Inspector from which this appeal is taken.
- _____ Drawing to scale or survey showing present and proposed conditions if relief is granted.
- _____ List of address of all property owners abutting the applicant property within 300 feet. This list can be obtained from the Town of Montgomery Assessor's Office, 845-457-2650.

FEES:

- _____ Application Fee \$200.00
- _____ Escrow fee to be paid at time application is submitted \$450.00

VILLAGE OF WALDEN
Zoning Board of Appeals
Use Variance Application

Date _____

Applicant _____
(Name)

(Address)

Owner _____
(If other than Applicant)

Address

Section _____ Block _____ Lot _____

Zoning District _____

The above described property was acquired by the applicant on _____

Zoning Code Sections _____ Subject Matter of Section _____

1. _____
2. _____

Applicant requests the following changes:

The Zoning Law Requires _____ I desire to do _____

1. _____
2. _____

Reason for Request:

(A) Explain briefly why grant of the requested variance will not (1) change the nature of the neighborhood and (2) be detrimental to neighboring properties:

(B) Explain briefly (1) why a variance is the only feasible means for achieving the benefit sought by this project and (2) why the variance requested is the MINIMUM variance necessary.

(C) State whether the variance sought is large in size. If so, set forth any mitigating circumstances.

(D) State whether the project is anticipated to have any adverse physical or environmental impacts on the neighborhood.

(E) Explain briefly why the difficulty in complying with applicable zoning has not been self-created.

This property has (has not) been the subject of a previous appeal. If applicable, attach a copy of the Decision in that previous matter.

Enclosed is my non-refundable fee of \$ _____, which I realize must be paid at the time my application is submitted or it will not be processed.

Received on _____, 20__

By: _____

Signature of Applicant

STATE OF NEW YORK
COUNTY OF ORANGE

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

Notary Public

PROXY

_____, being duly sworn, deposes and says:
He/She resides at _____, in the County of _____,
and the State of _____, and that he/she is the owner in fee of _____,
_____ which is the premises described in the foregoing application and
that he/she has authorized _____ to make the foregoing application
as described therein.

Owner's Signature

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

Notary

DISCLOSURE ADDENDUM STATEMENT TO APPLICATION, PETITION AND REQUEST

Mindful of the provisions of Section 809 of the General Municipal Law of the State of New York, and of New York, and of the Penal provisions thereof as well, the undersigned applicant states that no State Officer, Officer or Employee of this municipality, or of the Town or County of which it is a part, has any interest, financial or otherwise, in this application or with, or in the applicant as defined in said Statute, except the following person or persons who is or are represented to have only the following type of interest, in the nature and to the extent hereinafter indicated:

- None
- Names: Address: Relationship or interest (financial or otherwise):

This disclosure addendum statement is annexed to and made a part of the petition, application and request made by the undersigned applicant to the following Board of Officer or Political Subdivision of the Municipality.

- (Village) (Town Board)
- Zoning Board of Appeals
- Building Inspector
- Planning Board
- Zoning Enforcement Officer
- Other

Individual Applicant

Corporate or Partnership Applicant

By: _____
(Pres.) (Partner) (Vice-Pres.) (Sec.) (Treas.)

GENERAL MUNICIPAL LAW OF THE STATE OF NEW YORK

"Section 809. Disclosure in certain applications:

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 purpose 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:

- (a) is the applicant, or
- (b) is an officer, director, partner or employee of the applicant, or
- (c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
- (d) is a part 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. 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.

4. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor."

617.20
Appendix B
Short Environmental Assessment Form

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	YES
			<input type="checkbox"/>	<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	YES
			<input type="checkbox"/>	<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				

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)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. 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"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: _____		Date: _____
Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

PRINT