

ZONING BOARD OF APPEALS

Town of Wawayanda, New York

Procedure

The following steps **MUST** be followed:

1. The applicant must fill out this application in its entirety. This includes the EAF (Environmental Assessment Form) which **MUST** be completed on the NYS website <https://gisservices.dec.ny.gov/eafmapper/>
2. Submit nine **9 Collated Copies** of the following with the appropriate **Application Fees** to the Zoning Board of Appeals Secretary fourteen (14) days prior to the meeting date. The submission will include:
 - Cover Letter – Clearly stating your request and hardship.
 - Referral letter from Code Enforcement Office or Planning Board, whichever is applicable
 - Completed Application
 - EAF completed from the NYS website <https://gisservices.dec.ny.gov/eafmapper/>
 - Site Plan
3. A public hearing on the granting of the Variance or Special Permit by the Zoning Board of Appeals must be held by the Zoning Board of Appeals.
4. If you choose to proceed to the public hearing, additional fees are required, and **MUST** be paid as escrow. This includes, but is not limited to: Public Hearing Fee, Mailing List Fee, Publication Fee, Attorney Fee, etc.
5. The public hearing will be held at a regular monthly meeting of the Zoning Board of Appeals.
6. The applicant must notify all property owners within **500 feet** of the perimeter of the property. The notice is given by mailing a copy of the Public Hearing Notice by registered mail, certified return receipt, to those property owners at least ten (10) days prior to the hearing date. (The Mailing List and Public Hearing Notice will be provided by the Zoning Board of Appeals Secretary.)
7. The Secretary of the Zoning Board of Appeals will submit the notice to the Times Herald Record for publication in the Legal Advertisements at least ten (10) days before the hearing date.
8. At the public hearing, the applicant will be required to hand to the Secretary of the Zoning Board of Appeals the registered mail receipts, including all return receipts. The public hearing cannot take place if the applicant fails to provide proof of mailing.

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Fee Schedule

ZBA Application Fees (not refundable):

Area Variance	\$200.00 – Residential	\$400.00 – Commercial
Use Variance	\$400.00 – Residential	\$400.00 – Commercial
Interpretation	\$200.00 – Residential	\$400.00 – Commercial

All other fees are to be billed separately as escrow. This includes, but is not limited to:

Session Fee:	\$75.00 per session (1 st Session included in Application Fee)
Public Hearing Fee:	\$150.00 (Session Fee included)
Publication Times Herald Record:	As invoiced by Times Herald Record (Gannett)
Mailing List:	\$30.00 per page (Max 30 per page) Adjoining Properties/Parcels within 500ft.
Extension Fee:	\$25.00 Residential \$50.00 Commercial
Attorney Fee:	As invoiced by Zoning or Town Attorney
Engineer Review Fee:	As Invoiced by the Town Engineer

All application fees including escrow for must be paid with the submission of the ZBA Application. Checks must be payable to **Town of Wawayanda - Zoning Board of Appeals**. The Application portion of the fee schedule is NOT returnable.

***** All Fees must be Paid in Full prior to release of Variance Resolution. *****

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Determination Criteria

As defined by the State of New York,

AREA VARIANCE CRITERIA

In making its determination, 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 also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance;
2. Whether the benefit can be achieved by some method feasible for the applicant to pursue, other than an area variance;
3. Whether the requested area variance is substantial;
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
5. 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 area variance.

USE VARIANCE CRITERIA

No such variance shall be granted by a Board of Appeals without 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 of Appeals that for each permitted use under the zoning regulations for the particular district where the property is located, that

1. The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in questions is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship had not been self-created.

The Board of Appeals in granting of use variances shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

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Appearance Application

Date _____ Telephone _____ Email _____

Name _____

Address _____

****AN APPEAL IS MADE HEREWITH FOR:**

- () An Interpretation of the Zone ordinance or Map.
- () A Variance to the provisions of the Zoning Ordinance or Map.
- () A Special Permit in accordance with the provisions of the zoning ordinance.
- () An extension to a Special Permit

Location of Property: _____

Section _____ Block _____ Lot (s) _____ Zone _____

Hereby Appeal from the decision of the _____ of the Town of Wawayanda, State of New York.

Dated _____

****Is property within 500 feet of County or State Highway, County or State property or boundary of another Municipality, Agriculture District:**

YES _____ NO _____

If so, application will be subject to county review.

****Provisions of the Zoning Ordinance Appealed. State Article, Section and Paragraph**

**** Signature of person making application:**

_____ Date _____

**** Signature of property owner/entity:**

_____ Date _____

(Owner signature **MUST** be notarized)

_____ Date _____

Notary Public

ZONING BOARD OF APPEALS

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Owner Endorsement

COUNTY OF ORANGE
STATE OF NEW YORK

_____ being duly sworn, deposes and says that he resides at
(Owner/Authorized Individual)

_____ in the Town of _____ and State of _____

and that he/she is the Owner or Authorized Officer of the premises described in the foregoing
application and that he has authorized _____

to make the foregoing application to the Zoning Board of Appeals of the Town of Wawayanda in
the State of New York, described herein.

Print Name - Owner/Authorized Individual

Signature - Owner/Authorized Individual

Sworn before me this _____ day of _____ 20____

Notary Public

All entities, Corporations, Limited Liability Corporations (LLC), and Partnerships, must provide on company letterhead all owners (greater than 10% ownership) and officers authorized to endorse the above and attached application as certified and sealed by the Secretary of the entity.

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Site Inspection Authorization

I, _____ hereby give my permission to:
(Owner/Authorized Individual)

Members of the Zoning Board of Appeals of the Town of Wawayanda, and its consultants, including Attorney of the Zoning Board of Appeals of the Town of Wawayanda, Engineer of the Town of Wawayanda, and any of their agents and/or assigns to enter upon my property located at:

_____ in the Town of Wawayanda, County of Orange,

State of New York designated on the Tax Map of the Town of Wawayanda as:

Section _____ Block _____ Lot _____ Zone _____

in order to personally inspect said premises in order to evaluate the Zoning Board of Appeals

Application for _____ affecting the said premises.

Print Name - Owner/Authorized Individual

Signature - Owner/Authorized Individual