

Town of Wawarsing
Po Box 671 * 108 Canal Street * Ellenville, NY 12428
(845) 647-7800 Ext. 5

REQUIREMENTS FOR AN APPEAL TO TOWN OF WAWARSING ZONING BOARD OF APPEALS

The Zoning Board of Appeals meets on the 2nd Tuesday of each month at 7:00 PM and applications must be received by the 3rd Tuesday of the prior month. This is to insure correct timing for Publication and Submission to the Ulster County Planning Board.

A Filing Fee in accordance with the fee schedule established by the Town Board is required (*a check made out to the **Town of Wawarsing in the amount \$250.00***). **SEE ATTACHED REGARDING ADDITIONAL ATTORNEY FEES PER SECTIONS 112-70**

Zoning Board of Appeals will do a Site Inspection of the property.

Required submittals (*provide the following physical documents and a digital copy*):

1. **Letter of Denial** from the Wawarsing Code Enforcement Officer (*an original and 9 copies, if applicable*)
2. **Completed Application Form** and any supplemental attachments (*an original and 9 copies signed and notarized*)

NOTE: Every application must include the specific provision of the Wawarsing Code that is involved, and precisely set forth either the interpretation that is claimed, or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted; the Town of Wawarsing Code is available for inspection at the Building Department office in Town Hall and is available on-line at <https://www.ecode360.com/12271281>

3. **Owner's Authorization for Agent** if applicable (*an original and 9 copies signed and notarized*)
4. **Owner's Authorization Allowing Access** (*an original and 9 copies signed and notarized*)
5. **Short Form Environmental Assessment Form. Part 1 completed.** (*an original and 9 copies*)
The Zoning Board of Appeals reserves the right to require the applicant to provide a Long Form Environmental Form.

6. Copy of **current land survey or site plan** prepared by a licensed land surveyor or professional engineer/architect. *(9 copies of applicable section(s))*
*The survey accompanying any application for an **area variance** from a dimensional requirement established by the Wawarsing Code must show the minimum setback or other requirement set forth in the Wawarsing Code and the setback or other requirement that would apply if the requested area variance were granted.*

The ZBA may request additional maps and information (such as the NYSDEC EAF mapping tool) showing the existing conditions or site plan, including site topography, existing development and significant natural features, such as wetlands and stream courses, etc.

7. Section of **tax map** with subject property highlighted (get copy from Assessor's Office) *(9 copies)*.
8. USGS Map (get copy from Building Department) **9 copies**
9. Zoning Map (get copy from Building Department) **9 copies**
10. Written **description of proposal** *(9 copies)*.
11. If a **public hearing** is scheduled provide a list of the property owners names and addresses for all properties within 500' of the subject property boundary line along with stamped and addressed legal size envelopes with no return address for each owner (get addresses from the Assessors office) or on Ulster County Parcel Viewer.

Recommended Supplements to Application:
(9 copies of each)

1. **Building Plans** including floor plans and elevation views
 2. **Photographs** showing the proposed area and proposed project; photographs can be virtual, downloaded from the internet showing, for example, a building similar to the one proposed
 3. Any **technical reports** (archaeology, traffic, wetlands, storm water management, etc.) if available
 4. **Letters** from adjoining property owners
 5. Any additional information pertinent to the request.
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APPLICATION FOR AN APPEAL TO THE ZONING BOARD OF APPEALS

Application Date: _____ . Appeal #: _____
Tax Map # _____

Application for (check all that apply): ☐ Interpretation ☐ Area Variance ☐ Use Variance

1. (If applicable) Application denied by Code Enforcement Officer on _____,
20____. (Attach copy of denial letter.)

2. Applicant's Name: _____
Applicant's Mailing Address _____
Applicant's Phone Number _____
Applicant's email address _____

3. Owner of Property (if different) _____
Owner's Mailing Address _____
Owner's Phone Number _____
Owner's email address _____

4. Property Location _____
Tax Map # _____ Zoning District _____

5. Request relates to the following provision(s) of the Town of Wawarsing Zoning Code:
(The Code provisions should be listed in the Code Enforcement Officer's denial letter. List all
that apply. Attach additional sheet if necessary.)

Article: _____ Section: _____ Subsection: _____

Article: _____ Section: _____ Subsection: _____

Appendix: _____ Requirement: _____

Appendix: _____ Requirement: _____

6. Describe the proposed project and the nature of the interpretation(s), and/or variance(s) being sought. Tell us what it is you want to do and explain how the Wawarsing Code prevents you from doing it. Describe alternatives you have considered with respect to size, placement, materials, etc., and explain why you believe relief from the Zoning Board of Appeals is necessary and justified. (*Attach additional pages as necessary.*)

7. Has any application for any other permit(s) affecting the property been submitted to and/or issued by any other government agency? ☐ No ☐ Yes. If yes, please list in detail (*attach separate pages if necessary*):

8. Have there been any previous appeals to the ZBA seeking the same or similar relief as requested here? If so, when, and what determination was made by the ZBA? (*attach separate pages if necessary*)

Appeal #: _____ Date: _____
Appeal #: _____ Date: _____

9. If an interpretation of the Town of Wawarsing Zoning Code is being requested provide the Code Section in question and attach a copy of the Code Enforcement Officers findings. Attach a separate sheet outlining in detail your justification for disagreeing with the decision.

I, the undersigned, am the Owner, or their Authorized Agent.

Applicant signature

Date

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

Notary Public _____

APPLICATION FOR AREA VARIANCE ONLY

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 of Appeals shall also consider:

PLEASE ANSWER THE FOLLOWING (*Attach additional pages as necessary and use a separate sheet for each variance requested*):

Will there be any undesirable change in the character of the neighborhood, or a detriment to nearby properties if this variance is granted? If yes, please describe. If not, why not?

Can you achieve your goals via a reasonable alternative which does not involve the necessity of an area variance? If yes, please describe. If not, why not?

Is the variance substantial? Please explain the basis for your conclusion.

Will the variance have any adverse impact on physical or environmental conditions in the neighborhood or district? If yes, please describe. If not, why not?

Is this a self-created difficulty? Please explain your answer.

APPLICANT (*please sign*): _____

USE VARIANCE APPLICATION ONLY

An applicant for a Use Variance must prove that the applicable zoning regulations and restrictions have caused "unnecessary hardship." By law, in order to prove "unnecessary hardship," the Applicant must demonstrate that **four tests** are met for each and every permitted use under the zoning regulations for the particular district where the property is located. The Zoning Board of Appeals is not authorized to issue a Use Variance unless it finds that **each** of the four tests is proved. The four tests are described below. After each description is a space for you to demonstrate how you meet the test. Please be specific as to the kind of proof you intend to provide. (*Use extra sheets as needed.*)

1. Test # 1: Deprivation of "Economic Use of Benefit"/Reasonable Return

The applicant cannot realize a reasonable return, provided that the lack of return is substantial as demonstrated by competent financial evidence.

2. Test # 2: Uniqueness

The alleged hardship relating to the property is unique, and does not apply to a substantial portion of the district or neighborhood.

3. Test # 3: Character of the Neighborhood

The requested use variance, if granted, will not alter the essential character of the neighborhood.

4. Test #4: Self-Created Hardship

The alleged hardship has not been self-created.

APPLICANT (*please sign*): _____

OWNER AUTHORIZATION ALLOWING ACCESS

I, _____ deposes and says that
OWNER

He/she resides at _____ in the County
OWNER ADDRESS

of _____ and the State of _____ and he/she

is the owner of property tax map number:

Section _____ Block _____ Lot _____

Located at _____ in the Town of Wawarsing which is the
Premises described in the foregoing application and that he/she

is granting permission to the Zoning Board of Appeals members and/or Zoning Board of
Appeals agents to

be able to access the property that pertains to the application during the review process

Applicant Signature

Date

Sworn to before me

This _____ Day of _____, 20____

Notary Public

OWNER AUTHORIZATION FOR AGENT

I, _____
OWNER

residing at _____
OWNER ADDRESS

being the owner of the premises _____
PROPERTY LOCATION

also known as Ulster County Tax Map # _____
TAX MAP

hereby authorize _____
AGENT

whose mailing address is _____
AGENT ADDRESS

to appear before the Zoning Board of Appeals of the Town of Wawarsing, and to file any documents required with reference to my application for

I hereby agree to allow my agent, whose name appears above, to act on my behalf and I further agree to abide by any requirements imposed by this Board as a condition of their approval.

_____ Date _____
OWNER SIGNATURE

Sworn to before me
This _____ Day of _____, 20____

Notary Public

Town of Wawarsing Zoning Law

§ 112-69. Violations and penalties.

- A. Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Code Enforcement Official, who shall properly record such complaint and immediately investigate and report thereon to the Town Board. Nothing herein shall, however, restrict the right of the Code Enforcement Official to act on a violation absent a complaint.
- B. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this chapter, the Town Board or the Code Enforcement Official, in addition to other remedies, may institute an appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- C. The Town Board shall be responsible for directing enforcement of this chapter for any enforcement action which is not within the jurisdiction of the Town Justice Court.
- D. Should any building or structure be erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land be used in violation of this chapter, the Town Board or the Code Enforcement Official, in addition to other remedies, may institute an appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- E. A violation of this chapter is hereby declared to be an offense punishable by a fine not exceeding \$350; for conviction of a second offense, punishable by a fine of not less than \$350 nor more than \$700; and, upon conviction for a third or subsequent

offense, punishable by a fine not less than \$700 nor more than \$1,000. Each day's continued violation shall constitute a separate additional violation.

- F. The Code Enforcement Official or acting Code Enforcement Official, as the case may be, is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this chapter or any related laws of the Town of Wawarsing.

§ 112-70. Fees.

- A. All application fees for special use permits, variances, site plans, subdivisions and other matters or land use, planning and development which are brought before any agent or agency of the Town of Wawarsing shall be in accordance with a table of fees for licenses and permits, which table shall be created by resolution of the Town Board with assistance of the Planning Board and shall be maintained on a current basis and from time to time modified or updated upon recommendation of the Planning Board or upon initiation by the Town Board.
 - B. Professional fees; deposits for services.
 - (1) The Town Board, the Planning Board, the Zoning Board of Appeals and the Building Department are empowered to charge an applicant the reasonable and necessary expenses for professional fees incurred by any of those boards or the Building Department as a result of professional work required to be performed on behalf of any of said boards or the Building Department as a result of the filing of an application seeking approval by that board or the Building Department. For the purpose of this § 112-70, professionals shall include but not be limited to engineers, attorneys, planning consultants, architects, traffic consultants and noise consultants.
 - (2) Simultaneously with the filing of an application for approval of a development and prior to the commencement of the review of the application, the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in Subsection B(9), which sum shall be used to pay the costs incurred by the Town for engineering and legal services as described in this section.
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- (3) Upon receipt of such sums, the Town Supervisor shall cause such monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep a separate record of all such monies so deposited and the name of the applicant or developer and project for which such sums were deposited.
 - (4) Upon receipt and approval by the Town Board of itemized vouchers from a professional for services rendered on behalf of the Town pertaining to the application, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant or developer at the same time such vouchers are submitted to the Town.
 - (5) The Town Board shall review and audit all such vouchers and shall approve payment of only such professional fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of the application. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by professionals to the Town for services performed in connection with the approval or construction of a similar application, and in this regard the Town Board may take into consideration the magnitude of the application and any special conditions or considerations as the Town Board may deem relevant.
 - (6) If at any time during or after the processing of such application or in the construction, inspection or acceptance of the proposed project there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses or anticipated expenses.
 - (7) In the event that the applicant or developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify, as applicable, the Chairman of the Planning Board or Zoning Board of Appeals, Town Board and/or Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate board, officer or employee of the Town until such monies are deposited.
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- (8) After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific application, and after payment of all approved vouchers submitted regarding such development, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.
 - (9) The amount of the initial deposit for the various developments covered by this section shall be as set forth in a schedule of deposits established from time to time by resolution of the Town Board. Said schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution.
 - (10) The deposits required by this section shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, and shall not be used to offset the Town's general expenses for professional services for the several boards of the Town, nor its general administration expenses.
 - (11) All monies collected by the Town of Wawarsing Building Department shall be in the form of check, money order, cashier's check, etc. Cash payments are not allowed.
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