



TOWN OF YORK
2668 Main Street, P O Box 187, York, NY 14592-0187
Tel: (585) 243-3128 Fax: (585) 243-4618
TTY NY: (800) 662-1220

Zoning Board of Appeals (ZBA) Application

Project Name: Lyness Division
Applicant Name: Benjamin Lyness

- 1. Type of Request.** Check the type of request you are applying for and complete the indicated sections of this application. If you are uncertain which request you are applying for, consult with the Town of York Code Enforcement Officer or the Town of York Zoning Clerk.

☒ All requests	Request Type	Complete All Required Sections
	Appeal and/or Interpretation	1, 2, 3, 4, 5, 6
☒	Area Variance	1, 2, 3, 4, 5, 7
	Use Variance	1, 2, 3, 4, 5, 8

All use variances and area variances (except those involving single-family and two-family dwellings), (Check with Code Enforcement Office to see which form is needed) **SEQR:** [State Environmental Quality Review Act \(SEQR\) Forms - NYS Dept. of Environmental Conservation](#)

All use and area within 500' of agriculture: If the proposed activity will be on property within an agricultural district containing a farm operation or on property with boundaries within 500 ft. of a farm operation located within an agricultural district, then an ag data statement must be completed. Check with Town Assessor for property owners to be listed on the form.
[NEW Copy of Agricultural Data Statement 002 .pdf \(yorkny.org\)](#)

Notice to Applicant: By law, the application or amendment must be referred to the County Planning Board if it applies to real property within 500 feet of: A municipal boundary, The right-of-way of any state or county road, A state or county park or recreation area (existing or proposed), State or county land on which a public building or institution is located, A farm operation within an agricultural district as defined by Article 25-AA of the New York State Agriculture and Markets Law, Existing or proposed right-of-way of any county stream or drainage channel. [Referral Trigger Map](#)

Requests will also require a public hearing seeking comments from the public on the requested variance.

Please describe your request, in general:

Dividing current lot to create a building lot creates a
more non conforming lot



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2. Identification.

Project Name Lyness Division
Applicant Name Benjamin Lyness
Address 2457 Dow Rd
Town Piffard State NY Zip 14533
Phone (585) 733 - 8991 Fax() -
Email benjamin Lyness@gmail.com
Property Owner (If other than applicant) Geraldine Lyness
Address 2461 Dow Rd
Town Piffard State NY Zip 14533
Phone (585) 746 - 3374 Fax() -
Email

3. Property Information.

Property Street Address 2461 Dow Rd Piffard NY 14533
Permanent Parcel Number 50.-1-23.1
Legal Description of Property Lot 2 of tax account no. 50.-1-23.1

Zoning District Agric Agricultural
Area 5.665 acres Width 250 Depth 987.12
Current Use(s) Farm Field
Zoning District of Adjacent Properties to the:
North Agricultural South Agricultural East Agricultural West Agricultural

4. Prior Requests.

- a. Have you ever requested ZBA relief for this property? Yes ___ No X

If yes, please provide the following information:

Date of Hearing _____

Relief Requested _____

Result _____

- b. Are there any existing variances for this property? Yes ___ No X

If yes, please provide the following information:

Date of Hearing _____

Relief Requested _____

Result _____



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5. Application Procedure. The following check list includes all documents required for the Town of York Code Enforcement Officer or Zoning Clerk to begin the ZBA process.

NOTE: Partial sets will not be accepted for submittal.

- ☐ **Application Form and Fees.** A completed application form and the application fee are required with the initial submittal.
- ☐ **SEQR Short Environmental Assessment Form.** A completed Short EAF is required for all Use Variance applications and for Area Variance applications related to properties other than single-family and two-family dwelling properties.
- ☐ **Proof of Ownership.** Current proof of ownership of the property to utilized or contractual ability to acquire such land. If applicant is a tenant or agent of owner, then proof of ownership and written permission of owner for applicant to apply for zoning relief. Copy of Tax bill is not proof of ownership.
- ☐ **Response to Criteria.** A completed, detailed written response to the review criteria referenced in section 1 and described in section 6, 7, and 8.
- ☐ **Copies.** At the time of submittal, a complete electronic file of the site plan, landscape plan, elevation drawing, color renderings, complete checklist and application documents must be emailed to planningzoningclerk@yorkny.org. This will then be forwarded to the zoning board.

NOTE: The applicant and property owner will be notified when the application will be heard at a scheduled hearing.

I, Benjamin Lyness (applicant), do hereby swear that the information given herein is true and correct.

I, Geraldine Lyness (property owner), do hereby give permission for Town of York officials, staff, and consultants to go on the property for which the above referenced site plan is proposed for purposes of verifying information provided on the submitted application.

Benjamin Lyness 3/6/24
Signature of Applicant Date

Benjamin Lyness
Printed Name of Applicant

Geraldine Lyness
Signature of Property Owner (If different) Date

Geraldine Lyness
Printed Name of Property Owner (If different)



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6. Criteria for APPEALS / INTERPRETATION.

Appeals: The Zoning Board of Appeals, upon application, shall hear and decide appeals from, and review orders, requirements, decisions, or determinations, including any order requiring an alleged violator to stop, cease and desist, made by the Code Enforcement Officer in the enforcement of the Zoning Ordinance of the Town of York. An appeal must be initiated within sixty (60) days after the filing of such order, requirement, decision, interpretation or determination by the Code Enforcement Officer. The Board must find that the original decision was one or more of the following:

- a. Arbitrary and capricious.
- b. Based on an erroneous finding or a material fact.
- c. Constituted an abuse of discretion.
- d. Was based upon erroneous interpretation of the zoning code or zoning law.

Interpretations: Upon appeal from a decision by an administrative official, or upon request from the Code Enforcement Officer or any other duly constituted Board of the Town, to decide any question involving the interpretation of any provision of the Zoning Ordinance of the Town of York, including determining of the exact location of any district boundary if there is uncertainty with respect hereto.

For an appeal, please describe what determination you are appealing from and your position with regard to such determination, describing how your appeal meets one or more of the above criteria. For an interpretation, please describe that part of the Zoning Ordinance or local law you are seeking an interpretation of. :



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7. Criteria for AREA Variances. The ZBA may grant an area variance only upon a finding that a practical difficulty exists. Please respond to the following statements.

- a. **Public Safety and Welfare.** Will the granting of a variance create an undesirable change to the character of the neighborhood or be a detriment to nearby properties?

No just adds a single residence lot

- b. **Alternate Options.** Can the benefit sought by the applicant be achieved by some other method, feasible for the applicant to pursue, other than an area variance?

No due to road frontage restrictions size of added lot could be changed if need be

- c. **The degree of variance.** Is the requested area variance substantial?

No just adding a 5.665 acre lot for use of a single family building lot

- d. **Level of effect.** Will the requested variance have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

No just adding another lot to build a home

- e. **Not Self-Created.** Is the alleged difficulty self-created?

No the shape of lot and ~~road~~ lack of road frontage caused the difficulty

The ZBA, in granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate 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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8. Criteria for USE Variances. A Use variance is issued to permit a use that is otherwise not permitted in the existing zoning district. The ZBA may only grant a use variance upon a showing by the applicant that applicable zoning regulations and restrictions have caused an unnecessary hardship. Please respond with regard to the following criteria. In addition, a use variance request shall include a plot plan drawn to scale detailing the specific use and improvements proposed by the applicant. The applicant must demonstrate all the following criteria to obtain a use variance.

a. Unreasonable Current Zoning Designation. Describe how the applicant, without a use variance, cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence. Can the property be reasonably used for any purpose permitted in the zoning district without the use variance?

b. Unique Circumstances. Describe how the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. What are the circumstances or conditions peculiar to the subject property that are not generally applicable in the area or to other properties in the same zoning district?

c. Character of the Area. Describe how granting of the requested use variance will not alter the essential character of the neighborhood. Take into consideration the established type and pattern of land uses in the area as well as the natural characteristics of the site and surrounding area when evaluating this criteria.

d. Not Self-Created. Describe how the alleged hardship has not been self-created. Are there special conditions or circumstances related to subject property that make the variance request necessary and which have not been created by or resulted from the actions of the applicant or the applicant's predecessors?

The ZBA, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.