

APPLICATION FOR ZONING BOARD OF APPEALS

VILLAGE OF DANNEMORA

Attention: ZONING BOARD OF APPEALS

40 Emmons Street PO BOX 566 Dannemora, NY 12929

Phone # 518-492-7000

Fax # 518-492-7548

- 1. Applicants must complete the enclosed application forms.**
- 2. Applicants must include a list of names and addresses in letter format of all property owners within (100) one hundred feet of the exterior boundaries of the property(s) involved in the zoning appeal.**
- 3. Applicants must include a map drawn to scale of the property in question, which must display location and sizes of all existing and proposed structures and accessory structures, lot lines of property, distance of structures to lot lines of property, approximate location of any roads or streams within (100) one hundred feet of the property, and any other aspects of the property which might impact the available space for development on the property (such as location of rock outcroppings, high-power electric lines, etc.)**
- 4. Applicants must include a copy of the tax map, which displays the property in question, along with surrounding properties. An 8.5 X 11-inch photocopy of the area is appropriate.**

ZONING BOARD OF APPEALS

VILLAGE OF DANNEMORA

40 EMMONS STREET P.O. BOX 566 DANNEMORA, NY 12929-0566

PHONE: 518-492-7000 FAX: 518-492-7548

APPLICATION FEE: _____

DATE PAID: _____

APPEAL #: _____

PARCEL I.D. #: _____

APPLICATION TO THE ZONING BOARD OF APPEALS

NAME: _____

MAILING ADDRESS: _____

PROPERTY ADDRESS: _____

PHONE #: _____

I (WE) HERBY APPEAL TO THE ZONING BOARD OF APPEALS TO REVIEW THE DECISION OF THE

_____ PLANNING BOARD _____ ZONING OFFICER ON OUR APPLICATION FOR A _____

(DESCRIBE APPLICATION), DATED _____, 20____.

1. LOCATION OF PROPERTY (STREET NAME & DISTANCE TO INTERSECTION) _____

2. ZONING DISTRICT: _____

3. APPEAL MADE HEREWITH FOR:

AREA VARIANCE _____

USE VARIANCE _____

CONDITIONAL USE PERMIT OR SPECIAL PERMIT _____

INTERPRETATION OF ZONING LAW/MAP _____

APPEAL FROM DECISION OF ZONING ENFORCEMENT OFFICER _____

OTHER (SPECIFY IN DETAIL) _____

4. A PREVIOUS APPEAL _____ HAS _____ HAS NOT BEEN FILED WITH RESPECT TO THE DECISION OF THE ZONING OFFICER/PLANNING BOARD OR WITH RESPECT TO THE PROPERTY. SUCH APPEAL WAS IN FORM OF _____ A VARIANCE _____ CONDITIONAL USE/SPECIAL PERMIT _____ INTERPRETATION OF ZONING LAW _____ APPEAL OF DECISION OF ZONING OFFICER _____ OTHER (SPECIFY IN DETAIL) _____

5. Please describe below in detail the reason for the appeal (use extra sheets if necessary). If the appeal is for an area of use variance, you must address each element of the tests set forth on pages 4 & 5 for an area variance and page 5 for a use variance.

One of the basic powers given by the law to a zoning board of appeals is called the “variance” power. The board has the authority to “vary” or modify, the strict letter of a zoning ordinance or local law in cases where this strict interpretation could cause practical difficulties or unnecessary hardships for an individual.

Appeals boards are frequently confronted with requests for variances. There are two types of requests that come before the board, and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance, and the applicant must demonstrate “unnecessary hardship.” An area variance is a request for relief from dimensional standards contained in the zoning ordinance, and it requires a demonstration of “practical difficulty.”

The basic standards for determining unnecessary hardship and practical difficulty have been established and refined by the courts in numerous cases.

AREA VARIANCE

First the applicant must demonstrate that the application of the zoning ordinance to his personal property causes practical difficulty. The practical difficulty cannot be assessed until the applicant proves the matter of significant economic injury to his property if the permit is denied.

In the case of an area variance, the applicant is seeking modifications of dimensional standard’s such as yard requirements, set-back lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning ordinance. The appeals board may grant relief if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty is a three-step process.

1. First, the applicant must demonstrate that the application of the zoning ordinance to his property causes significant economic injury.
2. Can the applicant prove that there is not a potential effect on increased services by municipal or county and state facilities and services. An example of this would be the fire department services, school services and to include school bus services.
3. Last, assuming the municipality has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety, or welfare of the community and that granting the variance will not adversely affect the community.

In making the determination of practical difficulty, the appeals board may consider:

1. How substantial the variation is in relation to the requirement;
2. The potential effect of increased density on available municipal, county and state facilities and services;
3. Whether the variance will cause a substantial change in the character of the neighborhood;
4. Whether the difficulty can feasibly be mitigated by some other method; or
5. Whether the interest of justice will be served in granting the variance.

The appeals board should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for the area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty.

USE VARIANCE

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An applicant for a use variance must demonstrate unnecessary hardship by satisfying EACH of the following three tests: ALL THESE ITEMS MUST BE SATISFIED.

1. Uniqueness

The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone AND that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district, a variance should not be granted. In those situations where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.

2. Reasonable Return

The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be "dollars and cents" proof of the applicant's inability to realize reasonable return; speculation or qualitative assessment is inadequate. Failure to realize the highest return is not considered a hardship.

3. Character

The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the "spirit" of the ordinance or local law should be preserved.

The applicant for a use of variance must meet all three tests before the appeals board may grant relief. A use variance should not be granted if the "unnecessary hardship" was created by the applicant. If the appeals board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

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.

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?			NO
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.			YES
			☐
			☐
2. Does the proposed action require a permit, approval or funding from any other government Agency?			NO
If Yes, list agency(s) name and permit or approval:			YES
			☐
			☐
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 _____ acres			
or controlled by the applicant or project sponsor?			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban)			
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other(Specify):			
☐ 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 ☐ ☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☐	
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 ☐	
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 ☐ ☐ ☐	
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 ☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____ _____	NO ☐	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____ _____	NO ☐	YES ☐	
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 ☐ ☐	
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 ☐ ☐	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☐ 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
	☐	☐
16. Is the project site located in the 100-year flood plan?	NO	YES
	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	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:	☐	☐

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
	☐	☐

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
	☐	☐

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
	☐	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: _____ Date: _____ Signature: _____ Title: _____		