

ZONING BOARD OF APPEALS

Application for an Appeal

Appeal of a Code Enforcement Officer's zoning order, requirement, decision, interpretation or determination

Development Services | 137 Main Street, Penn Yan, NY 14527
(315) 531-8042 | codeofficer@townofmilo.com | townofmilony.gov

Filing deadline: File a notice of appeal stating the grounds and relief sought with **both the Code Enforcement Officer and the ZBA within 60 days after the challenged decision is filed**. Confirm the official filing date and keep proof of delivery to both. Meeting schedules and requests for additional information do not extend this deadline. See Town Law § 267-a(5).

1 Appellant, representative and property

Appellant / legal entity

Name

Mailing address, including city, state and ZIP

Telephone

Email

Property address subject to the appeal

Tax map parcel identification number(s)

Authorized representative, if any

Name

Mailing address, including city, state and ZIP

Telephone

Email

Zoning district

Property owner, if different from appellant

Capacity in which the appeal is filed (check one):

☐ Property owner

☐ Other aggrieved person

☐ Town officer / body

Explain your interest in the property and how the decision adversely affects you, or identify the Town office or body authorizing this appeal.

2 Decision being appealed

Decision / order / permit reference

Date issued

Official filing date

Office where the decision was filed

Attach a copy of the challenged decision and available proof of its official filing date. If the filing date is uncertain, promptly verify it with the Town; do not assume that a later receipt date starts the appeal period. Describe the decision, grounds and relief on page 2.

LAND USE APPLICATION

Grounds, relief and supporting documents

3 Written statement of appeal

Number each separate issue and identify the applicable Town Code chapter, section and subsection. Attach labeled continuation sheets when needed. This appeal concerns whether a decision correctly applies the law. A variance request requires the appropriate separate application.

A. Decision challenged: State what the Code Enforcement Officer decided and identify the specific part you dispute.

B. Grounds: Explain the claimed error in interpretation, why the cited provisions do not fully apply, or the proposed equal or better form of compliance. Cite the Code language, relevant facts and exhibits for each issue.

C. Relief requested: State precisely how the ZBA should reverse or modify the decision. Explain why that result is authorized by the existing law. A proposed alternative cannot require the ZBA to amend or waive the law.

4 Required application materials

- ☐ Completed application with signed affirmation and any continuation sheets
- ☐ Copy of the order, decision or determination being appealed
- ☐ Written grounds for each issue and the specific relief requested
- ☐ Relevant plans, photographs, correspondence and other supporting evidence
- ☐ Applicable filing fee and required review deposit
- ☐ Short or full Environmental Assessment Form, only if SEQRA review is required

Where relevant, support an equal or better form of compliance with evidence from qualified professionals. Identify each exhibit by title, date and preparer. Explain any inapplicable checklist item.

If required information is missing, the application will be deemed incomplete and will not proceed with approval. This completeness review does not extend or replace the statutory appeal-filing deadline.

SEQRA: Interpretation of an existing code, rule or regulation is a Type II action under 6 NYCRR § 617.5(c)(37), which does not require an EAF. A related project or other requested approval may require environmental review. The responsible agency determines the applicable classification.

LAND USE APPLICATION

Application terms and affirmation

5 Application terms and required disclosures

1 Scope of authority. The ZBA may affirm, reverse or modify the challenged zoning decision as authorized by law. It cannot amend the Town Code or Zoning Map or waive zoning requirements through this appeal. The decision must apply governing law to the record.

2 State requirements and separation distances. The Town of Milo, including the ZBA, cannot waive separation-distance requirements of the NYS Uniform Fire Prevention and Building Code. This zoning appeal does not authorize noncompliance with fire, building, well, septic or other applicable requirements. State-code relief must be obtained through the legally authorized process; Uniform Code variances follow 19 NYCRR Part 1205.

3 Stay of proceedings. Under Town Law § 267-a(6), an appeal stays proceedings in furtherance of the action appealed from. The exception applies when the Code Enforcement Officer certifies facts to the ZBA showing that a stay would cause imminent peril to life or property. In that event, a stay requires a restraining order from the ZBA or a court of record, on notice and due cause shown. An appeal is not permission to begin work.

4 Disclosure and accuracy. Attach the name, residence, and nature and extent of any known interest reportable under General Municipal Law § 809, where applicable, including covered interests through specified relatives or business relationships. A knowing and intentional violation is a misdemeanor. The appellant is responsible for accurate submissions; Town review does not guarantee detection of every error, hazard or violation.

5 Indemnification. To the extent permitted by law, the appellant agrees to indemnify and hold harmless the Town and its agents, servants and employees from claims, liability, loss or damage arising from review of this application; defend covered claims at the appellant's expense; and reimburse reasonable enforcement expenses, including attorney fees. This term does not expand an obligation beyond what applicable law permits.

6 Review costs and deposits. Applicants are jointly and severally responsible for administrative costs lawfully incurred under Chapter 191 and other applicable Code provisions, including reasonably necessary professional fees. Required deposits may be replenished and used only for project-related services. Unused deposits are returned after review; a final accounting is available on request. Refunds of filing fees and incurred costs are governed by applicable law; a successful appeal does not itself establish a refund entitlement.

7 Invoice review. Under § 191-13(E), a written request to the Town Clerk to review supporting invoices must be made within 20 business days after receipt of a reimbursement request; failure to request timely review waives that review right. Nonpayment is subject to remedies authorized by law.

8 Property access and other approvals. An appellant who owns or lawfully controls the subject property authorizes reasonable application-related inspections, subject to applicable law. A nonowner cannot authorize entry onto another person's land. A favorable appeal decision does not replace other required permits or approvals.

6 Affirmation under penalties of perjury

I am the appellant or am authorized to sign for the appellant identified on page 1. I authorize this filing, have reviewed this application and its attachments, and agree to the terms above. Any representative identified on page 1 may present this appeal and receive related information on my behalf; revocation must be provided to the Town in writing.

I affirm on the date entered below, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters stated on information and belief, and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

Printed name _____ Date _____

Signature _____ Title / capacity _____

One signature is required. For an owner-filed appeal, the owner or authorized entity signatory signs above. An eligible nonowner appellant signs in their own capacity; the subject property owner's signature is not required.

APPENDIX A | APPLICANT GUIDANCE

Guide to the zoning appeal process

A1 Identify the decision and your right to appeal

An appeal must concern an actual order, requirement, decision, interpretation or determination within the ZBA's jurisdiction. Town Law § 267-a permits an aggrieved person or a Town officer, department, board or bureau to appeal. A neighboring property owner may qualify, depending on the adverse effect of the decision. Explain your interest and provide facts supporting your right to appeal.

A2 File promptly with both required recipients

Under Town Law § 267-a(5), a notice specifying the grounds and relief sought must be filed with both the Code Enforcement Officer and the ZBA within 60 days after the administrative decision is officially filed. A conversation with staff or a request for a meeting does not replace filing. Confirm the official decision-filing date, deliver the required notice and retain dated evidence of receipt by both recipients.

A3 Match your evidence to the claimed error

For each issue, cite the precise Code language, explain the decision you dispute, identify the relevant facts and state the interpretation or result you seek. Use dated plans, photographs, measurements, permits, correspondence and qualified professional testimony when relevant. Explain why your reading follows the Code's text, definitions, purpose and applicable legal authority. Identify relevant prior interpretations and explain any factual differences.

A4 Understand the limits of this application

Milo §§ 350-154 and 350-155 recognize claims of incorrect interpretation, provisions that do not fully apply, or an equal or better form of compliance. Section 350-156 prohibits the ZBA from amending or waiving Code requirements through this appeal. If the requested outcome requires zoning relief rather than correction of an interpretation, use the applicable variance application. A zoning appeal cannot replace a State Uniform Code variance or another agency's required approval.

A5 Prepare for the public hearing

The ZBA schedules a public hearing, and required public notice is published at least five days before it. The appellant may appear personally or through an agent or attorney. Organize your presentation around the disputed issues and exhibits. Respond to questions with facts and identify supporting documents. Public support or opposition does not substitute for the legal and factual basis needed for a decision.

A6 Decision and effect

The ZBA may affirm, reverse or modify the appealed decision within its lawful authority. Town Law § 267-a generally requires a decision within 62 days after the hearing concludes, unless the appellant and ZBA mutually extend that period. The decision is filed with the Town Clerk within five business days after it is rendered, and a copy is mailed to the appellant. Read the written decision and obtain any remaining required approvals before proceeding.

References and source

Town Law § 267-a; § 267-b(1); Milo Code §§ 350-152 through 350-156; Chapter 191; 6 NYCRR § 617.5(c)(37). This appendix condenses and updates the appeal guidance included with the original application. Additional reading: NYS Department of State, [Guidelines for Applicants to the Zoning Board of Appeals](#).