

**Town Of Chester Zoning Board of Appeals
1786 Kings Highway, Chester, New York 10918
(845) 469-7000, ext. 338**

Board Members:

**Gregg Feigelson
Alyse Terhune**

**Chairman
Attorney – Law Office of Alyse D. Terhune, Esq.**

**Julie Bell
Dan Doellinger
Walter Popailo
Tom Atkins
Melissa Foote- Zoning/Planning Board Clerk**

Variances: Relief from the Town's Zoning Ordinance is granted by the Zoning Board of Appeals in accordance with NYS Town Law 267 and Town of Chester Zoning Law Section 98-36. The board of appeals shall, in the granting of variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community. The following criteria are used for the granting of variances.

FEES:

Residential Area Variance or Interpretation	\$175
Commercial/Industrial Variances	\$275
Use Variance	\$350
Mailing List	\$75 (first 25 names) \$ 1 (per name after 25)
Work Session	\$ 75 <u>each</u> work session (up to a half hour)

Requests for Interpretations

An interpretation is a request to interpret an order, requirement, decision, or determination made by an administrative official or a request by any official, board, or agency to decide any of the following questions:

- Determination of the meaning or requirement of any portion of the Town of Chester Zoning Laws.
- Determination of the exact location of any district boundary shown on the zoning map.

Area Variance

An Area Variance is a granting of relief from the dimensional requirements of the zoning ordinance. An area variance is heard where lot size, width, setbacks, number and size of structures, sign ordinances, etc. are involved.

An Area Variance application must address the balance between the benefit to the applicant versus the detriment to the health, safety and welfare of the neighborhood, should the variance be granted. The Zoning Board of Appeals must consider the following criteria when "balancing" the request for relief.

1. Will granting this variance produce an undesirable change in character or a detriment to the neighborhood?
2. Can the benefit sought by the applicant be gained by any other feasible alternatives?
3. Is the relief requested substantial to the Ordinance requirements?
4. Will the relief requested have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?
5. Is the relief requested a result of a self-created difficulty?

Use Variance

A Use Variance is a granting of relief to allow a use not otherwise allowed under the Zoning Ordinance.

A Use Variance application must demonstrate, to the Zoning Board of Appeals, an unnecessary hardship. Demonstration of such hardship includes responses to the following criteria. Responses must address each and every permitted use listed, under current zoning, for the property in question.

1. Can a reasonable return be realized if the land is used as zoned?
If the answer is no, this claim must be substantiated by competent financial evidence.
2. Is the alleged hardship unique to the property in question?
3. Will the requested variance, if granted, alter the essential character of the neighborhood?
4. Is the alleged hardship self-created?

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APPLICATION TO THE ZONING BOARD OF APPEALS

PART I: OWNER INFORMATION-Please type or print below

DATE: _____

Property Location: _____

Owner(s) of Record: Full name(s) _____

Home Phone#: () - Work #: () - Cell #: () -

Email address: _____

Mailing Address of Owners(s): _____

City, State, Zip Code: _____

PART II: AGENT INFORMATION- If applicable (Please attach Owner Authorization letter)

Agent Name: _____

Work #: () - Cell #: () Email address: _____

Mailing Address of Agent: _____ City, State, Zip Code: _____

PART III: ATTORNEY INFORMATION

Attorney for Applicant: _____

Mailing Address of Attorney: _____

City, State, Zip Code: _____ Phone # () -

PART IV: APPLICATION DETAILS

Note: If this application is being made by someone other than the owner, the owner must sign the owner's authorization attached to this document.

Orange County Tax Map Number: _____ Section/Block/Lot ____/____/____

Zoning District: _____ Lot Size _____

Type of Variance Sought: (check one or more)

☐ Area Variance

☐ Use Variance

☐ Interpretation

Referred by:

☐ Planning Board

☐ Code Enforcement Officer

State in factual terms the exact manner in which applicant seeks from the Zoning Board of Appeals:

A summary statement of the practical difficulty because of the existing zoning regulations for the subject premises as follows:

Describe any circumstances supporting this application:

Has a variance or special exception use ever been applied for on this property?

☐ Yes ☐ No

If yes, indicate the Zoning Board of Appeals date of decision:_____

Is the subject property located within 500 feet of any of the following?

☐ Town or Village boundary line (if yes, indicate which Town or Village :_____)

☐ State road, park, or other recreational facility

☐ County Road or right of way

☐ Federal owned property

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OWNER AUTHORIZATION

STATE OF NEW YORK

COUNTY OF ORANGE

I, _____
OWNER

residing at _____
OWNER ADDRESS

being the owner of premises _____
PROPERTY LOCATION

also known as Orange County Tax Map #: _____
TAX MAP

hereby authorize _____
AGENT

whose mailing address is _____
AGENT ADDRESS

to appear on my behalf before the _____
of the Town of Chester, 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.

OWNER SIGNATURE

Sworn to before me this _____

Day of _____, 20____

Notary Public

**ZONING BOARD OF APPEALS
OWNERS AUTHORIZATION FOR A SITE VISIT**

I (Please print) _____

grant permission for members of the Zoning Board of Appeals and/or representatives of same Board to make a site visit on my property should they deem it necessary to review my application. The property location is:

Signed,

Date:

**ZONING BOARD OF APPEALS
INTER-COMMUNITY IMPACT FORM
239 DISCLOSURE**

Applicant Name _____

Property Address _____

The law requires that certain applications be provided to neighboring communities and to the County. Please state if any of the following are applicable:

1. This property is within 500 feet of any other municipality (including any other Town or Village)?

NO _____ YES _____ if you answered yes, which other municipality or municipalities?

2. Is the property within 500 feet of any of the following?

_____ The boundary of any existing or proposed county or state park or any other recreation area

_____ The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or

_____ The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or

_____ The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or

_____ The boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

Please note that the answers to these questions are needed in order to deem the application complete.

Applicant Signature

Name (please print): _____

Date: _____

A request for an interpretation is made for the following reason:

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Area Variance Only

Please answer the following:

Will there be an undesirable change in the character of the neighborhood, or a detriment to nearby properties if this variance is granted?

Can you achieve your goals via a reasonable alternative which does not involve the necessity of an area variance?

Is the variance is substantial?

Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

Is this a self-created difficulty?

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Use Variance Only

Please answer the following:

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

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

Will the use variance, if granted, alter the essential character of the neighborhood?

Has the alleged hardship been self-created?

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PROCEDURAL FORMAT FOR A PUBLIC HEARING

A Public Hearing must be held prior to issuing an interpretation or variance to the Town of Chester zoning laws. The applicant will be notified by the Chairman of the date and time of the public hearing. An ad must be placed in the newspaper along with sending certified mailings to each property owner within 300 feet of the proposed action. Please follow the below instructions carefully.

Failure to follow the procedures will automatically cancel the public hearing without exception.

Newspaper Publication

The applicant will be responsible to publish a notice in the **Legal Notice Section** of the Middletown Times Herald Record. The Chairman must approve the notice prior to publication. This notice **MUST be published between 5 and 10** days prior to the public hearing. Typically, the newspaper requires that the notice be sent to them three days prior to the actual publishing date. **The applicant is responsible for all associated costs.**

Please note that: At the time of the hearing, the applicant is **required** to furnish the Zoning Board of Appeals with a **copy of the publicized legal notice and the date published.**

Property Owner Notification

The applicant will be responsible to notify all property owners within 300 ft. of the proposed action. The same notice published in the newspaper must be sent out to each individual property owner on the list, **and must be sent by certified mail with return receipt requested.** The official list of property owners within 300 feet is obtainable only from the **Town of Chester Zoning Board.** **The applicant is responsible for all associated costs.**

Please note that: At the time of the hearing, the applicant is required to furnish the Zoning Board of Appeals with the **proof of each certified mailing and any return receipts they may have received.** **Please organize the receipts in the same order as the list supplied by the Zoning Board.**