

ZONING BOARD OF APPEALS

Application for an Area Variance

Submit to Development Services, 137 Main Street, Penn Yan, NY 14527
(315) 531-8042 | Fax: (315) 536-9760 | codeofficer@townofmilo.com | townofmilony.gov

Request relief from dimensional or physical zoning requirements, such as setbacks, height or lot coverage. An area variance does not authorize a prohibited use. Complete all applicable sections; attach labeled continuation sheets as needed.

1 Owner, representative and property

Owner / legal entity

Name

Mailing address, including city, state and ZIP

Telephone

Email

Project street address

Tax map parcel identification number(s)

Authorized representative, if any

Name

Mailing address, including city, state and ZIP

Telephone

Email

Zoning district

2 Project, need and requested relief

Describe the proposed work, existing and proposed use, the benefit sought and why relief is needed.

List each variance separately. Include units and identify the plan detail supporting each request. Write N/A in unused rows.

	Code section / requirement	Required	Existing	Proposed	Relief requested
1					
2					
3					
4					
5					
6					
7					

LAND USE APPLICATION

Reasons for the area variance

3 Address each statutory factor

The ZBA weighs the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community. It considers all five factors below and must grant only the minimum variance necessary and adequate while protecting the neighborhood and community. A self-created difficulty does not, by itself, bar approval. See Town Law § 267-b(3).

1 Neighborhood character and nearby properties

Would approval cause an undesirable change in neighborhood character or a detriment to nearby properties? Explain with facts and exhibits.

2 Feasible alternatives

Can the benefit be achieved by a feasible alternative that does not require an area variance? Discuss relocation, redesign, reduced size and other options.

3 Substantiality of the request

Explain the amount and percentage of each deviation, its scale and its significance in this setting. Relate your answer to the requested-relief table.

4 Physical and environmental effects

Would the variance adversely affect physical or environmental conditions in the neighborhood or district? Address drainage, erosion, access, traffic and other relevant conditions.

5 Whether the difficulty was self-created

Explain how the difficulty arose, including any acquisition, division of land, construction or design decisions. This factor is relevant but does not necessarily prevent approval.

Attach additional responses when needed. Identify the property, variance request number and factor on each sheet. All entered text must remain visible when printed.

LAND USE APPLICATION

Plans and required application materials

4 Professional site plan or certified survey

Submit a site plan prepared and sealed by a land surveyor or registered design professional. Under Town Code § 350-190(D), an existing survey certified by a land surveyor or registered design professional may be substituted. Tax maps, GIS printouts, aerial images and informal sketches do not replace the required professional document; they may supplement it.

Show property boundaries, existing and proposed improvements, roads, easements and relevant site features. Label required and proposed setbacks, heights, coverage and other dimensions with units, and match them to each variance request. Include the preparer, date, scale and sheet numbers. If an existing survey omits the proposed work or needed dimensions, provide professionally prepared supplemental plans or an updated plan.

Plan / survey preparer and firm _____

Drawing / certification date _____ Sheet numbers / revision _____

5 Submission checklist

- ☐ Completed application, signed owner affirmation and continuation sheets
- ☐ Current application fee and required review deposit
- ☐ Required professional site plan or certified existing survey and supplemental plans
- ☐ Statement of need and factual responses to all five area-variance factors
- ☐ Short or full Environmental Assessment Form, if SEQRA review is required
- ☐ Supporting photographs, prior approvals and other information requested by the ZBA

If required information is missing, the application will be deemed incomplete and will not proceed with approval. Explain inapplicable items in an attachment. Confirm current filing deadlines with Development Services.

SEQRA: Type II actions do not require an EAF. Examples include qualifying individual setback/lot-line variances and area variances for one-, two- or three-family residences. The responsible agency determines classification for the whole action; a related larger project may require review. Answer factor 4 on page 2 even when SEQRA review is not required.

6 Owner affirmation under penalties of perjury

The signing owner affirms ownership of the property identified in this application, or authority to sign for the entity that owns it. The owner authorizes the filing of this application, has reviewed the entire application and attachments, and affirms that the information is accurate and complete to the best of their knowledge and belief.

The owner has read and agrees to the application terms on page 4, including the fee-reimbursement obligations, and remains responsible for compliance with applicable law. The representative identified on page 1, if any, is authorized to present this application and receive related information on the owner's behalf. Revocation of that authority must be provided to the Town in writing. One owner signature is required.

I affirm on the date entered beside my signature, 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 _____

Owner signature _____ Entity title, if any _____

LAND USE APPLICATION

Application terms and required disclosures

7 Owner responsibilities and application terms

1 Required permits. An area variance grants only the relief stated in the written decision. Obtain all required building permits, certificates of zoning compliance and other agency approvals before starting work that requires them. Approval does not resolve easements, covenants or other private property rights.

2 Required separation distances: no Town waiver. The Town of Milo, including the ZBA, cannot waive separation-distance requirements of the New York State Uniform Fire Prevention and Building Code. Zoning relief does not authorize noncompliance with the Uniform Code or other applicable laws. Required fire, building, well and septic separation standards remain applicable. Any relief from a State requirement must be obtained separately from the agency or body legally empowered to grant it. Uniform Code variance requests follow 19 NYCRR Part 1205.

3 Disclosure of interests. To the extent known, disclose the name, residence, and nature and extent of any interest covered by General Municipal Law § 809 held by a State officer or an officer or employee of the Town or a municipality of which the Town is a part. Covered interests include those through a spouse or specified relatives, employment, ownership or an approval-contingent benefit. The statute excludes holdings below 5% in corporations listed on the New York or American Stock Exchanges. Attach full particulars of reportable interests. A knowing and intentional violation is a misdemeanor.

4 Accuracy and responsibility. The owner is responsible for the application and supporting documents. Town review or inspection does not guarantee detection of every hazard, design defect or violation. Owners remain responsible for legal compliance regardless of agreements with representatives, contractors or others.

5 Indemnification and hold harmless. To the extent permitted by law, the owner 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 owner's expense, whether rightfully or wrongfully brought; and reimburse reasonable enforcement expenses, including attorney fees. This provision does not expand any obligation beyond what applicable law permits.

6 Property inspections. The owner authorizes Town officers, employees and duly authorized representatives to inspect the subject property as reasonably necessary to review this application, subject to applicable law. Inspections may include measurements, examination of soils and vegetation, samples, drawings and photographs.

7 Fees and reimbursement. Applicants are jointly and severally obligated to reimburse the Town for administrative costs and fees incurred consistent with Chapter 191 and other applicable Code provisions, including reasonably necessary professional fees. The owner acknowledges this obligation by signing page 3. The Town may require initial and additional review deposits. Funds must be used for services connected with the project; unused deposits are returned after review, with a final accounting available on request.

8 Invoice review and nonpayment. Under § 191-13(E), an applicant has 20 business days after receiving a reimbursement request to submit a written request to the Town Clerk to review the supporting invoices at Town Hall; that review right is waived if not timely requested. Nonpayment may result in collection, lawful penalties, reasonable collection costs and assessment against the property under applicable Code provisions. Application fees and incurred administrative costs are nonrefundable; unused deposits are treated as described above.

9 Conditions and revisions. Comply with the approved plans and written conditions. Under Town Law § 267-b(4), conditions must be reasonable, directly related and incidental to the proposed use, consistent with zoning intent, and aimed at reducing adverse effects. Submit material changes to the Code Enforcement Officer before work; further ZBA review may be required.

10 Validity, expiration and revocation. Town Code § 350-191 requires work to commence within one year of issuance; § 350-193 separately addresses operation or completion within one calendar year. Request any needed extension in writing from the Code Enforcement Officer before the applicable deadline, with justifiable cause. Each written extension may not exceed one year. The variance runs with the land. Material misstatements, unmet conditions or other grounds in § 350-195 may result in revocation.

Review process and legal references

The ZBA holds a public hearing and makes the decision. Town staff coordinates required notice, SEQRA documentation and County referral. A County referral may be required under General Municipal Law § 239-m based on specified locations within 500 feet, subject to applicable referral agreements. Proximity to a farm in an agricultural district, by itself, does not trigger that referral for an area variance.

An area-variance-only application is not among the applications requiring an agricultural data statement under Town Law § 283-a. A related site plan, special use permit, use variance or subdivision application may require one.

Legal references: Town Law § 267-b; Town Law § 267-a; Milo §§ 350-188 through 350-195; Chapter 191; §§ 350-218.1 through 350-219.