

VILLAGE OF ALLEGANY

ZONING BOARD OF APPEALS

VARIANCE APPLICATION

Applicants Name _____

Applicants Address _____

Address of Property Variance is for _____

If the **applicant is not** the owner of the property, the owner must attest that He/She agrees with and gives the applicant permission to apply for Variance.

Property Owners Signature _____

Property Owners Address _____

Zone in which property is located _____

Type of Variance being applied for.

Area Variance _____ Use Variance _____ Request for Interpretation _____

Reason for the Variance Appeal. (Please explain what you propose to build, erect, change or alter), that is in violation of the zoning code.

please use more sheets if necessary.

Applicant agrees to comply with the provisions of the Zoning Law of the Village of Allegany, Cattaraugus County, New York, the requirements of the Cattaraugus County Health Department and the New York State Uniform Fire Prevention and Building Codes.

Applicant Signature _____

Date _____

FOR OFFICE USE ONLY

No. _____

Application received by _____

Date _____

Application Fee _____ Date Paid _____

Miscellaneous Fee _____ Date Paid _____

Action of Zoning Board of Appeals

Application is Approved _____ Denied _____

Signature of ZBA Chairman _____

Date _____

A Variance Appeal procedure instruction sheet has been included with this form. Please initial if you have received this sheet. _____

Form Must be Notarized

Notary Signature _____

(over)

PLOT PLAN

The bold lines (below) indicate the property boundary lines. All existing structures (ie: buildings, gazebos etc.) shall be drawn in **SOLID LINES** and all proposed construction shall be drawn in **DASHED LINES**. Include measurements of all existing and proposed structures from each other and to all property lines. Show placement, measurements, and type of driveway on property, (ie: concrete, blacktop, gravel etc.). Indicate distance from neighboring structures to your lot lines. Also, indicate where the front of the property is located, right, left, and the direction of **NORTH**. Drawing is to be drawn as though you are looking down onto the property. **NOTE:** The front property line is to be measured from your lot line. If location of your lot line is unknown measure from the center of the street or road and indicate as such on drawing below.

FRONT

FRONT LOT LINE

Dimension Size of lot: W _____ L _____ SQ. ft. _____

Square footage of structures on property. 1 _____ 2 _____ 3 _____

Please indicate (N, S, E, W)

Variance Information for an Appeals Applicant

An applicant must file a Variance application with the ZBA within 60 days after the enforcement officer has filed his/her decision.

A public hearing shall be held within 62 days of the date that the completed application is filed with the clerk. The Zoning Board of Appeals shall determine when the application is complete.

Applicant must pay a fee of _____ when application form is completed, and turned in.

The Village will publish a notice in the local paper at least five days prior to the date of the public hearing. Applicant will be responsible for the cost of the notice, and billed at a later date. Other costs may be incurred by the applicant, such as legal representation, witnesses of a professional nature, etc.

Applicant must provide notice at least 10 days prior to the public hearing, to property owners. **For a use variance**, within 250ft. of the perimeter of the property that is the subject of the application. **For an area variance**, to all owners of property that adjoins the lot that is the subject of the appeal, **For an Interpretation of a Zoning Law**, the Chairman of the ZBA may direct that a notice be provided to interested persons. Names and addresses of the property owners are to be supplied by the Zoning Officer. Notification of property owners shall be given by and at the expense of the applicant in a manner determined by the Chairman of the ZBA.

Prior to the public hearing applicant shall provide to the ZBA a list of the persons to be notified, and an affidavit that the notice was provided to everyone on the list.

At the hearing, the applicant may submit written evidence and /or argument to support his/her case. The applicant may personally testify, have legal representation, call witnesses, submit written evidence, including drawings and graphics. It is a good idea to submit written materials with the application, or as soon as possible, so that ZBA members will have more time to consider and reach a proper decision.

Use variance:

For the ZBA to grant a use variance, the applicant shall show that the applicable zoning regulations and restrictions have caused "*unnecessary hardship*." To prove such hardship, applicant shall demonstrate to the ZBA that each and every permitted use under the zoning regulations for the particular district where the property is located:

- 1 The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence.
- 2 The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
- 3 That the requested variance, if granted, will not alter the essential character of the neighborhood:
- 4 That the hardship is not self-created.

If *any one or more* of the above factors is not proven, State law requires that the ZBA must **deny** the variance.

(over)

Area Variance:

Requesting an area variance is asking permission to build in a restricted portion of the property (as in the required front, side or rear yard, or above required height, or in excess of lot coverage regulations), then State law requires the applicant to show that the variance will not create a burden to the health, safety or welfare of the community. The ZBA must take the following factors into consideration in its determination.

1. Whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created by granting of the area variance;
2. Whether the benefit sought by the applicant can be achieved by some other method, which would be feasible, but not require a variance.
3. Whether the proposed variance is substantial;
4. Whether the variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether an alleged difficulty is self-created.

Unlike the use variance test, the ZBA need not find in favor of the applicant on every one of the above questions, but must merely take each one into account. They may also decide that a lesser variance would be appropriate, or that there are alternatives that would not require a variance.

Interpretation

Any Village board, agency, or official, or any individual, may request an interpretation of any portion of this zoning law. Request must be made in writing and detail the specific section of the zoning law for which clarification or interpretation is requested.

If requesting a reversal on an interpretative basis, the applicant must prove that the enforcement officer's decision was incorrect, according to a proper reading of the municipality's zoning regulations.

Applicants and their representatives should be guided in advance by the appropriate legal standards in deciding whether an appeal would be appropriate. If an appeal is taken, the applicant should present clear, definite facts showing that the standards have been met.

The ZBA cannot grant relief where proper legal proof is not adequately presented.

If the applicant is still unsure of his/her responsibilities or obligations regarding what is necessary for a variance appeal please request a pre-application meeting with a member(s) of the Zoning Board of Appeals.