

TOWN OF BYRON
APPLICATION TO THE
BOARD OF APPEALS

Appeal Number : _____

Date : _____

OWNER

Name : _____
Address : _____
Telephone # : _____

APPLICANT (If other than owner)

Name : _____
Address : _____
Telephone # : _____

1. Request to the Board of Appeals to overturn the Zoning Enforcement Officer's decision to DENY ☐ GRANT ☐ an application for a Zoning Permit Application Number _____ Dated _____
2. APPLICATION FOR : Use Variance ☐ Other ☐
Area Variance ☐
Interpretation ☐ Please Specify _____
3. Address of Project Site : _____
Tax Map Number : _____ Zoning District : _____
4. Has a previous appeal been filed pertaining to this parcel ? No ☐
Yes ☐ If yes, list Appeal No. _____ Date _____ Purpose of Request : _____
5. Justification for Request : General Response _____

A more SPECIFIC RESPONSE should accompany this application on separate sheet(s) of paper. Address each of the statements listed on the back of the GOLD sheet which pertain to your specific appeal.

The Applicant shall submit with this appeal, appropriate supporting materials including, but not limited to, site plans, elevations, traffic circulation diagrams, neighborhood land use maps and any other material that will assist the Board in making a determination regarding this request.

CERTIFICATION : I hereby certify that I have read and examined this application and supporting attachments and know the same to be true and correct. All provisions of laws and ordinances covering this type of work or use will be complied with whether specified herein or not. The granting of an appeal does not presume to give authority to violate or cancel the provisions of any other state or local ordinance or law regulating construction or performance of construction and/or use.

Applicant's Signature _____

Date: _____

Owner's Signature (if other than applicant) _____

Date: _____

PROVISIONS of ZONING LAW APPEALED:

1. ☐ Article _____ Section _____
Subsection _____ Paragraph _____
state reason; _____
2. ☐ Table I or II - state reason; _____

FEE COLLECTED :

Check # _____

Appeal Fee \$ _____

Public Hearing Fee \$ _____

TOTAL FEE \$ _____

Signature - Zoning Enforcement Officer _____

Date _____

USE VARIANCES

The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of the local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the Zoning Law.

A use variance may not be granted by a Board of Appeals WITHOUT a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that:

- (1) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
- (2) That 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 use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) That the alleged hardship has not been self-created.

AREA VARIANCES

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such Zoning Law, to grant area variances from the area or dimensional requirements of such Zoning Law.

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider if the applicant has demonstrated if:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue other than an area variance;
- (3) Whether the requested area variance is substantial;
- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

INTERPRETATION

Upon appeal from a decision to deny/grant a permit, provide an explanation as to the specific provisions of this Zoning Law that are in question.

PROCESSING AN AGRICULTURAL DATA STATEMENT
(Pursuant to Section 305-a of the Agriculture and Markets Law)

- Any application requiring:
 - Special use permit
 - Site plan approval
 - Use variance or
 - Subdivision approval

- Which requires approval by:
 - A Planning Board
 - Zoning Board of Appeals
 - Town Board or
 - Village Board of Trustees

Must submit an Agricultural Data Statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

- Content of an Agricultural Data Statement requires:
 - Name and address of applicant,
 - Description of the proposed project and its location,
 - Name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundaries of the property upon which the project is proposed
 - A tax map or other map showing the site of the proposed project relative to the location of the farm operations identified in the ADS.

- The Clerk of the appropriate governmental entity is required to mail a written notice containing a description of the proposed project and its location to owners of land as identified by the applicant in the ADS.

- The local reviewing board must evaluate and consider the ADS to determine the possible impacts of the proposed project may have on the functioning of farm operations within the subject agricultural district.

Procedural Considerations

- A map of the town's agricultural district(s) should be well displayed within the municipal office where land use applications are submitted. The map will benefit both the applicant and municipal review officer in determining the

AGRICULTURAL DATA STATEMENT

1. Name and address of applicant:

2. Location of the proposed action:

3. Description of the proposed action to include: (1) Size of parcel or acreage to be acquired and tax map identification number of tax parcel(s) involved; (2) The type of action proposed (e.g., single-family dwelling or subdivision, multi-family development, apartment complex, commercial or industrial facility, school, community or public service facility, airport, etc.) and (3) project density.
[Please provide this information on the reverse side of this application and attach additional description as necessary.]

4. Name, address, telephone number and type of farm of owner(s) of land within the agricultural district which land contains farm operation(s) and upon which the project is proposed or which is located within 500 feet of the boundary of the property upon which the project is proposed:

A. Name: _____
Address & Telephone #: _____
Type of farm: _____

B. Name: _____
Address & Telephone #: _____
Type of farm: _____

C. Name: _____
Address & Telephone #: _____
Type of farm: _____

D. Name: _____
Address & Telephone #: _____
Type of farm: _____

5. Tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the ADS.

Agriculture and Markets Law
Article 25 AA – Agricultural Districts

305-a. Coordination of local planning and land use decision-making with the agricultural districts program

1. Policy of local governments.

- a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.
- b. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.

2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.

3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

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 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	YES
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.		☐	☐
2. Does the proposed action require a permit, approval or funding from any other government Agency?		NO	YES
If Yes, list agency(s) name and permit or approval:		☐	☐
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 or controlled by the applicant or project sponsor?		_____ acres	
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,	NO	YES	N/A
a. A permitted use under the zoning regulations?	☐	☐	☐
b. Consistent with the adopted comprehensive plan?	☐	☐	☐
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?	NO	YES	
If Yes, identify:	☐	☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
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?	☐	☐	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies:	☐	☐	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____	☐	☐	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____	☐	☐	
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?	NO	YES	
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?	☐	☐	
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?	NO	YES	
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: _____			

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 or 500-year flood plain?	NO ☐	YES ☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If 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: _____	NO ☐ ☐ ☐	YES ☐ ☐ ☐
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 ☐
21. Is the project located within, or within ½ mile of, a disadvantaged community? If No, could impacts from the project affect a disadvantaged community? If Yes to either question in 21, answer the following question. a. Identify the potential pollution impacts of the project, either direct or indirect, that may occur within the disadvantaged community (e.g., wastewater discharges, air emissions, noise, odors, solid or hazardous waste generation or management): _____	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: _____		