

TOWN OF HIGHLANDS CONSOLIDATED ZONING BOARD OF APPEALS



APPLICATION PACKET

**APPLICATION MUST BE TURNED IN AT
LEAST 10 DAYS PRIOR TO MEETING DATE
IN ORDER TO BE ADDED TO MEETING
AGENDA**

(MEETINGS ARE GENERALLY HELD THE THIRD WEDNESDAY
OF EACH MONTH AT 7:00 PM)

Town of Highlands Consolidated Zoning Board of Appeals Applicant's Guide to the Appeals Process

Introduction

Any person aggrieved by a decision of the Building Inspector or Code Enforcement Officer may take an appeal to the Consolidated Zoning Board of Appeals. The matter appealed from is most commonly a notice of denial or refusal with respect to a building permit application. There are two (2) basic types of appeals to the board: 1. an appeal for the interpretation of the Zoning Code, and 2. an appeal for a variance. In making an appeal the burden of proof lies with the applicant and if the applicant does not prove his case the appeal will be denied. You may be represented by an attorney on the appeal to the board if you so desire.

Interpretations

An interpretation is a request to have the zoning board make a determination as to the meaning of a particular provision of the zoning code with respect to a particular set of facts and circumstances. If you are aggrieved because you believe the building inspector has misinterpreted the zoning code you may make an appeal. You must clearly identify the code provision upon which you wish to have an interpretation and must completely, clearly and accurately set forth the facts and circumstances to which the code provision applies. The zoning board cannot make an interpretation in a vacuum and if you fail to properly state the matter and completely set forth the facts it is unlikely that you will obtain the interpretation that you desire.

Variances

Variances are a form of extraordinary relief which allow a person to do something which is not ordinarily or normally allowed by the zoning code. A variance will not be granted unless you prove all the elements necessary to entitle you to a variance. The two basic types of variances are use and area variances. A use variance would allow you to conduct a particular type of activity in a zone where that activity is not normally permitted. An area variance will afford relief from the three (3) dimensional or "bulk" requirements such as lot sizes, set back, etc. The basic elements which must be proved are set forth below:

1. Unnecessary Hardship or Practical Difficulties

Unless the strict application of the zoning code will cause unnecessary hardship or practical difficulties regarding the utilization of the property you are not entitled to a variance and a variance will not be granted. The unnecessary hardship or practical difficulties must concern the use of the property and does not relate to

the personal circumstances of the property owner. Illness or lack of financial resources is not the kind of hardship or practical difficulty referred to.

A. Unnecessary Hardship

This is the standard for granting of a use variance. An unnecessary hardship must be proved by showing that the land cannot yield a reasonable return if used for any of the purposes allowed in the zone. The proof submitted must be actual “dollars and cents” proof. The fact that the owner may obtain a better price or higher profit by the use being requested is irrelevant to proof of this element. A use variance will be denied if the hardship is self-created.

B. Practical Difficulties

This is the standard for the granting of an area variance. The practical difficulties relate to the physical features of the lot which inhibit the use of the lot within the dimensional standards of the zoning code. The applicant must show significant economic injury to prove practical difficulties. The relevant test is the difference in value of the parcel with and without the variance.

2. Uniqueness

No variance will be granted unless the hardship or practical difficulty is particular to the specific parcel and is not common to all properties within the zoning district. You must show how your property is different from others in the district in relation to the hardship or practical difficulty.

3. Spirit of the Zoning Law

The applicant must show that the granting of the variance will be within the general spirit of the zoning law. The variance requested must be the minimum necessary to grant the relief while conserving the essential character of the neighborhood and protecting the value of other properties in the zone. No variance will be granted where to do so will make a significant impact on the public health, safety, and welfare purposes for which the zoning code was implemented.

Conclusion

The above is intended to be a general outline concerning appeals to the zoning board. It is only a rough outline. The applicant must take responsibility for familiarization with both local and state code requirements.

Remember, the applicant must prove his/her case or the appeal will be denied. No hearings will be scheduled on incomplete applications.

Town of Highlands Consolidated Zoning Board of Appeals Variance Application Instructions

Submit eight (8) fully completed copy of this application to the Town of Highlands Building Department with the following:

1. Completed Environmental Assessment Form (EAF).
2. **Filing fee of \$250.00** payable to the Town of Highlands. This includes the cost of advertising the Notice of Public Hearing. (Note: Interpretation fee = \$75.00).
3. **Escrow deposit of \$1200.00** payable to the Town of Highlands. This deposit is required to cover consultant costs incurred by the Town related to the application. Any funds not expended shall be reimbursed to the applicant at the conclusion of the project. In the event that costs exceed the deposit amount, the applicant will be notified to deposit additional funds into escrow. The escrow balance must be adequately maintained during the Zoning review process.
3. Eight (8) copies of the map, drawn to scale, showing the following:
 - A. The property to be affected by the application.
 - B. Existing structures, if any, on the property.
 - C. Existing side, front and rear yard setbacks.
 - D. Location of new structure with new side, front and rear yard setbacks.
 - E. A copy of either the Notice of Denial of Building Permit from the Building Inspector on which this application is based, or a copy of the Inspector's notice referring the applicant to the Consolidated Zoning Board of Appeals for any reason.
 - F. This drawing must bear the official seal of a registered engineer, architect or surveyor licensed by the New York State Board of Education.
4. Completed Owner's Endorsement affidavit (where applicant is not owner of record)

After receipt of this application, the ZBA will place the matter on their next available agenda. Please be present and on time the meeting in person or by representative. At that time you may present whatever evidence, witnesses or other details you may have in support of your application.

ORDER OF BUSINESS RELATED TO FILING APPLICATION

1st meeting with board is to present your application and present evidence. After your first meeting you will be told by either the board or the Building Inspector the steps you must take in doing the mailing and postings for the Notice of Public Hearing. You must pickup from the Building Department a sign(s) to be placed on the affected property at least ten (10) days prior to the date of your public hearing. Instructions as to the placement of these signs will be given by the Building Department.

At your 2nd meeting the Public Hearing will be conducted; after the hearing is closed the ZBA may make a decision on your application that evening or within the time constraints set by New York State, usually sixty (60) days. This means that the board has 60 days to render a decision based upon your application.

APPLICATION FORM FOR ZONING VARIANCE / INTERPRETATION

APPLICANT'S NAME: _____ Phone # _____

ADDRESS: _____

OWNER OF PROPERTY: _____

ADDRESS: _____

TAX LOT NUMBER: Section _____ Block _____ Lot _____

TO THE TOWN OF HIGHLANDS CONSOLIDATED ZONING BOARD OF APPEALS:

Appeal is hereby taken and application made for:

1. Variance from (or Interpretation of) Section _____ of the Village/Town Zoning Ordinance.
2. To permit construction or use of premises for the following:

3. The property is in a _____ Zone under the Zoning Ordinance.
4. The property is situated on the _____ side of _____ street and is _____ feet from the intersection of _____ street.
5. Has this property been before the Zoning Board of Appeals before? _____ If so, give details

6. Is this property within 500 feet of any other municipality, State or County Park, State or County Road or Stream or County owned land? _____ If so, give details

6. Any comments you wish to add in support of this application (attach additional sheet if necessary)?

8. If applicant is not the owner of the property, has the owner consented to this application?
Yes _____ No _____

STATE OF NEW YORK)

COUNTY OF ORANGE) ss:

I hereby depose and say that all of the above statements and statements made in support of this application annexed hereto are true.

Signature: _____
Applicant

Sworn to before me this _____ day of _____, 20____

Notary Public

Town of Highlands Consolidated Zoning Board of Appeals (appendix A)

Applicant: _____ S _____ B _____ L _____

Address of subject property: Town of Highlands / Village of Highland Falls (please circle one)

Zone: _____	Zoning Code Requirements	Existing Conditions	Proposed Construction	Variance Required
Lot Area (minimum square footage)				
Lot Area % of total lot area occupied by main & accessory buildings				
Building Height (max)				
Street Frontage				
Lot Width				
Front Yard set-back				
Side Yard set-back				
Total for both Side Yards (set-backs)				
Abutting Side Street or Corner Lot (set-backs)				
Rear Yard (set-back)				
Residential Floor Area				
Parking (number)				
Signage				
Other				
Change of Use? (indicate existing use and proposed use)	N/A			Yes or No (circle one)

NOTE: Please indicate the Zone of the subject property, the Zoning Code requirements for each category, the existing dimensions in applicable categories, the proposed

dimensions and the variance required in feet (except %, parking or use) in applicable categories. For use variances, list existing use and proposed use.

OWNER'S ENDORSEMENT

(complete and attach only to applications submitted by tenants, contractors, potential buyers or owner's representatives)

COUNTY OF ORANGE

SS:

STATE OF NEW YORK

_____ being duly sworn, deposes and says

that he/she resides at

(Owner's Address)

in the County of _____ and State of _____

and that he/she is (the owner in fee) or (_____ of the

(Official Title)

_____ Corporation which is the owner in fee)

of the premises described in the foregoing application and that he/she has authorized

_____ to make the foregoing application for project

(name of applicant)

approval as described herein.

Sworn before me this

_____ day of _____, 20 _____

Notary Public

Owner's Signature

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 which 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
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.			YES
			☐
			☐
2. Does the proposed action require a permit, approval or funding from any other government Agency?			NO
If Yes, list agency(s) name and permit or approval:			YES
			☐
			☐
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 _____ acres			
or controlled by the applicant or project sponsor?			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. ☐ 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 flood plan?	NO	YES
	☐	☐
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	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:	☐	☐

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
	☐	☐

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: _____ Date: _____ Signature: _____ Title: _____		