

Chance Mullen
Mayor



Christopher Scelza
Village Administrator

Application to the Zoning Board of Appeals

Pelham Building Department
Bill Rogel, Building Inspector
James Morris, Assistant Building Inspector/ZBA Clerk
Contact Info: Phone (914) 738-2258 Fax (914) 738-7381 E-Mail: buildingdept@pelhamny.gov

IDENTIFICATION OF PROPERTY:

- A. Property Owner: _____
- B. Street Address of Property: _____
- C. Tax Designation: Section: _____ Block: _____ Lot: _____ Parcel ID: _____
- D. Nature of proposed activity: _____
- _____
- _____

A Zoning Schedule must be provided for every structure and zone if applicable to the project. Use additional sheets if necessary.

Zoning District:			
Regulation	Required	Existing	Proposed
Lot Area			
Lot Width			
Coverage – Principal Building			
Coverage – Accessory Building			
Front Yard Setback			
Side Yard Setback			
Rear Yard Setback			
Building Height			
Floor Area Ratio			
*			

Contact Information:

Owner: _____

Address: _____
Street address City State Zip Code (+4)

Telephone #: _____ Email: _____

Applicant: _____

(If different from Owner, attach affidavit of owner's authorization)

Address: _____
Street address City State Zip Code (+4)

Tel. #: _____ Email: _____

Architect/Engineer: _____

Address: _____
Street address City State Zip Code (+4)

Telephone #: _____ Email: _____

Designate to whom correspondence is to be sent: _____

Note: If applicant is "Contract Vendee", please attach a copy of the contract summary with financial and other confidential terms deleted, along with affidavit of owner's authorization to make application.

I, the above named applicant, hereby appeal to the Zoning Board of Appeals of the Village of Pelham from the decision of the Building Inspector for the Notice of Disapproval dated _____ in regards to a(n):

☐ Area variance ☐ Special Permit

☐ Use Variance ☐ Other

☐ Interpretation

2. Provisions of the ordinance appealed. Identify by section and paragraph:

3. Reasons supporting appeal (attach additional sheets if necessary): _____

4. If you are not the owner, please state your relationship to the owner.

The owner of the above property has been fully informed of this application and its purpose.

STATE OF NEW YORK
COUNTY OF WESTCHESTER ss:

_____ being duly sworn, deposes and says: that
(Print Name of applicant, agent, owner, corporate officer)

_____ is the (strikethrough those not applicable) owner,
agent, corporate officer of the premises to which this application applies; that the applicant is duly authorized to
make this application; and that the statements obtained here are true and made to the best of the applicant's
knowledge and belief.

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

Notary Public

Signature of Applicant

Zoning Board of Appeals Process

In order for the Zoning Board of Appeals to hear your request you will need to submit the following information:

Items to be submitted:

1. Seven copies of the attached Zoning Board of Appeals application complete with applicant's notarized signature.
2. Seven copies of the stamped architectural plans.
3. Seven copies of the current property survey.
4. Seven copies of the environmental assessment form.
5. Seven copies of the disapproval notice received from the Building Department.
6. Zoning application fee (non-refundable)
 - a. Residential - \$250
 - b. Commercial - \$500
7. A pdf scan of the plans and submitted documents.

Acknowledgement that:

1. The applicant was given a copy of the Zoning ordinance, Article XIX, 98-124 through 98-134 explaining the purpose and procedures of the Zoning Board of Appeals.
2. The applicant was notified to send **certified letters return receipt requested** to each property owner's address within a 200 foot radius of the applicant's premises at least 10 days prior to the date of the hearing once it is posted in the local paper (*The Journal News*). Please call Village Hall for further details.
3. The Zoning Board of Appeals usually meets on the last Wednesday of the month except August and December in which no meeting is scheduled. In order to be heard, the application must be delivered to Village Hall by the first Wednesday of the month by 12 noon. The packet must be delivered in its entirety by the deadline.
4. A copy of this document was given to the applicant.
5. The applicant is encouraged to seek professional advice in order to comply with the elements necessary for the requested variance.

This certifies that I am fully aware of the steps that need to be taken when filing an application for the Zoning Board of Appeals.

Applicant's Signature

Date

**NOTICE TO BE SENT TO RESIDENTS WITHIN A 200 FOOT RADIUS BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

PLEASE TAKE NOTICE:

That an application has been made by _____ under the requirements of the zoning
Name of applicant
ordinance for a variance/special permit to:
(See attached Notice of Disapproval)

This notice is sent to you as required by the Village of Pelham Zoning Board of Appeals which requires notification to any property owners within 200 feet of any boundary of the property which is subject to the application.

This application will be heard both in person and remotely via a Zoom Meeting on Wednesday,
_____ at 7:30pm at Village Hall located at 200 Fifth Avenue, Pelham, NY 10803.
Month and date

The Village of Pelham is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://us06web.zoom.us/j/85487519368?pwd=bVpGVlFBZytYWmhPYVdwNVFaQjhpQT09>

Meeting ID: 854 8751 9368

Passcode: 171350

Dial by your location:

+1 929 205 6099 US (New York)

When the calendar is called you may appear in person, by agent or your attorney. This notice is being sent to you by the applicant by the order of the Zoning Board of Appeals.

Sincerely,

Article XIX Board of Appeals

§98-124 Composition; appointment.

There shall be a Board of Appeals, consisting of five members, each to be appointed for a term of five years, as provided in § 7-712 of the Village Law of the State of New York.

§ 98-125 Existing Board of Appeals to continue.

The Board of Appeals already established shall continue to function under the provisions of this chapter, and the members thereof may continue in office until their respective terms expire.

§ 98-126 Secretary; compensation.

The Board may appoint a Secretary, who is not a member of the Board. The compensation of such Secretary shall be determined from time to time by the Board, subject to approval and budget appropriation voted by the Village Board of Trustees.

§ 98-127 Meetings.

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. A quorum shall consist of three members.

§ 98-128 Procedure of Board.

A. Procedure on all appeals, petitions and other matters before the Board of Appeals shall be governed by the provisions of the Village Law and by the rules of procedure officially adopted by the Board.

B. All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by the Board, and shall be accompanied by the required fee in accordance with the Schedule of Fees of the Village of Pelham.

C. Every appeal application shall include a copy of the specific provision of the local law or ordinance involved and shall exactly set forth the interpretation that is claimed, the details of the variance that is applied for, the details of the special permit that is applied for or for which revocation is sort and the grounds on which it is claimed that the variance should be granted or that the special permit should be granted or revoked.

[Amended 3-15-1994 by L.L. No. 1-1994]

D. Except as provided in § **98-106B(3)**, under no circumstances shall the Board require any applicant or appellant appearing before it to obtain the signature or consent of any person, whether or not residing or having property in the vicinity of the property described in the application or appeal, as a condition of Board approval.

§ 98-129 Public hearings.

A. Prior to taking action on any matter relating to this chapter, a public hearing shall be held after public notice in the manner provided by § 7-712 of the Village Law, and no action shall be taken respecting such matter until all interested parties present at the hearing shall have been given an opportunity to be heard. Notice of a pending proceeding shall be given by the applicant or appellant to the owners of adjacent or surrounding properties within 200 feet, and proof of such notice shall be filed with the Board. Notice of pending proceedings shall also be published in the official newspaper of the Village by the Secretary of the Board, and the cost of such publication shall be paid by the applicant or appellant prior to the hearing.

B. In any matter which relates to a property which lies within 500 feet of the boundary of another municipality, the Board of Appeals shall transmit to the municipal clerk of such other municipality a copy of the official notice of the public hearing on such matter, not later than three days after publication thereof.

C. At least 10 days before the date of any public hearing, the Board of Appeals shall transmit to the Chairman of

the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the public hearing, and such opinion, if submitted, shall be made known to the public at such hearing and made part of the official record thereof.

§ 98-130 **Decisions.**

The final disposition of any matter by the Board shall require the concurring vote of a majority of the entire Board. Every decision of the Board of Appeals shall set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based.

§ 98-131 **Minutes and records.**

The Secretary shall keep minutes of the Board's proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact and shall also keep records of its examinations and official actions filed under property owner's name and lot and block number, with case number, if any, together with all documents pertaining thereto. Every rule, regulation, order, requirement, decision or determination of the Board shall immediately be filed in the office of the Village Clerk and shall be a public record.

§ 98-132 **Construal of provisions.**

All the provisions of this chapter relating to the Board of Appeals shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained herein; provided, however, that no applicant or appellant who shall substantially observe the procedural requirements set forth in this chapter shall be deprived of the right of application or appeal.

§ 98-133 **Powers and duties.**

The Board of Appeals shall perform all the duties and have all the power prescribed by the Village Law and by this chapter which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the said Board that is conferred by law. The Board shall adopt such rules of procedure, not inconsistent with the provisions of Village Law and local laws and ordinances, as it may deem necessary to the proper performance of its duties and the proper exercise of its powers.

A. Westchester County Greenway Compact Plan. The Village of Pelham has adopted the Compact Plan,^[1] as amended from time to time, as a statement of policies, principles, and guides to supplement other established land use policies in the Village. In its discretionary actions under this chapter, the Zoning Board of Appeals should take into consideration said statement of policies, principles and guides, as appropriate.

[Added 11-13-2007 by L.L. No. 8-2007^[2]]

[1]

*Editor's Note: See Ch. **53**, Greenway Compact Plan.*

[2]

*Editor's Note: This local law also renumbered former Subsections A through D as Subsections **B** through **E**, respectively.*

B. Interpretation. Upon appeal from a decision by the Building Committee, to hear and decide any matter wherein an appellant alleges or claims that the said Committee or any other administrative official, committee or board charged with the enforcement of this chapter was in error in issuing or refusing or failing to issue a building permit or certificate of occupancy or use or any other permit or license as a result of misinterpreting the meaning, intent or application of any Article or part of this chapter, including the exact location of a district boundary line

on the Zoning Map.

C. Variances.

(1) To grant, upon an appeal from a denial of a permit by the Building Committee, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are practical difficulties or unnecessary hardships in the way of carrying out of the strict letter of this chapter; provided, however, that no such variance shall be granted unless the Board finds and documents fully in its findings:

(a) That there are special physical conditions, such as exceptional narrowness, shallowness, shape or topographic conditions, or other extraordinary or exceptional situation or condition, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant or any predecessor in title whether in violation of the provisions hereof or not.

(b) That, for reasons fully set forth in the findings of the Board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building and that the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

(2) The Board shall attach such conditions and safe guards as may be required to assure that the granting of the variance will be in harmony with the general purpose and intent of this chapter, will not be injurious to the neighborhood or property values therein, will not change the character thereof and will not be otherwise detrimental to the public welfare.

(3) Unless work is commenced and diligently prosecuted within 120 days of the date of the granting of a variance, such variance shall become null and void. Upon application and for good reason shown, the Board of Appeals may extend the validity of the approval by not more than two consecutive one-hundred-twenty-day periods from the date of original approval.

(4) Use variances granted by the Board shall be deemed nonconforming uses. Building variances granted by the Board shall be deemed nonconforming structures.

D. Special permits.

(1) On application and after public notice and hearing, the Board of Appeals may authorize, by resolution, the issuance in any district of a special permit exclusively for those uses which require such a permit under this chapter. In authorizing the issuance of a special permit, the Board shall take into consideration the public health, safety and welfare and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives:

(a) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.

(b) That, in its proposed location, the proposed use is of such size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties or the intent with respect thereto of the officially adopted Master Plan of the Village, if one is in existence.

(c) That, in the case of a use proposed to be located in or directly adjacent to a residential district:

[1] Pedestrian and vehicular traffic to and from the use, and the assembly of persons in connection therewith, will not be hazardous or inconvenient or incongruous with the said residential district or conflict with the normal traffic in the neighborhood; and

[2] The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of screening and landscaping on the site shall not hinder or discourage the appropriate development and use

of adjacent land and buildings or diminish the value thereof.

(d) The Board is authorized to revoke a special permit previously granted, following due public notice and hearing, upon a determination that one or more of the requirements for the special permit set forth in this chapter or any additional conditions prescribed by the Board in conjunction with the issuance of the special permit have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted to the special permit holder for full compliance prior to the revocation of said permit. An application for the revocation of a special permit may be brought by the Building Committee or any other Village authority charged with enforcing the Village Code.

[Added 3-15-1994 by L.L. No. 1-1994]

(2) Application. Every application for a special permit shall be submitted in 10 copies and shall contain all the data required in connection with an application for site plan approval unless, following a meeting in person with the Planning Board or a duly authorized representative thereof, some of the required information is deemed by the said Board to be superfluous. The Secretary of the Board of Appeals shall file three copies of the application with the Building Committee, which shall provide to the Board, within 14 working days, a full report on any objections it may have with respect to the proposed development and any mitigating measures it may feel to be desirable for the protection of the public interest.

(3) Decision of the Board of Appeals.

(a) In authorizing the issuance of a special permit, it shall be the duty of the Board of Appeals to attach such conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the general objectives of this chapter.

(b) The Board shall require that special permits be periodically renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of the said permit.

(c) Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:

[1] The provision in this chapter under which such permit was issued is still in effect.

[2] Such permit was issued in conformity with the provisions of this chapter.

[3] Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

[4] All applicable provisions of this chapter not otherwise varied by the special permit approval are adhered to.

[5] The use continues to comply with all conditions and safeguards prescribed by the Board.

E. Temporary certificates of occupancy.

(1) To authorize, upon denial of a certificate of occupancy, the issuance of a temporary certificate of occupancy for a period not to exceed 90 days during the completion of any alterations, or for a part of a partially completed building, and to extend such period by not more than two consecutive thirty-day periods, provided that the Board finds:

(a) That denial of a certificate of occupancy prior to completion of the said alterations or of the building would cause unnecessary hardship; and

(b) That work on the building prior to the date of application for a temporary certificate of occupancy has been prosecuted diligently.

(2) A temporary certificate of occupancy shall be subject to specific terms and conditions to assure the safety of the occupants of the building and of adjacent buildings and land and shall include a timetable for achieving full

compliance with all applicable requirements and the completion of all required improvements, if any. Upon expiration of the temporary certificate of occupancy, the use shall be terminated, unless a permanent certificate of occupancy shall have been issued prior to the date of such expiration.

(3) A temporary certificate of occupancy shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the Village with respect to the use or occupancy of the land or building or any other matter covered by this chapter.

§ 98-134 Appeals.

Pursuant to § 7-712 of the Village Law, an appeal from a decision of the Board of Appeals must be instituted within 30 days following the date of filing of such decision in the office of the Village Clerk.