

CRITERIA FOR OBTAINING AN AREA VARIANCE

One of the basic powers given by law to a zoning board of appeals is called the “variance” power. The board has the authority to “vary” or modify, the strict letter of a zoning ordinance or local law in cases where this strict interpretation could cause practical difficulties or unnecessary hardships for individual.

Appeals boards are frequently confronted with request for variances. An area variance is a request for relief from dimensional standards contained in the zoning ordinance, and it requires a demonstration of “practical difficulty.”

AREA VARIANCE

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First the applicant must demonstrate that the application of the zoning ordinance to his personal property practical difficulty. The practical difficulty cannot be assessed until the applicant proves the matter of significant economic injury to his property if the permit is denied.

In the case of an area variance, the applicant is seeking modification of dimensional standards, such as yard requirements, set-back lines, lot coverage, frontage requirements or density regulations, so that the property may be utilized for one of the uses permitted by the zoning ordinance. The appeals board may grant relief in if the applicant can demonstrate that strict compliance with the regulations would cause practical difficulty.

The determination of practical difficulty is a three-step process.

1. First, the applicant must demonstrate that the application of the zoning ordinance to is property causes significant economic injury.
2. Can the applicant prove that there is not a potential affect on increased services by municipal or county and state facilities and services. An example of this would be the fire department services, school services and to include school bus service.
3. Last, assuming the municipality has met its burden of proof, the applicant must demonstrate that the restrictions, as strictly applied in his case, are unrelated to the public health, safety or welfare of the community and that granting the variance will not adversely affect the community.

In making a determination of practical difficulty, the appeals board may consider:

1. How substantial the variation is in relation to the requirement ;
2. The potential effect of increased density on available municipal, county and state facilities and services ;
3. Whether the variance will cause a substantial change in the character of the neighborhood ;
4. Whether the difficulty can feasibly be mitigated by some other method
5. Whether the interest of justice will be served in granting the variance; or
6. Whether the alleged difficulty is self created.

The appeals board should grant the minimum relief necessary to allow reasonable use of the land in question. Not every applicant for the area variance is automatically entitled to receive relief. Each application should be carefully considered against the requirement for proof of practical difficulty.

**TOWN OF HARRIETSTOWN
ZONING BOARD OF APPEALS**

39 Main St., Saranac Lake, NY 12983
Phone (518) 891-0202 Fax (518) 891-9020

DATE: _____ REQUIRED FEE: \$160.00 PAID: _____
ALL APPLICABLE FEES ARE NON-REFUNDABLE

**APPLICATION TO THE ZONING BOARD OF APPEALS
TOWN OF HARRIETSTOWN
REQUEST FOR *AREA* VARIANCE(S)**

(TYPE, OR PRINT IN DARK INK)

I. PROPERTY ADDRESS: _____

TAX MAP # : _____

ZONING DISTRICT: _____

II. PROPERTY OWNERSHIP:

NAME OF OWNER: _____

ADDRESS: _____

Latest Deed Reference C Date, Book & Page; (submit copy): _____

II. APPLICANT INFORMATION:

APPLICANT NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

**(IF THE APPLICANT IS NOT THE OWNER, WRITTEN PROOF THAT THE OWNER
CONSENTS TO THE APPLICATION MUST BE SUBMITTED WITH THE APPLICATION.)**

IV. SUBJECT TO APPEAL (If Applicable)

Pursuant to the provisions of the Zoning Code of the Town of Harrietstown, this application,
relative to the above referenced property, constitutes an appeal from the decision of the Zoning
Administrator / Building Inspector _____.
(Name)

A copy of this decision, dated _____, must be attached.

V. APPEAL REQUEST

This appeal takes the form of a request for:

(a) Area Variance (s)

Please be advised that all sections under this heading must be answered completely. Bear in mind that a variance is actually relief from the strict application of the requirements of the law (the Zoning Ordinance), and the Zoning Board of Appeals is required to give sound reasons, based on the criteria set forth in this application, for granting any such relief. It is incumbent upon the applicant to demonstrate to the Board that these criteria are satisfied. Additional sheets may be attached as necessary. Please also note carefully the list of required attachments on the last page of this application.

(b) Original Jurisdiction

If an Area Variance is required as part of a Special Use Permit or Site Plan application, no appeal is required; however, the application for a variance is to be submitted with your Planning Board application and the Zoning Administrator will forward it directly to the Zoning Board of Appeals.

VI. AREA VARIANCE REQUEST

I/We, _____, hereby apply to the Zoning Board of Appeals for a variance of the following sections and requirements of the Code of the Town of Harrietstown, specifically as follows:

SECTION	CONCERNING	CHANGE FROM	CHANGE TO
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Reason for request:

(i) Will the granting of the variance produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties? If not, please explain why.

(ii) Explain if the granting of the variance is necessary, or whether the same result could be achieved by some other method not requiring a variance.

(iii) Explain if the requested area variance(s) is substantial, and if not explain why it is not.

(iv) Explain if the variance(s) will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. If not, please justify why it won't have an adverse effect.

- (v) **Explain if your need for an area variance(s) is the result of self-created difficulties on your part. If not, please explain how the difficulties are not self created.**

VII. LIST OF ATTACHMENTS

1. **Site or Plot Plan: Six (6) copies**
2. **Letter or communication, which resulted in application to the ZBA (if applicable.)**
3. **List of abutting property owners, by name, address and Tax Map Number.**
4. **Letter of owner consenting to application (if applicable).**
5. **Type 1 Action Only – Original and five (5) copies of the SEQRA FULL ENVIRONMENTAL ASSESSMENT FORM, with Part I completed.**
6. **Unlisted Actions Only – Original and five (5) copies of the SEQRA SHORT ENVIRONMENTAL ASSESSMENT FORM, with Part I completed.**
7. **Other attachments deemed pertinent by the applicant (please list):**
 - (a) _____
 - (b) _____
 - (c) _____
 - (d) _____
 - (e) _____

VIII. SIGNATURE AND VERIFICATION

Please be advised that no application can be deemed complete unless signed below.

I hereby certify that the information enclosed herewith and on the application is accurate and factual:

Signature of Owner: _____ **Date:** _____

**I the record owner do hereby authorize _____
to represent me before the Zoning Board of Appeals during the area variance process:**

Signature of Applicant: _____ **Date:** _____

SUBSCRIBED AND SWORN TO BEFORE ME

THIS _____ DAY OF _____ 20 _____. _____ COUNTY

NOTARY PUBLIC: _____

Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR	2. PROJECT NAME
3. PROJECT LOCATION: Municipality _____ County _____	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly _____	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: _____	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: _____	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: _____	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p style="text-align: center;">I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE</p> Applicant/sponsor name: _____ Date: _____ Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.

Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.

Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

- C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

- C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

- C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

- C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

- C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

- C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

- C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

AREA VARIANCE APPLICATION CHECKLIST

- APPLICATION COMPLETED AND SIGNED BY PROPERTY OWNER
(6 COPIES)
- MAPS AND DESCRIPTION INCLUDED (6 COPIES)
- DIAGRAMS – INCLUDE LAYOUT, SIDE AND FRONT ELEVATIONS
(6 COPIES)
- OTHER ATTACHMENTS

- SEQR FORM COMPLETED (6 COPIES)
- LETTER OR COMMUNICATION, WHICH RESULTED IN APPLICATION
TO THE ZONING BOARD OF APPEALS (IF APPLICABLE, 6 COPIES)
- LIST OF CONTIGUOUS PROPERTY OWNERS CONTAINING NAMES,
TAX ID NUMBERS, PHYSICAL AND MAILING ADDRESSES
- FEE PAID - \$160.00 PER SINGLE PROJECT
- ORIGINAL RECIEPT WITH APPLICANT, DUPLICATE WITH PAYMENT
- NOTICE OF PUBLIC HEARING PUBLISHED IN ADIRONDACK DAILY
ENTERPRISE 10 DAYS PRIOR TO THE HEARING DATE
- NOTICE APPLICANT AND ADJOINING PROPERTY OWNERS VIA
CERTIFIED MAIL WITH RETURN RECIEPT
- NOTICE AND APPLICATION DOCUMENTS TO ZONING BOARD OF
APPEALS MEMBERS
- HEARING DATE SET; PUT ON AGENDA FOR THAT MEETING
- NOTICE OF DECISION
- PERMIT ISSUED (IF APPROVED)