

# VILLAGE OF GREEN ISLAND

## VARIANCE APPLICATION - GENERAL INFORMATION

### USE VARIANCE:

The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

### AREA VARIANCE:

The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

Orders, requirements, decisions, interpretations, determinations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this chapter and to that end shall have all the powers or the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

### A Use Variances

(1)

The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.

(2)

No such use variance shall be granted by the Zoning 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 Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a)

The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b)

The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

(c)

The requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d)

The alleged hardship has not been self-created.

(3)

The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### B. Area Variances

(1)

The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.

(2)

In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighted 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:

(a)

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;

(b)

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

(c)

Whether the requested area variance is substantial;

(d)

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(e)

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

(3)

The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### C.

Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

The Village of Green Island  
20 Clinton Street  
Green Island, NY 12183  
(518) 273-2201  
Email: lynn.mcgivern@villageofgreenisland.com

**Application for Zoning Board of Appeals**

Date of Application: \_\_\_\_\_

Address of Project: \_\_\_\_\_

Zoning District: \_\_\_\_\_

Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Existing Use: \_\_\_\_\_

Proposed Use: \_\_\_\_\_

Variance Request: \_\_\_\_\_

1. Name / Address / Telephone of Applicant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Owner's Name / Address / Telephone, if different from applicant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**For office use only:**

Application # \_\_\_\_\_

Fee Paid: \_\_\_\_\_

Date Paid: \_\_\_\_\_

Receipt #: \_\_\_\_\_

3. Supplemental Information Submitted with Application

\_\_\_ A. Letter of explanation

\_\_\_ B. Short Form EAF

\_\_\_ C. Proof of Ownership or Owner's Permission to Apply for Variance (affidavit required)

\_\_\_ D. Site Plan or Survey Map

\_\_\_ E. Receipt of Fees Paid and Date

\_\_\_ F. Denial Letter, Planning Board Referral or other documentation.

4. Is the property located within 500 feet of the following:

\_\_\_ the boundary of any city, village or town

\_\_\_ the boundary of any existing or proposed county or state park or any other recreational area

\_\_\_ the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway

\_\_\_ the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines

\_\_\_ the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated

\_\_\_ the boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of the Agricultural and Markets Law.

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**Area Variance**

The following information is submitted in support of the application  
(the law does NOT require that all of the questions be answered in the negative to obtain a variance)

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the variance(s) you request?

\_\_\_\_\_ Yes \_\_\_\_\_ No

State the reason(s) for your answer.

2. Can the benefit you seek be achieved by some feasible method, other than the variance(s)?

\_\_\_\_\_ Yes \_\_\_\_\_ No

State the reason(s) for your answer.

3. Is the requested variance(s) substantial?

\_\_\_\_\_ Yes \_\_\_\_\_ No

State the reason(s) for your answer.

4. Will the proposed variance(s) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

\_\_\_\_\_ Yes \_\_\_\_\_ No

State the reason(s) for your answer.

5. Is the alleged difficulty self-created?

\_\_\_\_\_ Yes \_\_\_\_\_ No

State the reason(s) for your answer.

## Use Variance

You must prove unnecessary hardship to obtain a use variance  
(In order to prove unnecessary hardship, you must prove ALL of the following:)

1. You cannot realize a reasonable return on the property. The lack of return must be substantial and demonstrated by competent financial evidence. Can you show a lack of a substantial return?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

What financial evidence are you presenting?

2. The alleged hardship relating to the property in question must be unique and not applicable to a substantial portion of the district or neighborhood. Is your hardship unique and not applicable to a substantial portion of the district or neighborhood?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

State the reason(s) for your answer.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Will the use variance requested alter the essential character of the neighborhood?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

State the reason(s) for your answer.

4. The alleged hardship cannot be self-created. Is your hardship self-created?

\_\_\_\_\_ Yes    \_\_\_\_\_ No

State the reason(s) for your answer.