

AREA VARIANCE APPLICATION

TOWN OF WASHINGTON, NEW YORK

An area variance is defined as the authorization by this town's Zoning Board of Appeals for the use of land in manner that is not allowed by dimensional or physical requirements of this Town's Zoning Code. Property owners wishing to use their land(s) that exceed these requirements must apply to the Town's **Zoning Board of Appeals (ZBA)** for an area variance prior to the start of any work and/or the issuance of a building permit. In making its determination, the ZBA 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. Furthermore, the ZBA, in 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.

Imposing conditions on area variances:

This town's Zoning Board of Appeals (ZBA) has the authority to impose reasonable conditions and restrictions when granting an area variance if they are directly related to and incidental to the proposed use of the property. Once the ZBA has imposed a condition on an applicant, it shall be complied with before the Town of Washington, New York can issue a building permit and/or a certificate of occupancy. The purpose of these conditions is to minimize the adverse impact of the variance on the neighborhood or community. These conditions can be related to fences, safety devices, landscaping, screening and access roads, traffic, outdoor lighting and noises, and enclosures of buildings, emission of odors, dust, smoke, refuse matter, vibrations, parking and other factors incidental to comfort, peace, enjoyment, health or safety of the surrounding area.

Schedule:

Applications are due 21 days prior to the meeting of the Zoning Board of Appeals. The town strongly recommends that an application be submitted five days prior to the deadline, in order for the town to review the application for completeness. An application which has been deemed incomplete will not be reviewed by the Zoning Board of Appeals.

Contacting the Town's Zoning Administrator:

Prospective applicants are strongly advised to consult with this town's Zoning Administrator before submitting their application. The Zoning Administrator will explain the approval process and make the applicants aware of regulations that apply to their projects.

The Zoning Administrator's main telephone number is 845-677-3419 ext. 109. Most applications can be downloaded from the Town of Washington's website under Documents and Forms, Zoning Board of Appeals.

Application process:

1. The application for an area variance must be completed and presented before the ZBA by the property owner or his/her designated representative. The property owner is encouraged to attend the meeting in order to answer questions, keeping the process moving forward without delays.
2. The following documents shall be submitted with all applications:
 - a. A complete application form, including the written statement of hardship.
 - b. Scaled drawings of proposed project in an 11x17 format, or, if necessary, to maintain legibility, a larger format. Drawings should be folded with the packet and include the name of the property owner and address on the drawings. These drawings should include, but are not limited to, the following:
 - i. Site plan.
 - ii. Floor plan(s).
 - iii. Elevations.
 - iv. Any other details deemed necessary to explain this project.
 - c. Current survey map of the property with the name of the property owner and parcel ID number. The survey map must be prepared by a professional land surveyor, licensed in the State of New York. The map should be folded to fit in a legal sized file folder.
 - d. Legal proof of control of the property by ownership. (Deeds may be obtained from the Office of the Dutchess County Clerk or via the website:
<https://www.co.dutchess.ny.us/CountyClerkDocumentSearch/Search.aspx>)
 - e. Please attach any certificates of occupancy for the subject premises. If any are lacking, please apply to the Building Department to either obtain them or to obtain an Amended Notice of Disapproval.
 - f. New York State Environmental Assessment Form. The type of environmental assessment form to be submitted will depend on the scope of work and proposed use described in the application. Please refer to the New York State Department of Environmental Conservation's website at www.dec.ny.gov/permits/357.html for further information as well as printing required forms.

g. A set of at least four photographs labeled to show different angles of the yard areas after staking corners for new construction, and photos of building area to be altered.

h. Application fee:

i. Four hundred dollars (\$400.00) for the first variance ii. One hundred twenty five dollars (\$125.00) for each additional area variance iii. The ZBA may require that an escrow be established for the town to engage professional consultants to assist in the review of the application. The minimum escrow amount would be fifteen hundred dollars (\$1,500.00).

i. A PDF or Flash Drive of all documents, except the application fee, required for the review by the Zoning Board of Appeals. A PDF may be emailed to ZBA@washingtonny.org referenced as "ZBA Application/Owner's Name"

3. The original application packet and six (6) copies of the completed application, required documentation and application fee shall be submitted to the **Office of Building and Zoning** prior to the application deadline date that is described on the attached schedule. All packets shall be collated and stapled for distribution. Please understand that the Town of Washington shall not accept any applications past the deadline date due to the timeframe needed to execute a coordinated review with other applicable agencies and/or Town entities.

4. APPLICANTS ARE RESPONSIBLE FOR PUBLICATION OF "NOTICE OF PUBLIC HEARING" & MAILING TO ADJACENT NEIGHBORS

- CONSULT with ZBA Clerk for a copy of the Notice of Public Hearing & Neighbor List
- The following two requirements must be provided to the ZBA Clerk **two weeks prior to the meeting** or the application will be removed from the agenda.
 1. Affidavit of Publication from Poughkeepsie Journal
 2. Proof of Mailing to Adjacent Neighbors from the United States Post Office (USPS Certified Mail Receipt for each neighbor)

Approval by other Town Entities and/or Regulatory Agencies:

Please understand that any approval(s) granted by the ZBA for this variance does not imply approval of drawings that are required to be reviewed and approved by other Town entities and/or regulatory agencies. Questions about building permits and other regulations can be addressed by the Town's Building Department at 845-677-3419 ext. 112.

PREPARING YOUR STATEMENT OF HARDSHIP

TOWN OF WASHINGTON, NEW YORK

To obtain an area variance, an applicant must show, to the satisfaction of the Town's Zoning Board of Appeals (ZBA), which strictly adhering to the Zoning Code's limitations on the use of his/her property, would result in an "unnecessary hardship." To this end, a written statement of hardship is included as part of the application for an area variance. In such statement of hardship, the property owner must address all criteria listed below.

In deciding whether to grant an area variance, the Town's ZBA must determine that all the following criteria are met by the proposed use of the property that is the subject of the area variance request:

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 condition in the neighborhood or zoning district.
5. Whether the alleged difficulty is self-created; which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of an area variance.

Please understand that the request for a use variance places the burden of proof upon the applicant in accordance to General Town Law. If the applicant does not satisfy each of the above-mentioned criteria, the variance must be denied by the Town's Zoning Board of Appeals (ZBA).

