



## **CITY OF WATERTOWN, NEW YORK PROCEDURES FOR APPLYING FOR A ZONING VARIANCE**

### **READ ENTIRE GUIDELINE BEFORE APPLYING**

In the interest of expediting requests for zoning variances, the following procedures are to be followed:

All applications are to be submitted to the City Engineer's Office, 245 Washington Street, Room 305, Watertown, New York 13601. The applications will be reviewed and if all the information requested herein has been provided, then copies will be distributed as necessary.

The number of sets of the application to be submitted is 8 (eight). In a case where Jefferson County review is also needed, 9 (nine) sets would be required.

A set is to be comprised of the following:

1. A detailed letter or statement of what the petitioner seeks to establish (i.e. the proposed changes of use or area and any other information that will aid the Board in their review and comprehension of the petition). Also, a telephone number must be included so the applicant can be contacted if necessary, for questions or updates on meeting information.
2. A copy of the metes and bounds description (property deed) of the property or properties for which the variance is requested.
3. A copy of the appropriate tax map of the proposed area that is to be changed, on which the applicant is to highlight the boundaries of the subject property in colored pencil or marker.
4. A complete State Environmental Quality Review form (SEQR) - example attached. This two-sided short form is the one usually needed and only "Side 1" is to be completed by the applicant. If it is decided that the longer form is needed to further assist the Board or Council, one will be supplied by this office.
5. A non-refundable \$150.00 check, made payable to the City of Watertown, New York. This is to cover the cost of advertising, stenographic work, transcripts and other administrative handling.
6. Petitions for variances must include the written record of denial that prompted the variance request (e.g. a denied sign or building permit).

Petitions for a variance shall contain all the additional data stipulated in Section 310-56 of the Zoning Ordinance as outlined below:

All petitions shall be accompanied by a site plan drawn to an engineering scale (e.g. 1" = 20', 1" = 30'), along with supporting data, including where applicable:

1. Survey of the property prepared by a Licensed Land Surveyor, showing existing features, contours, buildings, structures, streets, utility easements, rights-of-way, land use. This map must be up-to-date or certified as such.
2. Site plan showing proposed building locations, additions and land use areas.
3. Traffic circulation, parking and loading spaces, and private and pedestrian walks.
4. Landscaping plans, including site grading, landscape design and open areas.
5. Preliminary architectural drawings for buildings to be constructed or expanded; including floor plans, exterior elevations and sections.
6. Any other information that will enable the Board of Appeals to comprehend the petition.

Petitions for variances will be heard by the Zoning Board of Appeals. It is the request of the Zoning Board of Appeals that all petitioners speak on their own behalf, unless they are being represented by legal counsel. A decision by the Zoning Board of Appeals will be made only after a public hearing. Such hearing must be recorded by a certified stenographer and transcript of the same maintained on permanent file by the City Engineer.

Where a variance has been granted, such variance shall not become effective until copies of the decision of the approved variance have been filed with the City Clerk and the City Engineer and the Zoning Board of Appeals notified that such filing with the Engineer's Office has been made.

The Zoning Board of Appeals normally meets the third Wednesday of every month at 7:00 P.M. All referrals to the Zoning Board of Appeals must be submitted three weeks in advance of the meeting.

**SEE IMPORTANT "USE VARIANCE" INFORMATION  
IN THIS GUIDELINE HAND OUT**

**EXCERPTS FROM GENERAL CITY LAW 81-b  
PERMITTED ACTION BY  
ZONING BOARD OF APPEALS**

1) Definitions – As used in this section:

- (a) “Use Variance” shall mean 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.

**USE VARIANCES ARE NOT DETERMINED BY THE ENGINEERING DEPARTMENT. IT IS THE RESPONSIBILITY OF THE PETITIONER AND/OR HIS ATTORNEY TO CONFIRM THE TYPE(S) OF VARIANCE BEING REQUESTED. IT IS STRONGLY SUGGESTED THAT ALL PETITIONERS RETAIN AN ATTORNEY WHEN APPLYING FOR A USE VARIANCE.**

- (b) “Area Variance” shall mean 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.

2) Orders, requirements, decisions, interpretations, determinations – The 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 such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

3) Use Variances –

- (a) The Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances as defined herein.
- (b) No such use variance shall be granted by a 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 Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
- (i) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (ii) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

3) Use Variances – (con't.)

- (iii) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (iv) The alleged hardship has not been self-created.
- (c) The 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.

4) Area Variances –

- (a) 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 such ordinance or local law, to grant area variances as defined herein.
- (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed 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:
- (i) 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;
  - (ii) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance;
  - (iii) Whether the requested area variance is substantial;
  - (iv) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (v) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (c) The 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.

5) Imposition of conditions -

The 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 the intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.