

APPLICATION TO APPEAR BEFORE THE BOARD OF APPEALS

**AREA
VARIANCE**

All the forms included with this packet must be completed in their entirety in order to be scheduled to meet with the Board of Appeals. Failure to complete any form may cause a delay in the applicant's schedule.

Check with the Code Enforcement Officer on scheduled dates of meetings.

This request must have the following action (s):

	<u>YES</u>	<u>NO</u>
1. New York State		
a) D.E.C.	___	___
b) D.O.T.	___	___
2. Clinton County		
a) Health Department	___	___
b) Planning Board	___	___
3. Town of Plattsburgh		
a) Highway	___	___
b) Planning Board	___	___
c) Town Board	___	___
4. Other		
_____	___	___
_____	___	___

IMPORTANT

Section 8.4 Board of Appeals A Board of Appeals of seven (7) members is hereby established in accordance with the provisions of **Section 267 of the Town Law**, which Section is hereby incorporated in this ordinance by reference. The Board of Appeals shall, consistent with the Town Law, determine its own rules and procedures and shall have the power and duties granted to it in the Town Law with the provisions hereinafter set forth in this Section, hear and determine the Zoning Enforcement Officer, or review any order or decision of the Zoning Enforcement Officer where such order or decision is based upon the requirements of this ordinance. The Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of this ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The Board of Appeals shall also hear and decide all matters referred to it or upon which it is required to pass by the terms of this ordinance.

In deciding such matters referred to it by the terms of this ordinance, the Board of Appeals shall give consideration to the health, safety, morals and general welfare of the community. In harmony with the general purpose and intent of this ordinance, the Board of Appeals shall determine that a need for the use in question exists, and that the convenience and prosperity of the community will be served, and that neighboring persons and property will not be adversely affected.

**NOTE: IF YOUR FORM IS INCOMPLETE, YOU MAY BE DENIED OR DELAYED.
IT IS IMPORTANT THAT YOU ADDRESS ALL REQUIRED CRITERIA.**

ANY VARIANCES THAT ARE GRANTED, UNLESS OTHERWISE CONDITIONED BY THE BOARD OF APPEALS, WILL EXPIRE ONE HUNDRED EIGHTY (180) DAYS FROM DATE OF FILING IN THE TOWN CLERK'S OFFICE. IF THE APPLICANT FEELS THIS CRITERIA IS TOO STRINGENT FOR THEIR NEEDS, THEY MUST BE PREPARED TO DEMONSTRATE THAT REASONING TO THE BOARD.

**TOWN OF PLATTSBURGH
CODES DEPARTMENT
151 BANKER ROAD
PLATTSBURGH, NEW YORK 12901
PHONE: (518) 562-6840
FAX: (518) 563-8396**

Application Fee: _____ Appeal No. _____
Date Paid: _____ Parcel Number _____

APPLICATION TO BOARD OF APPEALS

Name _____ Telephone Number _____
Address _____ Date _____

I (We) hereby appeal to the Zoning Board of Appeals to review the decision of the Code Enforcement Officer on our application for a Building Permit, dated _____, 20____.

1. Location of Property _____

2. Provisions of the Zoning Ordinance appealed, (indicate the ARTICLE, Section and Subsection of the Zoning Ordinance being appealed, by number. Do not quote the Ordinance.

3. Appeal is made herewith for:
 An interpretation of the Zoning Ordinance or Zoning Map
 A special permit under the Zoning Ordinance
 A variance to the Zoning Ordinance
 Use Variance Area Variance
 Sign - Also check Use of Area Variance

4. A previous appeal has has not been made with respect to the decision of the code Enforcement Officer or with respect to the property. Such appeal was in the form of a requested interpretation a request for a Variance a request for a special permit and was made in Appeal No. _____, dated _____.

5. REASON FOR APPEAL. COMPLETE ONLY THE BLANKS BELOW THAT ARE RELEVANT TO YOUR REQUEST. USE EXTRA SHEET IF NECESSARY.

INTERPRETATION OF THE ZONING ORDINANCE IS REQUESTED BECAUSE:

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 an individual.

Appeals Boards are frequently confronted with respects for variances. There are two types of requests that come before the Board and the standards by which they are judged differ. A Use Variance is a request to utilize property for a use of activity which is not permitted by the Zoning Ordinance and applicant must demonstrate "reasonable return/lack of economic use or benefit". An Area Variance is a request for relief from dimensional standards contained in the Zoning Ordinance and the applicant must demonstrate to the Board of Appeals the benefit to the applicant if the variance is granted and the detriment to the health, safety and general welfare of the neighborhood or community.

The basic standards for determining unnecessary hardship and practical difficulty have been established and refined by the courts in numerous cases.

AREA VARIANCE

The applicant must demonstrate the following to the Board of Appeals:

1. That the change would not create an undesirable change to the character of the neighborhood or be a detriment to nearby properties.
2. Whether or not the applicant can achieve his goal by some other method.
3. How substantial is the variance and whether it can be reduced, modified or changed.
4. Whether or not the proposed variance will have an adverse effect or impact on the physical and environmental conditions in the neighborhood.
5. Whether the difficulty was self-created. Being self-created will not necessarily preclude the granting of a variance, but it is a factor in looking at the balancing concept for an area variance under Town Law.

The Board of Appeals has the power to impose reasonable conditions when granting area variances.

A FINAL RULE ON VARIANCES

The rules, as outlined above, are not requirements for the granting of a variance. Prior to July 1, 1992, these were guidelines established by case law. However, since that date, these requirements are firm and the Board of Appeals **must** address each of these issues. You, the applicant must be prepared to answer each and all of these questions.

It is your responsibility to provide this data to the Board Members. Failure to present the proper documentation to the Board of Appeals could, at the least, delay you and perhaps result in your appeal being denied.

ARTICLE 78 PROCEEDINGS

Any person wishing information with regard to appealing the decision of the Board of Appeals may do so by contacting the Code Enforcement Official for initial guidance. It must be remembered that the Code Enforcement Official is not a legal person but can only get you started with the Article 78 procedure if you so desire.

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NOTICE

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On June 15, 1994, the Board of Appeals of the Town of Plattsburgh unanimously passed a resolution to adopt an amended copy of their Rules and Procedures. The Rules and Procedures are guidelines that are established as per Section 267 of the Town Law for the State of New York.

Section 8.9 of the Rules and Procedures establishes expirations of permits/Variations. It is incumbent upon anyone filing for a variance within the Town of Plattsburgh to read Section 8.9 from the Town of Plattsburgh Board of Appeals Rules and Procedures, which follows:

8.9 EXPIRATION OF PERMITS. If a variance is granted which allows a building permit to be issued, that building permit must be obtained within six months of the date of the hearing. If the applicant has not obtained a builder permit pursuant to the Board of Appeals approval within the six-month period, prior to the issue of that permit, the applicant must then reapply to the Board of Appeals.

Once the applicant has obtained a building permit, it must be renewed in accordance with the Town Zoning Ordinance. If it is allowed to expire, the applicant would then have to reapply to the Board of Appeals for a review, prior to the reissuance of that building permit.

* * * *

I, _____, applicant for a variance from the Town of Plattsburgh Board of Appeals, have read and understand the provisions of Section 8.9 from the Board of Appeals Rules and Procedures.

(Signature of Applicant)

(Date)

STATE OF NEW YORK)
COUNTY OF CLINTON)

Deponent being duly sworn, says that he (she) is the owner or authorized agent for which the foregoing work is proposed to be done, and that he (she) is duly authorized to perform such work, and that all workmen employed on this building are covered by contract or compensation insurance, and that all work will be performed in accordance with all existing state laws and local ordinances. I further state that all information is true and correct to the best of my knowledge.

Signature of Applicant

Print Name

Sworn to this _____ day of _____, _____.

Notary Public