

## TOWN OF CLAY ZONING BOARD OF APPEALS APPLICATION

Residential \$200       Commercial \$400

### Area Variance Instructions:

The Board meets at 7:30 P.M. on the 2nd Monday of each month. See the ZBA calendar for meeting dates and application submittal deadlines (available on the Town of Clay website [townofclay.org](http://townofclay.org)).

File the **one (1) Original Zoning Board of Appeals Application** with the **Commissioner of Planning and Development, Town of Clay, 4401 State Route 31, NY 13041.**

### ATTACH the following to the ORIGINAL application:

- **EIGHT (8)** copies of the survey map drawn to scale sufficient to show the boundaries and location of the subject property. The survey must be done by a civil engineer or licensed surveyor. (**Interpretations** do not require copies of the survey)
- **ONE (1)** copy of the legal description of the subject property
- **EIGHT (8)** copies of the Environmental Assessment Form, filled out and signed.
- If the applicant is not the owner, the attached form stating that the owner **“agrees to and joins in”** the application must be filled in.
- Payment must accompany the filing of this Notice of Appeal and Application.

Applicant will be notified by mail at least five (5) days prior to the public hearing date. In the event of default by the applicants to appear for the hearing, the Board may either proceed with the hearing and vote on the case, or adjourn the case to a later date.

The applicant must **verbally** read and present responses to the Standards of Proof at the public hearing.

**IMPORTANT:** Failure to submit all the above information and answer all pertinent questions may result in an **incomplete** application and delay in processing the appeal and possibly a denial.

**ONLY IF** there is any additional information or revisions not previously submitted, provide **SEVEN (7)** copies the **night of the public hearing.**

**FOR AREA VARIANCES IT IS SUGGESTED THAT THE APPLICANT INSTALL VISIBLE STAKES AT THE LOCATION OF THE PROPOSED STRUCTURE APPROXIMATELY TWO WEEKS BEFORE THE HEARING.**

***Please read  
instructions!!  
Incomplete  
applications will  
NOT be  
processed.***



# TOWN OF CLAY

Case # \_\_\_\_\_  
Tax Map # \_\_\_\_\_

## ZONING BOARD OF APPEALS RESIDENTIAL or COMMERCIAL

### Application for an Area Variance:

NAME OF APPLICANT (Principal contact): \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

ADDRESS OF SUBJECT PROPERTY: \_\_\_\_\_

PROPERTY OWNER (owner of record, if not applicant) \_\_\_\_\_

Mailing Address \_\_\_\_\_ Phone \_\_\_\_\_

PERSON/FIRM REPRESENTING APPLICANT \_\_\_\_\_

(Architect, Engineer, Attorney, etc.)

Mailing Address \_\_\_\_\_

Email \_\_\_\_\_ Phone \_\_\_\_\_

PROPERTY'S ZONING DISTRICT: RA-100 R-40 R-15 R-10 R-7.5 R-2F R-TH R-APT R-MHC LuR

R-SR REC-1 O-1 O-2 NC-1 HC-1 RC-1 LuC-1 LuC-2 I-1 I-2 S-1 PDD (circle one)

CURRENT USE: \_\_\_\_\_ LENGTH OF TIME SO USED: \_\_\_\_\_ Months/Years (circle one)

Is any portion of the land located in: \_\_\_\_\_ Regulated Wetlands \_\_\_\_\_ Flood Plain  
\_\_\_\_\_ Town Local Waterfront Revitalization Area

### RELIEF SOUGHT:

AREA VARIANCE reducing:

Lot area from \_\_\_\_\_ square feet to \_\_\_\_\_ square feet, Section \_\_\_\_\_

Lot width from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Front yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Side yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Side yard (2<sup>nd</sup>) setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Rear yard setback from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Height of a \_\_\_\_\_ from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Height of a fence in a front yard from the allowed 2 ½ feet to \_\_\_\_\_ feet (maximum 7 feet) 230-20 B.(2)(b)

Section 230-19- Highway Overlay Zone District reducing:

Lot area from \_\_\_\_\_ square feet to \_\_\_\_\_ square feet, Section \_\_\_\_\_

Lot frontage from \_\_\_\_\_ square feet to \_\_\_\_\_ square feet, Section \_\_\_\_\_

Designated highway from \_\_\_\_\_ feet to \_\_\_\_\_ feet, Section \_\_\_\_\_

Other \_\_\_\_\_

For the purpose of \_\_\_\_\_

No previous application for the relief herein sought has been made, except

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<u>Location of the subject property:</u>	Yes	No
Is located within 500 feet of the boundary line of the Town of Clay or the Village of North Syracuse	_____	_____
Is located within 500 feet of boundary of an <i>existing</i> or <i>proposed</i> County or State Park or other recreation area; County or State Parkway, Thruway, expressway, road or highway; right-of-way of any stream or drainage channel owned by County or for which the County has established channel lines; County or State owned lands on which a public building or institution is situated.	_____	_____

**MANDATORY EXHIBITS FOR AN AREA VARIANCE.** The hearing will not be scheduled without these exhibits:

A **legal description** of the property; an **up-to-date survey** or **scaled drawing** of the subject property showing all dimensions and locations and setbacks of all buildings and structures thereon; and an **EAF** (Environmental Assessment form)

The applicant hereby acknowledges that the burden of proof is upon him/her to prove his/her entitlement to the relief sought according to the applicable Standards of Proof and further understands that the Zoning Board of Appeals is powerless to grant relief sought unless the applicant satisfies the Standards of Proof.

<b>Dated:</b> _____, 20_____
_____ <b>(Individual Signature)</b>
(or)
_____ <b>(Entity Name)</b>
<b>By:</b> _____
(Officer) _____ (Title)

TOWN OF CLAY

DISCLOSURE AFFIDAVIT

This affidavit is a part of and must be completed and attached to every application, petition, request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit.

STATE OF NEW YORK )
COUNTY OF ONONDAGA) ss.:
OF )

I. \_\_\_\_\_, being duly sworn, deposes and says that (s)he is:

(applicant, petitioner, corporation officer, property owner, etc.)

II. That deponent has read and is familiar with the provisions of the General Municipal Law, Section 809 which states:

- A. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions or any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
B. For the purpose of this action an officer or employee shall be deemed to have an interest in the applicant when (s)he, his/her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
1) is the applicant, or
2) is an officer, director, partner or employee of the applicant, or
3) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
4) is a party to an agreement with such an applicant, express or implied, whereby (s)he may receive any payment or other benefit, whether or not for services rendered, or contingent upon the favorable approval of such application, petition or request.
C. Ownership of less than five percent (5%) of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
D. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

III. That no Town of Clay officer, employee or a relative of either, as defined in Section 809 General Municipal Law has any interest in this application.

-OR-

If a Town of Clay officer, employee or relative of either as defined in Section 809 General Municipal law has any interest in this application, the full particulars are provided on an attached sheet.

Date: _____, 20____.	
_____ (Individual Signature)	_____ (Print Name)
_____ (Entity Name)	
_____ By (Officer)	_____ (Title)
_____ (Mailing address of applicant)	
_____ (Telephone Number)	_____ (Fax Number)

Date: _____, 20____.	
_____ (Individual Signature)	_____ (Print Name)
_____ (Entity Name)	
_____ By (Officer)	_____ (Title)
_____ (Mailing address of applicant)	
_____ (Telephone Number)	_____ (Fax Number)

**ACKNOWLEDGEMENTS**

STATE OF NEW YORK        )  
  ) SS:  
COUNTY OF ONONDAGA    )

On this \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_\_\_, before me, the undersigned, a notary public in and for said state, personally appeared \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within Petition and acknowledged to me that he/she/they executed the same in her capacity, and that by his/her/their signature(s) on the Petition, the individual or the persons upon behalf of which the individual acted executed the instrument.

\_\_\_\_\_  
Notary Public  
Revised

**OWNER agrees to and joins in on the request for an Area Variance:**

Date \_\_\_\_\_

(I / We) \_\_\_\_\_ being owner  
of premises known as:

(ADDRESS) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TAX MAP NUMBER(S) \_\_\_\_\_ . - \_\_\_\_\_ - \_\_\_\_\_  
\_\_\_\_\_ . - \_\_\_\_\_ - \_\_\_\_\_  
\_\_\_\_\_ . - \_\_\_\_\_ - \_\_\_\_\_

Agree to and join in the application of:

APPLICANT NAME: \_\_\_\_\_

WHAT IS BEING REQUESTED:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME \_\_\_\_\_

## STANDARDS OF PROOF - AREA VARIANCE:

The Zoning Law applies uniformly to all lands and buildings located within your Town. Like most Zoning Laws, it contains several minimum dimensions with which all buildings and the location of buildings must conform. These area requirements (dimensional requirements) may involve the minimum distance from the highway to the building (front yard setback) or the minimum distance between the building and lot side line (side yard setback) as well as other dimensions.

You have asked for special dispensation allowing you to meet reduced requirements. In other words, you have petitioned the Zoning Board of Appeals for a modification or "variance" of some particular area or dimensional requirement of the Zoning Law. You applied for an Area Variance.

The Zoning Board of Appeals is the only body that is empowered by law to grant Area Variances. The Zoning Board of Appeals cannot grant any Area Variance unless **proof** is presented to the Board by you, the applicant, that warrants special treatment as to your property. The fact that you simply "want" a variance is not enough.

The New York State Legislature has enacted into law requirements that an applicant for an Area Variance must furnish proof to the Zoning Board of Appeals. The answers to the following standards of proof **must be addressed to the Board** the night of your hearing.

- (1) Will the granting of the variance produce an undesirable change in the character of the neighborhood or a detriment to nearby properties? And if not, please explain why:

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- (2) Could the benefit sought by the applicant be achieved by some method, feasible for the applicant to pursue, other than an area variance:

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- (3) Is the requested area variance substantial? If not explain why it is not substantial?

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

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- (5) Is the alleged difficulty self-created? Consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance:

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After you have presented your proof, the Zoning Board of Appeals will take into consideration the benefit to you, if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by granting the variance.



“Proof” is not just parroting these criteria. You must produce “facts” so as to enable the ZBA to carefully consider each of the criteria. Then the ZBA will weigh the benefit to you as contrasted with the detriment to the Town.

Consideration might well be given to hiring a professional real estate appraiser (not a broker or salesman) or a landscape architect to develop proof that will satisfy the above standards.

Remember, this is your case. The Zoning Board of Appeals does not have the power to grant variances unless the required proof is furnished.

As the Appellate Division of the Supreme Court recently held, an applicant must demonstrate that strict compliance with the Zoning Ordinance (Law) will result in practical difficulties.

**617.20**  
**Appendix B**  
**Short Environmental Assessment Form**

**Instructions for Completing**

**Part 1 - Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 - Project and Sponsor Information</b>			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor:		Telephone:	
		E-Mail:	
Address:			
City/PO:		State:	Zip Code:
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?		NO	YES
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		<input type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?		NO	YES
If Yes, list agency(s) name and permit or approval:		<input type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?  If No, describe method for providing potable water: _____	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?  If No, describe method for providing wastewater treatment: _____	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	<input type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	<input type="checkbox"/>	<input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES	<input type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	<input type="checkbox"/>	<input type="checkbox"/>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor name: _____		Date: _____
Signature: _____		

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input type="checkbox"/>	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.
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)

**PRINT**