

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).

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 _____

ZONING DISTRICT WHERE PROPERTY IS LOCATED: _____

CURRENT USE OF PROPERTY: _____

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 (2nd) setback from _____ feet to _____ feet, Section _____

Rear yard setback from _____ feet to _____ feet, Section _____

Height from _____ feet to _____ feet, Section _____

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 _____

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.

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:

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

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

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

(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:

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.

Short Environmental Assessment Form

Part 1 - Project Information

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.

Part 1 - Project and Sponsor Information				
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? 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.			NO	YES
			<input type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO	YES
			<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				

<p>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: _____ _____ _____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>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: _____ _____ _____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>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: _____ _____ _____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: _____ Date: _____</p> <p>Signature: _____</p>		