

TOWN OF CLAY ZONING BOARD OF APPEALS APPLICATION

Use Variance Instructions: Residential \$200 Commercial \$400

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.
- **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 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.**

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



TOWN OF CLAY

Case # _____
Tax Map # _____

ZONING BOARD OF APPEALS

RESIDENTIAL or COMMERCIAL

Application for a Use 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:

USE VARIANCE to allow subject premises to be used for _____
on the grounds that (applicant cannot derive a reasonable return from any of the uses allowed in Section
230- _____ of the Town of Clay Zoning Code) or (_____)

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

Location of the subject property:

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 *existing* or *proposed* 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.

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.

<p>Dated: _____, 20____</p> <p>_____</p> <p>(Individual Signature)</p> <p style="text-align: center;">(or)</p> <p>_____</p> <p>(Entity Name)</p> <p>By: _____</p> <p style="display: flex; justify-content: space-between;">(Officer)(Title)</p>

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 a Use 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 _____

USE VARIANCE STANDARDS OF PROOF:

Applications for Use Variances **must** be based on alleviating a clearly demonstrable hardship, as opposed to a special privilege of convenience sought by the owner. Furthermore, the hardship must be specific to the land or building, **NOT personal circumstance**, and must not generally apply to land/buildings throughout the neighborhood.

When considering a request for a Use Variance, the Board shall require a showing by the applicant that applicable zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board that for each and every permitted use under the zoning regulations for the particular district where the property is located:

[1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as **demonstrated by competent financial evidence**.

[2] The alleged hardship relating to the property in question is **unique**, and does not apply to a substantial portion of the district or the neighborhood.

[3] The requested Use Variance, if granted, **will not alter the essential character of the neighborhood**.

[4] The alleged hardship **has not been self-created**.

[1] DESCRIPTION OF HARDSHIP:

(Describe **the features or conditions of the property** that restrict reasonable use/return of the property under current zoning regulations.)

Please answer the following questions to show that the current property owner is being deprived of all economic use or benefit from the property in question under the applicable zoning regulations. The deprivation must be established by **competent financial evidence**. Please attach supporting documents (i.e. mortgage documents, tax bills, rental agreements, etc.).

- a) Estimated cost of the proposed improvements to the property that necessitates the variance(s)?
\$ _____
- b) How was this estimate determined? _____
- c) When was the property purchased? _____
- d) What was the purchase price for the property? _____
- e) What is the present value of the property? If a professional appraisal has been done of the property, what is the appraised value? _____

- f) What are the monthly/annual expenses for the property?
1. Monthly mortgage: \$ _____
 2. Monthly heat/electric: \$ _____
 3. Monthly sewer/water: \$ _____
 4. Yearly taxes: \$ _____
 5. Yearly insurance: \$ _____
 6. Other: \$ _____

g) Amount of outstanding debts against the property per month? \$ _____

h) How much income is (to be) generated from the property per month: \$ _____

i) What is the nature of this income (rent, sales, etc.)? _____

j) Is your property currently for sale?
 Yes No (if No, please continue with question k)

1. How long has the property been for sale? _____
2. How long was the property for sale? _____
3. How has it been advertised? _____
4. How many offers have been made for the property and for how much?

5. Is the property listed with a realtor? Yes No
 If yes, please name the realtor: _____

k) Have you previously tried to sell your property?
 Yes No (if No, please continue with question l)

1. How much were your asking for the property? _____
2. How long was the property for sale? _____
3. How has it been advertised? _____
4. How many offers have been made for the property and for how much?

5. Was the property listed with a realtor? Yes No
 If yes, please name the realtor: _____

l) Explain how you would be negatively affected in an economic or financial way if you did not obtain the variances requested. Please *do not comment on your personal financial situation*. Your answer must address ***economic circumstances related to the property*** and its present inability to provide you with a **reasonable** financial return under the present zoning regulations.

[2] **UNIQUENESS:**

(Please describe how the alleged hardship is unique to the property in question and does not apply to a substantial portion of the district or neighborhood)

[3] CHARACTER OF NEIGHBORHOOD:

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area)

[4] SELF-CREATED:

Were you aware of the requirements of the Town of Clay Zoning Ordinance at the time of purchase of the property? Yes No

If you answered no to this question, did you use the services of an attorney? Yes No

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)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</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?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</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?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</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>		