



Town of Rosendale
Zoning Board of Appeals
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USE VARIANCE APPLICATION

This Section for Zoning Board of Appeals Office Use Only

Application # : _____

Applicant Name: _____

Date Received: _____

County Referral: _____

Variance Issued: _____

Date of Decision: _____

1. **USE VARIANCE:** A use variance is a variance granted by the ZBA of the prohibitions against certain uses of real property in a zoning district. A variance, if granted, allows the property owner to use the property in a certain way even though the desired use is otherwise prohibited in the zoning district. A use variance may be granted upon a demonstration of unnecessary hardship to the property owner in the use of the land.
2. **APPLICATION:** Please read and complete the enclosed application for use variance with as much detail as possible. Make sure to answer all relevant questions. **Do not leave any blanks unless the question is not applicable (please notate with N/A if not applicable).**
 - The application and any/all documents included with it must be submitted in multiples. (1) Original (7) Copies

Example of items that may be enclosed in support of the application:

- a) Property card (Assessor's records)
- b) Tax records
- c) Appraisal

- d) Business records (Maintenance costs, tax records/returns, utility bills)
- e) Renovation documents (if applicable)
- f) Business proposal (if applicable)
- g) Photos
- h) Survey map of property
- i) Neighborhood letter(s) of support (if applicable)
- j) Map/photos/layout of neighborhood
- k) Purchase documents

3. **STANDARDS:** Please make sure to answer all questions in detail. You must clearly demonstrate that *all* the following prerequisites have been met in order to qualify for a use variance:

- a) The applicant will be deprived of *all* economic use or benefit from the property unless it can be used for the purpose requested, which deprivation must be established by competent financial evidence. Competent financial evidence may include records or documents of: the amount paid for the property, the present values of the property, the expenses attributable to the maintenance, the amount of taxes on the property, income from the property, etc.
- b) The hardship created is unique and does not apply to a substantial portion of the district or neighborhood. To determine whether the conditions that make an applicant's land difficult to use are unique, the ZBA may, for example, consider proximity to a major highway or industry, or physical conditions of the site itself, such as steep slopes or wetlands.
- c) The requested variance would not alter the essential character of the neighborhood. For example, the establishment of a commercial use that generated a lot of traffic or excessive noise could disrupt a residential area.
- d) The hardship is not self-created. An example of a hardship that has been created by the applicant's own actions may be where the applicant purchases residentially zoned land for a very high price, with the thought of subsequently obtaining a variance to use the land commercially. In this case, the applicant created the hardship by paying an inflated amount for the land and should not be granted a variance.
- e) The variance is the minimum necessary to grant relief from the hardship. The ZBA may grant the least relief, or smallest variance, necessary to allow the applicant a reasonable return on the property.
- f) The variance will preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The neighborhood should not be disrupted by the proposed use, even if the applicant proved unnecessary hardship.

4. **Environmental Assessment Form (EAF) – Part 1**

Environmental Assessment Form (EAF) pursuant to the N.Y.S. Environmental Quality Review Act (SEQRA). An EAF is a form or forms filled out by the applicant for the purpose of aiding the board in both classifying your project as a Type I, Type

II or Unlisted action under SEQRA and in the determination of significance of the impact your project will have on the environment. Whether a short or long form is required is dependent upon whether the application is classified as “Type I” or “Unlisted.” Type I actions usually includes large scale projects that could potentially have a significant adverse impact on the environment and may, at the discretion of the board, require that an Environmental Impact Statement (EIS) be prepared. Type II actions are not subject to SEQRA review and usually require only a Short Form EAF and can include actions such as maintenance projects, in-kind replacement projects, single unit residential dwelling construction on an existing parcel and area and lot line variances. A comprehensive list of SEQRA classifications can be found on the New York State Department of Environmental Conservation website.

- The SEAF Part 1 can be found at: <http://www.dec.ny.gov/permits/6191.html>
- The form must be completed on the DEC website, printed out, signed and dated.

1) **Letter of Affidavit:** If the applicant is not the property owner or multiple properties are involved in the application a notarized statement giving authorization to the applicant must be obtained and submitted with this application.

2) **Use Variance Fee's:**

Application Submission Fee: \$200.00

Other Fee's:

- Reimbursement fees - Review of applications includes a Public Hearing with notices that must be sent by certified mail and newspaper posting. These reimbursement fees are evaluated after a public hearing is set and certified mail is sent.
- Escrow - \$100.00 Escrow fee for each application can be established. This is for the public hearing notification certified mail and newspaper public posting cost instead of a reimbursement fee.

Application #:

Use Variance Application

Date: _____

1. Name of Applicant(s): _____

2. Contact Person: (if not shown in #1) _____

3. Address: _____

4. Phone: _____ Cell: _____

E-Mail: _____

5. Address where variance is requested: _____

Tax Map #: _____

Zoning District: _____

6. Property Owner (if different than applicant): _____

(If the applicant is not the property owner a notarized statement giving authorization to the applicant must be obtained from the property owner and submitted with this application.)

7. Date property acquired by applicant: _____

8. Current use of property:

Residential – Number of dwelling units _____

Commercial – Type _____

Industrial – Type _____

Accessory building – Describe _____

Other – Describe _____

9. Proposed use (Please use above descriptions):

10. If the use variance is granted, will the applicant be performing the changes?

Yes No

11. If not, please provide the name, address and phone number of the contractor(s):

12. Please describe in detail the changes you plan to make on the premises (be specific):

13. Please explain how the variance will affect the character of and the health, safety and welfare of the neighborhood:

14. Please explain how the hardship *is not* self-created:

15. Please explain how the hardship created is unique and does not apply to a substantial portion of the district or neighborhood:

16. Please explain why the requested variance will not alter the essential character of the neighborhood:

17. Please explain how the variance is the minimum necessary to grant relief from the hardship:

18. Please explain how you will be deprived of *all* economic use or benefit from your property unless it can be used for the purpose you request, which deprivation must be establish by competent financial evidence:

19. Please explain how the land will not yield a reasonable return by providing the following information:

a) Amount paid for the property in question: _____

b) Date of purchase of property: _____

c) Present market value of property or any part thereof: _____

d) Basis upon which the present market value of the property was obtained: _____

e) The projected market value of the property if the use variance is/is not

granted: _____

f) Basis upon which the projected market value of the property was

obtained: _____

g) Please provide a breakdown of the expenses attributable to maintenance since
acquiring the property in issue (you may wish to include receipts, if applicable):

h) Assessment and amount of taxes on the property in issue (if applicable):

i) Amount of mortgages and other encumbrances (if applicable):

j) Income from the land in issue (if applicable):

k) Any other relevant facts particular to the facts of the case:

