

City of Port Jervis, New York



Building Department

Building Department Offices

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Port Jervis NY 12771

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Zoning Board of Appeals
Application Procedure

Step 1. Submittal of information to the City of Port Jervis Building Permit.

Step 2. **PRE-SUBMISSION MEETING**

Application is discussed with ZBA. Additional information may be requested. Public hearing may be scheduled.

APPLICATION OR REPRESENTATIVE MUST BE AT MEETING

STEP 3. **PUBLIC HEARING MEETING**

Public Hearing, discussion of application and possible Approval/Denial of Application.

APPLICANT OR REPRESENTATIVE MUST BE AT MEETING

Step 4. Filing of Approval/Denial

Note: ZBA MEETINGS ARE THE FIRST TUESDAY OF THE MONTH

Application Requirements:

Pre-submission Meeting:

THE FOLLOWING ITEMS MUST BE SUBMITTED TO THE BUILDING DEPARTMENT,
AT LEAST TEN CALENDAR DAYS PRIOR TO THE DATE OF THE PRE-SUBMISSION MEETING.

1. Two (2) copies of the Zoning Board of Appeals Application. Applicant should complete the entire application and check off items included in Item #3.
2. Application fee of \$275.00 paid and proof of payment included. Copy of receipt shall be submitted as part of the Application.
3. Letter prepared by the Applicant briefly outlining the Applicant request.
4. Completion of Part 1 of Short Form environmental Assessment Form (EAF), including signature of person preparing the form. Submit two (2) copies.
5. Provide twelve (12) FOLDED copies of a Site Plan of the subject property. Site Plan should be prepared by a licensed Professional or other competent person (as determined by ZBA), and should include at a minimum, those items outlined on the attached checklist.
6. Proof of ownership or, a notarized letter from the Owner, indicating that the applicant has permission to make the application.

Public Hearing Meeting:

THE FOLLOWING ITEMS MUST BE SUBMITTED TO THE ZBA SECRETARY,
AT LEAST TEN (10) CALENDAR DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING MEETING.

1. Twelve (12) FOLDED copies of the site plan and any other information requested by the ZBA to the Building Department. Plans to be submitted only if revisions are required.

THE FOLLOWING ITEMS MUST BE COMPLETED BY THE APPLICANT PRIOR TO THE PUBLIC HEARING:

1. FORWARDING OF A COPY OF THE PUBLIC HEARING NOTICE TO ALL ADJACENT PROPERTY OWNERS WITHIN 100 FEET OF ALL PROPERTY BOUNDARIES. NOTICE SHALL BE SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED, AND SHALL BE MAILED OUT AT LEAST TEN (10) CALENDAR DAYS PRIOR TO THE PUBLIC HEARING. THE APPLICANT MUST OBTAIN THE LIST OF ADJACENT PROPERTY OWNERS FROM THE CITY ASSESSOR'S OFFICE. A FEE IS REQUIRED FOR THIS SERVICE. The ZBA Attorney will provide the Applicant with a copy of the completed Public Hearing Notice, to be included in the mailing.

If the City has to re-advertise the Public Hearing Notice due to fault of the applicant, it will be the applicant's responsibility to pay for any advertising fees.

THE FOLLOWING ITEMS MUST BE SUBMITTED BY THE APPLICANT TO THE BUILDING DEPARTMENT AT LEAST TEN (10) DAYS PRIOR TO THE PUBLIC HEARING:

1. A copy of the mailing list of adjacent property owners.
2. Receipts for Certified Mailings and Return Receipts (Green Card)

Please note the copies of section 535-84 and 535-85 of the City Code are attached as part of this checklist for your purposes. Please consult this section as it pertains to your specific application either as a bulk (area) variance or use variance.

City of Port Jervis Zoning Board of Appeals

Site Plan Checklist

The following information should be included on the Site Plan submitted to the Zoning Board of Appeals as part of the application process

A. General Location Map

- B. A Location Map at a minimum scale of 1" = 2,000' (1:24000), indicating the location of the property within the boundaries of the City. Applicant could consider the use of a copy of the City Tax Map **Site Plan** indicating the location of the property.

A Site Plan or Survey Map of the entire property at a scale preferably not less than 1" = 100', and should include at a minimum the following:

- _____ 1. Name and address of the Owner of Record. If the Applicant is not the Owner, Applicant's name and address should also be included.
- _____ 2. The name of the person/firm preparing the Plan/Map. Seal and signature required if the preparer is a licensed professional.
- _____ 3. Boundaries (metes and bounds) of the property with surveyed dimensions clearly indicated.
- _____ 4. North arrow
- _____ 5. Scale of drawing
- _____ 6. Section, Block & Lot number of the property as taken from the Tax Map of the City of Port Jervis
- _____ 7. Names of all owners of record of adjacent properties contiguous to the property.
- _____ 8. Location of all streets, rights-of-way, easements, and related information
- _____ 9. Locations of all structures on the subject property and within 100 feet of all property lines
- _____ 10. All existing and proposed means of vehicular access and egress from the site, and all streets which are either proposed, mapped or built
- _____ 11. Location and design of all driveways, off-street open and enclosed parking (if any) and loading areas. Number of parking spaces supplied and required should be clearly indicated
- _____ 12. Location of all existing and proposed waterlines, valves, and hydrants, sewer lines and other utilities
- _____ 13. Existing drainage structures and/or features
- _____ 14. Existing and proposed fencing, landscaping, buffer strips and screening where required
- _____ 15. Existing and/or proposed locations, direction and type of outdoor lighting
- _____ 16. Existing and proposed contours, if applicable

The ZBA reserves the right to waive certain requirements, or ask for additional information as it deems necessary, as part of the application review process.

Port Jervis City Code
Zoning Board of Appeals

535-85 Powers and Duties

- A. Definitions. As used in this section, the following terms shall have the meaning indicated.
- AREA VARIANCE** – The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed by the dimensional or physical requirements of the applicable regulations.
- USE VARIANCE** – The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation
- B. Orders, requirements, decisions, interpretations. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this chapter and to that end shall have all the powers or the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- C. **Use Variances**
- (1) The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of this chapter, shall have the power to grant use variances, as defined herein.
 - (2) No such use variance shall be granted by the Zoning board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (d) The alleged hardship has been self-created
 - (3) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- D. **Area Variances**
- (1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant area variances as defined herein.
 - (2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
 - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
 - (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial
 - (d) Whether the purposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decisions of the Zoning board of Appeals but shall not necessarily preclude the granting of the area variance.
 - (3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- E. Imposition of conditions. The Zoning Board of Appeals shall, in the granting of both use variance and area variances, have the authority to impose such reasonable conditions or restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall impose for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

CITY OF PORT JERVIS
ZONING BOARD OF APPEALS
APPLICATION FOR ZONING BOARD OF APPEALS

DATE OF APPLICATION: _____

ADDRESS OF PROJECT: _____

ZONING DISTRICT: _____

SECTION: _____ BLOCK: _____ LOT: _____

EXISTING USE: _____

PROPOSED USE: _____

VARIANCE REQUESTED: _____

1. NAME/ADDRESS/TELEPHONE OF APPLICANT:

EMAIL ADDRESS: _____

2. OWNER'S NAME/ADDRESS/TELEPHONE, IF DIFFERENT FROM APPLICANT:

EMAILADDRESS: _____

For office use only:

Application # _____

Fee Paid: _____ Date Paid: _____ Receipt #: _____

Supplemental Information Submitted with Application

- _____ A. Letter of explanation
- _____ B. Short Form EAF
- _____ C. Proof of Ownership or Owner's permission to apply for Variance
(Affidavit required)
- _____ D. Site Plan or Survey Map
- _____ E. Receipt of Fees Paid and Date
- _____ F. Denial Letter, Planning Board Referral or other documentation

Is the property located within 500 feet of the following:

- _____ the boundary of any city, village or town
- _____ the boundary of any existing or proposed county or state park or any other recreational area;
- _____ the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway
- _____ the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
- _____ the existing or proposed boundary of any county or state-owned land on which a public building or institution is situated;
- _____ the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agricultural and markets law

AREA VARIANCE

The following information is submitted in support of the application (the law does not required that all of the questions be answered in the negative to obtain a variance):

1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the variance(s) you request? _____ Yes _____No

2. Can the benefit you seek be achieved by some feasible method, other than the variance(s)?
_____Yes _____No

State the reason(s) for your answer:

3. Is the requested variance(s) substantial? _____Yes _____No
State the reason(s) for your answer

4. Will the proposed variance(s) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? _____Yes _____No
State the reason(s) for your answer

5. Is the alleged difficulty self-created? _____Yes _____No
State the reason(s) for your answer

USE VARIANCE

You must prove unnecessary hardship to obtain a use variance. In order to prove unnecessary hardship, you must prove **all** of the following:

1. You cannot realize a reasonable return on the property. The lack of return must be substantial and demonstrated by competent financial evidence. Can you show a lack of a substantial return?

_____Yes _____No

What financial evidence are you presenting?

2. The alleged hardship relating to the property in question must be unique, and not applicable to a substantial portion of the district or neighborhood. Is your hardship unique and not applicable to a substantial portion of the District or neighborhood?

_____Yes _____No

State the reason(s) for your answer:

3. The requested use variance, if granted, will not alter the essential character of the neighborhood. Will the use variance requested alter the essential character of the neighborhood?

_____Yes _____No

- 4.

The alleged hardship cannot be self-created. Is your hardship self-created?

_____Yes _____No

State the reason(s) for your answer: