

APPLICANT'S GUIDE

APPEALS TO THE VILLAGE OF WASHINGTONVILLE ZONING BOARD OF APPEALS

READ FIRST

INTRODUCTION

Any person aggrieved by a decision of the Village of Washingtonville building inspector or code enforcement official may take an appeal to the Village of Washingtonville Zoning Board of Appeals. The matter appealed from is most commonly a notice of refusal with respect to a permit application. Appeals must be made within sixty (60) days after the filing of the decision. There are two basic types of appeals to the Zoning Board: appeals for interpretation and appeals for a variance. If the applicant does not prove his case, the Zoning Board will deny the appeal. You may be represented by an attorney if you so desire.

INTERPRETATIONS

An interpretation is a request to have the Zoning Board decide the meaning of a particular provision of the Village of Washingtonville Zoning Code with respect to a particular set of facts and circumstances. If you are aggrieved because you believe the building inspector has misinterpreted the zoning code, you may appeal. You must clearly identify the code provision you wish interpreted and must completely, clearly and accurately set forth the facts and circumstances to which the code provision applies. The Zoning Board cannot make an interpretation in a vacuum and if you fail to properly state the matter and completely set forth the facts, it is unlikely that you will obtain the interpretation you want.

VARIANCES

Variations are a form of extraordinary relief that allows a person to do something not ordinarily or normally allowed by the Village of Washingtonville Zoning Code. A variance will not be granted unless you prove all the elements necessary to entitle you to a variance. The two basic types of variances are use variances and area variances. A use variance would allow you to use property in a manner or for a purpose that is otherwise not allowed or is prohibited by the zoning code. An area variance will afford relief from the "dimensional" or "bulk" requirements such as lot size, setback lines, yard or frontage requirements, lot coverage, or density regulations, for a use that is otherwise permitted in the zone.

USE VARIANCE

Unnecessary Hardship

Unless the strict application of the zoning code will cause unnecessary hardship in the use of the property, you are not entitled to a use variance and the variance will not be granted. The unnecessary hardship must concern the use of the property and does not relate to the personal circumstances of the property owner. Illness or lack of financial resources are not the kind of hardship referred to.

"Unnecessary hardship" must be proved by showing that you are deprived of all economic use or benefit under any use allowed in the zone. The proof submitted must be competent and actual "dollars and cents" proof, including purchase price, market value with and without the variance, is usually best demonstrated by a real estate appraiser. You must show that the zoning restrictions are so severe that they amount to a confiscation of your property. The fact that you may obtain a better price or higher profit by the use being requested is irrelevant to proof of this element. A use variance will be denied if the hardship is self-created, which is, created by you or where the property was acquired with knowledge of the condition complained of.

Uniqueness

No use variance will be granted unless the hardship is particular to the specific parcel and is not common to other properties within the zoning district or neighborhood. You must show how your property is different from others in the district in relation to the hardship.

Character of the Neighborhood

You must show that the granting of the variance will be within the general spirit of the zoning code. Any variance must be the minimum necessary to grant the relief while conserving the essential character of the neighborhood and protecting the value of other properties in the zone. No variance will be granted where to do so will make a significant impact on the public health, safety and welfare purposes for which the zoning code was implemented.

AREA VARIANCE

To permit the Zoning Board to grant an area variance, you must show that your benefit from the variance outweighs the detriment to the health, safety and welfare of the neighborhood by showing all of the following:

- a. No undesirable change in the character of the neighborhood or detriment to nearby properties will be created;
- b. No feasible alternative to the variance exists for you;
- c. The requested variance is not substantial;
- d. There will be no adverse impact on the physical or environmental conditions of neighborhood;
- e. The alleged difficulty was not self-created.

CONCLUSION

The above is intended to be a general outline concerning appeals to the Village of Washingtonville Zoning Board of Appeals. It is only a rough outline. You must take responsibility for familiarization with both local code and state requirements.

Remember, you must prove your case or your appeal will be denied. The Zoning Board may impose conditions on any variances granted, and all variances must be the minimum necessary.

No hearings will be scheduled on incomplete applications.

SCHEDULE OF FEES FOR THE ZONING BOARD OF APPEALS:

A. Zoning Board of Appeals matters;

- 1) Area variances: two hundred seventy-five dollars (\$ 275.00).
- 2) Use variances: three hundred seventy-five dollars (\$ 375.00).
- 3) Interpretation: three hundred seventy-five dollars (\$ 375.00).

APPLICATION TO BOARD OF APPEALS

TAX MAP: SECTION _____, BLOCK _____, LOT _____ APPEAL NO. _____ DATE: _____

TO THE ZONING BOARD OF APPEALS, VILLAGE OF WASHINGTONVILLE, NEW YORK

I (WE) _____ OF _____

(Name of Applicant)

(Street and Number)

(Municipality)

(State)

HEREBY APPEAL TO

THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE BUILDING INSPECTOR ON APPLICATION FOR BUILDING PERMIT NO. _____, DATED _____, WHEREBY THE BUILDING INSPECTOR DID () GRANT / () DENY TO _____

(Name of Applicant for permit)

OF _____

(Street & No., Municipality, State)

- () A Permit for Use
- () A Permit for Occupancy
- () A Temporary Permit or Extension Thereof
- () A Certificate of Existing Use
- () A Building Permit

1. LOCATION OF THE PROPERTY _____ (Street & No.) (Use District on Zoning Map)

2. PROVISION(S) OF THE ZONING ORDINANCE OR OTHER LAW APPEALED (Indicate the Article, section, subsection and paragraph of the law being appealed, by number. Do not quote the law). _____

3. TYPE OF APPEAL. Appeal is made herewith for:
- () An interpretation of the Zoning Ordinance or Zoning Map
 - () A special permit under the Zoning Ordinance
 - () A temporary permit
 - () A building permit for other reason

4. PREVIOUS APPEAL. A previous appeal
- () Has not been made with respect to this decision of the Building Inspector or with respect to the property.
 - () Such appeal(s) was (were) in the form of:
 - () a requested interpretation
 - () a request for a special permit
 - () a request for variance
 - () a temporary permit

And was (were) made in Appeal No. _____, dated _____

5. NAMES AND ADDRESSES OF OWNERS OF ADJOINING LANDS IN ALL DIRECTIONS INCLUDING ACROSS STREETS:

(Name) (Address)

(Name) (Address)

(Name) (Address)

(Name) (Address)

6. REASON FOR APPEAL. (Complete relevant blank. Use extra sheet if necessary)
A. INTERPRETATION OF THE ZONING ORDINANCE IS REQUESTED because: _____

B. A SPECIAL PERMIT UNDER THE ZONING ORDINANCE IS REQUESTED pursuant to:
ARTICLE _____, SECTION _____, SUBSECTION _____,

Paragraph _____ of the Zoning Ordinance, because: _____

C. *A VARIANCE TO THE ZONING ORDINANCE IS REQUESTED FOR these reasons:

1) STRICT APPLICATION of the Ordinance would produce UNDUE HARDSHIP because _____

2) The hardship created is UNIQUE and is not shared by all properties alike in the immediate vicinity of this property and in this use district because _____

3) The VARIANCE would observe the spirit of the ordinance and would NOT CHANGE THE CHARACTER OF THE DISTRICT because _____

D. EXTENSION TO A TEMPORARY PERMIT IS REQUESTED because _____

E. A TEMPORARY PERMIT IS REQUESTED because _____

F. BUILDING PERMIT IS REQUESTED FOR PARCEL NOT ON APPROVED STREET because _____

State of New York ss:
County of _____
Sworn to this _____ day of _____, _____

Notary Public

Signature

The Owner should submit with this application supporting materials including plans, surveys, building locations, elevations, landscaping diagrams, traffic circulation diagrams, neighborhood land use maps and any other materials that will assist the Board to understand the request.

*C: For Variance, specify each variance requested:

<u>Section</u>	<u>Nature of Variance</u>	<u>From</u>	<u>To</u>
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DISCLOSURE ADDENDUM STATEMENT TO APPLICATION, PETITION AND REQUEST

Mindful of the provisions of Section 809 of the General Municipal Law of the State of New York, and of New York, and of the Penal provisions thereof as well, the undersigned applicant states that no State Officer, Officer or Employee of this municipality, or of the Town or County of which it is a part, has any interest, financial or otherwise, in this application or with, or in the applicant as defined in said Statute, except the following person or persons who is or are represented to have only the following type of interest, in the nature and to the extent hereinafter indicated:

- () None
() Names:

Name Address Relationship or interest (Financial or otherwise)

Name Address Relationship or interest (Financial or otherwise)

Name Address Relationship or interest (Financial or otherwise)

This disclosure addendum statement is annexed to and made a part of the petition, application and request made by the undersigned applicant to the following Board and request made by the undersigned applicant to the following Board or Officer or Political Subdivision of the Municipality.

- () Village / Town Board () Planning Board
() Zoning Board of Appeals () Zoning Enforcement Officer
() Building Inspector () Other

Dated: _____

Individual Applicant

Corporate or Partnership Applicant

By: _____
(President / Partner / Vice President / Secretary / Treasurer)

GENERAL MUNICIPAL LAW OF THE STATE OF NEW YORK

Section 809. Disclosure in certain applications:

- 1. 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 of 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 or of a municipality of which such municipality is part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them.
a. is the applicant, or
b. is an officer, director, partner or employee of the applicant, or
c. legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
d. is a part to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.
3. Ownership of less than five percent 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.
4. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.