



**TOWN OF FALLSBURG  
CODE ENFORCEMENT OFFICE**

Member: New York State Building Officials Conference, Inc.

5250 Main Street  
South Fallsburg, NY 1277  
(845) 434-8811  
Fax: (845) 434-5883

TO: *ZONING BOARD APPLICANTS* USE VARIANCE  
FROM: *TOWN OF FALLSBURG ZONING BOARD OF APPEALS*  
SUBJECT: *PLACEMENT ON ZONING BOARD OF APPEALS AGENDA*

All Zoning Board Meetings are held on the third Thursday of each month at 8:00 pm.

Date of Next Meeting: \_\_\_\_\_

Deadline for Submission: \_\_\_\_\_

In order to appear at a scheduled meeting of the Town of Fallsburg Zoning Board of Appeals, ALL of the following information must be on file in the Code Enforcement Office, **NO LATER THAN FIFTEEN (15) DAYS PRIOR TO THE DATE OF THE MEETING:\*\***

1. Completed Variance Application (**11 copies**)
2. Environmental Assessment Form (SEQRA) - Both sides please. (**11 copies**)
3. Site Plan Description (Drawing) (**11 copies**)
4. List of Adjoining Property Owners Located Within 300' of Property Line (**1 copy**)
5. \$75.00 Filing Fee (check made payable to the Town of Fallsburg - no cash accepted)
6. WRITTEN request to be placed on the Agenda for ANY upcoming Zoning Board of Appeals Meeting.
7. All packets must be put together with one each (#1, #2, #3) and stapled together as a packet. Do not submit 10 copies of each item separately. They must each form a packet for each Board member.

**NO VERBAL REQUESTS WILL BE ACCEPTED**

Legal Notices must be mailed **Certified** to all adjoining property owners located within 300' of the property line. The Code Enforcement Office will provide legal Notice.

\*\*\* Mailings are the responsibility of the applicant or representative thereof. *Notices must be mailed no more than ten and no less than five days from the date of the meeting.* The white certified mail receipts must be submitted at the meeting for which application is scheduled; they will subsequently be filed with the application in the Code Enforcement Office.

\*\*\* The property will be posted with the official ZBA sign no later than the Friday before the meeting. If the property is not posted, the **application will be withdrawn from the agenda** the night of the meeting. There will be a \$50.00 deposit for the sign that is refundable upon receipt of the sign.

ZONING BOARD OF APPEALS  
5250 Main Street  
TOWN OF FALLSBURG  
S. FALLSBURG, NY 12779  
845-434-8811  
APPLICATION FOR AN USE VARIANCE

APPLICANT NAME(S): \_\_\_\_\_ PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ SBL: \_\_\_\_\_

\_\_\_\_\_ ZONE: \_\_\_\_\_

DIRECTIONS TO THE SITE: \_\_\_\_\_

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at:

\_\_\_\_\_ is/are the  
Owner(s), Lessee(s), or Other as follows:

2. REQUEST:

1. Section \_\_\_\_\_
2. Concerning Hearing
3. Purpose Variance
4. From \_\_\_\_\_
5. To \_\_\_\_\_

Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.
5. Any other information pertinent to application.

PROJECT I.D. NUMBER
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Appendix C

State Environmental Quality Review  
**SHORT ENVIRONMENTAL ASSESSMENT FORM**  
 For UNLISTED ACTIONS Only

**PART I—PROJECT INFORMATION** (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR	2. PROJECT NAME
3. PROJECT LOCATION: Municipality _____ County _____	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres    Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe: _____	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No    If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No    If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: _____	Date: _____
Signature: _____	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

**PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)**

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR PART 617.4? <span style="float:right">If yes, coordinate the review process and use the FULL EAF.</span></p> <p><input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? <span style="float:right">If No, a negative declaration may be superseded by another Involved agency.</span></p> <p><input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
<p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:</p> <p> </p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</p> <p> </p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p> </p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p> </p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p> </p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p> </p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p> <p> </p>
<p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CEA?</p> <p><input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
<p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?</p> <p><input type="checkbox"/> Yes    <input type="checkbox"/> No    If Yes, explain briefly</p> <p> </p>

**PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination and significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<p><input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</p> <p><input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide on attachments as necessary, the reasons supporting this determination:</p>	
<p>_____</p> <p style="font-size: small;">Name of Lead Agency</p>	
<p>_____</p> <p style="font-size: small;">Print or Type Name of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="font-size: small;">Title of Responsible Officer</p>
<p>_____</p> <p style="font-size: small;">Signature of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="font-size: small;">Signature of Preparer (If different from responsible officer)</p>
<p>_____</p> <p style="font-size: small;">Date</p>	

B. Use Variance

1. The strict application of the literal terms of this Chapter would produce "unnecessary hardship" to the applicant. Unnecessary hardship will be deemed to exist where the applicant has clearly demonstrated each of the following points:
  - a. A reasonable return cannot be realized through permitted uses. The applicant shall specifically prove, through at least two independent sources of professional testimony, that no use permitted by the Zoning Regulations applicable to that district would yield a reasonable return. The evidence must be specific and address the amount paid for the property, present value, maintenance expenses, taxes, mortgages and encumbrances, income from the land in question and other facts relevant to the particular circumstances of the case. Failure to sell land for a permitted purpose is evidence it will not bring a reasonable return if used for such purposes if the owner has made an active effort to sell. Mere financial loss to the individual owner or inability to achieve the most profitable use of a property shall not be sufficient justification for a variance.
  - b. The hardship is not self-created.
  - c. The use, if granted, would not alter the essential character of the district or be a substantial detriment to adjoining properties.
  - d. The variance is not requested for reasons of mere inconvenience or aesthetic taste.
  - e. The variance would be consistent with the spirit of this Chapter and the Town of Fallsburg Comprehensive Zoning Plan. No variance shall be granted which would have the effect of re-districting the area and any use granted shall be only for the intent of the district in question.
2. In reviewing a request for a use variance, the Board must consider the effects of adjacent similar uses, traffic, obsolete improvements, the existence of unusual natural resources and governmental rulings unrelated to zoning.
3. The burden of proof with a use variance, nonetheless, shall be wholly with the applicant.
4. In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Chapter, it shall be the duty of such Zoning Board to attach conditions and safeguards, or time limits, as may be required in order that the results of its action may as nearly as possible be in accordance with the spirit and intent of this Chapter.

**PLEASE MAKE SPECIAL NOTE OF THE FOLLOWING  
ZONING SECTION 130-10.6-I CONCERNING  
EXPIRATION OF A VARIANCE.**

**SECTION 130-10.6-1 EXPIRATION:  
UNLESS CONSTRUCTION IS COMMENCED AND DILIGENTLY PURSUED  
WITHIN SIX [6] MONTHS OF THE DATE GRANTING OF THE VARIANCE,  
SUCH VARIANCE SHALL BECOME NULL AND VOID**

**IT IS IMPORTANT THAT YOU REQUEST FROM THE ZONING BOARD AN ADDITIONAL  
AMOUNT OF TIME IF FEEL YOU WILL NEED MORE IN REGARDS TO ACTUAL  
CONSRUCTION START. AN OPEN ENDED REQUEST WILL NOT BE CONSIDERED.**

**YOU MAY MAKE THIS REQUEST IN YOUR APPLICATION OR IN PERSON ON THE DATE  
OF YOUR VARIANCE HEARING AND THE DECISION MUST BE MADE A CONDITION OF  
APPROVAL AND PART OF THE RECORD.**

**YOUR FAILURE TO REQUEST THIS IMPORTANT CONDITION OF APPROVAL WILL  
CAUSE YOUR APPROVAL TO BECOME NULL AND VOID AFTER SIX MONTHS IF  
CONSTRUCTION IS NOT COMMENCED. YOU WILL BE DENIED A BUILDING PERMIT  
AND WILL NEED TO RE-APPLY FOR A NEW VARIANCE.**

**SIMPLY OBTAINING A BUILDING PERMIT DOES NOT CONSTITUTE  
COMPLIANCE WITH THIS SECTION OF THE ZONING CODE.**

**BY SIGNING, I STATE I HAVE READ AND FULLY UNDERSTAND THE  
ABOVE .**

**SIGNED \_\_\_\_\_ DATE \_\_\_\_\_**

**THIS DOCUMENT MUST BE SUBMITTED WITH  
YOUR APPLICATION.**