

**TOWN OF FALLSBURG
CODE ENFORCEMENT OFFICE**

Member: New York State Building
Officials Conference, Inc.



5250 MAIN STREET
SOUTH FALLSBURG
NEW YORK 12779
(845) 434-8811

ZONING BOARD

USE VARIANCE

All Zoning Board Meetings are held on the third Thursday of each month at 6:30pm.

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 (22) 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. \$100.00 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.

All packets must be put together with one each (#1, #2, #3) and stapled together as a packet. Do not submit 11 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 If the property is not posted, the application will be withdrawn from the agenda the night of the meeting.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.

******The Town of Fallsburg now requires all Zoning Board applications and attachments to be digital as well as paper copies.******

Email: tjbrawley@fallsburgny.com
Codeclerk2@fallsburgny.com
jedwards@fallsburgny.com

ZONING BOARD OF APPEALS
TOWN OF FALLSBURG
5250 Main Street
S. FALLSBURG, NY 12779
(845) 434-8811

APPLICATION FOR A 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), Other: _____

Section 2 MUST be filled out in its entirety for each section of the code for which you are requesting a variance in order to be placed on the Zoning Board of Appeals. Use additional sheets as needed.

2. REQUEST:

1. Town of Fallsburg Code Section: _____
2. Purpose Variance: _____
3. Extent or scope of variance: _____

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.

3. REASONS FOR REQUEST:

1. The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence because:

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

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

4. The alleged hardship has not been self-created because:

The board of appeals shall, in granting of both use variances and area variances, have the authority to impose such reasonable conditions and 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 the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Date: _____

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the _____ day of _____, _____ before me came _____, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Notary Public

THIS FORM MUST BE FILLED OUT IF YOU ARE GIVING
SOMEONE ELSE PERMISSION TO ACT ON YOUR BEHALF
DURING CONSTRUCTION

OWNERS PROXY

(Owner) _____ deposes and states that he/she resides at:

And that he/she is the owner of the premises described in the attached application for a building
permit/zoning application/planning board. application and further states that

he/she has authorized _____ to make said
application, secure any necessary permits and approvals, call for inspections, and request a certificate
of occupancy upon satisfactory completion of the work described in said application.

Date: _____

Owners Signature

Witness' Signature

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part I - Project Information. The applicant or project sponsor is responsible for the completion of Part I. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part I 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 I. 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 I - 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 |
| 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: | | | |
| 3.a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. <div style="display: flex; justify-content: space-between; align-items: flex-start;"><div><input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other</div><div><input type="checkbox"/> Residential (suburban)</div></div> | | | |

| |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action? |
| 9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: |
| 10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: |
| 11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: |
| 12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? |
| 14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban |
| 15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? |
| 16. Is the project site located in the 100 year flood plain? <input type="checkbox"/> NO <input type="checkbox"/> YES |
| 17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES a. Will storm water discharges be directed to established conveyance systems and storm drains)? <input type="checkbox"/> NO <input type="checkbox"/> YES |

| |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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)? If Yes, explain purpose and size: |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: |
| 1. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: |
| Signature: |

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

| | No, or small impact | Moderate to large impact |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? | | |
| 2. Will the proposed action result in a change in the use or intensity of use of land? | | |
| 3. Will the proposed action impair the character or quality of the existing community? | | |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? | | |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? | | |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | | |
| 7. Will the proposed action impact existing: b. public / private water supplies? c. public / private wastewater treatment utilities? | | |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? | | |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? | | |

| | No, or small impact | Moderate to large impact |
|-----------------------------------------------------------------------------------------------------------------|---------------------------|--------------------------------|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | | |
| 2. Will the proposed action create a hazard to environmental resources or human health? | | |

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Name of Lead Agency

Date

Print Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different)

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LEGAL NOTICE

Notice is hereby given that the ZONING BOARD of the Town of Fallsburg, County of Sullivan, State of New York will hold a PUBLIC HEARING. The public can attend via telephone by dialing 929 205 6099 (New York) Meeting ID: 948 7897 4605 via Zoom meeting or in person at 19 Railroad Plaza (NEW MEETING ROOM – POST OFFICE SIDE) South Fallsburg on Thursday, _____ at 6:30 P.M. on the approval of the proposed application regarding the following:

LANDS OF :

LOCATED ON:

PROPOSED APPLICATION IS FOR:

The application of the proposed variance is on file and may be inspected at the Code Enforcement Office, 5250 Main Street, South Fallsburg, New York prior to the public hearing.

Dated:

By order of

TOWN OF FALLSBURG ZONING BOARD

PLEASE MAKE SPECIAL NOTE OF THE FOLLOWING
ZONING SECTION 130-10.6-1 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.

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 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.

RELEASE FORM/ZBA SIGN

DATE: _____

PAID BY:

- ☐ CASH
- ☐ MONEY ORDER
- ☐ LAWYER'S ESCROW CHECK
- ☐ OTHER

The sign must be returned no later than 1 week after the ZBA meeting or the deposit will be forfeited.

Signature: _____ Date: _____

ZBA sign was returned on: _____

Signature: _____ Date: _____