



TOWN OF ITHACA
215 N. Tioga Street, Ithaca, N.Y. 14850
www.town.ithaca.ny.us



CODE ENFORCEMENT - MARTY MOSELEY, DIRECTOR
Phone (607) 273-1783 ■ Fax (607) 273-1704
codes@town.ithaca.ny.us

Instructions for Submitting an Application to the Zoning Board of Appeals

IMPORTANT: You must have applied for a building, sign, or other required permit and received a determination/denial from Code Enforcement Staff OR a referral from the Town of Ithaca Planning Board prior to submitting these application forms.

Complete the attached Zoning Board of Appeals Application Form. In addition to the application, the following documentation should be submitted:

- A copy of the determination/denial letter from Code Enforcement or the Planning Board resolution referring the project to the Zoning Board of Appeals, and
- A narrative describing your project, including the present circumstances under which strict observance of the Town Code would impose practical difficulties and/or unnecessary hardship, along with the other criteria for a use variance, area variances, sign variance, or sprinkler variance. Refer to the attached sheet "**Information on the Criteria for an Area or Use Variance,**" which explains what you as an appellant need to prove and that which the Zoning Board will consider. Complete the applicable criteria form (area, use, sign, or sprinkler), and
- A current survey map and any other plans that will clearly and accurately illustrate your proposal. The survey should include dimensions, setback lines, and any natural features on or immediately adjacent to the site; such as streams, ponds, woodlands, wetlands, etc. Height variance requests require scaled elevation drawings with accurate dimensions showing both the exterior and interior proposed heights. The submission of floor and utility plans should be included when construction is involved. In some cases, these plans may be the same plans submitted to the Code Enforcement Department which caused the determination or denial, and
- If the property is located within a Tompkins County Agricultural District, submit a County "**Agricultural Data Statement**" form available at Town Hall. Maps showing these districts are located on the Town website www.town.ithaca.ny.us and at Town Hall, and
- Similarly, if the property has a stream on it, the survey map needs to show the distance of the stream to the property line as it may need to comply with the **Town's Stream Setback Law**. (See staff for more details)
- A completed **SHORT or FULL Environmental Assessment Form**. All applications require an Environmental Assessment Form (exception--area variance where a residential building setback is involved). There are some cases where a full Environmental Assessment Form will be required; in this case, a Zoning staff member will let you know. The short form is attached to this application, but either form can be completed online at www.dec.ny.gov with a link on the homepage to the forms.

(CON'T)

The application with supporting documentation can be submitted electronically to codes@town.ithaca.ny.us. The application will need to have an electronic signature.

If you have documents LARGER than 11 x 17 tabloid size, we will need **8 hard copies** of those documents. One copy can be provided in the original packet and we will notify you when to submit the hard copies.

Hard copies and application fee checks can be brought to Town Hall or mailed via US mail to:
ZBA
Town Hall
215 N. Tioga St
Ithaca, NY 14850

*The packet will not be processed and reviewed until we are in receipt of the payment. Please make checks payable to: **Town of Ithaca**. If your appearance requires an additional meeting(s), an additional fee may apply.*

Completed applications are scheduled on a first-come first-serve basis. **All documents MUST be submitted FORTY-FIVE (45) DAYS IN ADVANCE** of the proposed meeting date, together with the **required application fee (see page 1)**. Failure to do so will result in a delay in your hearing.

ATTENDANCE AT THE MEETING IS HIGHLY RECOMMENDED TO ALLOW FOR QUESTIONS AND ANSWERS. YOUR ABSENCE COULD RESULT IN A DENIAL OR POSTPONEMENT.



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Zoning Board of Appeals Application Form:

Submit this application **ONLY** after: 1. Applying for a building/sign permit for which you received a determination/denial from Code Enforcement staff or 2. A referral from the Planning Board based upon a site plan or subdivision review.

ZBA Appearance Fee:
\$150 - Area, Sign, or Sprinkler Variance and Special Approval
\$250 - Use Variance
Please check all that apply:
 Area Variance
 Use Variance
 Sign Variance
 Sprinkler Variance
 Special Approval
(Only 1 fee is required per appearance, higher fee prevails)

For Office Use Only
Property is located within, or adjacent to: _____ County Ag District; _____ UNA;
_____ CEA _____ Forest Home Historic District; _____ State Park/another municipality

For Office Use Only Date Received: _____ Zoning District: _____
Applicable Section(s) of Town Code:

The UNDERSIGNED respectfully submit this application requesting an appearance before the Zoning Board of Appeals to be permitted to:

At property address: _____ Tax Parcel No. _____

as shown on the attached supporting documents. As description of the practical difficulties and unnecessary hardship and/or the Special Approval authorization request is as follows: (attach any additional sheets as necessary):

By filing this application, I grant permission for members of the Town of Ithaca Zoning Board of Appeals or Town staff to enter my property for any inspection(s) necessary that are in connection with my application.

PRINT NAME HERE: _____

Signature of Owner/Appellant: _____ **Date:** _____

Signature of Agent: _____ **Date:** _____

Best phone number for contacting: _____ **2nd number:** _____

Email: _____

NOTE: Your attendance at the ZBA meeting is strongly advised.

Additional Information on the Criteria for Variances

AREA VARIANCE:

As per Article XXV, Section 270-213 of the Town of Ithaca Code and Section 267-b of NY Town Law, the Zoning Board of Appeals, in making its determination for an area variance, will apply a *balancing test* of the benefit to the applicant weighed against the potential detriment to the health, safety, and welfare of the community that granting the area variance may create. **You, as the appellant, have the burden of proving that your proposal meets the majority of the criteria below. You should come to the Zoning Board of Appeals meeting prepared to prove that:**

- a. an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties will not be created by granting the area variance,
- b. the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue, other than the area variance,
- c. the requested area variance is not substantial,
- d. the proposed area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, and
- e. the alleged difficulty was not self-created.

USE VARIANCE:

As per Article XXV, Section 270-213 of Town of Ithaca Code and Section 267-b of NY Town Law, the Zoning Board of Appeals, in making its determination to grant a use variance, will consider the unnecessary hardship caused by the applicable zoning regulation, and will determine if the applicant has satisfactorily demonstrated ALL of the following criteria. **You, as the appellant, have the burden of proving that your proposal meets ALL of the criteria below. You should, therefore, come to the Zoning Board of Appeals meeting prepared to prove that:**

- a. the applicant (you) 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 not been self-created.

SIGN VARIANCE

A sign variance request must also be heard by both the Sign Review Board (Planning Board) and the Zoning Board of Appeals. This appearance can be before or after the ZBA request is decided. Please see the Director of Code Enforcement Marty Moseley, mmoseley@town.ithaca.ny.us to discuss your request.

NOTE: Chapter 270-235J of the Town of Ithaca Code: Unless work has commenced in accordance with the variance or special approval given by the ZBA within one year from the issuance of the building permit authorizing such work, or within 18 months of the granting of such variance or special approval, whichever is earlier, not only the building permit but the variance or special approval shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the issuance of such special approval or variance.

Please complete ONLY the following worksheet that corresponds to the type of variance you are requesting.

AREA and SIGN VARIANCE CRITERIA FORM
(to be completed by Applicant)

Owner/Appellant/Agent Name: _____

Address of Property Requiring Variance: _____

Tax Parcel No.: _____

TEST: *No area variance will be granted without consideration by the Board of the following factors:*

- A. Will an undesirable change be produced in the character of the neighborhood or be a detriment to nearby properties?

Yes ___ No

Reasons:

- B. Can the benefit sought by the applicant be achieved by a feasible alternative to the variance?

Yes ___ No

Reasons:

- C. Is the requested variance substantial?

Yes ___ No

Reasons:

- D. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood?

Yes ___ No

Reasons:

- E. Is the alleged difficulty self-created?

Yes ___ No

Reasons:

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SPECIAL APPROVAL CRITERIA
(ZBA will determine)

Owner/Appellant/Agent Name: _____

Address of Property Requiring Variance: _____

Tax Parcel No.: _____

The reviewing Board's determination of an application for special authorization shall include findings consistent with any special criteria set forth in this chapter relating to the specific use or activity for which approval is being sought, and shall also include as appropriate, but shall not be limited to, findings that the following standards have been met:

- A. The health, safety, morals and general welfare of the community in harmony with the general purpose of this chapter (including the specific purposes related to the zone in which the premises are located) are being promoted, except that as to all public buildings and educational buildings wherein the principal use is research, administration, or instruction, the same shall be presumed to exist.

Yes ____ **No** ____

Proof:

- B. The premises are reasonably adapted to the proposed use, and such use will fill a neighborhood or community need, except that all publicly owned or educational buildings are deemed to be adapted to the proposed use and are deemed to fill a neighborhood or community need.

Yes ____ **No** ____

Proof:

- C. The proposed use and the location and design of any structure will be consistent with the character of the district in which it is located.

Yes ____ **No** ____

Proof:

- D. The proposed use will not be detrimental to the general amenity or neighborhood character in amounts sufficient to devalue neighboring property or seriously inconvenience neighboring inhabitants.

Yes ____ **No** ____

Proof:

- E. Operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibrations, illumination, or other potential nuisance, than the operation of any permitted use in the particular zone, except that as to all public buildings, churches, and educational institutions the determination shall be whether the presumed benefit of such a use is outweighed by the objectionable impacts of such use on nearby properties.

Yes ____ **No** ____

Proof:

- F. Community infrastructure and services, including but not limited to protective services, roadways, garbage collection, schools, and water and sewer facilities are currently, or will be, of adequate capacity to accommodate the proposed use.

Yes ____ **No** ____

Proof:

- G. The proposed use, building design and site layout comply with all the provisions of this chapter and, to the extent considered by the reviewing Board, with other regulations and ordinances of the Town, with the Building Code and all other state and federal laws, rules and regulations, and with the Town's Comprehensive Plan.

Yes ____ **No** ____

Proof:

H. The proposed access and egress for all structures and uses are safely designed and the site layout provides adequate access for emergency vehicles.

Yes ____ **No** ____

Proof:

I. The general effect of the proposed use upon the community as a whole, including such items as traffic load upon public streets and load upon water and sewage systems is not detrimental to the health, safety and general welfare of the community, except that as to all public, religious and educational uses, the determination shall be whether the presumed benefit of such a use is outweighed by the detrimental effect of the proposed use upon the health, safety and general welfare of the community.

Yes ____ **No** ____

Proof:

J. The lot area, access, parking and loading facilities are sufficient for the proposed use and access; parking and loading facilities are adequately buffered to minimize their visual impact.

Yes ____ **No** ____

Proof:

K. Natural surface water drainage is adequately managed in accordance with good engineering practices and in accordance with any applicable Town local law or ordinance, and existing drainage ways are not altered in a manner that adversely affects other properties.

Yes ____ **No** ____

Proof:

L. To the extent reasonably deemed relevant by the reviewing Board, the proposed use or structure complies with all the criteria applicable to site plan review set forth in this chapter.

Yes ____ **No** ____

Proof:

NOTE: Chapter 270-202 “Expiration of special permit or special approval” (Town of Ithaca Code):

“Unless work has materially commenced (as defined in Chapter 270-194C) in accordance with the special authorization within one year from the issuance of the building permit authorizing such work, or within 36 months of the date the reviewing Board approved the special authorization, whichever is earlier, not only the building permit but the special authorization shall expire and the permissible uses and construction on the property shall revert to those in effect prior to the approval of any special authorization. The reviewing Board, upon request of the applicant, after a public hearing, and upon a finding that the imposition of the time limits set forth above would create an undue hardship on the applicant, may extend the time limits for such additional periods as the reviewing Board may reasonably determine. An application for such extension may be made at the time of filing of the original application or at any time thereafter up to, but no later than, six months after the expiration of the time limits set forth above.”

SPRINKLER VARIANCE CRITERIA FORM
(to be completed by Applicant)

Owner/Appellant/Agent Name:

Address of Property Requiring

Variance: _____

Tax Parcel No.: _____

TEST: *No sprinkler variance will be granted without a showing by the applicant and consideration by the Zoning Board the following factors:*

- A. Will the strict application of the Sprinkler Chapter of the Town Code create a practical difficulty or unnecessary hardship?

Yes No

Please explain below even if you checked NO.

Proof:

EXAMPLES OF INFORMATION FOR QUESTION 1

- Estimated cost of a sprinkler system for this structure.
- Cost of the structure or assessed value
- Size and shape of structure (architectural drawings)
- Presence or absence of water or heating systems in the structure

- B. Will the omission of an approved sprinkler system from all or part of the building significantly jeopardize human life?

Yes No

Please explain below even if you checked NO.

Proof:

EXAMPLES OF INFORMATION FOR QUESTION 2

- Building use and layout (floor plan)
- Site plan (location of building on property and relation to other structures)
- Building construction materials and methods
- Occupancy and # of occupants.
- Forms of alterative mitigation

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USE VARIANCE CRITERIA FORM
(to be completed by Applicant)

Owner/Appellant/Agent Name: _____

Address of Property Requiring Variance: _____

Tax Parcel No.: _____

TEST: *No use variance will be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit:*

A. Can the applicant realize a reasonable return, as shown by competent financial evidence? (The lack of return must be substantial).

Yes ____ **No** ____

Proof:

B. Is the alleged hardship relating to the property unique? (The hardship may not apply to a substantial portion of the zoning district or neighborhood).

Yes ____ **No** ____

Proof:

C. Will the requested use variance, if granted, alter the essential character of the neighborhood?

Yes ____ **No** ____

Proof:

ILLUSTRATIONS OF FINANCIAL EVIDENCE:

- Bill of sale for the property, recent value of property, expenses for maintenance
- Leases, rental agreements
- Tax bills
- Conversion costs (for a permitted use)
- Realtor's statement of inability to rent/sell

ILLUSTRATIONS OF UNIQUENESS:

- Topographic or physical features preventing development for a permitted use.
- Why would it be possible to construct the applicant's proposal and not any of the permitted uses?
- Board member observations of the property and surrounding area.

ILLUSTRATIVE NEIGHBORHOOD CHARACTER FACTORS:

- Board members' observations of neighborhood.
- Expected effect of proposal on neighborhood, for example, change in parking patterns, noise levels, lighting, traffic.

D. Has the alleged difficulty been self-created?

Yes _____ **No** _____

Proof:

SELF-CREATED FACTORS:

- What were the permitted uses at the time the property was purchased by the applicant?
- Were substantial sums spent on remodeling for a use not permitted by zoning?
- Was the property received through inheritance, court order, divorce?