

Town of Canandaigua

5440 Routes 5 & 20 West

Canandaigua, NY 14424

Phone: (585) 394-1120 / Fax: (585) 394-9476

ZONING BOARD OF APPEALS

AREA VARIANCE APPLICATION

NOTICE TO ALL APPLICANTS:

The ZONING BOARD OF APPEALS reviews submitted applications on a first-come-first-served basis. The number of applications scheduled for review will vary depending upon the number and complexity of the applications received. The goal of the ZBA is to process all applications in a timely and efficient manner.

Applicant must see that all forms are filled out completely and accurately before the application can be processed. All completed applications are subject to the rules and regulations as established by the Town of Canandaigua and the State of NY. This department does not guarantee any board approvals for completed applications.

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ZONING BOARD OF APPEALS REQUIRED PAPERWORK FOR APPLICATION SUBMITTAL

Area Variance Application

- _____ Variance Application (Zoning Board of Appeals)
- _____ Description of documents which would support a determination that it is practically difficult for you to conform to the dimensional requirements of the zoning law (Tests for Granting Area Variances).
- _____ Map showing size and location of all existing and proposed structures, including lot width, lot area, setback dimensions and computations of percentage of lot coverage. (See attached Sketch Plan Checklist) Projects over 1,000 square feet will require a professionally prepared site plan.
- _____ Front elevation or view of proposed structure showing the height measured from the average finished grade.
- _____ Property owner signatures on all application forms and checklists

**You must submit the original application and attachments / survey map / site plan.
Contact the Zoning Officer to determine which additional building/sign permit application is
required to be submitted with this application.
Additional copies of the site plan, etc. will be requested after the Planning Review Committee
(PRC) has reviewed your application.**

FEES:

1. The \$100 application fee is required upon submission of the application. This fee is non-refundable. A separate, additional fee will be rendered for the building permit.
2. Building permit fees vary – the fee will be determined by the Town Code Enforcement Officer.
3. The property owner is responsible for reimbursement of any Town Engineer and/or Town Attorney fees incurred during application review.

WHY YOUR VARIANCE MIGHT BE DENIED

You have been told that something which you want to do on your land is prohibited. You have also learned that the ZBA has the power to authorize you to proceed despite the Zoning Law prohibition.

Hopefully, you have also learned from the materials you received from the Planning & Zoning Office that we may only approve your variance if you can show some practical difficulty in your particular situation. We seek, wherever possible, to help resolve your individual conflict with the zoning law in a manner which addresses your needs as well as the needs of the Town as a whole.

Unfortunately, because these needs are sometimes in conflict, we often find such an ideal solution impossible.

In our experience variances are most frequently denied for one of three reasons:

First, practical difficulty was not shown, even though it was shown, there is some means other than a variance available to the applicant to address the problem. These variances are denied because they are not considered to be necessary.

Second, even though practical difficulty was shown, a variance will be denied if the impact of the requested variance upon the neighborhood or surrounding properties would be too great. This board is required to take into account the good of the Town as a whole and not grant an individual relief if the common good would be too severely impacted.

Finally, variances are generally denied if the practical difficulty shown was not unique. We are required to determine whether the difficulty is unique to a given property or to circumstances peculiar to that property. State law prohibits us from approving a variance if an applicant establishes a difficulty which is not unique. The rationale for this limitation is that the granting of variances to address difficulties which are common to a given region or type of use amounts to actually changing the zoning law, one variance at a time. The proper legal procedure in such a case is not a variance, but a request to change the law. This board cannot act on such a request as the Town Board, which enacts all the laws of the town, is the only board which can make such a change. Regrettably, the Zoning Board of Appeals sometimes finds an applicant to have a legitimate concern, but is nonetheless compelled to deny the requested variance because the described difficulty is not sufficiently unique. In that instance the board will advise the Town Board of its finding both to assist the applicant and in the hope that the Town Board will take appropriate action to improve the zoning law itself.

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CPN #: _____

ZONING BOARD OF APPEALS APPLICATION

FOR: AREA VARIANCE USE VARIANCE INTERPRETATION

Permission for on-site inspection for those reviewing application: _____ Yes _____ No

1. Name and address of the property owner: _____

Telephone Number of property owner: _____

Fax # _____ E-Mail Address: _____

If you provide your e-mail address, this will be the primary way we contact you

2. Name and Address of Applicant *if not the property owner*: _____

Telephone Number of Applicant: _____

Fax # _____ E-Mail Address: _____

If you provide your e-mail address, this will be the primary way we contact you

3. Subject Property Address: _____

Nearest Road Intersection: _____

Tax Map Number: _____ Zoning District: _____

4. Is the subject property within 500' of a State or County Road or Town Boundary? (If yes, the Town may be required to refer your application to the Ontario County Planning Board.)

Please circle one: YES NO

5. Is the subject property within 500' of an Agricultural District? (If yes, an Agricultural Data Statement must be completed and submitted with this application – for use variance applications only.)

Please circle one: YES NO

(Continued on back)

6. What is your proposed new project and the variance(s) or interpretation requested?

7. Have the necessary building permit applications been included with this form? If not, please verify with the Development Office which forms are required to be submitted.

8. With your completed application for an Area Variance, attach a tape map/survey/site plan, elevation of the proposed structure, and other documentation necessary describing the requested variance(s) illustrating why it is practically difficult for you to conform to the Zoning Law.

All maps, surveys, or site plans shall accurately depict the property including all existing and proposed structures, setbacks, and dimensions. *All dimensions must be precise.*

9. With your completed application for a Use Variance, attach a current survey map/site plan of the subject parcel with a detailed description of the proposed use, a statement as to why you feel this use variance is necessary, and a completed Environmental Assessment Form.

10. With your completed application for an Interpretation, attach a current survey map/site plan of the subject parcel with a detailed description of the proposed use, a statement as to why you are appealing the zoning law determination, and a copy of the zoning law determination of which said appeal is requested.

11. If the variance requested is related to signs, attach a Sign Detail Sheet, a site plan, and colored renderings of the proposed signage, and any other documentation required in Article IX (Sign Regulations) of the Town of Canandaigua Zoning Law.

I have examined this application and declare that it is true, correct, and complete. I understand that my application and all supporting documentation will be examined by the Zoning Board of Appeals as an integral component of deliberations.

I hereby grant my designee permission to represent me during the application process.

(Signature of Property Owner)

(Date)

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***Property Owner is responsible for any consultant fees
(Town Engineer, Town Attorney, etc.) incurred during the application process.***

Please note that the **Property Owner** is responsible for all consultant fees during the review of this application including legal, engineering, or other outside consultants. Applications submitted to the Town of Canandaigua Planning Board will normally receive chargeback fees of at least five hours to ten hours for planning services including intake, project review, resolution preparation, SEQR, and findings of fact. PLEASE NOTE that the number of hours will be SIGNIFICANTLY INCREASED due to incomplete applications, plans lacking detail, or repeated continuations. Subdivision applications and larger commercial or industrial projects traditionally require more hours of engineering, legal, and other consultant review and preparation and will incur higher costs. Applications for new construction may be referred to the Town Engineer for engineering review which may include at least an additional eight to twelve hours of review time. The **Property Owner** will also be responsible for legal fees for applications submitted to the Town of Canandaigua Planning Board, Zoning Board of Appeals, or the Town of Canandaigua Development Office. Fees for engineering and legal expenses traditionally range between one hundred and one hundred fifty dollars per hour. A copy of the Town's annual fee schedule is available upon request from the Development Office or the Town Clerk's Office. The **Property Owner's** signature below indicates that the **Property Owner** understands that the **Property Owner** will be responsible for all outside consultant fees incurred as a result of the submitted application, and consents to these charges. Additionally projects approved by the Town of Canandaigua Planning Board may be required to pay a parks and recreation fee as established by the Town Board (currently \$ 1,000 per unit) if required as part of the conditions of approval.

(property owner)

(property owner)

TESTS FOR GRANTING AREA VARIANCES

BE VERY SPECIFIC WHEN ANSWERING THESE QUESTIONS

"Area variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
(Town Law Section 267, subsection 1.(b)).

In deciding whether to grant an area variance, the Zoning Board of Appeals takes 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. (Town Law Section 267-b, subsection 3.(b)).

To enable the Zoning Board of Appeals to grant an area variance, the applicant must present substantial evidence concerning the following topics by providing supporting evidence for each. Attach additional sheets if necessary.

- (1) 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.

- (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

- (3) Whether the requested area variance is substantial.

- (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

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CPN #: _____

Sketch Plan Checklist

Applicant: _____

Project Address: _____

Tax Map #: _____

Zoning District: _____

Project Description Narrative: _____

Sketch Plan Checklist – Chapter 220 §220-66 (Not required for any property in a major subdivision)	Shown on Plan by Applicant	Initial PRC Review	PRC Follow Up Review
A. The sketch plan shall be clearly designated as such and shall identify all existing and proposed:			
1) Zoning classification and required setbacks.			
2) Lot lines.			
3) Land features including environmentally sensitive features identified on the NRI. (woods, streams, steep slopes, wetlands)			
4) Land use(s). (residential, agricultural, commercial, or industrial)			
5) Utilities. (i.e. location of electric, gas, well, septic, sewer, cable)*			
6) Development including buildings, pavement and other improvements including setbacks.			
7) Location and nature of all existing easements, deed restrictions and other encumbrances.			
B. Sketch plans shall be drawn to scale.			
C. It is the responsibility of the applicant to provide a sketch plan that depicts a reasoned and viable proposal for development of the lot.			

I have reviewed my submitted application and drawings against the above noted criteria and hereby certify that the submitted application matches this check list.

 Signature of Applicant / Representative

 Date

*May be obtained from UFPO – dial **811** for assistance.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 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 1. 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 1 - 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
			<input type="checkbox"/>	<input type="checkbox"/>
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:			NO	YES
			<input type="checkbox"/>	<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres				
b. Total acreage to be physically disturbed? _____ acres				
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____				
<input type="checkbox"/> Parkland				

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES _____ _____			

<p>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)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p>NO</p> <p><input type="checkbox"/></p>	<p>YES</p> <p><input type="checkbox"/></p>
<p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: _____ Date: _____</p> <p>Signature: _____</p>		

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AGRICULTURAL DATA STATEMENT

CPN #: _____

In accordance with NYS Town Law § 283-a, the Town of Canandaigua will use the following information to evaluate possible impacts that would occur on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation.

A. Name and Address of Property Owner: _____

B. Name and Address of Applicant: _____

C. Description of the proposed project: _____

D. Project Location: _____

E. Tax Map #: _____

F. Is any portion of the subject property currently being farmed? _____ Yes _____ No

G. List the name and address of any land owner within the agricultural district that the land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed.

Name / Address

1. _____

2. _____

3. _____

H. Attach a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in this Agricultural Data Statement.

FOR TOWN USE ONLY

Circle Type of Application:

Special Use Permit

Site Plan Approval

Subdivision

Use Variance

Circle Review Authority:

Zoning Board of Appeals

Planning Board

Town Board

Notice Provision:

Date when written notice of the application described in Part I was provided to the land owners identified in the Agricultural Data Statement.

Date referral sent to the Ontario County Planning Department:

Name of Official Completing Form

Date