

TOWN OF CLAY ZONING BOARD OF APPEALS APPLICATION

Residential \$200

Commercial \$400

Area Variance Instructions (Incomplete applications will NOT be processed):

The Board meets at 6:00 P.M. on the 2nd Monday of each month. See the ZBA calendar for meeting dates and application submittal deadlines (available on the Town of Clay website townofclay.org).

File the **one (1) Original Zoning Board of Appeals Application** with the **Commissioner of Planning and Development, Town of Clay, 4401 State Route 31, NY 13041.**

ATTACH the following to the ORIGINAL application:

- **EIGHT (8)** copies of the survey map drawn to scale sufficient to show the boundaries and location of the subject property. The survey must be done by a civil engineer or licensed surveyor. (**Interpretations** do not require copies of the survey)
- **ONE (1)** copy of the legal description of the subject property
- **EIGHT (8)** copies of the Environmental Assessment Form, filled out and signed.
- If the applicant is not the owner, the attached form stating that the owner ***“agrees to and joins in”*** the application must be filled in.
- Payment must accompany the filing of this Notice of Appeal and Application.

Applicant will be notified by mail at least five (5) days prior to the public hearing date. In the event of default by the applicants to appear for the hearing, the Board may either proceed with the hearing and vote on the case, or adjourn the case to a later date.

The applicant must **verbally** read and present responses to the **Standards of Proof** at the public hearing.

IMPORTANT: Failure to submit all the above information and answer all pertinent questions may result in an **incomplete** application and delay in processing the appeal and possibly a denial.

ONLY IF there is any additional information or revisions not previously submitted, provide **SEVEN (7) copies the night of the public hearing.**

FOR AREA VARIANCES IT IS SUGGESTED THAT THE APPLICANT INSTALL VISIBLE STAKES AT THE LOCATION OF THE PROPOSED STRUCTURE APPROXIMATELY TWO WEEKS BEFORE THE HEARING.



TOWN OF CLAY

ZONING BOARD OF APPEALS
RESIDENTIAL or COMMERCIAL

Case # _____
Tax Map # _____

Application for an Area Variance:

NAME OF APPLICANT (Principal contact): _____

Mailing Address _____

Email _____ **Phone** _____

ADDRESS OF SUBJECT PROPERTY: _____

PROPERTY OWNER (owner of record, if not applicant) _____

Mailing Address _____ **Phone** _____

PERSON/FIRM REPRESENTING APPLICANT _____

(Architect, Engineer, Attorney, etc.)

Mailing Address _____

Email _____ **Phone** _____

PROPERTY'S ZONING DISTRICT: RA-100 R-40 R-15 R-10 R-7.5 R-2F R-TH R-APT R-MHC LuR
R-SR REC-1 O-1 O-2 NC-1 HC-1 RC-1 LuC-1 LuC-2 I-1 I-2 S-1 PDD (circle one)

Any portion of the land located in: Regulated Wetlands Flood Plain Waterfront Revitalization Area

RELIEF SOUGHT:

Front yard setback from _____ feet to _____ feet, Section _____

Side yard setback from _____ feet to _____ feet, Section _____

Side yard (2nd) setback from _____ feet to _____ feet, Section _____

Rear yard setback from _____ feet to _____ feet, Section _____

Height of a _____ from _____ feet to _____ feet, Section _____

Height of a fence in a front yard from the allowed 2 ½ feet to _____ feet (maximum 7 feet) 230-20 B.(2)(b)

Lot Area _____ feet to _____ feet Lot width _____ feet to _____ feet

Highway Overlay Zone District reducing:

Lot area from _____ square feet to _____ square feet, Section _____

Lot frontage from _____ square feet to _____ square feet, Section _____

Designated highway from _____ feet to _____ feet, Section _____

Other _____

For the purpose of _____

No previous application for the relief herein sought has been made, except

<u>Location of the subject property:</u>	Yes	No
Is located within 500 feet of the boundary line of the Town of Clay or the Village of North Syracuse	_____	_____
Is located within 500 feet of boundary of an <i>existing</i> or <i>proposed</i> County or State Park or other recreation area; County or State Parkway, Thruway, expressway, road or highway; right-of-way of any stream or drainage channel owned by County or for which the County has established channel lines; County or State owned lands on which a public building or institution is situated.	_____	_____

MANDATORY EXHIBITS FOR AN AREA VARIANCE. The hearing will not be scheduled without these exhibits:

A **legal description** of the property; an **up-to-date survey** or **scaled drawing** of the subject property showing all dimensions and locations and setbacks of all buildings and structures thereon; and an **EAF** (Environmental Assessment form)

The applicant hereby acknowledges that the burden of proof is upon him/her to prove his/her entitlement to the relief sought according to the applicable Standards of Proof and further understands that the Zoning Board of Appeals is powerless to grant relief sought unless the applicant satisfies the Standards of Proof.

Dated: _____, 20_____

(Individual Signature)
(or)

(Entity Name)
By: _____
(Officer) (Title)

TOWN OF CLAY

DISCLOSURE AFFIDAVIT

This affidavit is a part of and must be completed and attached to every application, petition, request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:
_____ OF _____)

I. _____, being duly sworn, deposes and says that (s)he is:

(applicant, petitioner, corporation officer, property owner, etc.)

II. That deponent has read and is familiar with the provisions of the General Municipal Law, Section 809 which states:

- A. 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 or 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 is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
B. For the purpose of this action an officer or employee shall be deemed to have an interest in the applicant when (s)he, his/her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
1) is the applicant, or
2) is an officer, director, partner or employee of the applicant, or
3) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
4) is a party to an agreement with such an applicant, express or implied, whereby (s)he may receive any payment or other benefit, whether or not for services rendered, or contingent upon the favorable approval of such application, petition or request.
C. Ownership of less than five percent (5%) 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.
D. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

OWNER agrees to and joins in on the request for an Area Variance:

Date _____

(I / We) _____ being owner
of premises known as:

(ADDRESS) _____

TAX MAP NUMBER(S) _____ . - _____ - _____
_____ . - _____ - _____
_____ . - _____ - _____

Agree to and join in the application of:

APPLICANT NAME: _____

WHAT IS BEING REQUESTED:

SIGNATURE: _____

PRINTED NAME _____

STANDARDS OF PROOF - AREA VARIANCE:

The Zoning Law applies uniformly to all lands and buildings located within your Town. Like most Zoning Laws, it contains several minimum dimensions with which all buildings and the location of buildings must conform. These area requirements (dimensional requirements) may involve the minimum distance from the highway to the building (front yard setback) or the minimum distance between the building and lot side line (side yard setback) as well as other dimensions.

You have asked for special dispensation allowing you to meet reduced requirements. In other words, you have petitioned the Zoning Board of Appeals for a modification or “variance” of some particular area or dimensional requirement of the Zoning Law. You applied for an Area Variance.

The Zoning Board of Appeals is the only body that is empowered by law to grant Area Variances. The Zoning Board of Appeals cannot grant any Area Variance unless **proof** is presented to the Board by you, the applicant, that warrants special treatment as to your property. The fact that you simply “want” a variance is not enough.

The New York State Legislature has enacted into law requirements that an applicant for an Area Variance must furnish proof to the Zoning Board of Appeals. The answers to the following standards of proof **must be addressed to the Board** the night of your hearing.

- (1) Will the granting of the variance produce an undesirable change in the character of the neighborhood or a detriment to nearby properties? And if not, please explain why:

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

- (3) Is the requested area variance substantial? If not explain why it is not substantial?

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

- (5) Is the alleged difficulty self-created? Consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance:

After you have presented your proof, the Zoning Board of Appeals will take into consideration the benefit to you, if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by granting the variance.

“Proof” is not just parroting these criteria. You must produce “facts” so as to enable the ZBA to carefully consider each of the criteria. Then the ZBA will weigh the benefit to you as contrasted with the detriment to the Town.

Consideration might well be given to hiring a professional real estate appraiser (not a broker or salesman) or a landscape architect to develop proof that will satisfy the above standards.

Remember, this is your case. The Zoning Board of Appeals does not have the power to grant variances unless the required proof is furnished.

As the Appellate Division of the Supreme Court recently held, an applicant must demonstrate that strict compliance with the Zoning Ordinance (Law) will result in practical difficulties.