

USE VARIANCE APPLICATION PROCEDURE GUIDELINES
FOR THE CITY OF AUBURN

1. ALL APPLICATIONS: Please read and complete the enclosed application for use variance with as much detail as possible. Make sure to answer all relevant questions. **Do not leave any blanks unless the question is not applicable (please place N/A if not applicable).** All applications must be accompanied by detailed diagrams showing lot size, adjoining roads, driveways, the location and dimensions of all buildings including building heights and the distance of all buildings from all lot boundaries. It is the sole responsibility of the applicant to provide the Zoning Board of Appeals (ZBA) with **one original and nine (9) copies** of the application and all necessary information and documentation concerning this application. The ZBA will make its determination solely on the basis of the information and material that it is provided; therefore, the burden of proof is on the applicant to prove the necessity of the request. There is **\$50.00 filing fee** with the submission of each application. This fee is not refundable once presented to the ZBA and shall not be used to cover any other fee, permit, etc. Unless otherwise specified by the ZBA Board, a decision on any variance shall expire if the applicant fails to obtain any necessary permit or comply with the conditions of such permit within 6 months from the date of authorization thereof. Before work is started, please obtain a permit from the Code Enforcement Office. Please be advised that construction must comply with all regulations of the Auburn Building Code and the New York State Uniform Fire Prevention and Building Code. The ZBA meets the last Monday of every month (barring holidays) and **all applications must be submitted, along with the fee, on or before the deadline date. Please check with the Code Enforcement Office for the deadline dates. The completed application and fee is submitted to the Code Enforcement Office, 24 South St., Auburn, NY 13021.**

Example of items that may be enclosed in support of the application:

- (a) Property card (Assessor's records)
- (b) Tax records
- (c) Appraisal
- (d) Business records (Maintenance costs, tax records/returns, utility bills)
- (e) Renovation documents (if applicable)
- (f) Business proposal (if applicable)
- (g) Photos
- (h) Survey map of property
- (i) Neighborhood letter(s) of support (if applicable)
- (j) Map/photos/layout of neighborhood
- (k) Purchase documents

2. USE VARIANCE: A use variance is a variance granted by the ZBA of the prohibitions against certain uses of real property in a zoning district. A variance, if granted, allows the property owner to use the property in a certain way even though the desired use is otherwise prohibited in the zoning district. A use variance may be granted upon a demonstration of unnecessary hardship to the property owner in the use of the land.

3. STANDARDS: Please make sure to answer all questions in detail. You must clearly demonstrate that *all* the following prerequisites have been met in order to qualify for a use variance:

(a) the applicant will be deprived of *all* economic use or benefit from the property unless it can be used for the purpose requested, which deprivation must be established by competent financial evidence. Competent financial evidence may include records or documents of: the amount paid for the property, the present values of the property, the expenses attributable to the maintenance, the amount of taxes on the property, income from the property, etc.;

(b) the hardship created is unique and does not apply to a substantial portion of the district or neighborhood. To determine whether the conditions that make an applicant's land difficult to use are unique, the ZBA may, for example, consider proximity to a major highway or industry, or physical conditions of the site itself, such as steep slopes or wetlands;

(c) the requested variance would not alter the essential character of the neighborhood. For example, the establishment of a commercial use that generated a lot of traffic or excessive noise could disrupt a residential area;

(d) the hardship is not self-created. An example of a hardship that has been created by the applicant's own actions may be where the applicant purchases residentially zoned land for a very high price, with the thought of subsequently obtaining a variance to use the land commercially. In this case, the applicant created the hardship by paying an inflated amount for the land and should not be granted a variance;

(e) the variance is the minimum necessary to grant relief from the hardship. The ZBA may grant the least relief, or smallest variance, necessary to allow the applicant a reasonable return on the property;

(f) the variance will preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The neighborhood should not be disrupted by the proposed use, even if the applicant proved unnecessary hardship.

In order to qualify for a use variance, the applicant must show by "dollars and cents" proof that the property cannot yield a reasonable return if its use is limited to only those uses permitted in the zoning district. To determine whether the property can yield a reasonable return, the ZBA may consider whether the applicant would lose the practical use of the land if made to conform to the use requirements of the zoning regulations. It may be to the applicant's benefit to have an appraisal performed to support any claims.

4. SELF-CREATED HARDSHIP: The ZBA may not grant a use variance to relieve a hardship created by the applicant, such as purchase of land with actual or constructive (should have known-presumed to know the law) knowledge that the desired use is prohibited by the zoning ordinance, even if the landowner *does not have actual knowledge* of the applicable provisions of the ordinance prohibiting the desired use.

The applicant should keep in mind that a use variance, if granted, runs with the land; in other words, the variance is granted to benefit the use of the property regardless of who owns the property. The variance is not granted for the personal benefit of the property owner; rather, it will continue to benefit the property for subsequent owners of the property as well.

The City of Auburn will meet with the property owner, if desired, to help prepare/explain the application process. Should you require assistance please contact:

Brian Hicks, Sr. Code Enforcement Officer
24 South St.
Auburn, NY 13021
315-255-4111.

CITY OF AUBURN
ZONING BOARD OF APPEALS
APPLICATION FOR USE VARIANCE

Date: _____

1. Applicant(s): _____

2. Address: _____

3. Phone: work: _____ home: _____

4. Location of property where variance is requested: _____

Tax Map number: _____ Zoning district: _____

5. Property owner (if different than applicant): _____

(if applicant is not the property owner a notarized statement giving authorization to the applicant must be obtained from the property owner and submitted with this application.)

6. Date property acquired by applicant: _____

7. Current use: Residential - Number of dwelling units _____;
- Commercial - Type _____;
- Industrial - Type _____;
- Accessory building - Describe _____;
- Other - Describe _____.

8. Proposed use: (please use above descriptions): _____.

9. If the use variance is granted, will the applicant be performing the changes? Yes No

10. If not, please provide the name, address and phone number of the contractor(s):

11. Please describe in detail the changes you plan to make on the premises (be specific).

12. Please explain how the variance will affect the character of and the health, safety and welfare of the neighborhood:

13. Please explain how the hardship *is not* self-created: _____

14. Please explain how the hardship created is unique and does not apply to a substantial portion of the district or neighborhood: _____

15. Please explain why the requested variance will not alter the essential character of the neighborhood: _____

16. Please explain how the variance is the minimum necessary to grant relief from the hardship: _____

17. Please explain how you will be deprived of *all* economic use or benefit from your property unless it can be used for the purpose you request, which deprivation must be established by competent financial evidence: _____

18. Please explain how the land will not yield a reasonable return by providing the following information:

(a) Amount paid for the property in question: _____

(b) Date of purchase of the property: _____

(c) Present market value of the property or any part thereof: _____

(d) Basis upon which the present market value of the property (from (c) above) was obtained: _____

(e) The projected market value of the property if the use variance is/is not granted: _____

(f) Basis upon which the present market value of the property (from (e) above) was obtained: _____

(g) Please provide a breakdown of the expenses attributable to maintenance since acquiring the property in issue (you may wish to include receipts, if applicable): _____

(h) Assessment and amount of taxes on the property in issue: (if applicable) _____

(i) Amount of mortgages and other encumbrances: (if applicable) _____

(j) Income from the land in issue: (if applicable) _____

(k) Any other relevant facts particular to the facts of the case: _____

Please use the attached sheet of paper if you require further space and clearly indicate which questions you are answering.

Remember that it is the sole responsibility of the applicant to provide sufficient information and documentation concerning this application. Because the determination is made solely on the basis of information provided to the ZBA, it is to the applicant's benefit to include as much supporting information as possible.

I/WE HEREBY CONSENT TO ALLOW MEMBERS OF THE ZONING BOARD OF APPEALS, UPON REASONABLE NOTICE TO ME/US, THE RIGHT OF ACCESS TO MY/OUR PROPERTY FOR THE PURPOSE OF VIEWING AND INSPECTING THE PROPOSED AREA VARIANCE, WHICH IS A SUBJECT MATTER OF THE PROCEEDING HEREIN BEFORE THE ZONING BOARD OF APPEALS.

I/we certify that the information submitted with this application for use variance is true to the best of my/our knowledge and belief.

Signature(s) of applicant(s): _____

State of New York)
County of Cayuga) ss:

Sworn to before me this _____ day of _____, 20____.

Notary Public / Commissioner of Deeds

Project I.D. Number

SEQR

617.21

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: New () Expansion () 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? Yes () No () If no, describe briefly:	
9. What is present land use in vicinity of project: Residential () Industrial () Commercial () Agricultural () Park/forest/open space () Other () Describe:	
10. Does action involve a permit approval or funding, now or ultimately, from any other governmental agency (federal, state or local)? Yes () No () If yes, list agency(s) and permit/approvals:	
11. Does any aspect of the action have a currently valid permit or approval? Yes () No () If yes, list agency name and permit/approval:	
12. As a result of proposed action will existing permit/approval require modification: Yes () No ()	
I certify that the information provided above is true to the best of my knowledge	
Applicant/sponsor name: _____ Date: _____	
Signature: _____	

If this 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)

A. Does action exceed any Type I threshold in 6 NYCRR, Part 617.12? Yes () No () If yes, coordinate the review process and use the FULL EAF.

B. Will action receive coordinated review as provided for unlisted action in 6 NYCRR, Part 617.6? Yes () No ()
If no, a negative declaration may be superseded by another involved agency.

C. Could action result in any adverse effects associated with the following?: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or ground/water quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems: Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic or other natural or cultural resource; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats or threatened or endangered species? Explain briefly:

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:

C5. Growth, subsequent development or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative or other effects not identified in C1 - C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. Is there, or is there likely to be, controversy related to potential adverse environmental impacts: Yes () No ()
If yes, explain briefly:

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; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting material. Ensure that explanation contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

() Check here if you have identified one or more potentially large or significant adverse impacts that MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

() Check here 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 AND provide, on attachments if necessary, the reasons supporting this determination.

Name of lead agency _____

Print or type name of responsible officer in lead agency Title of responsible officer

Signature of responsible officer in lead agency Signature of preparer (if different from responsible officer)

Date: _____