

**TOWN OF VARICK**  
**4782 Route 96**  
**Romulus, NY 14541**

Application Date: _____
Receipt by ZBA: _____
Public Hearing Date: _____
Final Action Date: _____
Filing Municipal Clerk: _____

**Zoning Board of Appeals**  
**Application for an Area Variance**

**Applicant Name:** \_\_\_\_\_

**Application Date:** \_\_\_\_\_ **Permit No.** \_\_\_\_\_

**Property Address:** \_\_\_\_\_

**County Tax Map: Section** \_\_\_\_\_ **Block** \_\_\_\_\_ **Lot** \_\_\_\_\_

**Zoning District Classification:** \_\_\_\_\_

Except in certain instances an applicant must be "aggrieved" by an actual decision or action taken by the Code Enforcement Officer. The exceptions occur where an applicant has already submitted an application to the Planning Board for subdivision, site plan, or special use permit approval which requires an area variance in connection with that approval. In those instances, no decision of the Code Officer is necessary. The applicant may simply file a variance application with the ZBA. **Reason for application:**

- \_\_\_\_\_ Denial of Zoning Compliance Permit Application (copy attached to this application)  
    Pertaining to Varick Town Zoning Code No.(s) \_\_\_\_\_  
    or
- \_\_\_\_\_ Violation of existing Varick Town Zoning Code No.(s) \_\_\_\_\_
- \_\_\_\_\_ Application to Planning Board dependent on variance

**Project Proposed:** \_\_\_\_\_

**I want the ZBA to allow me a variance from the code that allows me to:**

If the Code Officer applied the Zoning Code correctly, you can still ask for an Area Variance. The ZBA can't allow variances unless your request meets certain legal requirements. The ZBA will consider your answers to the following five questions. You can tell us more at the public hearing.

**1. Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties? If not, why not?**

**2. Is there a feasible alternative you could choose that would provide the benefit you are Seeking? Explain what alternatives you considered and why it is necessary to obtain a Variance, rather than modify the project to meet the minimum requirements of the Code?**

**3. Is this a substantial variance? How significant is the difference between the rule in the Code and what you want to be allowed to do?**

**4. Would the variance you want have an adverse impact on the physical or environmental conditions in the neighborhood?**

**5. Was your difficulty following the Zoning Code created by some unknown characteristic of your land, like unexpectedly hard soil or excessive drainage from neighboring lands? Is this difficulty self-created (your desire to do something not permitted), or is there some other reason that you can't comply with the Code?**

**Applicant Instructions:**

**Mail or hand deliver application with all of the following to the Town of Varick, Attn: Code Enforcement**

- \_\_\_\_\_ **a copy of the most recent professional survey or plot plan with dimensions**
- \_\_\_\_\_ **drawings or photos showing the proposed structure or variance**
- \_\_\_\_\_ **list of names/addresses of all adjacent property owners (obtain from Tax Assessor or County Office)**
- \_\_\_\_\_ **a check payable to the Town of Varick in the amount of \$50.00**

**Applicant Signature:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_

**Telephone/Cell phone numbers:** \_\_\_\_\_

**Questions: Susan Ottenweller**

**[Sdottenweller@gmail.com](mailto:Sdottenweller@gmail.com)**

**585-749-0171**

**Revised 11/23**

## **Guide to appearing before the Varick Zoning Board of Appeals (ZBA)**

The Varick ZBA, like ZBAs in every town in New York, was initiated to provide residents with a process to review a decision relative to the use of a citizen's property. There are two basic reasons a person might file an appeal: First the person may disagree with a decision the Code Enforcement Officer has made. This is generally referred to as *interpretation*. Second the appealing party may believe that an exemption to the zoning laws should be made for his or her property. This is referred to as a *variance*. There are two types of variances: a use variance and an area variance.

The process for filing an appeal begins with an applicant, or her representative, filing an application (attached here) providing information on (1) how the applicant was "aggrieved" by an actual decision or action taken by or the Code Enforcement Officer or (2) if a property owner disagrees with an interpretation in the Code made by the Code Officer. An application must be filed within 60 days of the respective decision. A person is "aggrieved" if her property value is affected negatively by the action. A neighboring landowner may also be an "aggrieved party" if she believes the decision in issuing a permit was improper, and will negatively affect her property value.

Once the ZBA receives the application it will schedule a public hearing and give required notice to the public (via newspaper) and to adjacent neighbors (via letter). This generally means that the appealing party must allow approximately 2-3 weeks for the hearing to take place.

At the hearing the applicant may submit written evidence and/or argument to support her case. It is helpful for the applicant to submit this with her application. At the hearing the ZBA will offer the applicant, or her representative, the opportunity to present a case for relief. The applicant may personally testify, call witnesses, or submit written evidence including drawings, survey, graphics. The ZBA will ask questions and discuss specifics of the case with the applicant.

The ZBA may then close the public hearing or leave the hearing open for further input. Within 62 days the ZBA will make its decision to affirm, reverse, deny or modify the previous decision. In making their decision the ZBA is required by law to base its decision on all definitions and other provisions of the most recent Varick Zoning Code and on several criteria as cited below.

For a decision on an *interpretation*: the applicant must prove that the enforcement officer's decision was incorrect based on the Code. The ZBA will consider whether the decision is consistent with prior rulings of the same provisions; and will use its best judgement as to the Town's original intent in enacting the provision.

For a decision on a *use variance*, that is, permission to establish a use of property not otherwise permitted in the zoning district, State law requires the applicant to show “unnecessary hardship” by meeting **all** of the following:

- That the property is incapable of earning a reasonable return on initial investment if used for any of the permitted uses;
- That the property is being affected by unique, or at least highly uncommon circumstances;
- That the variance, if granted, will not alter the essential character of the neighborhood; and
- That the hardship is not self created.

For a decision on an *area variance*, that is permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards or above the required building height or in excess of the lot coverage regulation) then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety, and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

- 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;
- Whether the benefit sought by the applicant can be achieved by some feasible method that doesn’t require a variance;
- Whether the requested variance is substantial;
- Whether the proposed variance will have an adverse impact on the physical or environmental conditions in the district;
- Whether the alleged difficulty is self created.

Whether the ZBA grants a use or area variance State law requires the ZBA to grant the minimum variance necessary to provide relief, while at the same time taking care to protect the character of the neighborhood and the health, safety, and welfare of the community. For these same reasons the ZBA may also impose reasonable conditions on the grant of any variance.

Mail or deliver the completed application and attachments with a check for \$50 made out to the Town Of Varick to the Code Officer or the Town Clerk

For further information:

Susan Ottenweller, ZBA Chair [sdottenweller@gmail.com](mailto:sdottenweller@gmail.com) 585-749-0171