

VILLAGE OF CHURCHVILLE  
23 E. BUFFALO STREET  
CHURCHVILLE, NY 14428  
(585) 293-3720

**APPLICATION TO THE BOARD OF APPEALS**

Date: \_\_\_\_\_

TO THE ZONING BOARD OF APPEALS, CHURCHVILLE, NEW YORK

I (we) \_\_\_\_\_  
(applicant)  
of \_\_\_\_\_  
(address)

hereby apply to the Zoning Board of Appeals, for the following:

\_\_\_\_\_ Interpretation of Zoning Ordinance provision  
\_\_\_\_\_ Use Variance  
\_\_\_\_\_ Area, setback, height or other lot variance  
\_\_\_\_\_ Other (specify): \_\_\_\_\_

1. LOCATION OF PROPERTY. Address: \_\_\_\_\_  
Tax Acct. No.: \_\_\_\_\_  
Dimensions of Property: \_\_\_\_\_
2. PRESENT ZONING CLASSIFICATION OF PROPERTY: \_\_\_\_\_  
PRESENT USE OF PROPERTY: \_\_\_\_\_
3. TITLE OWNER(S) OF PROPERTY (if different from applicant):  
Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_

(NOTE: If applicant and owner(s) are not the same, the title owner(s) must sign the authorization statement at the end of this form.)

4. PROVISIONS OF THE ZONING ORDINANCE INVOLVED IN THIS APPLICATION  
(indicate article, section, subsection and paragraph): \_\_\_\_\_  
\_\_\_\_\_
5. NATURE OF VARIANCE OR INTERPRETATION. What is the exact nature of the variance or interpretation requested? (Examples: if variance of yard (setback) requirement is requested, give the width of the yard or setback you are requesting and the minimum requirement under the Code. If a use variance is proposed, describe the proposed use. If an interpretation is requested, describe the interpretation you believe is appropriate and the interpretation of the Zoning Officer.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. BUILDING PERMIT. Has a building permit been applied for in connection with this application? \_\_\_\_\_ YES \_\_\_\_\_ NO

If "YES", give date: \_\_\_\_\_ and permit application number: \_\_\_\_\_

7. PREVIOUS APPLICATIONS. A previous application \_\_\_\_\_ (has) \_\_\_\_\_ (has not) \_\_\_\_\_ been made with respect to this property. If such an application has been previously made, indicate the date(s): \_\_\_\_\_ and nature of application:

\_\_\_\_\_ Request for interpretation of Zoning Ordinance provision

\_\_\_\_\_ Request for use variance

\_\_\_\_\_ Request for area, setback, height or other lot variance

\_\_\_\_\_ Other (specify): \_\_\_\_\_

8. REASON FOR APPLICATION. (Complete relevant blank. Use extra sheets if needed.)

A. Interpretation of the Zoning Ordinance is requested because: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. A variance to the Zoning Ordinance is requested for these reasons:

(a) Strict application of the ordinance would produce undue hardship because: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) The hardship created is unique and is not shared by all properties alike in the immediate vicinity of this property and in this use district because: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) The variance would observe the spirit of the ordinance and would not change the character of the district because: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The applicant(s) hereby affirms that the above information is accurate and complete, to the best of his/her knowledge and information, and that he/she/they is/are the title owner(s) to make this application.

\_\_\_\_\_

\_\_\_\_\_

Signature of Applicant

I/WE hereby certify that I/WE are the title owners of the property identified in the above application and that the applicant(s) named above is fully authorized to make the application described herein.

\_\_\_\_\_

Signature of Title Owner

## **USE VARIANCES:**

State statute authorizes a ZBA to hear and decide upon applications for use variances. A use variance is defined as the authorization by the ZBA for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. State statute sets forth the test to be applied when reviewing an application for a use variance.

### **Use Variance Test**

No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.

The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## **AREA VARIANCES:**

State statute authorizes a ZBA to hear and decide upon applications for area variances. An area variance is defined as the authorization by the ZBA for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations. State statute sets forth the test to be applied when reviewing an application for an area variance.

### **Area Variance Test**

In making its determination, the ZBA shall take 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 by such grant. In making such determination the board shall also consider:

- (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 of impact on the physical or environmental condition in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.