

City of Albany
Board of Zoning Appeals
Supplemental Documents

Instructions for Applicants

I. Requirements for Board of Zoning Appeals Application Submission

The following supplemental documents must be submitted with each Board of Zoning Appeals application for it to be deemed complete. Providing this information will also help expedite the review process by the Board.

1. **Letter of Denial** issued by City of Albany Division of Building & Codes
2. **Narrative** describing existing site and proposed project including information such as:
 - why you are seeking a variance or permit
 - description of existing and proposed structures or other defining features of the property
 - description of any proposed alterations to the buildings and/or property
 - property's most recent use (and relevant history)
 - existing right-of-ways, easements or restrictive covenants
 - expected time frame for completion of the project
 - number of required, existing and proposed off-street parking spaces
 - proposed bicycle parking (number of spaces and location)
 - business plan, hours of operation, number of employees: full time, part time, etc.
 - proposed storage and removal of waste and/or recyclables
 - proposed site improvements – ex. – landscaping, lighting, signage, etc.
 - possible environmental impacts - ex – storm water, noise, traffic, glare, dust, etc.
 - mitigation of any impacts, ex. – screening
 - other information that may be pertinent or unique to the proposed project
3. **Standards Evaluation Form** (included with applications documents; *complete only the portion relating to the approval being sought, e.g. Use Variance, Area Variance, Special Use Permit, etc.*)
4. **Environmental Assessment Form** (short form included with application documents; include long form where appropriate)
5. **Survey or site plan of the property** (if altering or referencing physical site conditions)
6. **Floor plans of existing and proposed conditions** (if constructing, expanding, altering or referencing interior floor space)
7. **Building elevations** (for new construction, additions or substantial façade alterations)
8. **Parking lot plan** (if project requires new or modified parking)
9. **Photos of existing conditions** (color on printed paper; maximum of four photos per page)
10. **Vacant Building Registration** (if the applicant and/or property owner of the subject property is the owner of a vacant building(s) in the City of Albany, verification of compliance with XI and XIA of Chapter 133 must be submitted)
11. **Any other supporting documentation** or requests by the Planning Office
12. **Application fee** (see attached fee schedule)

Note: Items 5-8 must be drawn to scale and include dimensions.

Ten (10) collated copies of the completed application and all supplemental documents must be submitted to the Planning Office for distribution to staff and Board of Zoning Appeals Members.

II. Legal Notification

The Planning Office sends out legal notification to the applicant, the Neighborhood Association, the Alderperson, and area residents and/or businesses, as well as other involved parties a minimum of 10 days before the hearing. This notice describes the proposal and provides the date, time, and location of the hearing. Anyone wishing to testify in support of or in opposition to the proposal has the opportunity to do so at the scheduled public hearing.

III. Meet with the Neighborhood Association/Nearby Property Owners (Optional)

Notice of the hearing and a copy of the application, if requested, will be provided to the affected neighborhood association. It is suggested that you meet with the Neighborhood Association and or nearby property owners to discuss the proposal prior to the public hearing. This gives you the opportunity to address any neighborhood concerns prior to the hearing and may help expedite the Board's decision.

IV. Attend the Public Hearing

The applicant or his/her representative must attend the public hearing to describe the proposal to the Board. The Board will not hold a hearing on an application if the applicant or his/her representative is absent. A fee of \$75.00 is required for rescheduling a public hearing. The applicant has the opportunity to respond to any questions or comments about the proposal by the Board and/or public. Should you be unable to attend the hearing, please notify the Planning Office immediately by calling 445-0754.

Direct questions to the
City of Albany
Department of Development & Planning
21 Lodge Street
Albany New York 12207
518-434-2532

SHORT ENVIRONMENTAL ASSESSMENT FORM

INSTRUCTIONS:

In order to answer the questions in this short EAF it is assumed that the preparer will use currently available information concerning the project and the likely impacts of the action. It is not expected that additional studies research or other investigations will be undertaken.

ENVIRONMENTAL ASSESSMENT

- | | | | |
|-----|--|------------------------------|-----------------------------|
| 1. | Will the project result in a large physical change to the project site or physically? alter more than 10 acres of land?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. | Will there be a major change to any unique or unusual landform found on this site?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. | Will project alter or have a large effect on an existing body of water?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. | Will project have a potentially large impact on groundwater quality? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. | Will project significantly affect drainage flow or air quality?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6. | Will project affect any threatened or endangered plant or animal species... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7. | Will project result in a major adverse impact on air quality?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 8. | Will project have a major effect on visual character of the community or scenic views or vistas known to be or important to the community?... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 9. | Will project adversely impact any site or structure of historic, prehistoric or paleontological importance or any site designated as a critical environmental area by a local agency?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 10. | Will project have a major effect on existing or future recreational opportunities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 11. | Will project result in major traffic problems or cause a major impact on existing transportation systems?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 12. | Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbances as a result of the project's operation?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 13. | Will project have any impact on public health or safety?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 14. | Will project affect the existing community by directly causing a growth? in permanent population of more than 5% over a one-year period <u>or</u> have a major negative effect on the character of the community or neighborhood?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 15. | Is there any public controversy concerning the project?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

PREPARER'S SIGNATURE: _____ TITLE: _____

REPRESENTING: _____ DATE: _____

FEES REQUIRED UPON SUBMISSION OF AN APPLICATION FORM:

(1) BOARD OF ZONING APPEALS

(a) Use Variance	\$ 400.00
+ Per additional variance	\$ 100.00
(b) Area Variance	
1-2 Family Residence	\$ 50.00
All Others	\$ 150.00
+ Per additional variance	\$ 25.00
(c) Special Use Permit	\$ 250.00
+ Per additional permit	\$ 100.00
(d) Parking Lot Permit	\$ 250.00
+ Per additional permit	\$ 100.00
(e) Interpretation	\$ 100.00
(f) Administrative Appeal	\$ 250.00
(g) Amendment	\$ 200.00
(h) Extension	\$ 100.00
(i) Rescheduling	\$ 100.00
(j) Zoning Compliance Letter	\$ 50.00

(2) SITE PLAN REVIEW

(a) Non-Residential	\$ 300.00
+ Per 1000 sq. ft. of new construction (parking excluded)	\$ 50.00
+ Per 1000 sf of renovated space.	\$ 20.00
+ Per new parking space	
1-10 spaces	\$ 75.00
11-50 spaces	\$ 150.00
51-100 spaces	\$ 300.00
101-150 spaces	\$ 600.00
500-1000 spaces	\$ 1200.00
> 1000 spaces	\$ 2400.00
(c) Residential	\$ 200.00
+ Per residential unit or lot	\$ 50.00
+ Per new parking space	\$ 20.00
(g) Amendment	\$ 200.00
(h) Extension	\$ 100.00
(i) Rescheduling	\$ 100.00

(3) ZONING CHANGE/AMENDMENT

(a) Base Fee	\$ 500.00
+ Per acre of the lot size	\$ 50.00

(4) STATE ENVIROMENTAL QUALITY REVIEW (SEQR)

(a) Draft EIS Statement Review and Notice	\$ 350.00
(b) Final EIS Statement Review and Notice	\$ 350.00

Please make check payable to: Treasurer, City of Albany

2010 BZA Meeting Dates

5:30 PM – Common Council Chambers

Meeting Date

- January 13
- January 27
- February 10
- February 24
- March 10
- March 24
- April 14
- April 28
- May 12
- May 26
- June 9
- June 23
- July 14
- July 28
- August 11
- August 25
- September 15
- September 29
- October 13
- October 27
- November 10
- November 23
- December 8
- December 22

Application Deadline

- December 9
- December 23
- January 13
- January 27
- February 10
- February 24
- March 17
- March 31
- April 14
- April 28
- May 12
- May 26
- June 16
- June 30
- July 14
- July 28
- August 18
- September 1
- September 15
- September 29
- October 13
- October 27
- November 10
- November 24

INTERPRETATION STANDARDS

The Board of Zoning Appeals has the power to interpret the provisions of Chapter 375 of the Albany City Code, the City Zoning Ordinance.

~ Upon appeal of a decision of the Administrator, the Board may interpret any provision of the chapter, which shall include but not be limited to:

[1] The exact location of any district boundary.

[2] Whether a specific use is permitted in a district.

[3] Whether a use qualifies as a legal nonconforming use.

[4] Whether a proposed use may replace a nonconforming use.

[5] Whether a permitted use that is not specifically listed as a permitted home occupation shall be permitted as such.

[6] Whether a use not specified as permitted in the Schedule of Use, Area and Height Controls is permitted.

ARTICLE SOUGHT TO BE INTERPRETED

(Please specify the article to be interpreted and the nature of the request):

Article or Code Section to be Interpreted: _____

Title of Article: _____

Date Legislated: _____

Date of Administrative Denial or Determination (if referenced): _____

DESCRIPTION OF REQUEST

(Please describe why you are seeking an interpretation of the above-referenced article or administrative determination):

SUPPORTING DOCUMENTATION

(Please attached a table of contents for any supporting documentation)

USE VARIANCE STANDARDS

Applications for use variances **must** be based on alleviating a clearly demonstrable hardship, as opposed to a special privilege of convenience sought by the owner. Furthermore, the hardship must be specific to the land or building, NOT personal circumstance, and must not generally apply to land/buildings throughout the neighborhood.

- ~ When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning the regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board 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] The alleged hardship relating to the property in question is **unique**, and does not apply to a substantial portion of the district or the neighborhood.

[3] The requested use variance, if granted, **will not alter the essential character of the neighborhood**.

[4] The alleged hardship **has not been self-created**.

[1] DESCRIPTION OF HARDSHIP

(Describe the features or conditions of the property that restrict reasonable use/return of the property under current zoning regulations)

Please answer the following questions to show that the current property owner is being deprived of all economic use or benefit from the property in question under the applicable zoning regulations. The deprivation must be established by **competent financial evidence**. Please attach supporting documents (i.e. mortgage documents, tax bills, rental agreements, etc).

- a) Estimated cost of the proposed improvements/alterations to the property that necessitates the variance(s)? \$ _____
- b) How was this estimate determined? _____
- c) When was the property purchased? _____

d) What was the purchase price for the property? _____

e) What is the present value of the property? If a professional appraisal has been done of the property, what is the appraised value? _____

f) What are the monthly/annual expenses for the property?

1. Monthly mortgage: \$ _____
2. Monthly heat/electric: \$ _____
3. Monthly sewer/water: \$ _____
4. Yearly taxes: \$ _____
5. Yearly insurance: \$ _____
6. Other: \$ _____

g) Amount of outstanding debts against the property per month? \$ _____

h) How much income is (to be) generated from the property per month: \$ _____

i) What is the nature of this income (rent, sales, etc.)? _____

j) Is your property currently for sale?

Yes No (If No, please continue with question k)

1. How long has the property been for sale? _____
2. How has it been advertised? _____
3. How many offers have been made for the property and for how much?

4. Is the property listed with a realtor? Yes No
If Yes, please name the realtor: _____

k) Have you previously tried to sell your property?

Yes No (If No, please continue with question l)

1. How much were you asking for the property? _____
2. How long was the property for sale? _____
3. How was it advertised? _____
4. How many offers were made for the property and for how much?

5. Was the property listed with a realtor? Yes No
If Yes, please name the realtor: _____

l) Explain how you would be negatively affected in an economic or financial way if you did not obtain the variances requested. Please do not comment on your personal financial situation. Your answer must address economic circumstances related to the property and its present inability to provide you with a **reasonable** financial return under the present zoning regulations.

[2] UNIQUENESS

(Please describe how the alleged hardship is unique to the property in question and does not apply to a substantial portion of the district or neighborhood)

[3] CHARACTER OF NEIGHBORHOOD

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area)

[4] SELF-CREATED

Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes No

If you answered no to this question, did you use the services of an attorney? Yes No

AREA VARIANCE STANDARDS

Applications for area variances must be based on some extraordinary topographic condition or other physical condition inherent in the parcel (for example: exceptional narrowness, shallowness, shape or area). This condition must prohibit or unreasonably restrict the use of the land and/or building.

~ When considering a request for an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighted 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** 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 Board, but shall not necessarily preclude the granting of the area variance.

[1] DESCRIPTION OF CONDITIONS

(Describe topographic condition or other physical condition of the property and the manner by which this condition restricts use):

[2] BENEFIT TO APPLICANT

(Please describe why the proposed project cannot be achieved without an area variance):

[3] SUBSTANTIAL

(Please describe why you feel the proposed project is not substantial in nature):

[4] CHARACTER OF NEIGHBORHOOD

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area):

[5] SELF-CREATED

Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes No

If you answered no to this question, did you use the services of an attorney? Yes No

SPECIAL USE PERMIT STANDARDS

Special permit uses are those that have some special impact or unique form which require a careful case by case review of their location, design, configuration, and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site.

~ When considering a request for a special use permit, the Board shall take into consideration the following:

[1] Whether the use is **listed as a permitted special use** in the appropriate zoning district.

[2] Will not have an undue adverse effect upon adjacent property, the **character of the neighborhood** and surrounding areas, **traffic conditions, parking, utility facilities** or other matters affecting the public health, safety, welfare or convenience.

[3] Operations in connection with the proposed use will **not be more objectionable** to nearby properties by reason of noise, fumes, vibration, illumination, etc., than the operations of any permitted use **not** requiring a special use permit.

[4] Will be served **adequately by essential public facilities** and services or **that the applicant will be responsible for providing such services.**

[1] DESCRIPTION OF USE

(Describe the proposed use):

▪ For commercial establishments, please complete the following:

- a) Number of customers per day: _____
- b) Number of employees: _____
- c) Days/Hours of operation: _____
- d) Hours of deliveries: _____
- e) Frequency of deliveries: Less than once a month Monthly
 Biweekly Weekly Several times a week Daily

[2] CHARACTER OF NEIGHBORHOOD

(Please provide evidence/information, which demonstrates that the proposed use will not substantially impact the nature and character of the surrounding neighborhood):

[3] OBJECTIONABLE USES

(Please explain how the proposed use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking/double parking, utility facilities, and other matters affecting the public health, safety, and general welfare):

[4] OBJECTIONABLE USES

(Please explain why your proposed use will not be more objectionable than would a use permitted by the Zoning Ordinance. Specifically, will your proposed use create any nuisances by generating noise, odors/fumes, and glare from lighting):

[5] ADEQUATE SERVICE OF FACILITIES

(Please demonstrate to the Board that the proposed use will be adequately served by storm drainage, water, sanitary sewers, off-street parking, access to city streets to handle projected traffic volumes, fire and police protection, schools, and refuse disposal, as these services are relevant to your project):
