

TOWN OF HIGHLANDS CONSOLIDATED  
ZONING BOARD OF APPEALS



APPLICATION PACKET

APPLICATION MUST BE TURNED IN AT  
LEAST 10 DAYS PRIOR TO MEETING DATE  
IN ORDER TO BE ADDED TO MEETING  
AGENDA

(MEETINGS ARE GENERALLY HELD THE THIRD WEDNESDAY  
OF EACH MONTH AT 7:00 PM)

**Town of Highlands Consolidated Zoning Board of Appeals**  
**Applicant's Guide to the Appeals Process**

Introduction

Any person aggrieved by a decision of the Building Inspector or Code Enforcement Officer may take an appeal to the Consolidated Zoning Board of Appeals. The matter appealed from is most commonly a notice of denial or refusal with respect to a building permit application. There are two (2) basic types of appeals to the board: 1. an appeal for the interpretation of the Zoning Code, and 2. an appeal for a variance. In making an appeal the burden of proof lies with the applicant and if the applicant does not prove his case the appeal will be denied. You may be represented by an attorney on the appeal to the board if you so desire.

Interpretations

An interpretation is a request to have the zoning board make a determination as to the meaning of a particular provision of the zoning code with respect to a particular set of facts and circumstances. If you are aggrieved because you believe the building inspector has misinterpreted the zoning code you may make an appeal. You must clearly identify the code provision upon which you wish to have an interpretation and must completely, clearly and accurately set forth the facts and circumstances to which the code provision applies. The zoning board cannot make an interpretation in a vacuum and if you fail to properly state the matter and completely set forth the facts it is unlikely that you will obtain the interpretation that you desire.

Variances

Variances are a form of extraordinary relief which allow a person to do something which is not ordinarily or normally allowed by the zoning code. A variance will not be granted unless you prove all the elements necessary to entitle you to a variance. The two basic types of variances are use and area variances. A use variance would allow you to conduct a particular type of activity in a zone where that activity is not normally permitted. An area variance will afford relief from the three (3) dimensional or "bulk" requirements such as lot sizes, set back, etc. The basic elements which must be proved are set forth below:

1. Unnecessary Hardship or Practical Difficulties

Unless the strict application of the zoning code will cause unnecessary hardship or practical difficulties regarding the utilization of the property you are not entitled to a variance and a variance will not be granted. The unnecessary hardship or practical difficulties must concern the use of the property and does not relate to

the personal circumstances of the property owner. Illness or lack of financial resources is not the kind of hardship or practical difficulty referred to.

#### A. Unnecessary Hardship

This is the standard for granting of a use variance. An unnecessary hardship must be proved by showing that the land *cannot* yield a reasonable return if used for any of the purposes allowed in the zone. The proof submitted must be actual “dollars and cents” proof. The fact that the owner may obtain a better price or higher profit by the use being requested is irrelevant to proof of this element. A use variance will be denied if the hardship is self-created.

#### B. Practical Difficulties

This is the standard for the granting of an area variance. The practical difficulties relate to the physical features of the lot which inhibit the use of the lot within the dimensional standards of the zoning code. The applicant must show significant economic injury to prove practical difficulties. The relevant test is the difference in value of the parcel with and without the variance.

### 2. Uniqueness

No variance will be granted unless the hardship or practical difficulty is particular to the specific parcel and is not common to all properties within the zoning district. You must show how your property is different from others in the district in relation to the hardship or practical difficulty.

### 3. Spirit of the Zoning Law

The applicant must show that the granting of the variance will be within the general spirit of the zoning law. The variance requested must be the minimum necessary to grant the relief while conserving the essential character of the neighborhood and protecting the value of other properties in the zone. No variance will be granted where to do so will make a significant impact on the public health, safety, and welfare purposes for which the zoning code was implemented.

### Conclusion

The above is intended to be a general outline concerning appeals to the zoning board. It is only a rough outline. The applicant must take responsibility for familiarization with both local and state code requirements.

Remember, the applicant must prove his/her case or the appeal will be denied. No hearings will be scheduled on incomplete applications.

Town of Highlands Consolidated Zoning Board of Appeals  
Variance Application Instructions

Submit eight (8) fully completed copy of this application to the Town of Highlands Building Department with the following:

1. Completed Environmental Assessment Form (EAF).
2. **Filing fee of \$250.00** payable to the Town of Highlands. This includes the cost of advertising the Notice of Public Hearing. (Note: Interpretation fee = \$75.00).
3. **Escrow deposit of \$1200.00** payable to the Town of Highlands. This deposit is required to cover consultant costs incurred by the Town related to the application. Any funds not expended shall be reimbursed to the applicant at the conclusion of the project. In the event that costs exceed the deposit amount, the applicant will be notified to deposit additional funds into escrow. The escrow balance must be adequately maintained during the Zoning review process.
3. Eight (8) copies of the map, drawn to scale, showing the following:
  - A. The property to be affected by the application.
  - B. Existing structures, if any, on the property.
  - C. Existing side, front and rear yard setbacks.
  - D. Location of new structure with new side, front and rear yard setbacks.
  - E. A copy of either the Notice of Denial of Building Permit from the Building Inspector on which this application is based, or a copy of the Inspector's notice referring the applicant to the Consolidated Zoning Board of Appeals for any reason.
  - F. This drawing must bear the official seal of a registered engineer, architect or surveyor licensed by the New York State Board of Education.
4. Completed Owner's Endorsement affidavit (where applicant is not owner of record)

After receipt of this application, the ZBA will place the matter on their next available agenda. Please be present and on time the meeting in person or by representative. At that time you may present whatever evidence, witnesses or other details you may have in support of your application.

**ORDER OF BUSINESS RELATED TO FILING APPLICATION**

1<sup>st</sup> meeting with board is to present your application and present evidence. After your first meeting you will be told by either the board or the Building Inspector the steps you must take in doing the mailing and postings for the Notice of Public Hearing. You must pickup from the Building Department a sign(s) to be placed on the affected property at least ten (10) days prior to the date of your public hearing. Instructions as to the placement of these signs will be given by the Building Department.

At your 2<sup>nd</sup> meeting the Public Hearing will be conducted; after the hearing is closed the ZBA may make a decision on your application that evening or within the time constraints set by New York State, usually sixty (60) days. This means that the board has 60 days to render a decision based upon your application.

**APPLICATION FORM FOR ZONING VARIANCE / INTERPRETATION**

APPLICANT'S NAME: \_\_\_\_\_ Phone # \_\_\_\_\_

ADDRESS: \_\_\_\_\_

OWNER OF PROPERTY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TAX LOT NUMBER: Section \_\_\_\_\_ Block \_\_\_\_\_ Lot \_\_\_\_\_

**TO THE TOWN OF HIGHLANDS CONSOLIDATED ZONING BOARD OF APPEALS:**

Appeal is hereby taken and application made for:

1. Variance from (or Interpretation of) Section \_\_\_\_\_ of the Village/Town Zoning Ordinance.
2. To permit construction or use of premises for the following:  
\_\_\_\_\_  
\_\_\_\_\_
3. The property is in a \_\_\_\_\_ Zone under the Zoning Ordinance.
4. The property is situated on the \_\_\_\_\_ side of \_\_\_\_\_ street and is \_\_\_\_\_ feet from the intersection of \_\_\_\_\_ street.
5. Has this property been before the Zoning Board of Appeals before? \_\_\_\_\_ If so, give details  
\_\_\_\_\_  
\_\_\_\_\_
6. Is this property within 500 feet of any other municipality, State or County Park, State or County Road or Stream or County owned land? \_\_\_\_\_ If so, give details  
\_\_\_\_\_  
\_\_\_\_\_
6. Any comments you wish to add in support of this application (attach additional sheet if necessary)?  
\_\_\_\_\_  
\_\_\_\_\_
8. If applicant is **not** the owner of the property, has the owner consented to this application?  
Yes \_\_\_\_\_ No \_\_\_\_\_

STATE OF NEW YORK)  
COUNTY OF ORANGE) ss:

I hereby depose and say that all of the above statements and statements made in support of this application annexed hereto are true.

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

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

Town of Highlands Consolidated Zoning Board of Appeals (appendix A)

Applicant: \_\_\_\_\_ S \_\_\_\_\_ B \_\_\_\_\_ L \_\_\_\_\_

Address of subject property: Town of Highlands / Village of Highland Falls (please circle one)

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<b>Zone:</b> _____	Zoning Code Requirements	Existing Conditions	Proposed Construction	Variance Required
Lot Area (minimum square footage)				
Lot Area % of total lot area occupied by main & accessory buildings				
Building Height (max)				
Street Frontage				
Lot Width				
Front Yard set-back				
Side Yard set-back				
Total for both Side Yards (set-backs)				
Abutting Side Street or Corner Lot (set-backs)				
Rear Yard (set-back)				
Residential Floor Area				
Parking (number)				
Signage				
Other				
Change of Use? (indicate existing use and proposed use)	N/A			Yes or No (circle one)

NOTE: Please indicate the Zone of the subject property, the Zoning Code requirements for each category, the existing dimensions in applicable categories, the proposed



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Appendix B

Short Environmental Assessment Form

INSTRUCTIONS:

1. 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 other investigations will be undertaken.
2. If any question has been answered **YES** the project may be significant and a completed Long EAF is necessary.
3. If all questions have been answered **NO** it is likely that this project is not significant.

4. **Environmental Assessment:**

1. Will project result in a large physical change to the project site or physically alter more than ten (10) acres of land? YES \_\_\_\_\_ NO \_\_\_\_\_
2. Will there be a major change to any unique or unusual land form found on the site? YES \_\_\_\_\_ NO \_\_\_\_\_
3. Will project alter or have a large effect on an existing body of water? YES \_\_\_\_\_ NO \_\_\_\_\_
4. Will project have a potentially large impact on groundwater quality? YES \_\_\_\_\_ NO \_\_\_\_\_
5. Will project significantly effect drainage flow on adjacent site? YES \_\_\_\_\_ NO \_\_\_\_\_
6. Will project affect any threatened or endangered plants or animals? YES \_\_\_\_\_ NO \_\_\_\_\_
7. Will project result in a major adverse effect on air quality? YES \_\_\_\_\_ NO \_\_\_\_\_
8. Will project have a major effect on visual character of the community or scenic views or vistas known to be important to the community? YES \_\_\_\_\_ NO \_\_\_\_\_
9. Will project adversely impact any site or structure of historic, pre-historic, or paleontological importance or any site designated as a critical environmental area by a local agency? YES \_\_\_\_\_ NO \_\_\_\_\_
10. Will project have a major effect on existing or future recreational opportunities? YES \_\_\_\_\_ NO \_\_\_\_\_
11. Will project result in major traffic problems or cause a major effect to existing transportation systems? YES \_\_\_\_\_ NO \_\_\_\_\_
12. Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbance as a result of the projects operation? YES \_\_\_\_\_ NO \_\_\_\_\_
13. Will project have any impact on public health or safety? YES \_\_\_\_\_ NO \_\_\_\_\_
14. Will project affect the existing community by directly causing a growth in permanent population of more than five (5%) percent over a one (1) year period or have a major negative effect on the character of the community or neighborhood? YES \_\_\_\_\_ NO \_\_\_\_\_
15. Is there public controversy concerning the project? YES \_\_\_\_\_ NO \_\_\_\_\_

Preparer's Signature, Title and Date: \_\_\_\_\_  
Representing \_\_\_\_\_