

VILLAGE OF CORNWALL-ON-HUDSON
ZONING BOARD OF APPEALS
APPLICATION PACKAGE

VARIANCES AND INTERPRETATIONS

VILLAGE OF CORNWALL-ON-HUDSON

APPLICANT'S GUIDE

"APPEALS TO THE ZONING BOARD OF APPEALS"

READ FIRST

INTRODUCTION

Any person aggrieved by a decision of the building inspector or code enforcement official may take an appeal to the Zoning Board of Appeals. The matter appealed from is most commonly a notice of refusal with respect to a permit application. There are two basic types of appeals to the Zoning Board of Appeals: Appeals for interpretation and appeals for a variance. In making an appeal, the burden of proof lies with the applicant, and if the applicant does not prove his or her case, the appeal will be denied. You may be represented by an attorney 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 for which you request an interpretation and must completely, clearly and accurately set forth the facts and circumstances to which the code provisions apply. The Zoning Board cannot make an interpretation if you fail to properly state the facts of the matter.

VARIANCES

Variations are a form of extraordinary relief which allows a person to do something that is not allowed by the zoning code. A variance will not be granted unless you prove all the elements necessary to do so. The two basic types of variations are use variations and area variations. A use variation would allow you to conduct a particular type of activity in a zone where that activity is not normally permitted. An area variation will afford relief from the three dimensional or "bulk" requirements, such as lot

sizes, set backs, etc. The basic elements which must be proved are set forth below:

No use variance can be granted 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.

No area variances can be granted unless the ZBA takes 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 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; 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.

All applications *must* be accompanied by a plot plan, denoting the property lines, all existing and proposed buildings and structures in relation to the property lines, paved or parking surfaces and appropriate measurements.

Applicants must include prescribed application fees payable to the Village of Cornwall-on-Hudson to cover costs associated with legal notifications, advertising and administrative expenses to review your application. The Zoning Board of Appeals may require a

State Environmental Assessment Form for use variances and area variances for non-residential property.

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 of Appeals. It is only a rough outline and is no substitute for the advice of an attorney or engineer to assist you. The applicant must take responsibility for familiarization with both local code and state requirements.

Remember, the applicant must prove his or her case or the appeal will be denied.

BEFORE YOU FILE AN APPLICATION FOR A VARIANCE, MAKE SURE THAT THE BUILDING INSPECTOR UNDERSTANDS WHAT YOU WANT TO DO. IT MAY TURN OUT THAT A VARIANCE IS NOT NEEDED WHEN YOU EXPLAIN YOUR SITUATION TO HIM IN DETAIL

1. Fill out the building permit application completely, including the drawing on the back. It may be necessary to have a property survey. The Building Inspector can advise you about this.
2. Present the building permit application to the Building Inspector. He will either issue you a building permit or deny it, citing reason(s) for denial.
3. Take the denial of the building permit to the Village Clerk and get an application for a Zoning Variance. (Read the application before filling it out).
4. Fill out the application, in its entirety, and return it to the Village Clerk. Make sure that all of the documents requested on the forms are given to the Clerk at the time you submit the application. The zoning application fee must be paid at this time.
5. It is strongly recommended that applicants submit elevation drawings by a licensed designed professional application. Failure to do so may delay the decision making process. Submission of photographs showing present conditions on and near the property is recommended.
6. The Clerk will then contact you once the application has been reviewed for completeness by the Village Attorney, a list of parcels within 500' of your property has been compiled by the Building Inspector, and your Public Hearing date has been scheduled.
7. Obtain the Public Hearing Notice from the Clerk and use of the current tax roll at the Clerk's Office. This tax roll will provide you with a list of the names and addresses of the property owners that will correspond with the parcel numbers previously provided by the Building Inspector.
8. At least eight (8) days prior the scheduled date of the public hearing, the applicant shall deliver copies of the notice to the Village Clerk in unsealed envelopes properly addressed to each property owner entitled to notice with pre-paid first class postage affixed. The return address on each envelope shall be "Village of Cornwall-on-Hudson, 325 Hudson Street, Cornwall-on-Hudson, NY 12520."
9. The Village Clerk shall cause the prepared envelopes to be sealed and mailed at least five (5) days prior to the hearing date and provide proof of mailing to the Board.

10. A copy of the Public Hearing notice must also appear in the legal notice section of the official newspaper of the Village of Cornwall-on-Hudson at least five (5) days prior to the public hearing date. The affidavit of publication you receive back from the newspaper must be brought to the public hearing.
11. At the Hearing you or your agent must appear and explain your need for a variance. You may be represented by an attorney and you have the right to call your own witnesses. Remember to state the facts. State the sections of the Zoning Law that need to be varied and why a variance should be granted in your case.
12. The Zoning Board may or may not act on your application at the Hearing.
13. If a variance is granted, you will be issued a Building Permit. You must comply with any special requirements placed on you by the Zoning Board of Appeals. A Certificate of Occupancy will be issued when the work is completed in a satisfactory manner and has been inspected by the Building Inspector.
14. NOTE: Some variance requests may involve other governmental agencies such as the Department of Transportation. In this event, approval of these requests are contingent upon approval by these agencies.
15. NOTE: That the applicant will be assessed the cost to the Village of the Village Engineer and Village Attorney's assistance with the processing of your application. These consultants assist the Zoning Board, and are not required to advise the applicants, who should have their own consultants. At the close of the application process, the engineering and legal bills will be reviewed and if approved by the Village, billed to the applicant.
16. NOTE: If the variance area is located within a View Preservation Overlay District, a View Preservation Referral will be made by the Building Inspector to the Planning Board, or the applicant may apply directly to the Planning Board for Visual Site Plan approval pursuant to Chapter 172-173 *et seq.* of the Village Code.

ZONING BOARD OF APPEALS

APPLICATION

Appeal of _____ Telephone #: _____
(Name)

(Address)

(Name & Address of Agent/Attorney if applicable)

Date Application Received: _____ Hearing Date: _____

A. STATEMENT OF OWNERSHIP AND INTEREST:

1. The applicant(s) is (are) the owner(s) / contract vendee(s) of the property known as,

(# and street address - include street intersections, property of others, etc.)

2. The property is identified on the most recent tax roll of the Village as Section _____, Block _____, Lot _____.

3. The above described property was acquired by the applicant on _____ . Attach a copy of the deed.

4. Attach a photocopy of the Tax Map outlining the property in red.

5. The premises are located in Zoning District: _____

B. RELIEF REQUESTED:

1. The applicants requests: (check one or both as appropriate)

(a) A Variance from ()

(b) An Interpretation of ()

the following Section(s) of the Zoning Code:

<u>Zoning Code Section</u>	<u>Subject Matter of Section</u>
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____

2. REASONS FOR REQUEST

(a) State briefly your reason(s) for requesting a variance or interpretation:

(b-1) State briefly how the strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Code.

(b-2) Purpose of Request

1. _____
2. _____
3. _____

Change Requirement

From:

To:

1. _____
2. _____
3. _____

(c) State briefly how the granting of the requested relief will not be a substantial detriment to the public interest, to the property, to the surrounding properties and will not materially undermine the purpose of the Zoning Code.

(d) State briefly how the practical difficulties or unnecessary hardships are particular to your property and are not shared by other properties in your neighborhood or the same Zoning District.

C. APPEAL FROM:

1. This appeal is made from a Notice of Refusal of the Building Inspector dated _____, a copy of which is attached to the application.
2. This is a referral from the Planning Board.
3. This property has (has not) been the subject of a previous appeal. If applicable, I have attached a copy of the Decision in that previous matter.

D. DOCUMENTATION:

1. I have attached to this Application, copies of the following documents which I understand must be fully submitted in order for my application to be acted upon:
 - a. ____ My deed to the property.
 - b. ____ A portion of the Tax Map on which my property has been outlined in red.
 - c. ____ The Notice of Refusal by the Building Inspector from which this Appeal is taken.
 - d. ____ Drawing to scale or survey showing present and proposed conditions and elevations if relief is granted. (Submission of photographs showing present conditions on the property are recommended).
 - e. ____ Environmental Assessment Form (Short Form EAF, Part 1)
 - f. ____ General Municipal Law Section 809 Affidavit.
 - g. ____ List of names and addresses with corresponding Tax Map numbers of all property owners within 500 feet of my property entitled to a Notice of Public Hearing on my application. (This to be turned in to Village Clerk at time of mailing)

E. FEE:

1. Enclosed is my non-refundable fee of \$_____, which I realize must be paid at the time my Application is submitted or it will not be processed.

2. Fee received on _____.

BY: _____

Signature of Applicant

STATE OF NEW YORK)SS.:
COUNTY OF ORANGE)

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

Notary Public
State of New York

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW OF
LOCAL ZONING BOARD
(Variances)

Local File No. _____

1. Municipality Village of Cornwall-on-Hudson Public Hearing Date _____

2. Owner: Name:
Address:

3. Applicant*: Name:
Address:

If Applicant is owner, leave blank

4. Location of Site:

(Street or highway, plus nearest intersection)

Tax Map Identification: Section _____, Block _____, Lot _____

Present Zoning District: _____, Size of Parcel _____

5. Type of Review:

Variance: Use: _____

Area: _____

Date

Signature and Title

OWNER'S ENDORSEMENT

State of New York)
County of)SS.:

_____ being duly sworn, deposes and says that
(s)he resides at _____, in the
(Owner's Address)
County of _____ and State of _____ and that (s)he is
(the owner in fee) or _____ of the
(Official Title)
_____ Corporation which is the owner in fee of the premises described
in the foregoing application and that (s)he has authorized _____ to
make the foregoing application as described herein and that (s)he agrees to be bound by all
statements, conditions and representations contained therein as if (s)he had so petitioned.

(Owner's Signature)

Sworn to before me this

_____ day of _____, 20____.

Notary Public - State of _____

AFFIDAVIT OF REGULARITY

STATE OF NEW YORK
COUNTY OF ORANGE
VILLAGE OF CORNWALL-ON-HUDSON

_____, being duly sworn, deposes and says:

1. That _____ is the owner of real property in the Village of Cornwall-on-Hudson, Orange County, State of New York, who has made application to the Planning Board for a public hearing on said application which has been scheduled for _____, 20____, at _____ o'clock.
2. That on the _____ day of _____, 20____, I served a Notice of Public Hearing regarding this application, by certified mail with return receipt requested, to the persons at the addresses given as follows:

NAME OF ADDRESSEE

ADDRESS

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

(If there are more than ten notices mailed, attach a list of names and addresses marked as "See Attached")

3. That the persons named in Paragraph II above constitute all of the owners of real property abutting the property of the applicant and all persons owning real property within 300 feet of the applicant's property as is required by the Code of the Village of Cornwall-on-Hudson.
4. That attached hereto is an exact copy of the notice that was mailed to the above named persons.

Applicant or Agent

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

Notary Public of the State of New York

DISCLOSURE STATEMENT

Mindful of the provisions of Section 809 of the General Municipal Law of the State of New York and of the Penal provisions thereof as well, the undersigned applicant states that no State Officer, Officer or Employee of the Village of Cornwall-on-Hudson, or of the Town or County of which it is a part, has any interest, financial or otherwise, in this application or with, or in the applicant as defined in said Statute, except the following person or persons who is or are represented to have only the following type of interest, in the nature and to the extend hereinafter indicated:

() None

() Names: Address: Relationship or interest (financial or otherwise)

Dated: _____

Applicant

Corporate or Partnership Applicant
BY: _____
(Pres.) (Partner) (Vice-Pres.)

GENERAL MUNICIPAL LAW OF THE STATE OF NEW YORK

Section 809. Disclosure in certain applications:

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any employee of such municipality or of a municipality of

which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.

2. For the purpose of this section an officer or employee shall be deemed to have an interest in the application when (s)he, their spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them

- a. is applicant, or
- b. is an officer, director, partner or employee of the applicant, or
- c. legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
- d. is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.

3. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.

4. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

Part 1 - 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. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> 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? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agricultural <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approvals
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list agency(s) name and permit/approval
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/Sponsor name: _____ Date: _____ Signature: _____

If the action is in a Coastal Area, and you are a state agency, complete a Coastal Assessment Form before proceeding with this assessment

PART II-ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE 1 THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input type="checkbox"/> No
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input type="checkbox"/> No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible.)

C1. Existing air quality, surface or groundwater 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 resources; 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. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)? Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? Yes No If Yes, explain briefly:

Part III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

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 of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

Check this box 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 as necessary, the reasons supporting this determination:

Name of Lead Agency

Date

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)

IMPORTANT INFORMATION FOR APPLICANTS

**VILLAGE OF CORNWALL-ON-HUDSON
ZONING BOARD OF APPEALS & PLANNING BOARD APPLICANTS**

Applicants to the Zoning Board of Appeals and the Planning Board of the Village of Cornwall-on-Hudson are advised that in addition to application fees, all Applicants will be assessed the actual cost incurred by the Village for legal and engineering review of the application by the Village's consultant. Once the consultant's charges have been approved by the Village, the charges will be sent to the applicant for payment.

The attorney and engineer are employed by the Village to assist the ZBA and Planning Board to fully evaluate each application. These consultants are not the applicant's consultants, although they may work with your consultants. Applicants are encouraged to retain private consultants as appropriate for the nature of the application. Applicants are further advised that the amount and description of technical assistance to the respective Boards may differ substantially on different applications as a result of a variety of factors.

This form should be signed by the Applicant/Owner of the premises that is the subject of the application for the purpose of acknowledging that this information has been communicated, and this form will remain in the application and be maintained by the Village.

dated:

Applicant/Owner
Property Tax Map No.: