



## Town of Chester Zoning Board of Appeals

### Area and Use Variance Application and Instructions (Please Read Carefully)

1. Fill out and return application with all required materials to the Office of Planning and Zoning.
2. Applications must be received **at least twenty (20) days** prior to a regularly scheduled meeting. Meetings are held on the 4<sup>th</sup> Tuesday of the month at 7:00 p.m. (Subject to change without notice).
3. In order for the Zoning Board of Appeals to make its findings, safe and reasonable access to the property being evaluated must be provided. Care in selection of timing for an application is advised.
4. Complete **Part One (1)** only of the attached Environmental Assessment Form.
5. Attach a plot plan of the lot, indicating location and size of the lot with proposed improvements, and any existing structures including septic and well locations, if applicable. Show all setbacks from adjoining property owners.
6. An application being represented by someone other than the owner of record must include the completed, notarized **AUTHORITY TO ACT AS AGENT FOR PROPERTY OWNER**, attached to this application.
7. Attach copy of your deed as proof of ownership, and legal description of property.
8. Please provide **10 Copies** of Application, Environmental Assessment Form, Deed, Site Plan, and other additional documents you wish to present with application.
9. Enclose a check for the appropriate fee made payable to: **Town of Chester**.
10. Include any additional documents you wish to present with this Application.
11. Place batter stakes at the site location for inspection by the Board members. Failure to do so could result in an incomplete application and a delay in hearing your project.

#### Check List:

Application _____	Deed _____
Environ. Assessment Form _____	Site Plan _____
Authorization Form (If Applicable) _____	Appropriate Payment _____

**Please Note:**

1. As per Section 12.06 of the Town of Chester Zoning Local Law, a legal notice will be published in the official newspaper of the Town at least five (5) days prior to the date of the hearing. In addition, at least fifteen (15) days prior to the date of the hearing, notices will be mailed to all adjacent owners of the property for which the application is made, as may be determined by the latest assessment records of the Town. "Adjacent Owners" includes those parcels separated by a public highway from the property for which the application is made.
2. Please plan to attend the meeting at which your project will be heard, or have the designated representative in attendance. Failure to do so could result in your project being tabled for another month, or until you are able to attend to present your request.
3. The Board of Appeals shall decide upon the appeal within sixty-two (62) days after the conduct of the hearing, which time period may be extended by mutual consent of the applicant and the Board. A decision can be made following the closing of the public hearing, if the Board so chooses.
4. **Any variance granted, except variances for front, side or rear yards not involving shoreline, shall not be effective until thirty (30) days after a full record of the decision is received by the Adirondack Park Agency.** If, within such time period, the APA determines that such variance involves the provisions of the land use and development plan as approved in local land use program, including any shoreline restriction, and was not based upon the appropriate statutory basis, the Agency may reverse the local determination to grant the variance. **You may NOT begin your project until such approval is granted by the APA.**

**Use Variances:**

1. The Zoning Board of Appeals, upon appeal from the decision of determination of the administrative official charged with the enforcement of this Local Law shall have the power to grant use variances. Use variances are defined as the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this Zoning Local Law.
2. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that this Zoning Local Law has caused an unnecessary hardship(s). In order to prove such unnecessary hardship(s), the applicant shall demonstrate to the Board of Appeals:
  - a. that for each and every permitted use under this Zoning Local Law for the particular district where the property is located, the applicant cannot realize a

- reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- b. 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;
  - c. that the requested use variance, if granted, will not alter the essential character of the neighborhood and the health, safety, and welfare of the community;
  - d. that the alleged hardship has not been self-created.
3. The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven 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:**

1. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this Local Law to grant area variances. Area variances are defined as the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of this Zoning Local Law.
2. In making its determination, the Zoning Board of Appeals 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:
  - a. 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;
  - b. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - c. Whether the requested area variance is substantial;
  - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - e. 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.
3. The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.

The Board of Appeals, in the granting of both use variances and area variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Local Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Jurisdiction of Adirondack Park Agency:

1. The following variances shall be subject to Agency review pursuant to section 808(3) of the Adirondack Park Agency Act, if outside Hamlet areas:
  - a. Variances from local shoreline restrictions;
  - b. Variances from the local controls governing intensity of development, such as minimum lot areas;
  - c. Variances from use restrictions which would allow a use other than those on the classification of compatible use lists in the Adirondack Park Agency Act for the official map land use area in which it would be located; and
  - d. Any other variances which involve the provisions of the land use and development plan, except for front, side, or rear yards not involving shoreline.

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**Notice is hereby given that in the event the Town of Chester determines that technical assistance is needed to review the project, the reasonable and necessary expenses associated with such review shall be borne by the project applicant.**

*I, We, hereby authorize the Town of Chester, its employees and authorized agents to the property for purpose of inspection.*

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Applicant's Signature

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Date



Current Use of Property (Residential, Commercial, Undeveloped, etc). List **ALL** structures currently on parcel:

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Proposed Use of Property (Be specific with details):

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List specific type and size of variance that you are requesting (Example: 175' Road Frontage):

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List any additional comments regarding variance request: \_\_\_\_\_

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Are other permits required from other agencies? (  Check one):

APA: \_\_\_\_\_

DEC: \_\_\_\_\_

ARMY CORPS. OF ENGINEERS: \_\_\_\_\_

UNKNOWN: \_\_\_\_\_

If checked, have you applied for these permits? Yes\_\_\_\_\_ No\_\_\_\_\_

**(Please attach ALL correspondence)**

If Unknown, have you contacted other agencies to inquire if permits are necessary?

Yes\_\_\_\_\_ No\_\_\_\_\_

**(Please attach ALL correspondence)**

**Area Variance Criteria**

**The following information must be provided in detail:**

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: Yes\_\_ No\_\_

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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: Yes\_\_ No\_\_

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3. Whether the requested area variance is substantial: Yes\_\_ No\_\_

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4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes\_\_ No\_\_

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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: Yes\_\_ No\_\_

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Additional Comments:

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**Use Variance Criteria**

**The following information must be provided in detail:**

1. Under the Zoning Local Law, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence: Yes\_\_ No\_\_

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2. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood: Yes\_\_ No\_\_

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3. The requested use variance, if granted, will not alter the essential character of the neighborhood and the health, safety and welfare of the community: Yes\_\_ No\_\_

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4. The alleged hardship has not been self-created: Yes\_\_ No\_\_

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5. Additional Comments:

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**Authority to Act as Agent for Property Owner**

I, \_\_\_\_\_, the owner of record of the property described in this application, hereby empower \_\_\_\_\_ to act as my agent and representative in conducting presentations to the necessary board(s) and in deliberations with the board(s) pertaining to my application. As my agent, He/She is empowered to act on my behalf in full. In so doing, I, the owner/applicant, understand that I am bound by any conditions imposed on my project and agreed to by my agent or by any conditions or restrictions imposed by my agent as part of the presentation.

_____ Signature of Agent/Representative	_____ Signature of Owner/Applicant
Date: _____	Date: _____
Notary: _____	Notary: _____