

VILLAGE OF TUPPER LAKE

Code Enforcement & Zoning

53 Park Street

Tupper Lake, NY 12986

518-359-3341

Applying For a Zoning Variance

Generally, there are (2) types of variance requests made to the Board of Zoning Appeals:

1). Allowed land use in a Zoning District. (Any uses not specifically permitted in a zone established by the zoning ordinance are prohibited from the zone.)

2). Area requirement by Zoning District. (Such as insufficient frontage, yard setbacks, lot size or other such location deficiencies.)

The Board of Zoning Appeals may also be requested to review a determination made by the administrative official charged with enforcement of the Zoning Ordinance or local law.

See General Criteria for requirements.

All property owners within 500' of the affected property and all others as prescribed by NYS law must be notified by mail of the public hearing, date and time, who is applying and the basic nature of the request. This notification is completed by the Village. A Notice of Hearing will be posted by the Village in the newspaper. Applicants or their Agent must appear at the public hearing.

General procedure for filing an application for a variance request.

1). Fill in all requested information. Include any documentation that you believe supports your request. If you are applying for an area variance, also include a site plan showing all dimensions and obstacles which are creating the need for an area variance. The site plan should include the following:

- a). Dimensions of the lot boundaries, including road frontage.
- b). Locations and dimensions of existing and proposed structures.
- c). Location of driveway, well, septic field, retaining walls, fences, etc.
- d). Any known utility easements of record.
- e). Significant topographical and hydrological features, including wetlands
- f). North arrow placement, property location, tax map #, name & date.

2). Return the Appeal Form and all supporting documentation along with the Zoning Appeals fee of **\$150 for a use variance or \$100 for an area variance** to the Tupper Lake Code Enforcement Office at the above address. If you are paying by check, make payable to **The Village of Tupper Lake**.

3). If you have any questions or concerns, please call the Code Enforcement Office at 518-359-3341.

General Criteria

Village Law S7-712-b. Permitted action by board of appeals:

1. **Orders, requirements, decisions, interpretations, determinations.** The board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. **Use variances.**
 - (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances.
 - (b) 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.
 - (c) 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.
3. **Area Variances.**
 - (a) 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 such ordinance or local law, to grant area variances.
 - (b) 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:
 - (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.
 - (c) The board of appeals, 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.
4. **Imposition of conditions.** The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**APPEAL TO BOARD OF ZONING APPEALS
VILLAGE OF TUPPER LAKE**

Having been denied permission to _____

At the property located at _____ **in the Village of**
Tupper Lake as shown on the accompanying Application, Plans, and/or other supporting
documents, for the stated reason that the issuance of such permit would be in violation of

Section (s) _____ **Of the**
Tupper Lake Land Use Code

The UNDERSIGNED respectfully submits this appeal from such denial and in support of
the appeal, affirms that strict observance of the Ordinance would impose PRACTICAL
DIFFICULTIES and/or UNNECESSARY HARDSHIP as follows: (provide description here or
on attached separate sheet)

I attest that all information so submitted is complete and accurate to the best of my
knowledge. Also, by filing this application, permission is granted to members of the Board of
Zoning Appeals, Planning and Code Enforcement staff, and/or any other persons designated
by the Village that may be involved in the review of this application, to enter the property
specified above to inspect in connection with the review of this application.

Applicant Signature: _____ **Date:** _____

Address: _____ **Phone:** _____

Email Address (optional) _____

2008 Town and Village Land Use Code “Fee Schedule”

- 1) Parcel Inquiry, Base Fee: \$3.00 (Base fee to include four page printout; each additional page is \$.25)
- 2) Permit Inquiry, Base Fee: (Same as above)
- 3) Site Plan Review, Base Fee: \$75.00 (+ incidentals)
- 4) Site Plan Review Amendment, Base Fee: \$25.00 (+ incidentals)
- 5) Temporary Use Permit, Base Fee: \$100.00 (plus 0.2 of 1% of value) (+ incidentals)
- 6) Special Use Permit Review, Base Fee: \$150.00 (+ incidentals)
- 7) Special User Permit Review Amendment, Base Fee: \$75.00 (+ incidentals)
- 8) Minor Residential Subdivision Permit, Base Fee: \$75.00 (+ incidentals)
- 9) Major Residential Subdivision Permit, Base Fee: \$150.00 (+ incidentals)
- 10) Minor Commercial Subdivision Permit, Base Fee: \$75.00 (+ incidentals)
- 11) Major Commercial Subdivision Permit, Base Fee: \$175.00 (+ incidentals)
- 12) Use Variance (single project), Base Fee: \$150.00 (+ incidentals)
- 13) Area Variance (single project), Base Fee: \$100.00 (+ incidentals)
- 14) Zoning Amendment Petitions, Base Fee: \$425.00 (+ incidentals)
- 15) Planned Development District (PDD), Base Fee: \$425.00 (+ incidentals)
- 16) Zoning Compliance Letters, Base Fee: \$25.00
- 17) Master Plan Copy, Base Fee: \$25.00 (+ incidentals)
- 18) Land Use Code Copay, Base Fee: \$25.00 (+ incidentals)
- 19) Zoning Map Copy. Base Fee: \$15.00 (+ incidentals)

Fees are non-refundable, and due upon submission of request. In addition to the above fees, the Code Administrator, Planning Board, or Zoning Board of Appeals may charge an additional fee to developers of projects requiring legal and/or technical review. The fee charged to the project developer shall reflect the actual costs of reasonable and necessary legal and technical assistance.

**ZONING BOARD OF APPEALS
AREA VARIANCE FINDINGS & DECISION**

OFFICE USE ONLY

Application No. AV- _____
Date of Application: _____
(Postmarked or Hand Delivered)
Date of Public Hearing: _____
Date Notice Published: _____
Date of County Referral: _____
Date of Final Action: _____
Date of Filing of Decision with the
Municipal Clerk: _____

Applicant: _____

Appeal Concerns Property at the following address:

County Tax Map Section: _____ Block _____ Lot _____

Zoning District Classification: _____

Requirement for which Variance is Requested: _____

Applicable Section(s) of Zoning Code: _____

TEST: No area variance will be granted without a consideration by the board of the following factors:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Yes ___ No ___

Reasons: _____

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes ___ No ___

Reasons: _____

3. Whether the requested variance is substantial: Yes ___ No ___

Reasons: _____

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes ___ No ___

Reasons: _____

5. Whether the alleged difficulty was self-created: Yes ___ No ___

Reasons: _____

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, finds that:

- the Benefit to the Applicant DOES NOT Outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.
- the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community.

Reasons: _____

The ZBA further finds that a variance of _____ from Section _____ of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because:

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1: _____

Adverse impact to be minimized: _____

Condition No. 2: _____

Adverse impact to be minimized: _____

Chairman, Zoning Board of Appeals Date

RECORD OF VOTE

	MEMBER NAME	AYE	NAY
Chair	_____	_____	_____
Member	_____	_____	_____
Member	_____	_____	_____
Member	_____	_____	_____
Member	_____	_____	_____