

ZONING BOARD OF APPEALS

TOWN OF FALLSBURG
5250 Main Street
S. FALLSBURG, NY 12779
(845) 434-8811

APPLICATION FOR A USE VARIANCE

APPLICANT NAME(S): _____ PHONE: _____

ADDRESS: _____ SBL: _____

_____ ZONE: _____

DIRECTIONS TO THE SITE: _____

TO THE ZONING BOARD OF APPEALS:

1. STATEMENT OF OWNERSHIP AND INTEREST:

The undersigned applicant(s) residing at, having a principal place of business at:

_____ is/are the Owner(s), Lessee(s), Other _____

Section 2 MUST be filled out in its entirety for each section of the code for which you are requesting a variance in order to be placed on the Zoning Board of Appeals. Use additional sheets as needed.

2. REQUEST:

1. Town of Fallsburg Code Section: _____

2. Purpose Variance: _____

Extent or scope of variance:

3. From _____

4. To _____

Attached hereto is a plan of the subject premises drawn to scale showing the following:

1. Name of record owner(s) of premises and of all adjoining properties.
2. Location of existing structures.
3. Location of proposed structures.
4. Location of all existing and proposed streets or highways.
5. Any other information pertinent to application.

3. REASONS FOR REQUEST:

1. The applicant cannot realize a reasonable return, provided the lack of return is substantial as demonstrated by competent financial evidence because:

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 because:

3. The requested use variance, if granted, will not alter the essential character of the neighborhood because:

4. The alleged hardship has not been self-created because:

The board of appeals shall, in 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.

Date: _____

Signature of applicant(s)

STATE OF NEW YORK
COUNTY OF SULLIVAN

On the ____ day of _____, ____ before me came _____, to me known to be the individual(s) described in and who executed the foregoing application for a variance and acknowledged that he/she/they executed the same.

Notary Public

THIS FORM MUST BE FILLED OUT IF YOU ARE GIVING
SOMEONE ELSE PERMISSION TO ACT ON YOUR BEHALF
DURING CONSTRUCTION

OWNERS PROXY

(Owner) _____ deposits and states that he/she resides

at:

And that he/she is the owner of the premises described in the attached application for a building permit/zoning application/planning board application and further states that he/she has authorized _____ to make said application, secure any necessary permits and approvals, call for inspections, and request a certificate of occupancy upon satisfactory completion of the work described in said application.

Date: _____

Owners Signature

Witness' Signature

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| | | | |
|--|--|-------------|---------------------------------|
| Part 1 - Project and Sponsor Information | | | |
| Name of Action or Project: | | | |
| Project Location (describe, and attach a location map): | | | |
| Brief Description of Proposed Action: | | | |
| Name of Applicant or Sponsor: | | Telephone: | |
| | | E-Mail: | |
| Address: | | | |
| City/PO: | | State: | Zip Code: |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | | NO <input type="checkbox"/> |
| | | | YES <input type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: | | | NO <input type="checkbox"/> |
| | | | YES <input type="checkbox"/> |
| 3.a. Total acreage of the site of the proposed action? | | _____ acres | |
| b. Total acreage to be physically disturbed? | | _____ acres | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? | | _____ acres | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. | | | |
| <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) | | | |
| <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ | | | |
| <input type="checkbox"/> Parkland | | | |

| | | |
|--|--------------------------|--------------------------|
| 18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ | NO | YES |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE | | |
| Applicant/sponsor name: _____ Date: _____ | | |
| Signature: _____ | | |

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

| | No, or small impact may occur | Moderate to large impact may occur |
|--|-------------------------------|------------------------------------|
| 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Will the proposed action result in a change in the use or intensity of use of land? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Will the proposed action impair the character or quality of the existing community? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Will the proposed action impact existing: | | |
| a. public / private water supplies? | <input type="checkbox"/> | <input type="checkbox"/> |
| b. public / private wastewater treatment utilities? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? | <input type="checkbox"/> | <input type="checkbox"/> |

| | No, or small impact may occur | Moderate to large impact may occur |
|---|-------------------------------|------------------------------------|
| 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Will the proposed action create a hazard to environmental resources or human health? | <input type="checkbox"/> | <input type="checkbox"/> |

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

| | |
|--|--|
| <input type="checkbox"/> | Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required. |
| <input type="checkbox"/> | 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. |
| _____ | _____ |
| 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) |

PRINT



**TOWN OF FALLSBURG
CODE ENFORCEMENT OFFICE**

Member: New York State Building Officials Conference, Inc.

5250 Main Street
South Fallsburg, NY 12779
(845) 434-8811
Fax: (845) 434-5883

MOLLIE MESSENGER
Code Enforcement Officer

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the Zoning Board of the Town of Fallsburg, County of Sullivan, State of New York will hold a Public Hearing at **12 Laurel Avenue, South Fallsburg, New York (the Senior Center)** on _____, at 7:00 pm on the approval of the proposed variance on the

LANDS OF:

LOCATED ON:

PROPOSED APPLICATION IS FOR:

The application of the proposed variance is on file and may be inspected at the Code Enforcement Office, 5250 Main Street, South Fallsburg, New York prior to the public hearing.

Dated: _____.

By order of

TOWN OF FALLSBURG ZONING BOARD

Steven Burke

Chairman

PLEASE MAKE SPECIAL NOTE OF THE FOLLOWING
ZONING SECTION 130-10.6-1 CONCERNING
EXPIRATION OF A VARIANCE.

SECTION 130-10.6-1 EXPIRATION:
UNLESS CONSTRUCTION IS COMMENCED AND DILIGENTLY PURSUED
WITHIN SIX [6] MONTHS OF THE DATE GRANTING OF THE VARIANCE,
SUCH VARIANCE SHALL BECOME NULL AND VOID

IT IS IMPORTANT THAT YOU REQUEST FROM THE ZONING BOARD AN ADDITIONAL
AMOUNT OF TIME IF FEEL YOU WILL NEED MORE IN REGARDS TO ACTUAL
CONSRUCTION START. AN OPEN ENDED REQUEST WILL NOT BE CONSIDERED.

YOU MAY MAKE THIS REQUEST IN YOUR APPLICATION OR IN PERSON ON THE DATE
OF YOUR VARIANCE HEARING AND THE DECISION MUST BE MADE A CONDITION OF
APPROVAL AND PART OF THE RECORD.

YOUR FAILURE TO REQUEST THIS IMPORTANT CONDITION OF APPROVAL WILL
CAUSE YOUR APPROVAL TO BECOME NULL AND VOID AFTER SIX MONTHS IF
CONSTRUCTION IS NOT COMMENCED. YOU WILL BE DENIED A BUILDING PERMIT
AND WILL NEED TO RE-APPLY FOR A NEW VARIANCE.

SIMPLY OBTAINING A BUILDING PERMIT DOES NOT CONSTITUTE
COMPLIANCE WITH THIS SECTION OF THE ZONING CODE.

BY SIGNING, I STATE I HAVE READ AND FULLY UNDERSTAND THE
ABOVE .

SIGNED _____ DATE _____

THIS DOCUMENT MUST BE SUBMITTED WITH
YOUR APPLICATION.

B. Use Variance

1. The strict application of the literal terms of this Chapter would produce "unnecessary hardship" to the applicant. Unnecessary hardship will be deemed to exist where the applicant has clearly demonstrated each of the following points:
 - a. A reasonable return cannot be realized through permitted uses. The applicant shall specifically prove, through at least two independent sources of professional testimony, that no use permitted by the Zoning Regulations applicable to that district would yield a reasonable return. The evidence must be specific and address the amount paid for the property, present value, maintenance expenses, taxes, mortgages and encumbrances, income from the land in question and other facts relevant to the particular circumstances of the case. Failure to sell land for a permitted purpose is evidence it will not bring a reasonable return if used for such purposes if the owner has made an active effort to sell. Mere financial loss to the individual owner or inability to achieve the most profitable use of a property shall not be sufficient justification for a variance.
 - b. The hardship is not self-created.
 - c. The use, if granted, would not alter the essential character of the district or be a substantial detriment to adjoining properties.
 - d. The variance is not requested for reasons of mere inconvenience or aesthetic taste.
 - e. The variance would be consistent with the spirit of this Chapter and the Town of Fallsburg Comprehensive Zoning Plan. ~~No variance shall be granted which would have the effect of re-districting the area and any use granted shall be only for the intent of the district in question.~~
2. In reviewing a request for a use variance, the Board must consider the effects of adjacent similar uses, traffic, obsolete improvements, the existence of unusual natural resources and governmental rulings unrelated to zoning.
3. The burden of proof with a use variance, nonetheless, shall be wholly with the applicant.
4. In all cases where the Zoning Board of Appeals grants a variance from the strict application of the requirements of this Chapter, it shall be the duty of such Zoning Board to attach conditions and safeguards, or time limits, as may be required in order that the results of its action may as nearly as possible be in accordance with the spirit and intent of this Chapter.

RELEASE FORM/ZBA SIGN

DATE _____

PAID BY:

- CASH
- MONEY ORDER
- LAWYER'S ESCROW CHECK
- OTHER

The sign must be returned no later than 1 week after the ZBA meeting or the deposit will be forfeited.

Signature

Date

ZBA sign was returned on _____

Signature

Date