



Use Variance Application Instructions Zoning Board

123 Grand Street, Newburgh, New York 12550
Phone: (845) 569-7380 Fax: (845) 569-9700
www.cityofnewburgh-ny.gov

A. OVERVIEW

The applicant may complete and submit this form to the Zoning Board of Appeals (ZBA) to appeal a decision or determination made by the Building Inspector regarding use requirements in the Zoning Ordinance. On this appeal, the ZBA may grant a use variance that authorizes a land use otherwise not allowed in the Zoning Ordinance if the applicant, using this form, shows that the applicable zoning regulations and restrictions caused unnecessary hardship.

In order to efficiently process every use variance request, it is important to strictly adhere to all deadlines. Please give yourself enough time to complete all of the required information before you make any submission. ***Administrative staff will not accept incomplete or late applications.***

For more information, see Article XII in the [City Code](#).

D. OBTAINING A USE VARIANCE

To file a written notice of appeal to the Building Inspector and Zoning Board of Appeals, the applicant must submit this application to the ZBA at the Department of Code Compliance within 90 days after the Building Inspector's denial letter is filed with the City Clerk's office. The Department of Code Compliance is located at the Old Courthouse at 123 Grand Street. The applicant must submit the application by the last business day of the month to have a hearing of appeals scheduled at the following monthly ZBA meeting. At the applicant's expense, notice of the hearing must be mailed to adjacent neighbors and published in the newspaper. The applicant must obtain a "variance list" of all properties within 500 feet of the subject property from the Assessor on the first floor of City Hall (83 Broadway) and obtain a copy of the public hearing notice from the ZBA Secretary at the Department of Code Compliance. Then, the applicant must place copies of the notices in English and Spanish into envelopes, stamp and prepare the envelopes with the address of each property owner and a return address of City of Newburgh Zoning Board of Appeals, 123 Grand Street, Newburgh, N.Y. 12550, and return them with sufficient time for the ZBA Secretary to mail the notices. At least ten days prior to the hearing, the ZBA Secretary will publish a public notice in the newspaper, mail the notices by certified mail, and prepare affidavits of the publication and mailing, which the applicant must retrieve and submit to the ZBA. These affidavits then become part of the application. The ZBA will make a decision regarding the Use Variance Application within 62 days after the hearing closes, and a copy of the decision will be filed in the City Clerk's office and mailed to the applicant within five days of the decision. Unless otherwise specified by the ZBA, a decision on any appeal shall expire if the applicant fails to obtain any necessary building permit within 12 months of the date of such decision. If a use variance is granted for a nonresidential use, site plan approval from the City Planning Board may also be required prior to commencing the use or obtaining a building permit. Applicants are encouraged to obtain an Informational Inspection Report from the Code Compliance Bureau before submitting any applications for land use approvals.

The ZBA meets on the fourth Tuesday of the month, in the Third Floor Council Chambers, City Hall, 83 Broadway, at 7:30pm unless otherwise posted.

B. USE VARIANCE REQUEST CHECKLIST

All Use Variance applications must include the following to be accepted by the Zoning Board of Appeals: *(Please complete this checklist):*

Denial Letter from Building Inspector: Letter communicating the Building Inspector's decision or determination that resulted in application for appeal to the ZBA. Informational Inspection Report is sufficient for this purpose.

Statement of Financial (Economic) Evidence: Please submit competent financial evidence, as described in PART II B (1) below, proving that the applicant cannot realize a reasonable return on the property as zoned. See Subsection C below for additional details about ineligible hardships.

Plot Plan: Eleven (11) copies. If the use variance applied for involves any expansion of existing buildings or new construction on the site, then the applicant must submit eleven (11) copies of a complete plot plan of the proposed expansion drawn to scale with accurate dimensions, showing the location of all existing and proposed structures on the lot in sufficient detail to enable the zoning board to determine compliance with PART II B(1)-(4) below.

Site Context Map: Eleven (11) copies. Please submit eleven (11) copies of a site context map showing the zoning of the parcel in question, as well as the zoning of all adjacent properties.

Fees. All use variance applications must include the appropriate fee, by check, made payable to "City of Newburgh".

Residential Fee: \$150.

Commercial Fee: \$250.

Public Hearing Fee: \$50 for Variance List + Postage

Short or Long Environmental Assessment Form: Whether a Short or Long Environmental Assessment Form is required depends on the location, type and size of the project.

Note: For additional guidance, please refer to State Environmental Quality Review Act (SEQRA) online at: <http://www.dec.ny.gov/regs/4490.html>. Environmental Assessment Forms are available from the Department of Code Compliance or online at <http://www.dec.ny.gov/permits/6191.html>. If SEQRA applies, the City recommends that you use the EAF Mapper Application, which will generate partially filled-in EAFs at www.dec.ny.gov/eafmapper/.

Coastal Assessment Form (CAF): Only required for property located in the Waterfront Revitalization Area Boundary and that require environmental review under SEQRA.

Note: Find Waterfront Revitalization Area Boundary map at:
http://docs.dos.ny.gov/communitieswaterfronts/LWRP/Newburgh_C/Original/NewburghSI.pdf
Find Chapter 159, Waterfront Consistency Review at: <http://ecode360.com/28160802>
Find CAF at: [Insert link to new CAF application]
A referral will be made to the Conservation Advisory Council for an advisory opinion.

C. INELIGIBLE HARDSHIPS

The following hardships are not hardships within the meaning of the Zoning Ordinance:

1. The applicant, with or without knowledge of the Zoning Ordinance variance provisions, has acquired the site subsequent to the adoption of the Zoning Ordinance variance provisions.
2. The applicant has caused a self-imposed hardship by changing his circumstances after adoption of the Zoning Ordinance variance provisions. For example, the applicant, in selling a portion of a larger site, has either created a new lot that is deficient in total area or has rendered the existing larger segment on which the structure is located insufficient in yard space.
3. The applicant would realize financial advantage from a change to the site, the structure, or the use.



**Use Variance Application
Zoning Board**

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APPEAL NO.: _____

Joanne Lugo, Chairperson
(Type or print in dark ink)

Eliana Diaz, Secretary

PART I – General Information

A. PROPERTY INFORMATION:

Street Address:					
City:	Newburgh	State:	NY	Zip:	12550
Property Area (Acres):					
Tax Map Designation:	Section:		Block:		Lot(s):
Zoning District:			Flood Insurance Zone:		
<i>(find at: https://msc.fema.gov)</i>					

B. PROPERTY OWNER (If different from applicant):

Name:					
Address:					
City:		State:		Zip:	
Phone:					
Fax:					
Email:					

C. APPLICANT: (If applicant is not owner, owner must complete attached proxy statement in Part IV of this form, confirming authorization of applicant.)

Name:					
Address:					
City:		State:		Zip:	
Phone:					
Fax:					
Email:					

PART II – Appeal Request

The applicant must fill in all sections under Part II of the application completely. A variance constitutes relief from the strict application of Zoning Ordinance requirements, and the Zoning Board of Appeals is required to give sound reasons, based on the information contained in this application, for granting this relief. The applicant must demonstrate to the ZBA that these standards are met. Attach additional information to this application as necessary.

A. SUBJECT TO APPEAL

Pursuant to Section 300-114 of the Zoning Ordinance, this application, relative to the above referenced property, constitutes an appeal from the decision or determination* of the Administrative Official of the Zoning Ordinance (the Building Inspector of the City of Newburgh).

Name of Official:

**Please attach a copy of the decision or determination appealed.*

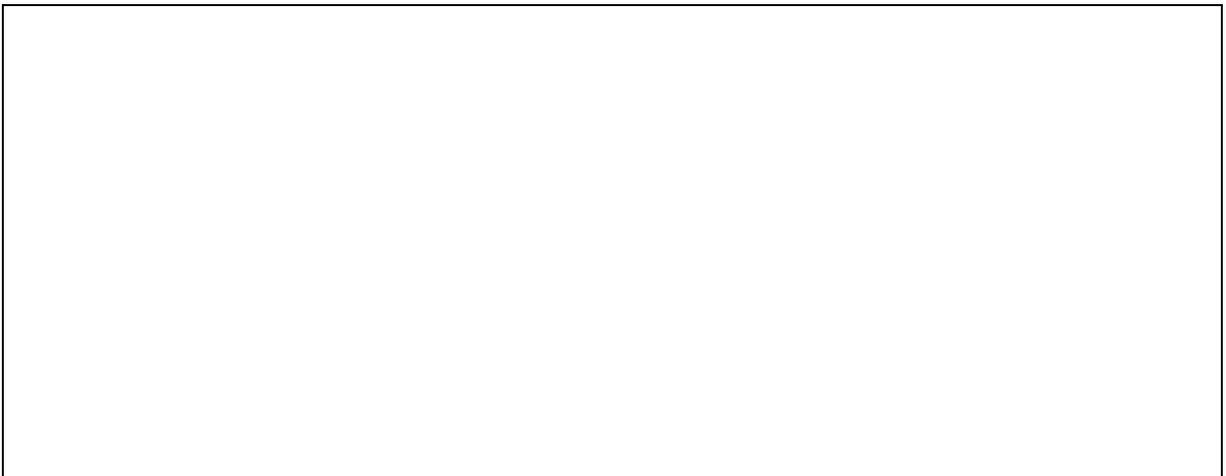
B. USE VARIANCE REQUEST (& proof that required standards are met)

I/We, _____, hereby apply to the Zoning Board of Appeals for a variance from the following requirements of the Zoning Ordinance:

- (1) Demonstrate that the owner cannot realize a reasonable return on the property as zoned. The lack of return must be substantial and proved with competent financial evidence, which must be attached to this application. It is not enough for the applicant to show that the desired use would be more profitable than the use permitted under the zoning. What must be established is that the return from the property would not be reasonable for each and every use that is permitted under the ordinance.



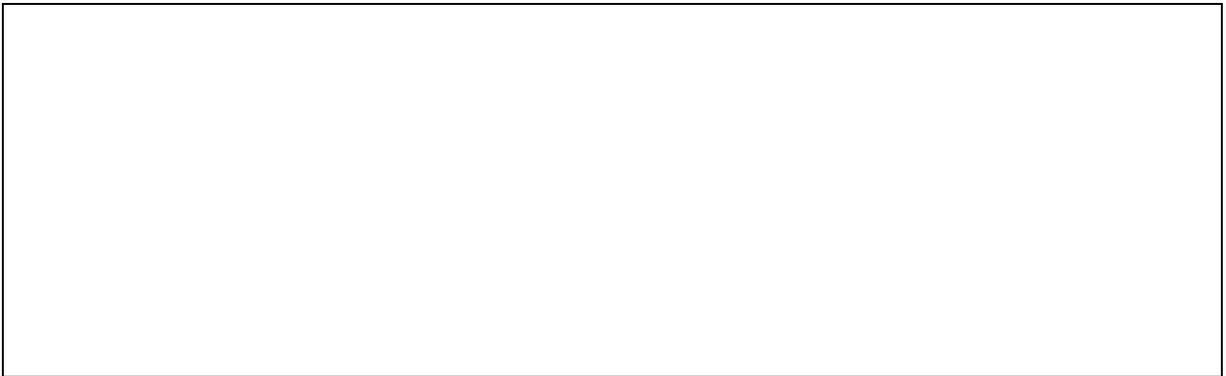
- (2) Demonstrate that the hardship claimed is unique to the owner's property and not applicable to a substantial part of the neighborhood. If the hardship is common to a substantial portion of the neighborhood, the remedy is to seek a change in the zoning, not to apply for a use variance.



- (3) Demonstrate that the granting of the variance will not alter the essential character of the neighborhood. In making this determination, the zoning board considers the intensity of the proposed development as compared to the existing and permitted uses in the neighborhood.

A large, empty rectangular box with a thin black border, intended for the applicant to provide evidence or explanation for item (3).

- (4) Demonstrate that the hardship claimed by the applicant is not self-created.

A large, empty rectangular box with a thin black border, intended for the applicant to provide evidence or explanation for item (4).

K. Signatures

By signing this application the applicant attests that, to the best of his or her knowledge, all information provided herein is accurate and truthful. The undersigned further agrees the subject premises may be entered and inspected by any City Staff, Board, or Commission members responsible for of the review or approval of this application.

Applicant Signature

Date

For Department of Code Compliance Use Only:

Plans Reviewed By:

Specifications Reviewed By:

Application Approved By:

Receipt No.:

Census Code No.:

Fees Paid:

Date:



**Owner's Proxy Statement
Zoning Board**

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COMPLETE THIS FORM ONLY IF APPLICANT IS OTHER THAN OWNER.
THE FOLLOWING STATEMENT MUST BE SIGNED AND NOTARIZED

A. Property Information:

Street Address:						
City:	Newburgh	State:	NY	Zip:	12550	
Tax Map Designation:	Section:		Block:		Lot(s):	
Zoning District:						
	<i>(find at):</i> http://www.cityofnewburgh-ny.gov/sites/newburghny/files/file/file/map.pdf					
Flood Insurance Zone:						
	<i>(find at):</i> https://msc.fema.gov					

B. Property Owner:

Name:						
Address:						
City:		State:		Zip:		
Phone:						
Fax:						
Email:						

C. Applicant: (Party making application on owner's behalf)

Name:						
Address:						
City:		State:		Zip:		
Phone:						
Fax:						
Email:						

C. Owner Proxy Statement:

_____ swears that s/he is the owner of the subject property; that _____, the applicant of the signed application, is the – Agent /Corporate Officer /Contractor / Other _____ – of said owner or owners and is duly authorized to perform said work and to make and file this application; that all statements contained in the application are true to the best of his/her knowledge and belief; and that work will be performed in the manner set forth in the application and in the plans and specifications filed therewith.

Owner Signature: _____ Date: _____

Notary Public: _____ Date: _____