

Next meeting date: _____

Completed application due: _____

USE VARIANCE APPLICATION PROCEDURE GUIDELINES FOR THE CITY OF AUBURN

1. **ALL APPLICATIONS:** Please read and complete the enclosed application for use variance with as much detail as possible. Make sure to answer all relevant questions. **Do not leave any blanks unless the question is not applicable (please notate with N/A if not applicable).** All applications must be accompanied by detailed diagrams showing lot size, adjoining road, driveway, the location and dimensions of all buildings including building heights and the distance of all buildings from all lot boundaries. It is the sole responsibility of the applicant to provide the Zoning Board of Appeals (ZBA) with **one (1) original and nine (9) copies** of the application and all necessary information and documentation concerning this application. The ZBA will make its determination solely on the basis of the information and material that it is provided; therefore, the burden of proof is on the applicant to prove the necessity of the request. There is a **\$200.00 filing fee** with the submission of each application. This fee is not refundable once presented to the ZBA and shall not be used to cover any other fee, permit, etc. Unless otherwise specified by the ZBA, a decision on any variance shall expire if the applicant fails to obtain any necessary permit or comply with the conditions of such permit within six (6) months from the date of authorization thereof. Before work is started, please obtain a permit from the Code Enforcement Office. Please be advised that construction must comply with all regulations of the Auburn Building Code and the New York State Uniform Fire Prevention and Building Code. The ZBA meets the fourth Monday of every month (barring holidays) and **all applications must be submitted, along with the fee, on or before the deadline date. Please check with the Code Enforcement Office for the deadline dates. The completed application and fee is submitted to the Code Enforcement Office, 24 South St., Auburn, NY 13021.**

Example of items that may be enclosed in support of the application:

- a) Property card (Assessor's records)
- b) Tax records
- c) Appraisal
- d) Business records (Maintenance costs, tax records/returns, utility bills)
- e) Renovation documents (if applicable)
- f) Business proposal (if applicable)
- g) Photos
- h) Survey map of property
- i) Neighborhood letter(s) of support (if applicable)
- j) Map/photos/layout of neighborhood
- k) Purchase documents

2. **USE VARIANCE:** A use variance is a variance granted by the ZBA of the prohibitions against certain uses of real property in a zoning district. A variance, if granted, allows the property owner to use the property in a certain way even though the desired use is otherwise prohibited in the zoning district. A use variance may be granted upon a demonstration of unnecessary hardship to the property owner in the use of the land.

3. **STANDARDS:** Please make sure to answer all questions in detail. You must clearly demonstrate that *all* the following prerequisites have been met in order to qualify for a use variance:

- a) The applicant will be deprived of *all* economic use or benefit from the property unless it can be used for the purpose requested, which deprivation must be established by competent financial evidence. Competent financial evidence may include records or documents of: the amount paid for the property, the present values of the property, the expenses attributable to the maintenance, the amount of taxes on the property, income from the property, etc.

- b) The hardship created is unique and does not apply to a substantial portion of the district or neighborhood. To determine whether the conditions that make an applicant's land difficult to use are unique, the ZBA may, for example, consider proximity to a major highway or industry, or physical conditions of the site itself, such as steep slopes or wetlands.
- c) The requested variance would not alter the essential character of the neighborhood. For example, the establishment of a commercial use that generated a lot of traffic or excessive noise could disrupt a residential area.
- d) The hardship is not self-created. An example of a hardship that has been created by the applicant's own actions may be where the applicant purchases residentially zoned land for a very high price, with the thought of subsequently obtaining a variance to use the land commercially. In this case, the applicant created the hardship by paying an inflated amount for the land and should not be granted a variance.
- e) The variance is the minimum necessary to grant relief from the hardship. The ZBA may grant the least relief, or smallest variance, necessary to allow the applicant a reasonable return on the property.
- f) The variance will preserve and protect the character of the neighborhood and the health, safety and welfare of the community. The neighborhood should not be disrupted by the proposed use, even if the applicant proved unnecessary hardship.

In order to qualify for a use variance the applicant must show the 'dollars and cents' proof that the property cannot yield a reasonable return if it's use is limited to only those uses permitted in that zoning district. To determine whether the property can yield a reasonable return the ZBA may consider whether the applicant would lose the practical use of the land if made to conform to the use requirements of the zoning regulations. It may be to the applicant's benefit to have an appraisal performed to support any claims.

4. SELF-CREATED HARDSHIP: The ZBA may not grant a use variance to relieve a hardship created by the applicant, such as purchase of land with actual or constructive (should have known-presumed to know the law) knowledge that the desired use is prohibited by the zoning ordinance, even if the landowner *does not have actual knowledge* of the applicable provisions of the ordinance prohibiting the desired use.

The applicant should keep in mind that a use variance, if granted, runs with the land; in other words, the variance is granted to benefit the use of the property regardless of who owns the property. The variance is not granted for the personal benefit of the property owner; rather, it will continue to benefit the property for subsequent owners of the property as well.

The City of Auburn will meet with the property owner, if desired, to help prepare/explain the application process. Should you require assistance please contact:

Brian Hicks
Sr. Code Enforcement Officer
24 South St.
Auburn, NY 13021
315.255.4111.

*****Do not copy and submit 'Procedure Guidelines' as part of your application package*****

CITY OF AUBURN
ZONING BOARD OF APPEALS
APPLICATION FOR USE VARIANCE

Date: _____

1. Applicant(s): _____

2. Contact Person: (if not shown in #1) _____

3. Address: _____

4. Phone: _____ E-Mail: _____

5. Address where variance is requested: _____

Tax Map #: _____ Zoning District: _____

6. Property Owner (if different than applicant): _____

(If the applicant is not the property owner a notarized statement giving authorization to the applicant must be obtained from the property owner and submitted with this application.)

7. Date property acquired by applicant: _____

8. Current use of property: Residential – Number of dwelling units _____

Commercial – Type _____

Industrial – Type _____

Accessory building – Describe _____

Other – Describe _____

9. Proposed use (Please use above descriptions): _____

10. If the use variance is granted, will the applicant be performing the changes? Yes No

11. If not, please provide the name, address and phone number of the contractor(s):

12. Please describe in detail the changes you plan to make on the premises (be specific):

13. Please explain how the variance will affect the character of and the health, safety and welfare of the neighborhood:

14. Please explain how the hardship *is not* self-created: _____

15. Please explain how the hardship created is unique and does not apply to a substantial portion of the district or neighborhood: _____

16. Please explain why the requested variance will not alter the essential character of the neighborhood:

17. Please explain how the variance is the minimum necessary to grant relief from the hardship:

18. Please explain how you will be deprived of *all* economic use or benefit from your property unless it can be used for the purpose you request, which deprivation must be establish by competent financial evidence:

19. Please explain how the land will not yield a reasonable return by providing the following information:
- a) Amount paid for the property in question: _____
 - b) Date of purchase of property: _____
 - c) Present market value of property or any part thereof: _____
 - d) Basis upon which the present market value of the property was obtained: _____

 - e) The projected market value of the property if the use variance is/is not granted: _____

 - f) Basis upon which the projected market value of the property was obtained: _____

 - g) Please provide a breakdown of the expenses attributable to maintenance since acquiring the property in issue (you may wish to include receipts, if applicable):

 - h) Assessment and amount of taxes on the property in issue (if applicable): _____
 - i) Amount of mortgages and other encumbrances (if applicable): _____
 - j) Income from the land in issue (if applicable): _____
 - k) Any other relevant facts particular to the facts of the case: _____

Please use the last sheet of paper if you require any further space and clearly indicate which questions you are answering.

Remember that it is the sole responsibility of the applicant to provide sufficient information and documentation concerning this application. Because the determination is made solely on the basis of information provided to the ZBA, it is to the applicant's benefit to include as much supporting information as possible.

I/WE HEREBY CONSENT TOT ALLOW MEMBERS OF THE ZONING BOARD OF APPEALS, UPON REASONABLE NOTICE TO ME/US, THE RIGHT OF ACCESS TO MY/OUR PROPERTY FOR THE PURPOSE OF VIEWING AND INSPECTING THE PROPOSED VARIANCE, WHICH IS A SUBJECT MATTER OF THE PROCEEDING HEREIN BEFORE THE ZONING BOARD OF APPEALS.

I/We certify that the information submitted with this application for a use variance is true to the best of my/our knowledge and belief.

Printed name of applicant

Printed name of applicant

Signature of applicant

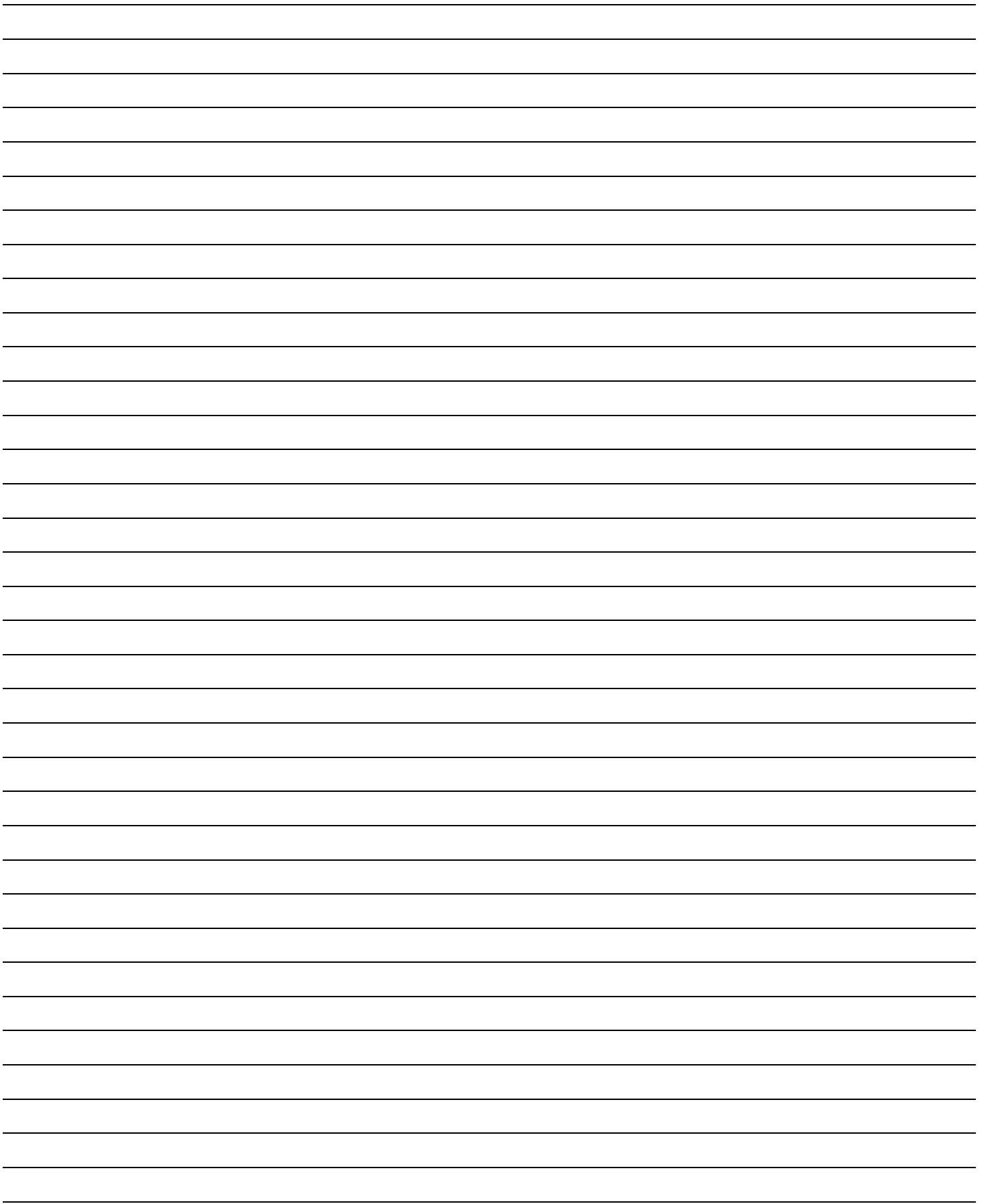
Signature of applicant

State of New York)
County of Cayuga) ss:

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

Notary Public / Commissioner of Deeds

Please use the attached sheet of paper if you require further space clearly indicating which questions you are answering. Remember that it is the sole responsibility of the applicant to provide sufficient information and documentation concerning this application. Because the determination is made solely on the basis of information provided to the ZBA, it is to the applicant's benefit to include as much supporting information as possible.



Short Environmental Assessment Form

Part 1 - Project Information

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
			YES
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
			YES
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"/> Parkland <input type="checkbox"/> Other (specify): _____			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service(s) available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO	YES	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO	YES	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
16. Is the project site located in the 100 year flood plain?	NO	YES	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES	NO	YES	

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
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
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
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____		