THE CITY OF POUGHKEEPSIE
NEW YORK
BUILDING PLANNING & ZONING
62 CIVIC CENTER PLAZA, 2ND FLOOR
POUGHKEEPSIE, NY 12601
Phone: (845) 451-4007 Fax: (845) 451-4006

Gary E. Beck, Jr.
Building Inspector

Use Variance

Explanation & Application Form

Eligibility

To apply for relief from the City's Zoning Ordinance, an applicant must be the property owner(s) or lessee, or have an option to lease or purchase the property in question. The Zoning Board of Appeals (ZBA) shall not accept any application for appeal that includes a parcel which has a written violation from the Zoning Enforcement Officer pertaining to any provision of this zoning that is not the subject of the application.

Functions of ZBA

The establishment, procedures, powers, & duties of the Zoning Board of Appeals have been established in Chapter 19 of the City Charter, Article VIII, Section 19-8.1 through 19-8.11. The City Charter can be accessed by going to the City's website (www.cityofpoughkeepsie.com).

Types of Variances:

1. *Interpretation*: On appeal from an order, requirement, decision or determination made by an administrative official or on request by an official, board or agency of the city.

2. *Area variance*: 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 the applicable zoning regulations.

3. *Use variance*: 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 the applicable zoning regulations.

Submission Requirements

All sections of the application form must be complete and accurate. City Planning staff is available to answer procedural and substantive questions, to ensure that applications are complete. The ZBA will only consider properly completed applications that adhere to the following:

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⇒ Application Fee (non-refundable): **$1,000.** Make checks payable to the "City of Poughkeepsie" and attach to top of original application.

⇒ Denial letter or communication from the Building Department, which resulted in your application to the ZBA.

⇒ Eleven (11) copies of a "to scale" site plan or plot plan must accompany this application. It should be drawn to scale by a licensed engineer, landscape architect, or surveyor, and must include the professional's stamp on the plan. In some instances staff may waive the requirement for a stamped drawing. However, in all cases the plan must include the name, address, and phone number of the person who drew it as that individual will be held responsible for its accuracy. The plan shall identify all existing and proposed structures and features, lot boundaries and dimensions, and the relationship of structures to the lot dimensions. Also, include natural or manmade features that might affect your property (e.g., drains, ponds, easements, etc.)

⇒ Completed first page of the SEQR Short Environmental Assessment Form (included in application). Requests for an area variance for 1-, 2-, and 3-family residences or for individual setback or lot-line relief do not require a SEQR form. A SEQR Full EAF may be required for projects determined to be "SEQR Type 1" actions or at the request of the ZBA.

⇒ Application deadline: In general, you should submit a properly completed application by the 3rd Friday of the month, in order to be on the following month's agenda. However, these deadlines are not absolute - meaning that City Staff will reasonably try to process all variance applications that are received for that month. For the complete list of deadlines, go to "Forms & Applications" on the City website (www.cityofpoughkeepsie.com), and look under the *Planning* link for meeting dates for the Zoning Board of Appeals. Submission by the deadline does not, however, guarantee that the application will be heard at that meeting.

Public Hearing Requirements

The Zoning Board of Appeals is required to hold a public hearing for each application. Staff will mail the applicant a 'Procedures Letter' about the meeting and its public hearing requirements. Included in this mailing will be a Notice of Public Hearing, which the applicant is required to:

⇒ Publish in the Legal Notice section of the *Poughkeepsie Journal*. The Notice must be placed in the *Journal* at least five (5) days prior to the date of the public hearing. Be

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advised that the Poughkeepsie Journal requires three (3) days notice prior to publication.

⇒ Mail a copy of the Notice of Public Hearing by certified mail/return receipt to the owners of all properties within two hundred feet (200') of the parcel which is the subject of the public hearing. The notice must be mailed at least five (5) days prior to the hearing date. As a courtesy, Planning Staff will produce a map of all properties within a 200-foot radius of the subject parcel, and a corresponding list of property owners. The information is extracted from current county tax records and is provided to you, in order to facilitate the completion of your application requirements.

Meeting Format

ZBA meetings are usually held on the second Tuesday of each month; however, holidays, weather, or a lack of a quorum could necessitate the cancellation or rescheduling of a meeting. You are encouraged to call the Building Planning and Zoning Department (451-4007) the day of the meeting to confirm the meeting.

Meetings begin at 7:30 P.M. in the Common Council Chambers of City Hall. Public hearings for all applications are held first. During public hearings, members of the public are welcome to express their opinions regarding an application. Written submissions (letters) addressed to the ZBA will be accepted as part of the public record. Send all submissions to the Planning Division, 62 Civic Center Plaza, Poughkeepsie, NY, 12601. Once all public comments are received, the Chair of the ZBA will close the public hearing portion of the meeting and proceed to deliberations. No public comments are permitted during deliberations. During deliberations, the ZBA will vote on each application separately, and decide whether to grant the requested variance(s). An affirmative vote of at least four (4) votes is required to pass any motion before the Board. Deliberations are not always held the same night of a public hearing - circumstances can arise in which the Board will adjourn deliberations and/or a vote until the next meeting.

The Board is required to issue a decision on any appeal within sixty-two (62) days of the public hearing unless an extension of time is mutually agreed to by the Board and the applicant, and provided SEQRA requirements have been satisfied.

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FEE: $1,000.00
CODE: A2112
ACTIVITY #

APPLICATION TO THE ZONING BOARD OF APPEALS
CITY OF POUGHKEEPSIE, NEW YORK

REQUEST FOR USE VARIANCE(S)

(TYPE, OR PRINT IN DARK INK)

I. OWNER INFORMATION

Name: _____

Address: _____

_____

Phone #: _____

II. APPLICANT INFORMATION

Name: _____

Address: _____

_____

Phone #: _____

(If the applicant is not the owner, proof that the owner consents to the application must be provided.)

III. CONSULTANT INFORMATION

Name: _____

Address: _____

_____

Phone #: _____

IV. PROPERTY INFORMATION

Property Address (subject of appeal): _____

Tax Parcel # : _____

Date property acquired: _____

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Present use of property: _____

Zoning District: _____

Dimensions: Lot Area _____(sq. ft.) Width _____ft

Depth _____ft. Frontage on street _____ft.

Is the property currently for sale or is the applicant preparing to sell? _____

V. REASON FOR APPEAL

This application, relative to the above referenced property, constitutes an appeal from the decision of the Zoning Administrator, or other City of Poughkeepsie Agent:

(name and title of agent: _____).

A copy of this decision, dated _____, must be attached.

V1. REQUEST FOR USE VARIANCE

All sections under this heading must be answered completely. Bear in mind that a variance is actually relief from the strict application of the requirements of the law (the Zoning Ordinance), and the Zoning Board of Appeals is required to give sound reasons, based on the criteria set forth in this application, for granting any such relief.

I/We, (insert name of applicant)_____, hereby apply to the Zoning Board of Appeals for a variance of the following requirements of the Zoning Ordinance:

SECTION	REQUIRING/PROHIBITING	VARIANCE REQUESTED

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VII. VARIANCE REQUEST EXPLANATION

Pursuant to Section 19-9.4 (2) (c) of the Zoning Ordinance, the Zoning Board of Appeals, no use variance shall be granted by the 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:

Note: It is incumbent upon the applicant to demonstrate to the Board that these criteria are satisfied for each variance requested.

PLEASE ATTACH RESPONSES ON A SEPARATE SHEET.

(i) The applicant must demonstrate, by competent financial evidence, that they **cannot realize a reasonable financial return** for the initial investment on their property for any of the currently permitted uses in the Zoning District. The financial statement should relate only to the subject property and not to the applicant's personal finances.

(ii) Please explain how the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood. Does the subject property have unique constraints or characteristics not found in other properties in the district or neighborhood?

(iii) If granted, will the requested use variance(s) alter the essential character of the neighborhood? If it will not alter the character, please explain why.

(iv) Is the applicant's need for a use variance(s) the result of a **self-created** hardship? An applicant cannot claim "unnecessary hardship" if that hardship was created by the applicant, or if the applicant

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acquired the property knowing (or was in a position to know) the conditions for which the applicant is seeking relief. If not, explain how the hardship is not self-created.

VIII. LIST OF REQUIRED ATTACHMENTS

1. Letter or communication which resulted in application to the ZBA.
2. Site or Plot Plan: Eleven (11) copies.
3. Color photos of site conditions (8 copies)
4. Financial (Economic) Statement. This statement should not be personal in nature. The data provided should relate directly to the property in question and should illustrate the economic injury or undue hardship suffered in the absence of the variance
5. Other attachments deemed pertinent by the applicant (please list):

   a) _____

   b) _____

   c) _____

   d) _____

IX. SIGNATURE AND VERIFICATION

Please be advised that no application can be deemed complete unless signed below.

THE APPLICANT HEREBY STATES THAT ALL INFORMATION GIVEN IS ACCURATE AS OF THE DATE OF APPLICATION. THE APPLICANT, IF NOT THE OWNER OF THE PROPERTY, HEREBY SWEARS THAT THIS APPLICATION IS MADE WITH THE INFORMED KNOWLEDGE AND CONSENT OF THE OWNER.

_____ _____
SIGNATURE OF APPLICANT Date