

City of Albany
Board of Zoning Appeals Application

Instructions for Applicants

I. Requirements for Application Submission

1. **Cover Page** – The cover page asks the applicant to supply some basic information such as property characteristics and contact information. The applicant and property owner are required to provide their signatures consenting to the submission of the application. A signed letter of consent may be submitted by the owner for an agent to act on their behalf.
2. **Standards Evaluation Form** – This form indicates the criteria that will be evaluated for the type(s) of appeal(s) being requested and asks the applicant to answer some questions relative to those criteria. There are specific forms for each type of appeal being requested. Submit only the form(s) pertaining to the type(s) of appeal(s) being sought (i.e. Use Variance, Special Use Permit, etc.).
3. **Environmental Assessment Form** – All discretionary decisions made by the Board that undertake action which may affect the environment are subject to review under the State Environmental Quality Review Act (SEQR). Completion of a Environmental Assessment Form (EAF) is required in order to identify potential environmental impacts of the action. A Short EAF is included with the application documents; a Long EAF will need to be completed for all Type 1 SEQR Actions or as requested by department staff.
4. **Referral Letter (or Notice of Violation)** – Applications must include a copy of a referral letter issued by City's Division of Buildings & Regulatory Compliance. A referral or "denial" letter is received when, upon submission of a Zoning & Building Permit application, it is determined that a building or use proposal does not meet the provisions of the City Zoning Ordinance and/or requires additional review. The referral letter will indicate the type of variance or permit that is required to proceed with the project. A Notice of Violation may also be used as a mechanism for appeal in select circumstances.
5. **Narrative** – A project narrative is required that describes, in detail, the nature of the appeal or approval being sought as well as other relevant information *such as*:
 - description of existing/proposed structures and defining features of the property
 - description of proposed alterations to the buildings and/or property
 - property's most recent use and relevant history
 - number of required, existing and proposed off-street parking spaces
 - proposed bicycle parking (number of spaces and location)
 - business plan, hours of operation, number of employees: full time, part time, etc.
 - proposed storage and removal of waste and/or recyclables
 - proposed site improvements – ex. – landscaping, lighting, signage, etc.
 - possible environmental impacts - ex – storm water, noise, traffic, glare, dust, etc.
 - mitigation of any impacts, ex. – screening
 - other information that may be pertinent or unique to the proposed project

6. **Photographs** – Photographs are required that depict existing site conditions and structures at the property that is the subject of the appeal. Photographs must be color on printed paper, with a maximum of four (4) photos per page. Traditional photo prints will not be accepted.
7. **Survey or Site plan** – A survey or site plan is required when the subject of the application relates to exterior site conditions or characteristics (ex. construction or modification of a parking area, the referencing of site boundaries or setbacks, etc.). The plan must be drawn to scale and include dimensions.
8. **Floor plans** – Floor plans are required when the subject of the application relates to interior floor area of a building or structure (ex. new construction, subdivision of a residential building, legalization of existing dwelling units, the establishment of a business, etc.). The plans must be drawn to scale and include dimensions.
9. **Building Elevations and Signs** – Elevation drawings or renderings are required for any new construction, signage or façade alterations that are the subject of the appeal.
10. **Vacant Building Registration** - If the applicant and/or property owner of the property or properties that are the subject of the appeal is the owner of a vacant building(s) within the City of Albany, verification of compliance with Vacant Building Registry and Maintenance Standards must be provided.
11. **Any other supporting documentation** or requests by the Planning Office.
12. **Application fee** - Application fees shall be submitted as follows:

(a) Use Variance	\$ 400.00
+ Per additional variance	\$ 100.00
(b) Area Variance	
1-2 Family Residence	\$ 50.00
All Others	\$ 150.00
+ Per additional variance	\$ 25.00
(c) Special Use Permit	\$ 250.00
+ Per additional permit	\$ 100.00
(d) Parking Lot Permit	\$ 250.00
+ Per additional permit	\$ 100.00
(e) Interpretation	\$ 100.00
(f) Administrative Appeal	\$ 250.00
(g) Amendment	\$ 200.00
(h) Extension	\$ 100.00
(i) Rescheduling	\$ 100.00

II. **Copies of the Application**

- One (1) original print copy of the completed application must be submitted to the City's Division of Land Use Planning. Documents should be submitted in the order specified above.
- One (1) copy of all application documents in electronic format (.pdf) must also be submitted via email to glassb@ci.albany.ny.us or on CD / DVD media.

- An application will be deemed complete when the Director of Planning has reviewed the application and accepted it as complete. The applicant must submit a complete application to the Director to be granted a hearing by the Board. A hearing will not be scheduled or noticed until a complete application has been received and is available to the public.

III. Public Outreach / Legal Notification

The Planning Office sends out legal notification to the applicant, the applicable Neighborhood Association and Common Council Representative for the area, property owners within a 250-foot radius of the property, as well as other involved parties. Such notice describes the proposal and includes the date, time, and location of the hearing. A copy of the application documents will also be posted on the City website. Anyone wishing to testify in support of or in opposition to the proposal has the opportunity to do so at the public hearing.

It is suggested that you meet with the applicable Neighborhood Association and/or or nearby property owners to discuss the proposal prior to the public hearing. This gives you the opportunity to address any neighborhood questions or concerns prior to the hearing and may help expedite a decision.

IV. Attend the Public Hearing

The applicant or his/her representative must attend the public hearing to describe the proposal to the Board and answer relevant questions. A listing of public hearing dates and their respective submittal deadlines are included in the application. The applicant has the opportunity to respond to any questions or comments about the proposal by the Board and/or public. The Board will not hold a hearing on an application if the applicant or his/her representative is not present. A fee of \$100.00 is required for the rescheduling of a public hearing.

VI. Decision

The Board will make a formal determination on each appeal, likely within 60 days of the public hearing. The applicant will be mailed a copy of the determination and a copy will be filed in the Office of the City Clerk. If approved, the decision may be subject to certain conditions, which may need to be fulfilled prior to a Certificate of Occupancy being issued for the use. All questions relative to decisions of the Board or subsequent legal proceedings will be handled by the City's Corporation Counsel.

Direct questions to the
City of Albany
Department of Development & Planning
Division of Land Use Planning
200 Henry Johnson Boulevard
Albany New York, 12210
518-445-0754

2013 BZA Meeting Dates

5:30 PM – Common Council Chambers

Meeting Date

- January 9
- January 23
- February 13
- February 27
- March 13
- March 27
- April 10
- April 24
- May 8
- May 22
- June 12
- June 26
- July 10
- July 24
- August 14
- August 28
- September 11
- September 25
- October 9
- October 23
- November 13
- November 26
- December 11

Application Deadline

- December 12
- December 26
- January 16
- January 30
- February 13
- February 27
- March 13
- March 27
- April 10
- April 24
- May 15
- May 29
- June 12
- June 26
- July 17
- July 31
- August 14
- August 28
- September 11
- September 25
- October 16
- October 30
- November 13



City of Albany Board of Zoning Appeals Application

This application must be filed with the Department of Development and Planning, Land Use Division at 200 Henry Johnson Boulevard, Albany, New York 12206, (518-445-0754). Applications are not considered to be complete until all supplemental documents and fees are received. (See attached instructions.) Planning Office staff shall determine the completeness of applications before scheduling the case before the Board of Zoning Appeals. Notice of public hearing shall be mailed to the applicant, adjacent property owners, and other interested parties. **The applicant or his/her representative shall appear at the public hearing to substantiate the application.**

REGARDING THE PREMISES AT _____

APPLICANT _____
ADDRESS _____ CITY _____ STATE _____ ZIP _____
PHONE _____ EMAIL _____

I, the undersigned **APPLICANT**, hereby state that the information and facts set forth in this application are true to the best of my knowledge and belief.

SIGNED _____ **DATE** _____

AUTHORIZED AGENT _____
AFFILIATION _____
ADDRESS _____ CITY _____ STATE _____ ZIP _____
PHONE _____ EMAIL _____

I, the undersigned **APPLICANT**, hereby authorize the agent to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED _____ **DATE** _____

PROPERTY OWNER _____
ADDRESS _____ CITY _____ STATE _____ ZIP _____
PHONE _____ EMAIL _____

I, the undersigned **OWNER**, hereby authorize the applicant to bring the application herein before the Board of Zoning Appeals of the City of Albany.

SIGNED _____ **DATE** _____

REQUEST: SPECIAL USE PERMIT PARKING LOT PERMIT
 USE VARIANCE INTERPRETATION
 AREA VARIANCE ADMINISTRATIVE APPEAL

Is the property within 500 feet of a municipal boundary, State or County property, road, park or facility, or other recreation area? Yes No If yes, the submission will require review by the Albany County Planning Board.

Does any state officer or any officer or employee of the City of Albany or County of Albany have any affiliation with or interest in the applicant or this application? Yes No If yes, set forth the name, address, and nature and extent of the affiliation or interest of an officer / employee.

SHORT ENVIRONMENTAL ASSESSMENT FORM

INSTRUCTIONS:

In order to answer the questions in this short EAF it is assumed that the preparer will use currently available information concerning the project and the likely impacts of the action. It is not expected that additional studies research or other investigations will be undertaken.

ENVIRONMENTAL ASSESSMENT

- | | | | |
|-----|---|------------------------------|-----------------------------|
| 1. | Will the project result in a large physical change to the project site or physically alter more than 10 acres of land?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. | Will there be a major change to any unique or unusual landform found on this site?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. | Will project alter or have a large effect on an existing body of water?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. | Will project have a potentially large impact on groundwater quality? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. | Will project significantly affect drainage flow or air quality?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6. | Will project affect any threatened or endangered plant or animal species... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7. | Will project result in a major adverse impact on air quality?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 8. | Will project have a major effect on visual character of the community or scenic views or vistas known to be or important to the community?... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 9. | Will project adversely impact any site or structure of historic, prehistoric or paleontological importance or any site designated as a critical environmental area by a local agency?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 10. | Will project have a major effect on existing or future recreational opportunities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 11. | Will project result in major traffic problems or cause a major impact on existing transportation systems?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 12. | Will project regularly cause objectionable odors, noise, glare, vibration, or electrical disturbances as a result of the project's operation?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 13. | Will project have any impact on public health or safety?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 14. | Will project affect the existing community by directly causing a growth in permanent population of more than 5% over a one-year period <u>or</u> have a major negative effect on the character of the community or neighborhood?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 15. | Is there any public controversy concerning the project?..... | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

PREPARER'S SIGNATURE: _____ TITLE: _____

REPRESENTING: _____ DATE: _____

USE VARIANCE STANDARDS

Applications for use variances **must** be based on alleviating a clearly demonstrable hardship, as opposed to a special privilege of convenience sought by the owner. Furthermore, the hardship must be specific to the land or building, NOT personal circumstance, and must not generally apply to land/buildings throughout the neighborhood.

- ~ When considering a request for a use variance, the Board shall require a showing by the applicant that applicable zoning the regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board 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] The alleged hardship relating to the property in question is **unique**, and does not apply to a substantial portion of the district or the neighborhood.

[3] The requested use variance, if granted, **will not alter the essential character of the neighborhood**.

[4] The alleged hardship **has not been self-created**.

[1] DESCRIPTION OF HARDSHIP

(Describe the features or conditions of the property that restrict reasonable use/return of the property under current zoning regulations)

Please answer the following questions to show that the current property owner is being deprived of all economic use or benefit from the property in question under the applicable zoning regulations. The deprivation must be established by **competent financial evidence**. Please attach supporting documents (i.e. mortgage documents, tax bills, rental agreements, etc).

Estimated cost of the proposed improvements/alterations to the property that necessitates the variance(s)? \$ _____

How was this estimate determined? _____

When was the property purchased? _____

Purchase price for the property: _____

What is the present value of the property? _____

Source of Valuation _____

Original amount of mortgage(s): _____

Mortgage Holder(s): _____

Interest Rate(s): _____

Term of Mortgage(s): _____

Is your property currently for sale?

Yes No (If No, please continue with question k)

1. How long has the property been for sale? _____

2. How has it been advertised? _____

3. How many offers have been made for the property and for how much?

4. Is the property listed with a realtor? Yes No

If Yes, please name the realtor: _____

Have you previously tried to sell your property?

Yes No (If No, please continue with question l)

1. How much were you asking for the property? _____

2. How long was the property for sale? _____

3. How was it advertised? _____

4. How many offers were made for the property and for how much?

5. Was the property listed with a realtor? Yes No

If Yes, please name the realtor: _____

Explain how you would be negatively affected in an economic or financial way if you did not obtain the variances requested. Please do not comment on your personal financial situation. Your answer must address economic circumstances related to the property and its present inability to provide you with a **reasonable** financial return under the present zoning regulations.

STATEMENT OF INCOME AND EXPENSE

ANNUAL INCOME:

Use	Unit Size (sq.ft; # of bedrooms)	Monthly Rent	Annual Rent

Total Annual Income	
Less (8%) Vacancy	
Adjusted Gross Income	

ANNUAL EXPENSES:

Fixed Expenses:

Taxes	
Insurance	
Average Annual Interest (on mortgage, over next five years)	

Operating Expenses:

Heat	
Electric	
Sewer/Water	
Advertising	
Other:	

Maintenance Expenses:

Repairs (attach list)	
General Building Maintenance	
Other:	

Total Annual Expenses	
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Profit or (Loss)	
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TOTAL INVESTMENT:

Down Payment	
Capital Improvements (attach list)	
Principal paid (original mortgage less current principal balance)	

Total Investment	
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RATE OF RETURN:

(Profit of Loss divided by Total Investment)	
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[2] UNIQUENESS

(Please describe how the alleged hardship is unique to the property in question and does not apply to a substantial portion of the district or neighborhood)

[3] CHARACTER OF NEIGHBORHOOD

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area)

[4] SELF-CREATED

Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes No

Did you obtain a copy of the Certificate of Occupancy or Letter of Zoning Compliance prior to your purchase of the property? Yes No

Did you use the services of an attorney? Yes No

AREA VARIANCE STANDARDS

Applications for area variances must be based on some extraordinary topographic condition or other physical condition inherent in the parcel (for example: exceptional narrowness, shallowness, shape or area). This condition must prohibit or unreasonably restrict the use of the land and/or building.

- ~ When considering a request for an area variance, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighted 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.

[5] Whether the alleged difficulty was **self-created**, which consideration shall be relevant to the decision of the Board, but shall not necessarily preclude the granting of the area variance.

[1] DESCRIPTION OF CONDITIONS

(Describe topographic condition or other physical condition of the property and the manner by which this condition restricts use):

[2] BENEFIT TO APPLICANT

(Please describe why the proposed project cannot be achieved without an area variance):

[3] SUBSTANTIAL

(Please describe why you feel the proposed project is not substantial in nature):

[4] CHARACTER OF NEIGHBORHOOD

(Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area):

[5] SELF-CREATED

Were you aware of the requirements of the City of Albany Zoning Ordinance at the time of purchase of the property? Yes No

If you answered no to this question, did you use the services of an attorney? Yes No

SPECIAL USE PERMIT STANDARDS

Special permit uses are those that have some special impact or unique form which require a careful case by case review of their location, design, configuration, and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site.

~ When considering a request for a special use permit, the Board shall take into consideration the following:

[1] Whether the use is **listed as a permitted special use** in the appropriate zoning district.

[2] Will not have an undue adverse effect upon adjacent property, the **character of the neighborhood** and surrounding areas, **traffic conditions, parking, utility facilities** or other matters affecting the public health, safety, welfare or convenience.

[3] Operations in connection with the proposed use will **not be more objectionable** to nearby properties by reason of noise, fumes, vibration, illumination, etc., than the operations of any permitted use **not** requiring a special use permit.

[4] Will be served **adequately by essential public facilities** and services or **that the applicant will be responsible for providing such services.**

[1] DESCRIPTION OF USE

(Describe the proposed use):

▪ For commercial establishments, please complete the following:

- a) Number of customers per day: _____
- b) Number of employees: _____
- c) Days/Hours of operation: _____
- d) Hours of deliveries: _____
- e) Frequency of deliveries: ___ Less than once a month ___ Monthly
___ Biweekly ___ Weekly ___ Several times a week ___ Daily

[2] CHARACTER OF NEIGHBORHOOD

(Please provide evidence/information, which demonstrates that the proposed use will not substantially impact the nature and character of the surrounding neighborhood):

[3] OBJECTIONABLE USES

(Please explain how the proposed use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking/double parking, utility facilities, and other matters affecting the public health, safety, and general welfare):

[4] OBJECTIONABLE USES

(Please explain why your proposed use will not be more objectionable than would a use permitted by the Zoning Ordinance. Specifically, will your proposed use create any nuisances by generating noise, odors/fumes, and glare from lighting):

[5] ADEQUATE SERVICE OF FACILITIES

(Please demonstrate to the Board that the proposed use will be adequately served by storm drainage, water, sanitary sewers, off-street parking, access to city streets to handle projected traffic volumes, fire and police protection, schools, and refuse disposal, as these services are relevant to your project):

INTERPRETATION / ADMINISTRATIVE APPEAL

The Board of Zoning Appeals (BZA) is empowered to interpret provisions of the Chapter 375 of the City Code, the Zoning Ordinance, and to hear and decide appeals of administrative determinations as otherwise specified within the City Code.

TYPE OF INTERPRETATION OR APPEAL SOUGHT

- The applicant seeks an **INTERPRETATION** to determine:
 - The location of a district boundary;
 - The zoning classification of a particular property;
 - Whether a specific use is permitted in within a zoning district;
 - Whether an unlisted use is consistent with the enumerated uses in one or more zoning districts;
 - Whether a use qualifies as a legal nonconforming use;
 - Whether a proposed use may replace a nonconforming use;
 - Whether a home occupation not specifically listed as a permitted home occupation is consistent with the scope and intent of §375-106;
 - Other: _____

- The appeal seeks to **APPEAL** an administrative determination:
 - An order, requirement, decision or determination of the Administrator relative to Chapter 375, Zoning;
 - A decision or determination pursuant to Chapter 111, Article VIII, Cabaret Licenses; Chapter 303, Sidewalk and Outdoor Cafés; or Chapter 246, Newsracks.
 - The rejection of a Storm Water Pollution Prevention Permit (SWPPP) pursuant to Chapter 133, Article XIV, Stormwater Management and Erosion Control.
 - An order pursuant to Chapter 151, Commercial Standards; Chapter 197, Fire Prevention; or Chapter 231, Housing;
 - Revocation or suspension of a public assembly inspector's license pursuant to §151-10 or an elevator inspector's license pursuant to §175-8;
 - A determination of the Department of General Services relative to the cost of abatement, as proscribed by §313-51.1;

DESCRIPTION OF REQUEST AND SUPPORTING DOCUMENTATION

Attach a detailed description of your request along with any supporting evidence or documentation. Any party wishing to file an appeal must do so within the time frame specified within the applicable code article. Include a copy of the administrative decision document or the City Code article sought to be interpreted.