

APPLICATION FOR APPEAL

APPEAL NO. _____
DATE _____

TO THE ZONING BOARD OF APPEALS, VILLAGE OF PORT DICKINSON, NEW YORK

I (We) _____ of _____
Name of Applicant Street and Number

_____, HEREBY APPEAL
Municipality State

TO THE ZONING BOARD OF APPEALS FROM THE DECISION OF THE ENFORCEMENT OFFICER ON APPLICATION FOR BUILDING PERMIT NO. _____, DATED _____, 19____, WHEREBY THE ENFORCEMENT OFFICER DID DENY

- () A BUILDING PERMIT
- () A PERMIT FOR USE
- () A CERTIFICATE OF OCCUPANCY
- () A SPECIAL PERMIT OR EXTENSION THEREOF

1. _____
(Location of Property) (Street and Number or other identification)

Tax Map No. _____ Use district on zoning map _____

IS PROPERTY WITHIN 500 FEET OF: (Circle one opposite each)

- | | | |
|---|-----|----|
| (A) Any Village of Port Dickinson Boundary Line? | YES | NO |
| (B) Any existing or proposed county or state park or other recreation area? | YES | NO |
| (C) Any existing or proposed county road? | YES | NO |
| (D) Any existing or proposed state road? | YES | NO |
| (E) Any existing or proposed county stream or drainage channel? | YES | NO |

2. TYPE OF APPEAL. Appeal is made herewith for:

- () An area variance
- (X) A use variance
- () An interpretation of the Zoning Ordinance or Zoning Map
- () A Special Permit to the Zoning Ordinance or Zoning Map
- () An extension to a Special Permit

3. PREVIOUS APPEAL. A previous appeal () has
() has not

been made with respect to this decision of the Enforcement Officer or with respect to this property.

If so: Such appeal(s) was (were) made in Appeal No. _____
dated _____, 19____.

4. **REASON FOR APPEAL.** (Complete relevant blank. Use extra sheet if necessary.)

a. **INTERPRETATION OF THE ZONING ORDINANCE IS REQUESTED** because:

b. **A SPECIAL PERMIT IS REQUESTED** pursuant to Article _____ of the Zoning Ordinance because: _____

c. **EXTENSION TO A SPECIAL PERMIT IS REQUESTED** because:

d. **A USE VARIANCE IS REQUESTED** for these reasons:
(All reasons must be answered)

(1) Under the zoning regulations, I (we) will be deprived of all economic use or benefit from the property in question because: _____

(2) The 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 variance will not alter the essential character of the neighborhood because: _____

e. **AN AREA VARIANCE IS REQUESTED** for these reasons:

(1) If the variance is granted, the applicant will have the following benefit: _____

(2) There will not be an undesirable change in the character of the neighborhood or a detriment to nearby properties, because: _____

(3) The applicant cannot attain the benefit of having the variance by any other method because: _____

- (4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district because: _____

5. **PUBLICATION EXPENSE.** I (We), the undersigned, understand that a public hearing is required to be held on this request and that notice of such hearing will be advertised in the official Village paper as prescribed by law. I (We) agree to pay the cost of advertising the hearing and any other reasonable expenses billed by the official newspaper and/or by the Village of Port Dickinson.
6. **SECTION 809 CERTIFICATION.** In accordance with Section 809 of the General Municipal Law of the State of New York, the undersigned certifies in submitting this application that no officer or employee of the State of New York or the County of Broome or Village of Port Dickinson is interested in granting said application:

It is understood that:

- (1) A person is "interested" in such an application when he or his spouse or their brothers, sisters, parents, children, grandchildren or spouse of any of them
 - (a) is the applicant, or
 - (b) is an officer, director, partner or employee of the applicant, or
 - (c) Legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
 - (d) is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered dependent or contingent upon the favorable approval of such application, petition or request.
- (2) Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
- (3) Any person who knowingly and intentionally violates the provisions of Section 809 of said General Municipal Law shall be guilty of a misdemeanor.

(NOTE: If in any case the applicant cannot make the foregoing certification, the applicant shall so state and shall furnish with the application a signed statement which sets forth in detail the reason therefor.)

The foregoing certification as well as the contents of this entire application is hereby subscribed by the applicant and is hereby affirmed by the applicant as true under the penalties of perjury.

Applicant

Phone No. _____

SRB(C:FMUN)PD-APPA

VILLAGE OF PORT DICKINSON

TRUSTEES:

EDWARD W. CORCORAN

RICHARD T. FELO

STEVEN M. HOROSCHAK

PATRICK J. KEARSE

SUSAN E. FOX
CLERK

CHERYL B. MILLER
TREASURER

HERBERT A. KLINE
ATTORNEY

VILLAGE HALL, 786 CHENANGO STREET

PORT DICKINSON, N.Y.

BINGHAMTON, N.Y. 13901

TELEPHONE (607) 771-8293

FAX (607) 771-8235

KEVIN M. BURKE, MAYOR



Dear Applicant,

In order to comply with Section 65-40(B) of the Village Code relating to notifying neighboring property owners at least ten (10) days before the date of the public hearing you must:

- (a) Personally deliver the notice to the neighbors, the neighbors should sign the attached form indicating receipt and their signature should be witnessed by the applicant. The applicant must furnish this list to the Zoning Board of Appeals. If the applicant is unable to obtain signatures because the owners are not available, the applicant should comply with (b) or (c) below
- (b) The applicant can mail the notice to all of the property owners on the list and then complete the attached Affidavit of Service by mail. The Affidavit must be furnished to the ZBA with the names and addresses attached.
- (c) The applicant can mail the notices by certified mail to the neighbors and have the Post Office stamp the postmarked date of that mailing on PS Form 3800. It is not necessary to pay for the green return receipt so long as the Post Office stamp is on the PS 3800. The form must be furnished to the ZBA.

Please call the Village Hall with any questions.

Sincerely,

Susan E. Fox
Village Clerk

RECEIPT OF
NOTICE OF PUBLIC HEARING

I (we) do hereby acknowledge receipt of the attached notice of public hearing to be held by the Village of Port Dickinson Zoning Board of Appeals.

Date

Signature of
Property Owner(s)

Address of
Property

Witness to
Signature

ZONING: Variance Application Guidelines

VARIANCE APPLICATION PROCEDURE GUIDELINES
FOR THE [CITY/VILLAGE/TOWN OF _____]

1. **All Applications:** Complete the Application for Appeal with as much detail as possible. Make sure to answer *all* relevant questions. Do *not* leave any blanks unless the question is inapplicable. All applications should be accompanied by detailed diagrams showing lot size, adjoining roads, driveways, the location and dimensions of all buildings including building heights and the distance of all buildings from all lot boundaries.

2. **Use Variances:** A use variance is a variance granted by the Zoning Board of Appeals (ZBA) of the prohibitions against certain uses of real property in a zoning district. A variance, if granted, allows the property owner to use [his/her] property in a certain way *even though* the desired use is otherwise prohibited in the zoning district.

Make sure to answer all questions of subsection [number] of question [number] *in detail*. You must clearly demonstrate to the ZBA that *all five* (5) of the prerequisites of subsection [number] have been met in order to qualify for a use variance, namely:

(a) You will be deprived of *all* economic use or benefit from your property unless it can be used for the purpose you request.

(b) The hardship created is unique and does not apply to a substantial portion of the district or neighborhood.

(c) The variance would not alter the essential character of the neighborhood.

(d) The hardship is not self-created.

(e) The variance is the minimum necessary to grant relief from the hardship.

(f) The variance will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

In order to qualify for a use variance, you must show by "Dollars and cents" proof that the property cannot yield a reasonable return if its use is limited to only those uses permitted in the zoning district. It may be to your benefit to have an appraisal performed to support your claim.

3. **Area Variance:** An area variance is a variance granted by the ZBA which allows a structure to be built despite the fact that certain square footage, distance or dimensional requirements of the zoning ordinance have not been met. Examples of such requirements are minimum lot size requirements, minimum lot width requirements, maximum lot coverage requirements, front, side and rear yard setback requirements, maximum building height and minimum gross floor area.

Make sure to answer all questions of subsection [number] of question [number] *in detail*. Do not answer question [number] by saying, "I would not be able to build the desired building if the variance is not granted." This is obvious and this type of response *does not* qualify for an area variance. You must clearly demonstrate to the ZBA that:

(a) The requested variance will not produce an undesirable change in the character of the neighborhood.

(b) No substantial detriment will be created to nearby properties.

(c) There was no other feasible method available to you to pursue to achieve the benefit you seek other than the requested variance.

(d) The requested area variance is not substantial.

(e) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(f) The variance is the minimum necessary to grant relief from your difficulty.

In making its determination, the ZBA will take into consideration the benefit to you if the variance is granted as weighed against any detriment to the health, safety and welfare of the neighborhood or community.

4. Self-Created Hardship:

a. 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.

b. Although not an absolute bar to an *area* variance request, if the situation which necessitated the request is self-created, it is a factor which may be taken into consideration by the ZBA *against* the granting of an area variance.

AFFIDAVIT OF SERVICE
BY MAIL OF NOTICE OF HEARING

STATE OF NEW YORK
COUNTY OF BROOME : ss.:

_____, being duly sworn, deposes and says:
(name of applicant)

1. I am the applicant on an appeal to the Zoning Board of Appeals of the Village of Port Dickinson.

2. That on the _____ day of _____, 19___, which day was no later than 10 days prior to the date of the hearing, I caused to be mailed, pursuant to the provisions of Section 65-40 of the Village Zoning Code, a copy of the notice of hearing which is attached hereto and made a part hereof to each of the property owners of all lots within 200 feet of property referred to in said notice, the names and addresses of said property owners being contained on the list attached hereto and made a part hereof.

Applicant

Sworn to before me this

_____ day of _____, 19___

Notary Public
Broome County, New York

My commission expires: _____

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 <input type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government 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, are adjoining or 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				

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

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
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	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 CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: _____ Date: _____		
Signature: _____ Title: _____		

PRINT FORM

§ 65-36. Permit fees.

A fee may be charged on all applications or appeals for building permits, use and area variance applications, special permits, and site plans. The amount of such fee shall be set by resolution on the Village Board. [Amended 3/12/24, LL 3-2024]

§ 65-36.1. Reimbursement for Professional Consultants. [added by LL5-2023, 5-23-2023]

I. Responsibility for costs

- A. The Village of Port Dickinson's Village Board, Planning Board, Zoning Board of Appeals, and Code Enforcement Officer, in the review of any application pending before said Boards or Code Enforcement Officer, may refer such application to such engineering, planning, legal, technical or environmental consultant, or professional(s) employed by the Village as employees or consultants, as such Boards shall deem reasonably necessary to enable it to review such application as required by law.
- B. The applicant shall be responsible for the cost of such consultant services.
- C. Charges made by such consultants shall be in accord with charges usually made for such services in the Broome County, New York region or pursuant to an existing contractual agreement between the Village and such consultant. Charges made by the Village shall be in accord with the hourly rates upon which the Village employs such consultant(s), including fringe benefits and reasonable overhead. However, the applicant will not be charged for the following services rendered by professionals employed by the Village:
 - (1) Review by the Village Engineer of preliminary design plans submitted by the applicant and, if required, the second set of design plans and preparation of necessary reports relative thereto.
 - (2) Preparation by the Village Attorney of any required public notices regarding said application.
 - (3) Attendance by the Village Engineer and Village Attorney at any regular or special public meetings of the Village Board, Planning Board or Zoning Board of Appeals.
- D. The Village Treasurer shall refund to the applicant the amount deposited pursuant to § 65-36.1, less any sums expended by the Village to engage the services of attorneys, engineers, and other qualified professionals to provide assistance to the Village's Boards relating to said project (hereinafter the "professional review fees"), excluding those referred to in Subsection C(1), (2), and (3) of this section, unless the applicant fails to obtain any necessary permits for said project within one year from the date of final approval by the Board(s) having jurisdiction over the project.
- E. In the event that an application is required to be reviewed by more than one Board, or a Board and the Code Enforcement Officer, to the extent practicable, the Boards and Code Enforcement Officer shall use the same consultant, who shall, to the extent practicable,

prepare one report providing data, information and recommendations requested. Wherever practicable, duplication of consultants' reports or services shall be avoided to minimize the cost of such consultants' reports or services to the applicant. The above fees are in addition to any and all other fees required by any other law, rule or regulation.

II. Escrow accounts.

- A. At the time of submission of any application that will require professional review services, an escrow account shall be established, from which withdrawals shall be made to reimburse the Village for the costs of said professional review services. The applicant shall provide funds to the Village for deposit into such account in an amount to be determined by the reviewing Board or Code Enforcement Officer, as applicable, with the advice and recommendation of the Village Engineer, Code Enforcement Officer and Stormwater Management Officer, as appropriate, based on the nature and complexity of the application, using the following schedule as a general guideline, with the decision of the reviewing Board or Code Enforcement Officer, as applicable, to be final and conclusive on the applicant:
- (1) For one- and two-family residential projects, no fee shall be charged and no escrow deposit shall be required, unless a stormwater pollution prevention plan is necessary. If a stormwater pollution prevention plan is required for such a project, an escrow deposit shall be required at 1% of the total project value. The total project value shall be calculated by the actual purchase price of the land or the fair market value of the land (determined by assessed value divided by equalization rate), whichever is higher, plus the cost of all required site improvements, not including the cost of buildings and structures, as determined with reference to a current cost data publication in common use.
 - (2) For three or more family residential projects, the escrow deposit shall be 1% of the total project value. The total project value shall be calculated by the actual purchase price of the land or the fair market value of the land (determined by assessed value divided by equalization rate), whichever is higher, plus the cost of all required site improvements, not including the cost of buildings and structures, as determined with reference to a current cost data publication in common use.
 - (3) For commercial and industrial construction projects, the escrow deposit shall be 1/4 of 1% of the total project value. The total project cost shall be calculated on the actual purchase price of the land or the fair market value of the land (determined by assessed value divided by equalization rate), whichever is higher, plus the cost of supplying utility service to the project, the cost of site preparation and the cost of labor and material, as determined with reference to a current cost data publication in common use.
 - (4) For projects involving the extraction of minerals, the escrow deposit shall be 1% of the total project value. The total project value shall be calculated on the cost of site preparation for mining. Site preparation cost means cost of clearing and grubbing and

removal of over-burden for the entire area to be mined plus the cost of utility services and construction of access roads. Such costs are determined with reference to a current cost data publication in common use. For those costs to be incurred for phases occurring three or more years after insurance of a permit, the value of project value shall be determined using a present value calculation.

- (5) At the discretion of the reviewing Board or Code Enforcement Officer, as applicable, for projects governed by Subsection A(2), (3) and (4), an additional escrow amount shall be deposited to cover the expense of reviewing a stormwater pollution prevention plan, if one is required. The amount of such additional escrow amount shall be up to 1% of the total project value, as defined in the applicable subsection, to be determined at the reviewing Board or Code Enforcement Officer's discretion.
- B. The applicant shall be provided with copies of any voucher for such services as they are submitted to the Village. The professionals employed by the Village shall report monthly to the Village Treasurer as to the monetary value of their services rendered on each project.
- C. When the balance in such escrow account is reduced to 1/3 of its initial amount, the Village Treasurer shall advise the applicant and the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the reviewing Board or Code Enforcement Officer may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding.
- D. A building permit or other permit being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Village from said escrow account.
- E. All fees required pursuant to this article shall be collected by the Village Treasurer.
- F. This article shall be applicable to applications pending at the time it shall become effective, unless the reviewing Board shall determine that its application would be impracticable, unfair or unjust in the particular circumstances. Where this article shall be applicable to a pending application, it shall, in such event, require an applicant only to pay for professional fees for the services rendered after it shall have become effective.