**TOWN OF STANFORD**

**ZONING BOARD OF APPEALS**

Guide For: Appeals for Use or Area Variance

 Appeal on Interpretation of the Zoning Ordinance and Map

 **Your application for a variance cannot be considered or acted upon until all of the**

**Following procedures and papers have been completed with and submitted:**

1. The application and all questions must be answered clearly and legibly. **(One original**

**and six copies of all parts of the application must be submitted)**

1. Short Environment Assessment Review Form attached to the application must be completed. (Part one only). See web browser at end of packet.
2. Copy of deed, or if contract vendee, a copy of the signed contract sale.(On the Town’s copy, please delete all figures pertaining to this sale)
3. Letter of referral. Building Permit application and Inspector’s letter pf rejection if referred by the Building Department. Alternatively, a letter of referral from the Planning Board.
4. If applicable, blueprint and specifications of the structure involved.
5. Property and vicinity map.
6. Plot plan, showing existing structures and distances from lot lines, location of well and septic field. Note structures on adjoining properties, easements, significant natural features, etc.
7. Payment of the required fee.
8. Variance application.

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 One original and five copies of **all** documents set forth above must be submitted to the ZBA secretary. The fee is $50.00 and is made payable to the Town of Stanford.

**ZBA MEETIG NIGHT:** The second Wednesday of each month @ 7:30 pm, at the Stanford Town Hall, Route 82.

**ZBA SECRETATY:**

MOLLIE MCMURRAY

HOURS: 8:00AM TO 2:00PM-EVERY MONDAY AND WEDNESDAY

PHONE: 845-868-1310

EMAIL: MMcMurray@townofstandford.org

 WEB SITE: town of Stanford.org

 File#\_\_\_\_\_\_

 Date\_\_\_\_\_\_

**2017 TOWN OF STANFORD-NOTICE OF APPEAL**

To the chairman of the Zoning Board of Appeals:

 I hereby file an appeal and make application for a variation from the requirements of the Zoning Ordinance of the Code of the Town of Stanford, Dutchess County, New York,

Name & Address of Applicant:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tel.#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Are you the property owner?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

District Location: CR\_\_\_AR\_\_\_RR\_\_\_RC\_\_\_LR\_\_\_

Property Acreage:\_\_\_\_\_\_\_\_\_\_ Grid#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Reason for requested hearing:

Interpretation of zoning ordinance\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interpretation of zoning map \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Area (Dimensional) variance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Use variance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Sign variance \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other (specify) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Can this project be placed anywhere else on the property where a variance is not required?

YES\_\_\_\_\_ NO\_\_\_\_\_. If yes explain why you are not placing it in that location: \_\_\_\_\_\_\_\_\_\_\_

Provisions of the ordinance, or action of the Building Inspector being appealed:

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Has any prior application or appeal been filed with the Board? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If so, give date & decision: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name & address of attorney or representative, if any: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Is the property within 500 feet of the following:

State Highway\_\_\_\_\_\_\_\_\_\_ County Highway\_\_\_\_\_\_\_\_\_\_

County or Town Line\_\_\_\_\_\_\_\_\_ Parkway\_\_\_\_\_\_\_\_\_\_\_

Public Lands or Park \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Is any portion of property within: Wetland\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Flood Hazard \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Conservation Easemant\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Has a Court Summons ben served relative to this matter?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Has a Violation been served relative to this matter?\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Applicant’s outline of proof for variance applied for : (use additional paper if necessary)**

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To be included on the ZBA agenda for review, this notice of appeal should be filed no later than 12:00 on the Wednesday prior to the next scheduled ZBA meeting. The ZBA meets on the seconded Wednesday of each month.

Costs incurred by the ZBA for consultant fee or other extraordinary expenses in connection with the review of an applicqation shall be charged to the applicant.

I, the applicant, hereby give permission for an on-site inspection by the ZBA at any reasonable hour(including weekends).

**APPLICANT DEPOSES AND SAYS THAT ALL THE ABOVE STATEMENTS ARE TRUE.**

**SIGNATURE OF**

**APPLICANT\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**OBTAINING AN AREA VARIANCES**

**STANDARDS OF PROOF**

An Area Variance is one which does not involve a use which is prohibited by the Zoning Ordinance or Local Law, but rather dimensional relief. In applying for an area variance, the applicant requests relief from yard requirements , setback and sidelines, lot coverage, frontage requirements or density regulations.

**RULES FOR GRANTING**

1. Applicant must show significant economic injury from the application of the ordinance/law to their land.
2. If the applicant proves significant economic injury, then the municipality must go forward with proof that the public health, safety and general welfare will be served by denying the variance (This requires balancing the public benefit of the regulation against the economic impact on the owner).
3. If the municipality establishes legitimacy of the purpose of the controls, the applicant must go forward with proof that application of the control would deprive him of any use to which the property is reasonably adapted.

**OBTAINING A USE VARIANCE**

**STANDARDS OF PROOF**

A Use Variance allows a type of use activity, prohibited by the Zoning Ordinance/Law. Test is “ necessary Hardship”. The burden of proof for a use variance is always on the applicant. For an applicant to be entitled to a use variance, they must satisfy the “unnecessary hardship standard”. According to the case law of New York, to satisfy this standard, the applicant must establish by competent proof that:

1. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zone.
2. Actual “dollars and cents” proof
3. Better price or higher profit is irrelevant
4. The burden is on the applicant to prove that none of those permitted uses will yield a reasonable return. Each permitted use must be separately addressed.
5. The owner’s plight unique (but need not be unique to the parcel at issue).
6. Use for which variance is requested will not alter the essential character of the locality.

A self-created hardship by action of the applicant or preceding landowner must be denied.

**AN APPEAL ON INTERPRETATION OF THE ZONING**

**ORDIANCE AND MAP**

A PROCESS THAT INCLUDES A Public Hearing, whereby a decision by the Building Inspector can be appealed to the ZBA. There are basically two situations where this can occur:

1. When an application for a Building Permit has been denied, the applicant can appeal the decision of the Building Inspector.
2. When an application for a Building Permit has been granted, anyone who is aggrieved (e.g., suffering from an infringement of denial of legal rights) may appeal the Building Inspector’s decision to the ZBA.

**APPEAL A DECISION**

**REHEARING**

If one is not satisfied with a decision and order of the ZBA, they may apply for a rehearing within 30 days after it is filed with the Town Clerk’s Office. The Board will then vote on whether or not to rehear the case. This vote by law must be unanimous in order for it to pass. New evidence will be considered at this time. Town law authorizes a rehearing on any decision not previously reviewed by the ZBA. Such a rehearing must be upon motion of any member, and the motion must be adopted by a unanimous vote of all members present; as long as these members constitute a majority of the entire membership of the ZBA. The statute requires that the rehearing be held on the same notice that was required for the original hearing. Such a rehearing would be for the purpose of reconsidering the evidence which was taken at the first hearing. In neither situation could a decision be changed if someone has acquired vested rights.. Thus if a person has started construction under a variance, the ZBA could not consider new evidence at a rehearing and then revoke the variance.

**ARTICLE 7B**

Having exhausted all other administrative remedies, the aggrieved party may institute an Article 7B proceeding against the ZBA in the State Supreme Court. This action to have the Court review the AZBA decision must be instituted within 30 days of the filing of the decision and order in the Town Clerk’s Office. The 30 day period is a statute of limitations which cannot be extended by a Court, nor can it be extended by a series of applications for essentially instituted relief. This is a certiorari proceeding. Requirements for bringing forth such a suit are that a person must be “aggrieved”. That is, their property must be specifically harmed.

**FORMS**

**ON BROWSER**

**SHORT ENVIRONMENTAL ASSESSMENT FORM PART 1- PROJECT INFORMATION**

**AGRICULTURAL DATA STATEMENT**