



NEW YORK STATE DEPARTMENT OF STATE
DIVISION OF CODE ENFORCEMENT AND ADMINISTRATION

APPLICATION FOR VARIANCE OR APPEAL

UNIFORM FIRE PREVENTION AND BUILDING CODE

This is an application for a variance or appeal of a local determination regarding applicable provisions of the New York State Uniform Fire Prevention and Building Code. To be deemed complete, the application must be signed by the petitioner or authorized agent, must contain all necessary documentation, be accompanied by the appropriate fee and been reviewed and accepted by a Regional Office.

06/01/2011

The completed application including at least one (1) copy of all required documents must be submitted to the appropriate Regional Office. For Board of Review petitions, seven (7) additional copies of all documents shall be delivered to our Central Office in Albany at the address below, after Regional Office review. A hearing will be scheduled when all required documents are received.

Department of State
Division of Code Enforcement and Administration
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001
(518) 474-4073

PETITION NO:

ROUTINE VARIANCE [ ]

BOARD VARIANCE [ ]

BOARD APPEAL [ ]

(FOR OFFICE USE ONLY)

Mailing an application directly to our Central Office without first involving a Regional Office will result in a delay.

Certain variance requests may be treated as routine cases as determined by the Department in cooperation with the local code enforcement office. Provide two (2) copies of all required documents to the appropriate Regional Office.

PART 1 - GENERAL INFORMATION

PETITIONER

(Check one) [ ] Owner [ ] Agent [ ] Architect or Engineer [ ] Attorney

Name: \_\_\_\_\_

Title/Company: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Telephone: ( ) - Fax: ( ) -

e-mail: \_\_\_\_\_

REGIONAL OFFICE PHONES:

Table with 2 columns: Office Name and Phone Number. Includes entries for Buffalo (north/south), Capital, Finger Lakes, Kingston, Long Island, Northern NY, Peekskill, Rochester, Southern Tier, Syracuse, and Utica.

PROPERTY [ ] City [ ] Town [ ] Village of \_\_\_\_\_ County of \_\_\_\_\_

Address \_\_\_\_\_ Tax Map No.: \_\_\_\_\_

Owner if other than petitioner

Name \_\_\_\_\_

Street Address \_\_\_\_\_

Post Office \_\_\_\_\_ Zip \_\_\_\_\_

Telephone: ( ) -

Fax: ( ) -

e-mail: \_\_\_\_\_

Code Enforcement Official

Name \_\_\_\_\_

Street Address \_\_\_\_\_

Post Office \_\_\_\_\_ Zip \_\_\_\_\_

Telephone: ( ) -

Fax: ( ) -

e-mail: \_\_\_\_\_

Addresses for Department of State Regional Offices and tentative hearing dates can be found on our web site at www.dos.state.ny.us or by calling (518) 474-4073 during normal business hours.

**PART 2 - MINIMUM BUILDING INFORMATION**

Height in Stories \_\_\_\_\_ Gross Area (all floors) \_\_\_\_\_ Sq. Ft. Construction type \_\_\_\_\_

Occupancy:  One- family Dwelling  Two-family Dwelling  Townhouse  Accessory structure  
 Other \_\_\_\_\_

**PART 3 - APPLICABLE BUILDING CODE AND RELIEF REQUESTED** (Check all that apply)

- Title 9 - Uniform Fire Prevention and Building Code - Applicable 1/1/1984 to 12/31/2002
- Title 19 - Uniform Fire Prevention and Building Code - Applicable 1/1/2003 to present
  - Part 1220 Residential  Part 1221 Building  Part 1222 Plumbing  Part 1223 Mechanical
  - Part 1224 Fuel Gas  Part 1225 Fire  Part 1226 Property Maintenance
  - Part 1227 Existing Building
- Multiple Residence Law (MRL)

On the chart below, list the specific code sections which are the subject of your variance request. (Use separate sheet if necessary).

- Variance  Appeal  Appeal / variance

| CODE SECTION(S) | TOPIC | RELIEF SOUGHT |
|-----------------|-------|---------------|
|                 |       |               |
|                 |       |               |
|                 |       |               |
|                 |       |               |

**PART 4 - FILING**

**NON-REFUNDABLE FILING FEES** (Please review fee schedule with Regional Office)

|   |          |
|---|----------|
| Routine (administrative) variance review process .....  | \$ 50    |
| Board of Review Petitions   |          |
| Construction, alteration, or renovation of residential or agricultural occupancies<br>no more than one structure; no more than 2 dwelling units. .... | \$ 50    |
| Construction, alteration or renovation of other buildings or structures having a gross area of:   |          |
| • not more than 8,000 square feet .....   | \$ 100   |
| • more than 8,000 square feet but not more than 25,000 square feet. ....  | \$ 300   |
| • more than 25,000 square feet but not more than 50,000 square feet .....   | \$ 500   |
| • more than 50,000 square feet .....  | \$ 1,000 |
| Maintenance or use of buildings or materials and not otherwise provided for above .   | \$ 100   |

Checks must be made payable to New York State Department of State. Enter amount of check: \$ \_\_\_\_\_

I make this application pursuant to 19NYCRR Part 1205 and I assert under penalty of perjury that the information furnished by me in support of this application is true and correct to the best of my knowledge.

**Previous Action**

Has any previous action related to the subject property been taken by the Department of State or another administrative agency or a court? (Include any formal interpretations, decisions, orders or informal advisories issued by the Department of State, the Division of Housing and Community Renewal or the Department of Labor.)

- No  Yes (Describe below and provide relevant documents.)
- I request that a hearing before the Board of Review be scheduled on this application for variance or appeal.

**SIGNATURE** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**For routine variances, STOP HERE, do not proceed to page 3**  
**For Board of Review variances, or appeals proceed to Part 5 on page 3**

**PART 5 - ADDITIONAL CONTACT INFORMATION**

For Board of Review Variances provide the following names and addresses, if applicable.

|  |  |
|--|--|
| <p><b><u>Architect or Engineer (if any):</u></b></p> <p>Name _____</p> <p>Street Address _____</p> <p>Post Office _____ Zip _____</p> <p>Telephone: (____) _____ - _____</p> <p>Fax: (____) _____ - _____</p> <p>e-mail: _____</p> | <p><b><u>Fire Marshal or Inspector</u></b></p> <p>Name _____</p> <p>Street Address _____</p> <p>Post Office _____ Zip _____</p> <p>Telephone: (____) _____ - _____</p> <p>Fax: (____) _____ - _____</p> <p>e-mail: _____</p>               |
| <p><b><u>Fire Department Contact Person</u></b></p> <p>Name _____</p> <p>Street Address _____</p> <p>Post Office _____ Zip _____</p> <p>Telephone: (____) _____ - _____</p> <p>Fax: (____) _____ - _____</p> <p>e-mail: _____</p>  | <p><b><u>Other interested person or organization</u></b></p> <p>Name _____</p> <p>Street Address _____</p> <p>Post Office _____ Zip _____</p> <p>Telephone: (____) _____ - _____</p> <p>Fax: (____) _____ - _____</p> <p>e-mail: _____</p> |

(Attach additional pages, if necessary)

**PART 6 - BUILDING STATUS AND PROJECT INFORMATION**

**A. OCCUPANCY CLASSIFICATION (check all that apply for mixed use buildings)**

**1. Residential Code of New York State [effective 1/1/2003] (See Section 101.2)**

- One- family Dwelling       Two-family Dwelling       Townhouse

**2. Building, Fire, Plumbing, Mechanical, Fuel Gas or Property Maintenance Code of New York State [effective 1/1/2003] (See Section 303 of the Building Code of New York State)**

- Assembly       A-1     A-2     A-3     A-4     A-5
- Business       B
- Educational     E
- Factory       F-1 Moderate Hazard       F-2 Low Hazard
- Hazardous       H-1     H-2     H-3     H-4     H-5
- Institutional     I-1     I-2     I-3     I-4
- Mercantile       M
- Residential       R-1     R-2     R-3     R-4     One- or Two-Family Dwelling       Townhouse
- Storage       S-1 Moderate Hazard     S-2 Low Hazard
- Utility       U

**Uniform Fire Prevention and Building Code - Title 9B [effective 1/1/1984 - 12/31/2002]**

**Residential**

- A1 One-family Dwelling       A2 Two-family Dwelling
- Multiple Dwelling       B1       B2       B3       B4

**Commercial**

- C1 Business       C2 Mercantile
- C3 Industrial       C3.1 Low hazard       C3.2 Moderate Hazard       C3.3 High Hazard
- C3 Storage       C4.1 Low Hazard       C4.2 Moderate Hazard       C4.3 High Hazard
- C5 Assembly       C5.1     C5.2     C5.3     C5.4 (religious)     C5.5 Educational
- C6 Miscellaneous (Describe) \_\_\_\_\_

**3. Multiple Residence Law** No. of Stories \_\_\_\_\_ No. of Dwelling units \_\_\_\_\_ Approximate Age \_\_\_\_\_ Yrs.

**B. BUILDING DESCRIPTION AND PROJECT INFORMATION**

**Construction type:** If more than one is applicable, specify where each occurs in the building. Consult the building code or your building official for assistance.

- Residential Code of New York State -  Wood Frame  Other \_\_\_\_\_
- Building Code of New York State [section 602] \_\_\_\_\_
- Uniform Fire Prevention and Building Code [section 704] \_\_\_\_\_

**Statistics:** Number of stories above a basement: \_\_\_\_\_ (Do not count unfinished attic)

Total floor area of largest story (square feet) \_\_\_\_\_

Gross floor area of entire building (square feet) \_\_\_\_\_

**Date of last Certificate of Occupancy** (if available) \_\_\_\_\_

**Project type / status**

- New building
- Addition to existing building
- Repair
- Alteration level 1
- Alteration level 2
- Alteration level 3
- Change of Occupancy
- Other \_\_\_\_\_
- In planning
- No official allegation of non-compliance
- Work in progress started \_\_\_/\_\_\_/\_\_\_
- Work completed

**Permit/Compliance Status**

- Building Permit Application \_\_\_/\_\_\_/\_\_\_ (Date)
- Building Permit \_\_\_/\_\_\_/\_\_\_ (Date)
- Certificate of Occupancy \_\_\_/\_\_\_/\_\_\_ (Date)
- Orders or Denials
- Inspection Report

**Note: Attach all pertinent documents**

**PART 7 - SUBJECT OF THE PETITION** (appeal and/or variance, both may be requested)

**APPEAL** (Check if appealing a code official's determination)

An appeal is a request for a Board of Review to review any order or determination, or the failure within a reasonable time to make any such order or determination by a Code Enforcement Official. Describe the order or determination and explain specifically why you believe the order or determination, or failure to act is incorrect, improper or otherwise unwarranted. This should include specific explanations relative to code sections cited.

**Specific code and section(s) in question :** \_\_\_\_\_

A. An order or determination, or the failure to make said order or determination in a timely fashion, or the failure to issue a permit or other document in a timely fashion is appealed. A copy of the order or determination is attached as **Exhibit** \_\_\_\_.

Briefly describe the order or determination (additional sheets may be used to do so) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Attached as **Exhibit** \_\_\_\_ are the reasons why the order or determination should be reversed or modified or why other relief should be fashioned so as to do justice among the parties.

**VARIANCE** (Check if requesting a variance)

**REQUIRED ARGUMENTS FOR A VARIANCE**

The Board of Review may only grant a variance or modification on the basis of one or more of the following six reasons. To be eligible for a variance, you must document that at least one applies to the requested variance or modification.

Strict compliance with the sections described above would entail practical difficulties, unnecessary hardship, or would otherwise be unwarranted because such (check the statements that apply and provide appropriate documentation):

- 1. would create an excessive and unreasonable economic burden.  
**Reasons are attached in Exhibit** \_\_\_\_
- 2. would not achieve its intended objective.  
**Reasons are attached in Exhibit** \_\_\_\_
- 3. would inhibit achievement of some other important public policy.  
**Reasons are attached in Exhibit** \_\_\_\_
- 4. would be physically or legally impracticable.  
**Reasons are attached in Exhibit** \_\_\_\_
- 5. would be unnecessary in light of alternatives which, without a loss in the level of safety, achieve the intended objective of the code.  
**List alternatives and describe in Exhibit** \_\_\_\_
- 6. would entail a change so slight as to produce a negligible additional benefit consonant with the purpose of the code.  
**Reasons are attached in Exhibit** \_\_\_\_

**PART 8 – DOCUMENTS** (For Board cases, provide at least 8 copies)

**Required Documents** (Supplemental to the petition form)

**Summary:** Describe the project, the present conditions, the proposed work, the details of the appeal and/or variance requests, and support of the grounds for relief you checked above.

**Site Plan:** Indicate size and location of all structures on the premises, if applicable.

**Building Plans:** Drawings in sufficient quantity and quality to clearly describe the requested variance or modification. Such drawings may include dimensioned floor plans, elevations, sections and construction details. Any drawings submitted should be identical to those submitted to the code enforcement official or be noted otherwise.

**Supplementary Documents** Submit such materials as photographs, charts, reports, detailed descriptions or any other information that can be used to more fully describe the nature of the request. List any such supplementary materials by Exhibit number.

| EXHIBIT NUMBER | DESCRIPTION |
|----------------|-------------|
|                |             |
|                |             |
|                |             |
|                |             |
|                |             |

**A hearing will not be scheduled until all required materials are received by the Division of Code Enforcement and Administration and the appropriate Regional Office has confirmed that the application is complete. All materials must be received at least three (3) weeks prior to a hearing date.**