

Village of Warsaw
ZONING BOARD OF APPEALS
15 South Main Street
Warsaw, New York 14569

APPLICATION FOR VARIANCE(S)

Please review requirements on the reverse side of this form.

TO BE COMPLETED BY APPLICANT:

DATE:.....

Name of Property Owner

Address of Property

Phone Number of Property Owner

Reason for Variance

.....

.....

.....

Name of Applicant if Other Than Property Owner

Address of Applicant

Phone Number & Signature of Applicant

(\$40.00 application fee required when submitting application.)

Site Plan MUST Be Attached

ALL buildings, boundary lines and streets must be shown with measurements and distances.

TO BE COMPLETED BY ZONING OFFICER:

Received 20.....

Approved 20..... Application No.

Received By

Application Fee Received: Yes No Amount Received Date

Type of Variance [Area or Use]

Map No. Section Block Lot No.

Zone District Where Property is Located

Front Yard Setback Required Proposed

Side Yard Setback Required Proposed

(For office use only.)

Use Variance Test

No such use variance shall be granted by a 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:

- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
- (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) that the alleged hardship has not been self-created.⁴⁹

The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.⁵⁰

Area Variances

State statute authorizes a ZBA to hear and decide upon applications for area variances.⁵¹ An area variance is defined as the authorization by the ZBA for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations.⁵² State statute sets forth the test to be applied when reviewing an application for an area variance.⁵³

Area Variance Test

In making its determination, the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed 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 condition in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.⁵⁴

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.⁵⁵