New York State
Department of State
Division of Building Standards and Codes
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NEW YORK STATE OF OPPORTUNITY. | **Building Standards and Codes**

Application for Variance or Appeal

USE THIS FORM TO APPLY FOR A VARIANCE FROM SPECIFIC REQUIREMENTS OF THE NY STATE UNIFORM FIRE PREVENTION AND BUILDING CODE, OR TO APPEAL A LOCAL DETERMINATION OF SAME. FILING INITIATES A LEGAL PROCESS REGULATED BY 19 NYCRR 1205.

PETITION NO:

ROUTINE VARIANCE ☐
BOARD VARIANCE ☐
BOARD APPEAL ☐

(FOR OFFICE USE ONLY)

All fields marked with * must be completed in order for this form to be submitted.

All Completed Applications must:

- Be mailed/e-mailed to the appropriate Regional Office, not Albany Central Office
- Be signed. Unsigned applications will be returned
- Include any additional plans or documentation needed to support your request (checklist enclosed)
- Include (2) copies of the application and any additional documentation.

PART 1 – GENERAL INFORMATION

PART 2 – ADDITIONAL REQUIRED CONTACT INFORMATION

PART 3 – MINIMUM BUILDING INFORMATION

PART 4 – APPLICABLE BUILDING CODE RELIEF REQUESTED

PART 5 – SUBJECT OF THE PETITION

PART 6 – DOCUMENTS

PART 7 – FILING AND SIGNATURE

PART 1 - GENERAL INFORMATION

PETITIONER Name: * _____

(Check one) ☐ Owner ☐ Agent ☐ Architect or Engineer ☐ Attorney ☐ Other (specify)

Company Name/ Title: * _____

Mailing Address (number and street, city, state, zip code: * _____

_____

Telephone:* _____ Email Address: * _____

PROPERTY ☐ City ☐ Town ☐ Village of _____ County of _____

Street Address:* _____ Zip Code: _____

Property Name: (if applicable) _____

OWNER (if other than Petitioner) *

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: ( ) _____

Email: _____

CODE ENFORCEMENT OFFICIAL *

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: ( ) _____

Email: _____

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PART 2 – ADDITIONAL CONTACT INFORMATION *(attach additional pages as necessary)*

ARCHITECT OR ENGINEER

Name: _____

Street Address: _____

City: _____ State: ____ Zip: _____

Telephone: ( ) _____

Email: _____

FIRE MARSHAL OR INSPECTOR

Name: _____

Street Address: _____

City: _____ State: ____ Zip: _____

Telephone: ( ) _____

Email: _____

FIRE DEPARTMENT CONTACT PERSON

Name: _____

Street Address: _____

City: _____ State: ____ Zip: _____

Telephone: ( ) _____

Email: _____

OTHER INTERESTED PERSON OR ORGANIZATION

Name: _____

Street Address: _____

City: _____ State: ____ Zip: _____

Telephone: ( ) _____

Email: _____

PART 3 – MINIMUM BUILDING INFORMATION*

Occupancy Classification: (*check all that apply for mixed use buildings*)

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						
Other	☐ (specify): _____						

Construction type: (If more than one is applicable, specify where each occurs in the building. Consult the building code or your local Code Enforcement Official for assistance)

- ☐ **Type IA - Fire resistive**
- ☐ **Type IB - Fire resistive**
- ☐ **Type IIA - Non-combustible – Protected**
- ☐ **Type IIB - Non-combustible – Unprotected**
- ☐ **Type IIIA - Ordinary - Protected**
- ☐ **Type IIIB - Ordinary – Unprotected**
- ☐ **Type IV - Heavy timber**
- ☐ **Type VA - Wood Frame – Protected**
- ☐ **Type VB - Wood Frame - Unprotected**

Height/Stories & Area:

Height in Feet: _____

Number of stories above a Basement: _____ *(include any attic spaces)*

Total Floor Area of Largest Story (gross *square feet*): _____

Floor area of entire building (gross *square feet; include any basement areas*): _____

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PART 3 – MINIMUM BUILDING INFORMATION (continued): *

Project Type:

- ☐ New Building
- ☐ Addition to Existing Building
- ☐ Repair
- ☐ Alteration Level 1
- ☐ Alteration Level 2
- ☐ Alteration Level 3
- ☐ Change of Occupancy
- ☐ Other _____

Permit/Compliance Status:

- ☐ Building Permit Application Date: _____/_____/_____
- ☐ Building Permit Date: _____/_____/_____
- ☐ Certificate of Occupancy Date: _____/_____/_____
- ☐ Orders or Denials
- ☐ Inspection Report

Project Status:

- ☐ In-Planning
- ☐ Work in Progress Start Date: _____/_____/_____
- ☐ Work Completed

PART 4 – APPLICABLE BUILDING CODE RELIEF REQUESTED * (*check any 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
- ☐ 2017 Uniform Code Supplement – Applicable 10/03/2016 to present
- ☐ Multiple Residence Law (*MRL*) No. of Stories _____ No. of Dwelling Units_____Year Built_____.

PART 5 – SUBJECT OF THE PETITION (*appeal and/or variance, both may be requested*)

Check One * ☐ Variance ☐ Appeal ☐ Appeal/Variance

On the chart below, list the specific code sections which are the subject of your application. Use a separate sheet if necessary.

CODE SECTION(S)	TOPIC	RELIEF SOUGHT

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VARIANCE*

To be eligible for a variance you must document which of the following apply:

Strict compliance with sections 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; **Reasons are attached in EXHIBIT** _____

☐ 6. would entail a change so slight as to produce a negligible additional benefit consonant with the purpose of the code. R**easons are attached in EXHIBIT** _____

APPEAL

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.

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 if necessary*)

B. Attached as **EXHIBIT**_____ are 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.

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PART 6 – DOCUMENTS

Required Documents: (*supplemental to the petition form*)

Summary: Describe the project, present conditions, proposed work, details of the appeal and/or variance requests along with 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

PART 7 – FILING AND SIGNATURE

NON-REFUNDABLE FILING FEES (Checks must be made payable to **New York State Department of State**)

Your Regional Representative will contact you to verify fee requirements and additional documentation requirements. Board of Review cases require 8 sets of documents. For appeals and Board of Review variances, a hearing will be scheduled once all required materials are received by the Albany Central Office AND the Regional Representative has confirmed the application is otherwise complete.

Routine (*administrative*) variance review process ..... $ 50

Board of Review Petitions

Construction, alteration or renovation of residential or agricultural occupancies 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

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, Division of Housing and Community Renewal or the Department of Labor*).

☐ No ☐ Yes (*describe below and provide relevant documents*)

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

SIGNATURE: * _____ **DATE:** * _____