

**REQUEST FOR ACTION BY:**  
**TOWN OF CLARENCE, N.Y.**

- Appeal
- Rezone
- Revise Ordinance
- Subdivision
- Limited Use Permit
- Other

Rec'd. by: \_\_\_\_\_

Date \_\_\_\_\_

- Appeal Board
- Planning Board
- Town Board

Action Desired \_\_\_\_\_

Reason \_\_\_\_\_

**PLEASE PRINT**

Name			
Address			
Town/City	State	Zip	
Phone			
Signed			

Fee due:

Requests for action on zoning should be filled out completely in above spaces if practicable; otherwise give brief description and refer to attached papers. The complete request with all necessary plans, maps, signatures, should be filed with the Secretary of the Planning Board. Requests (except appeals) may be filed with the Town Clerk or Town Board, but will generally be referred to Planning Board with subsequent loss of time

**Initial Action**

- Approved
- Rejected  by ..... on ..... **20** .....
- Approved
- Rejected  by ..... on ..... **20** .....
- Published (Attach Clipping) ..... on ..... **20** .....
- Hearing Held by ..... on ..... **20** .....

**Final Action Taken**

- Approved
- Rejected  by ..... on ..... **20** .....
- Published (Attach Clipping) ..... on ..... **20** .....
- Filed with Town Clerk ..... on ..... **20** .....
- Filed with County Clerk ..... on ..... **20** .....

# Directions for Applicants Requesting a Variance

## Application Process-

The applicant must be the property owner or an authorized representative of the property owner at the time of the variance request. It is the responsibility of the applicant to submit the following information to the Planning and Zoning Department:

1. A completed and signed Request for Action form.
2. A copy of an official survey stamped by a licensed surveyor or engineer.
3. Photographs, drawings, or any other description necessary to describe the requested variance.
4. A signed Access Consent form which allows the ZBA member to access and inspect your property.
5. Signed Neighbor Notification forms from adjacent neighbors indicating they are aware of the applicants request and hearing time.
6. A non-refundable fee of \$50.00 payable to the Town of Clarence for the public notice and hearing.
7. A completed and signed Property Variance Staking Agreement.

**Applications are due (2) two weeks prior to the meeting date**, normally, the last Tuesday of the month. Certain holidays may effect the application deadline. Please call the Planning and Zoning office at 716-741-8933 for confirmation. The applications are heard in the order they were received.

## Prepare your property for inspection-

1. Identify the property by house number or a sign visible from the road.
2. Stake the appropriate points on your property where the variance is being requested.  
(example: corners of proposed structure, the leading edge of sign or proposed parcel line(s).)

## Public Notice and Hearing-

1. Official notice will be published in the Clarence Bee or Buffalo News **at least** five (5) days before the hearing date.
2. A Zoning Officer will post an informational sign at the property location of the variance request. **The sign must remain on the property, as the Zoning Officer will retrieve it shortly after the meeting.**
3. All interested parties will be allowed to speak. Presentations should be complete and concise.
4. The applicant must appear personally or by an authorized representative.
5. The meeting is held at Town Hall at 5:30 p.m.

The Zoning Board of Appeals is a five-member Board comprised of local citizens who may deny, approve, conditionally approve, or table your request. If the above information is not provided before the application deadline, your case will be postponed until the next available meeting. The above notes have been compiled for informational purposes only. If you have any questions please contact the Planning and Zoning office.

## Purpose of a Zoning Ordinance and granting variances-

The purpose of a Local Zoning Law is to protect the health, welfare and safety of the residents in the community. Any change in land use should protect the value of the surrounding neighborhood or provide a more enjoyable/pleasing community. A requested variance will only be granted if the applicant can pass the tests outlined in Town Law Section 267-b that are included in this informational packet.

## Access Consent Form

I hereby consent to allow members of the Town of Clarence Zoning Board of Appeals to access my property, identified below, for the purpose of considering a request for a variance.

Address of Property:

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Signature

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Date

\*-The Zoning Board of Appeals members may be visiting your premises during any reasonable hour of the day in order to better understand your request. Please follow the directions for preparing your property for inspection included in this packet.

# Property Variance Staking Agreement

Please Take Notice, that the property must be staked prior to 10:00am on the Wednesday before the Tuesday Zoning Board of Appeals meeting.

Property that is not staked so as to properly identify the requested variance may be subject to tabling same to a future meeting.

I \_\_\_\_\_ hereby understand and agree to properly stake the property to  
(print name)  
identify the requested variance and understand that failing to do so may result in my matter being  
tabled to a future meeting.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

## Neighbor Notification Form

A public hearing will be held at the Clarence Town Hall at 5:30 p.m. on Tuesday  
\_\_\_\_\_ to hear a request for a variance to the Clarence Town Code  
regarding property located at:

\_\_\_\_\_

\_\_\_\_\_

Owner: \_\_\_\_\_

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I/We, the undersigned, own the property which adjoins the above described property and have  
been informed of the variance requested in accordance with the drawing attached hereto.

\_\_\_\_\_

Address

\_\_\_\_\_

Signature(s)

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Address

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Signature(s)

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\_\_\_\_\_  
Owner: \_\_\_\_\_

---

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been informed of the variance requested in accordance with the drawing attached hereto.

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature(s)

## **Section 267-B Permitted Action by Board of Appeals**

**1. Orders, requirements, decisions, interpretations, determinations.** The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

### **2. Use variances.**

(a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

(b) 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.

(c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven 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.

### **3. Area variances.**

(a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(b) In making its determination, the zoning board of appeals 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 conditions 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.

(c) The board of appeals, 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.

**4. Imposition of conditions.** The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.