

# Variance Application



Office of Zoning Administration  
 One Park Place, 300 S State St,  
 Suite 700  
 Syracuse, NY 13202  
 Phone: (315) 448-8640  
 Email: zoning@syr.gov.net

## Summary of Variance Procedure

The variance procedure is summarized below. For complete details, see Sections 7.3 and 7.5.A of the Zoning Ordinance.

<b>1</b>	<b>Pre-Application Conference</b>	<i>Required</i>	
<b>2</b>	<b>Application Submittal and Processing</b>	<i>Submit to Office of Zoning Administration</i>	<b>Submittal and Internal Review</b>
<b>3</b>	<b>Staff Review and Action</b>	<i>Review by Office of Zoning Administration</i>	
<b>4</b>	<b>Scheduling and Notice of Public Hearings</b>	<i>Public hearing required for Board of Zoning Appeals</i>	<b>Hearings and Decision-Making</b>
<b>5</b>	<b>Review and Decision</b>	<i>Review and decision by Board of Zoning Appeals</i>	
<b>6</b>	<b>Post-Decision Actions and Limitations</b>	<i>Variance expires after one year (unless extension granted)</i>	

### 1. Pre-Application Conference

- Opportunity for the applicant to meet with Zoning staff to review applicable submittal requirements, identify applicable procedures, and identify any issues associated with the proposed development

### 2. Application Submittal and Processing

- Submit to Office of Zoning Administration along with applicable fees

### 3. Staff Review and Action

- Applications are not considered complete until all required submittals are received
- Includes evaluation of the application under the State Environmental Quality Review Act (SEQR)

### 4. Scheduling and Notice of Public Hearings

- Once an application is determined ready for a public hearing, it will be scheduled for the next available hearing date with the Board of Zoning Appeals
- Notice of hearing mailed to applicant (and representative, if any), approximately 10 days prior to hearing
- Unless otherwise notified, all public hearings are held at 1:00 p.m. in Common Council Chambers on the third floor of City Hall

### 5. Review and Decision

- Decision shall be based only on the record of the public hearing and reduced to writing
- Decision is not final until a written resolution is adopted by the Board of Zoning Appeals and filed with the secretary to the Board

### 6. Post-Decision Actions and Limitations

- Variance expires if the authorized use or construction has not obtained all necessary building permits within one year of approval or an extension is granted
- All conditions of the variance approval must be met within 18 months

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### Summary of Variance Procedure (cont.)

**What is a variance and when is a variance needed for my project?** If your project is not expressly allowed under the current zoning ordinance you may seek a variance from the City of Syracuse Board of Zoning Appeals. A zoning variance is an exception to a zoning ordinance that may be granted by the Board of Zoning Appeals on a case-by-case basis. Depending on the nature of the proposed project an applicant will be required to apply for either a use or an Area Variance. The evidence burden for the approval of a variance is on the applicant. Therefore the applicant should provide any evidence that may support their claim. Evidence may include financial records and estimates and detailed explanations, supported by evidence, of the nature of the project and its potential effect on the community.

A **Use Variance** is required to permit a use of land that is otherwise prohibited by the local zoning ordinance. Here, the applicant must seek permission from the Board of Zoning Appeals to use the property in a manner that is not permitted in their zoning district.

#### *Use Variance Approval Criteria*

In making its determination the Board of Zoning Appeals must find that the applicant meets all of the criteria to demonstrate an unnecessary hardship on the property. A Use Variance cannot be granted without a showing by the applicant that applicable requirements of this Ordinance have caused unnecessary hardship. In order to prove unnecessary hardship, the applicant must meet the requirements of New York General City Law, which requires the applicant to demonstrate that, for each and every allowed use under the zone district in which the property is located: (if the use variance is granted)

- The applicant must prove that the property is unable to achieve a reasonable return for any use allowed in that zone district;
- The applicant must prove that unique circumstances apply to the property for which the variance is requested;
- The applicant must prove that the hardship is not self-created; and
- The applicant must prove that the essential character of the neighborhood will not be altered.

Generally, the necessity for a Use Variance is more difficult to prove than the necessity for an Area Variance because all the above criteria must be proven in order to permit the Board to approve an application.

An **Area Variance** is required for a use of land in a manner that is allowable under the local zoning ordinance, but which is not allowed by the dimensional or physical requirements of the applicable zoning regulations. One seeks an area variance to seek relief from hardship created by the strict application of the zoning code.

#### *Area Variance Approval Criteria*

In making its determination, the Board of Zoning Appeals will 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:

- 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;
- whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an Area Variance;
- whether the requested Area Variance is substantial;
- whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Zoning Appeals and shall not necessarily preclude the granting of the Area Variance.

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.

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### For Office Use Only

Zoning District: \_\_\_\_\_  
Application Number: V- \_\_\_\_\_ - \_\_\_\_\_  
Date: \_\_\_\_\_

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### Variance Application

*This application may be emailed, or mailed, or delivered in person to the Syracuse Office of Zoning Administration. Do not bind application materials. Faxed submissions will not be processed. **Email submissions must be packaged together in a single PDF with all applicable materials, please call if you want to discuss another electronic delivery method.** If you wish to discuss the application with a member of our staff, please call ahead for an appointment.*

### General Project Information

Business/project name:		
Street address (as listed in the Syracuse Department of Tax Assessment property tax records):		
Lot numbers:	Block number:	Lot size (sq. ft.)
Current use of property:	Proposed:	
Current number of dwelling units (if applicable):	Proposed:	
Current hours of operation (if applicable):	Proposed:	
Current onsite parking (if applicable):	Proposed:	
Zoning (base and any overlay) of property:		
Companion zoning applications (if applicable, list any related zoning applications):		
Project construction (check all that apply): <input type="checkbox"/> Demolition (full or partial) <input type="checkbox"/> New construction <input type="checkbox"/> Exterior alterations <input type="checkbox"/> Site changes		
Variance requested (check one and cite the section of the Zoning Ordinance that a variance is requested): <input type="checkbox"/> Use variance <input type="checkbox"/> Area variance		
Nature and extent of variance requested (attach additional pages if necessary):		

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### Owner/Owner's Agent Certification

*By signing this application below, I, as the owner of the property under review give my endorsement of this application.*

**Print owner's name:**

Signature:

Date:

Mailing address:

**Print authorized agent's name:**

Date:

Signature:

Mailing address:

The names, addresses, and signatures of all owners of the property are required. Please attach additional sheets as needed. **If a property owner designates an authorized agent as a legal representative to apply on their behalf or to present the project at the City Planning Commission, please attach an executed power of attorney.** Faxed or photocopied signatures will not be accepted.

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### Use Variance Test

*A Use Variance is permission to establish a land use that is not allowed by the Zoning Rules and Regulations, as amended. New York State law requires applicants to prove that this has caused an unnecessary hardship using all of the four tests below (see [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf) for more information). Briefly describe below how each of the required Use Variance tests is met and attach all supporting materials.*

#### 1. Reasonable Return

Describe how the property is unable to achieve a reasonable return for any use allowed in that zoning district (actual "dollars and cents" proof must be submitted).

#### 2. Unique Circumstances

Describe that unique circumstances apply to the property for which the variance is requested.

#### 3. Neighborhood Character

Describe the variance, if granted, the essential character of the neighborhood will not be altered.

#### 4. Self-Created Hardship

Describe how the hardship is not self-created.

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### Area Variance Test

*An Area Variance is permission to build in a portion of the property that is otherwise restricted by the Zoning Rules and Regulations, as amended. New York State law requires applicants to prove that the potential benefit of an Area Variance will outweigh any burden to community health, safety, and welfare through a five-part balancing test (see [https://www.dos.ny.gov/lg/publications/Zoning\\_Board\\_of\\_Appeals.pdf](https://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf) for more information).*

*Briefly describe below how an Area Variance would affect the community using the following five tests and attach all supporting materials.*

#### 1. Neighborhood Character

Describe 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. Feasibility of Alternatives

Describe whether the benefit sought by the applicant can be achieved by some other method that will be feasible for the applicant to pursue, other than an area variance.

#### 3. Substantiality

Describe whether the requested area variance is substantial.

#### 4. Adverse Effect

Describe whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

#### 5. Self-Created Difficulty

Describe whether an 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.

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### Required Submittal Sheet

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

*Please submit one copy of each of the following:*

- APPLICATION** – filled out completely, dated, and signed by property owner as instructed.
- DENIAL OF PERMIT** – provided by the City of Syracuse Central Permit Office at 315-448-8600.
- STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR)** – Short Environmental Assessment Form (SEAF) Part One filled out to the best of your ability, dated, and signed.
- PHOTOGRAPHS (COLOR) of the PROJECT SITE** – keyed to a property survey or site plan.
- PHOTOGRAPHS (COLOR) of the STREETScape** – including properties adjacent to and across the street from the project site, labeled with addresses and keyed to a property survey or site plan.
- APPLICATION FEE** – \$25 for Area Variance and Use Variance issued to the Commissioner of Finance.

*Please submit three full sized and one no larger than 11x17" of all of the plans listed below (all plans must include a title block with author, date, scale, and the Property Tax Assessment address, and must be an accurate graphic representation of all pertinent information that can be correctly interpreted by any person without additional explanation.*

- AS BUILT PROPERTY SURVEY(S)** of all involved properties illustrating boundaries and current conditions including structures, fencing, parking surface, and retaining walls (signed and stamped by a licensed surveyor)
- SITE PLAN(S)** illustrating site alterations and post project conditions that are/will be different from the as built property survey including:
  - Zoning (density, setbacks, bldg. and parking surface coverage, screening) and onsite parking requirements
  - Demolitions and post demolition conditions
  - Structures
  - Parking areas including surface type, dimensioned spaces, number of spaces, traffic patterns, and coverage
  - Loading dock and delivery areas
  - Dumpsters and/or trash receptacles
  - Landscaping including type, height, and number of plantings
  - Screening including parking, dumpsters, and site
  - Fencing including type and height
  - Lighting including structure heights and luminaries wattage
  - Ground signs
  - Street rights-of-way conditions, existing and proposed, including curb cuts, driveways, sidewalks, and plantings
  - Encroachments, existing or proposed, into the City rights-of-way including stairs, signs, and awning
- FLOOR PLANS** for new construction, additions, and change of zoning use/building occupancies with square footages and all applicable layouts (e.g., customer areas, kitchens, bathrooms, bedrooms, etc.) clearly labeled for land uses.
- EXTERIOR BUILDING ELEVATIONS** with all dimensions, materials, and colors clearly illustrated and noted. (Schematics or color renderings can be submitted in addition to elevation drawings, if available.)