



ZONING BOARD OF APPEALS
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Village Hall - 6 Chatham Street
Kinderhook, NY 12106
Phone: 518-758-9882 Fax: 518-758-9869

APPEAL TO THE ZONING BOARD OF APPEALS FOR AN
INTERPRETATION, USE VARIANCE, AREA VARIANCE, CHANGE OF NONCONFORMING USE,
AND/OR VARIANCE EXTENSION

APPLICATION REQUIREMENTS

ELIGIBILITY: To apply for relief from the Village's Zoning Ordinance, an applicant must be the property owner(s) or lessee or have an option to lease or purchase the property in question. The Zoning Board of Appeals (ZBA) requests that the applicant first cure any outstanding written violations from the Zoning and Building Inspector that are not the subject of this application. (This requirement does not apply if a violation order issued by the Zoning and Building Inspector is being contested or if a landlord has an outstanding violation that does not apply to a lessee's application for a variance. The ZBA will decide if an existing violation must be cured before proceeding with a variance application.)

1. **COMPLETE SUBMISSIONS:** Applicants are encouraged to work with the Zoning Enforcement Officer to ensure a complete application. The ZBA will only consider properly completed applications that contain **1 original and to the extent possible, 1 digital version** of the following:

- Completed application relating to the requested relief: page 4 for interpretation or extension, pages 5-7 for use variance, pages 7-8 for area variance, pages 10-11 for change of nonconforming use variance, and any additional supporting materials/documentation.
- Completed SEQRA Environmental Assessment Form – short or long form as required by action. The Zoning Enforcement Officer will assist in providing guidance. Please refer to the denial of application form. The website is as follows:

http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seafpartone.pdf

- Detailed "to scale" drawings of the proposed project – no larger than 11"x17" Identify all existing and proposed structures, lot boundaries and dimensions, and the relationship of structures to the lot dimensions. Also, include any natural or manmade features that might affect your property (e.g., drains, ponds, easements, etc.).
- Photographs showing the site and subject of your appeal, and its relationship to adjacent properties.

2. **APPLICATION FEE:** Make checks payable to the "Village of Kinderhook". Fees are cumulative and required for each request below.

Please check the type of appeal you are filing:

- Interpretation (page 4 of 11)
- Extension (page 4 of 11)
- Use Variance (page 5 of 11)
- Area Variance (page 7 of 11)
- Non-conforming use (page 8 of 11)

Fees are as follows:

Filing Notice of Appeal: \$25

Application for Variance: \$25

Application for Change of Non-conforming Use: \$25

SUBMISSION DEADLINE: Please be advised that notice of an appeal shall be filed with the designated enforcement officers(s) and the Chairman of the Board of Appeals, in writing, on this form within 60 days of the date of the action appealed from, specifying the grounds thereof. (§130-4., A. of the Village Code.)

Check the Village's website (www.villageofkinderhook.org) for application deadlines and meeting dates.

PUBLIC HEARING ADVERTISEMENT

The Zoning Board of Appeals is required to hold a public hearing on each submitted application.

Village staff will prepare a legal notice for the public hearing and arrange to have the public hearing announcement printed in the Hudson Register Star legal notices at least 15 days before the hearing.

Notices are also posted on the Village website, in the Village Clerk's office and through emails sent from the Village office to email subscribers.

ZONING BOARD OF APPEALS APPLICATION



Village of Kinderhook

FOR OFFICE USE

Application #:

Date received:

ZONING BOARD OF APPEALS APPLICATION

Village Hall – 6 Chatham St. Kinderhook,
New York 12106
Phone: 518-758-9882
Fax: 518-758-9869

APPLICATION FOR:

APPEAL TO THE ZONING BOARD FOR AN
INTERPRETATION, USE VARIANCE, AREA VARIANCE, CHANGE OF NONCONFORMING USE AND/OR VARIANCE EXTENSION

APPLICANT(S)*

OWNER(S) (If not applicant)

ATTORNEY/AGENT

NAME(S): _____/_____/_____

ADDRESS(S): _____/_____/_____

_____/_____/_____

PHONE(S): _____/_____/_____

EMAIL(S): _____/_____/_____

*An applicant must be the property owner, lessee, or one with an option to lease or purchase the property in question.

Applicant's interest in the premises: Owner Lessee Under option to lease or purchase

PROPERTY INFORMATION

1. Property Address/Location: _____ Tax Parcel No: _____
(for example: 165.52 - 4 - 37)

2. Date acquired by current owner: _____ 3. Zoning District when purchased: _____

4. Present use of property: _____ 5. Current Zoning District: _____

6. Has a previous ZBA application/appeal been filed for this property?
 Yes (when? _____ For what? _____)
 No

7. Is the property located within (check all that apply): Historic District 500' of a State Park, village boundary, or county/state highway?

8. Brief description of proposed action: _____

ZONING BOARD OF APPEALS APPLICATION

9. Is there a written violation for this parcel that is not the subject of this application? Yes No

10. Has the work, use or occupancy to which this appeal relates already begun? Yes No

11. Identify the type of appeal you are requesting (*check all that apply*):

- INTERPRETATION (p. 4) VARIANCE EXTENSION (pp. 4-5) USE VARIANCE (pp. 5-7) Area Variance (pp. 7-8)
- CHANGE OF NONCONFORMING USE (pp. 8-9)

12. **Fees are as follows:**

Filing Notice of Appeal: \$25

Application for Variance: \$25

Application for Change of Non-conforming Use: \$25

13. **SUBMISSION DEADLINE:** Please be advised that notice of an appeal shall be filed with the designated enforcement officers(s) and the Chairman of the Board of Appeals, in writing, on this form within 60 days of the date of the action appealed from, specifying the grounds thereof. (§130-4., A. of the Village Code.)

14.

Fees: Make checks payable to the "Village of Kinderhook". Fees are cumulative and required for each request below.

INTERPRETATION - PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

1. Identify the section(s) of the Zoning Ordinance for which you are seeking an interpretation:

Section(s) _____

2. How do you request that this section be interpreted? _____

3. If interpretation is denied, do you wish to request alternative zoning relief Yes No

4. If the answer to #3 is "yes," what alternative relief do you request? Use Variance Area Variance Nonconforming Use Variance

EXTENSION OF AN EXPIRING VARIANCE - PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

Please be advised that ANY variance which is not exercised within six (6) months from the date of issuance is hereby declared to be revoked without further hearing by the Board of Appeals. (§130-41. C of the Village Code.)

1. Date original variance was granted: _____

2. Type of variance granted? Use Area Nonconforming Use Variance

3. Date original variance is scheduled to expire: _____

4. Explain why the extension is necessary. Why wasn't the original timeframe sufficient?

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5. When requesting an extension of time for an existing variance, the applicant must prove that the criteria upon which the original variance was granted have not changed. Specifically demonstrate that there have been no significant changes on the site, in the neighborhood, or within the circumstances upon which the original variance was granted:

USE VARIANCE - PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

A use variance is requested to permit the following: _____

For the Zoning Board to grant a request for a use variance, an applicant must prove that the zoning regulations create an unnecessary hardship in relation to that property. In seeking a use variance, New York State law requires an applicant to prove all four of the following "tests".

1. That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property. "Dollars & cents" proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons:

A. Submit the following financial evidence relating to this property (attach additional evidence as needed):

1) Date of purchase: _____ Purchase amount: \$ _____

2) Indicate dates and costs of any improvements made to property after purchase:

<u>Date</u>	<u>Improvement</u>	<u>Cost</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3) Annual maintenance expenses: \$ _____ 4) Annual taxes: \$ _____

5) Annual income generated from property: \$ _____

6) Village assessed value: \$ _____ Equalization rate: _____ Estimated Market Value: \$ _____

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7) Appraised Value: \$ _____ Appraiser: _____ Date: _____

Appraisal Assumptions: _____

B. Has property been listed for sale with the Multiple Listing Service (MLS)? Yes - If "yes", for how long? _____
 No

1) Original listing date(s): _____ Original listing price: \$ _____

If listing price was reduced, describe when and to what extent: _____

2) Has the property been advertised in the newspapers or other publications? Yes No

If yes, describe frequency and name of publications: _____

3) Has the property had a "For Sale" sign posted on it? Yes No

If yes, list dates when sign was posted: _____

4) How many times has the property been shown and with what results? _____

2. That the financial hardship relating to this property is unique and does not apply to a substantial portion of the neighborhood. Difficulties shared with numerous other properties in the same neighborhood or district would not satisfy this requirement. This previously identified financial hardship is unique for the following reasons:

3. That the variance, if granted, will not alter the essential character of the neighborhood. Changes that will alter the character of a neighborhood or district would be at odds with the purpose of the Zoning Ordinance. The requested variance will not alter the character of the neighborhood for the following reasons:

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4. That the alleged hardship has not been self-created. An applicant (whether the property owner or one acting on behalf of the property owner) cannot claim "unnecessary hardship" if that hardship was created by the applicant, or if the applicant acquired the property knowing (or was in a position to know) the conditions for which the applicant is seeking relief. The hardship has not been self-created for the following reasons:

AREA VARIANCE - PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

The applicant requests relief from the following Zoning Ordinance article(s) _____

<u>Dimensional Requirements</u>	<u>From</u>	<u>To</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Other: _____

To grant an area variance, the ZBA must balance the benefits to the applicant and the health, safety, and welfare of the neighborhood and community, taking into consideration the following:

1. Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible.

2. Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

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3. Whether the variance is substantial. The requested variance is not substantial for the following reasons:

4. Whether the variance will have adverse physical or environmental effects on the neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons:

5. Whether the alleged difficulty was self-created (*although this does not necessarily preclude the granting of an area variance*). Explain whether the alleged difficulty was or was not self-created:

CHANGE OF NONCONFORMING USE - PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

The applicant requests relief from the following Zoning Ordinance article(s) _____

The Board of Appeals has the power to approve or disapprove the change of any nonconforming use to another use which is of the same or more restricted use. Nonconforming use also applies to accessory nonconforming signs. Please refer to the Use Regulations found in §130-7 of the Village Code. In order to obtain the approval of the Board of Appeals for this change of nonconforming use, the following questions must be answered to the Board's satisfaction:

1. Will the hours of operation be increased? YES NO
2. Will the amount of traffic be increased? YES NO
3. Will the scale of operation, including number of patrons and employees be increased: YES NO?
4. Will parking requirements for patrons and employees be increased: YES NO
5. Will there be a change in the scale of physical design in relation to surrounding neighborhood? YES NO
6. Will there be a change in lighting? YES NO
7. Will there be a change in outdoor storage of waste, equipment or other items required for operation? YES NO
8. Will there be any objectionable emissions of sound and offensive odors? YES NO
9. Will there be a change in aesthetics? YES NO
10. Will there be any change that would affect public health? YES NO
11. Will there be any impact on sewage and drainage? YES NO
12. Will the change in use increase the activity or impact of the business in the neighborhood? YES NO

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If you answered **YES** to any of the questions listed above (1-12), provide a **BRIEF** description of the changes that will occur. The applicant will have an opportunity to fully discuss and explain the impact of the proposed change(s) in use during the board meeting.

DISCLOSURE

Does any Village officer, employee, or family member thereof have a financial interest (as defined by General Municipal Law Section 809) in this application? YES NO

If "yes", a statement disclosing the name, residence and nature and extent of this interest must be filed with this application.

APPLICANT CERTIFICATION

I/we, the property owner(s), or purchaser(s)/lessee(s) under contract, of the land in question, hereby request an appearance before the Zoning Board of Appeals.

By the signature(s) attached hereto, I/we certify that the information provided within this application and accompanying documentation is, to the best of my/our knowledge, true and accurate. I/we further understand that intentionally providing false or misleading information is grounds for immediate denial of this application.

Furthermore, I/we hereby authorize the members of the Zoning Board of Appeals and designated Village staff to enter the property associated with this application for purposes of conducting any necessary site inspections relating to this appeal.

(applicant signature)

Date: _____

(applicant signature)

Date: _____

If applicant is not the currently the owner of the property, the current owner must also sign.

Owner Signature: _____

Date: _____

Owner Signature: _____

Date: _____

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**ZONING AND BUILDING INSPECTOR DENIAL
OF APPLICATION FOR LAND USE AND/OR BUILDING PERMIT**

APPLICANT: _____

TAX PARCEL NO.: _____ - _____ - _____

PROPERTY ADDRESS: _____

ZONING DISTRICT: _____

This applicant has applied to use the identified property within the Village of Kinderhook for the following:

This application is hereby denied upon the grounds that such use of the property would violate the Village Zoning Ordinance article(s)

_____. As such, the following relief would be required to proceed:

Extension of existing variance requested: _____

Interpretation of action of Village Code requested: _____

Use Variance to permit the following: _____

Area Variance seeking the following relief:

Dimensional Requirements :

From

To

Change of Nonconforming use: _____

Other: _____

Note: _____

SEQRA review requirement: Type I Type II Unlisted Action

Advisory Opinion obtained from the Village of Kinderhook Planning Board: Yes No

ZONING/BUILDING INSPECTOR

DATE