

APPLICATION SUBMISSION REQUIREMENTS FOR ALL APPEALS:

- 1. ALL DOCUMENTS MUST BE SUBMITTED, AT A MINIMUM, FOURTEEN (14) DAYS PRIOR TO THE ZONING BOARD MEETING AT WHICH THIS APPLICATION IS PLANNED TO BE REVIEWED
- 2. TWENTY (20) COPIES ARE REQUIRED OF ALL DOCUMENTS SUBMITTED (PLEASE DO NOT STAPLE)

MINIMUM REQUIRED DOCUMENTS FOR ALL ZONING APPLICATIONS:

- 1. A COMPLETED APPLICATION FORM ACCOMPANIED BY THE APPROPRIATE FEE
- 2. A BRIEF WRITTEN NARRATIVE OF THE PURPOSE OF THE APPEAL
- 3. COPIES OF ANY APPLICATIONS OR REPORTS, AS REQUIRED TO COMPLY WITH THE STATE ENVIRONMENTAL QUALITY REVIEW ACT, AT A MINIMUM THE SHORT E.A.F. COMPLETED
- 4. NAMES AND MAILING ADDRESSES OF ALL PROPERTY OWNERS WITHIN FIVE HUNDRED (500) FEET OF THE SUBJECT PROPERTY BOUNDARY LINES

FOR INTERPRETATION AND ADMINISTRATIVE DECISION APPEALS:

- A. A WRITTEN DESCRIPTION OF THE SPECIFIC PROVISION OF THE LAW OR MAP SECTION IN QUESTION
- B. A SKETCH PLAN OF THE REAL PROPERTY TO BE AFFECTED SHOWING:
 - 1. LOCATION OF THE LOT
 - 2. SIZE OF THE LOT
 - 3. TYPE AND MAGNITUDE OF THE IMPROVEMENTS PROPOSED

FOR TEMPORARY USES AND AREA/USE VARIANCES:

- A. A LEGAL DESCRIPTION OF THE PROPERTY
- B. PLANS AND ELEVATIONS, AS NECESSARY, TO SHOW THE PROPOSED VARIANCE
- C. A SITE PLAN AT A SCALE OF ONE (1) INCH EQUAL TO, OR LESS THAN FIFTY (50) FEET DISPLAYING:
 - 1. A NORTH ARROW
 - 2. PROPERTY BOUNDARY LINES
 - 3. MAP SCALE
 - 4. DATE
 - 5. EXISTING STRUCTURES, WATER BODIES, AND/OR ANY OTHER SENSITIVE ENVIRONMENTAL FEATURES WITHIN TWO (200) FEET OF THE SITE
 - 6. ALL PROPOSED BUILDINGS, FENCES, PAVING, SIDEWALKS, STORAGE AREAS, ACCESS DRIVE, EXTERIOR LIGHTING, OPEN SPACE AREAS, RECREATIONAL FACILITIES, LANDSCAPING, UTILITIES, DRAINAGE, SIGNS, STORM WATER FACILITIES, TYPICAL BUILDING ELEVATIONS, SITE CONTOURS AND GENERAL BUILDING LAYOUT OR FLOOR PLAN AND ANY OTHER IMPROVEMENTS
 - 7. WELLS AND EFFLUENT TREATMENT SYSTEM SERVING THE SITE, WITH APPROPRIATE DOCUMENTATION FROM THE AGENCY OF AUTHORITY OF THEIR PRELIMINARY APPROVAL
 - 8. THE FOLLOWING INFORMATION MAY BE PROVIDED ON THE SITE PLAN DRAWING OR ADDITIONAL DRAWINGS:
 - a. LOCATION OF TOPOGRAPHIC SLOPES IN EXCESS OF FIFTEEN (15) PERCENT
 - b. LOCATION OF BEDROCK AND OTHER SIGNIFICANT GEOLOGICAL FEATURES

*THIS CHECK SHEET IS PROVIDED AS A GUIDE FOR CONVENIENCE ONLY, APPLICANT SHOULD REFER TO THE APPLICABLE SECTION OF THE ZONING LAW OF THE TOWN OF NEW SCOTLAND FOR VARIANCE REQUIREMENTS, AND ADDITIONAL INFORMATION MAY BE REQUIRED BY THE BOARD.

617.20
Appendix C
State Environmental Quality Review
SHORT ENVIRONMENTAL ASSESSMENT FORM
For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

| | |
|---|------------------|
| 1. APPLICANT/SPONSOR: | 2. PROJECT NAME: |
| 3. PROJECT LOCATION: Municipality <u>Town of New Scotland</u> County: <u>Albany</u> | |
| 4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) | |
| 5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration | |
| 6. DESCRIBE PROJECT BRIEFLY: | |
| 7. AMOUNT OF LAND AFFECTED: Initially _____ acres Ultimately _____ acres | |
| 8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly | |
| 9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/ Open Space <input type="checkbox"/> Other Describe: | |
| 10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, list agency(s) name and permit/approvals: | |
| 11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? Yes No If Yes, list agency(s) name and permit/approvals: | |
| 12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No | |
| I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE | |
| Applicant/sponsor name: _____ | Date: _____ |
| Signature: _____ | |

OVER

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.
 Yes No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

Yes No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

Town of New Scotland Zoning Board

Name of Lead Agency

_____ Date

_____ Print or Type Name of Responsible Officer in Lead Agency

Chairman, Zoning Board of Appeals

Title of Responsible Officer

_____ Signature of Responsible Officer in Lead Agency

_____ Signature of Preparer (If different from responsible officer)

**The following text is taken from Article IX
of the
“Town of New Scotland Zoning Law”
Governing the Board of Appeals**

§ 190-69. Purpose.

The purpose of this article is to establish the organization, authority and responsibilities of the Town of New Scotland Zoning Board of Appeals (hereinafter the "ZBA"). The ZBA is established pursuant to § 267 of New York State Town Law.

§ 190-70. Membership.

- A. The ZBA shall consist of five members appointed by the Town Board. The Town Zoning Code Board shall appoint a Chair and members of the ZBA in accordance with the Town Law of the State of New York. An appointment to a vacancy occurring prior to expiration of a term shall be for the remainder of the unexpired term.
- B. Upon temporary absence or disqualification of the Chair, members of the ZBA will appoint a temporary Acting Chair to preside for up to three consecutive meetings.
- C. Upon resignation or disability of the Chair, involving a long-term absence to exceed three consecutive meetings, the Town Board shall appoint an Acting Chair to preside over the ZBA.

§ 190-71. Organization and procedure.

A. Meetings.

- (1) The ZBA shall adopt and publicize a meeting schedule.
- (2) All hearings of the ZBA shall be public.
- (3) The ZBA shall keep minutes of its proceedings, showing the action taken and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep public records of all its activities. Each action taken by the ZBA on an application shall be filed with the Town Clerk.
- (4) The Chair may administer oaths and compel the attendance of witnesses.

B. Voting.

- (1) A quorum entitling the ZBA to take action shall be a majority of the entire membership of the ZBA.
- (2) Each member present at a meeting shall be entitled to one vote on each matter before the ZBA.
- (3) ZBA action may be taken only upon the concurring vote of a majority of the entire membership of the ZBA.
- (4) Any member who has a personal interest in a matter pending before the ZBA shall disclose that an interest exists and shall abstain from voting on the matter. A majority of the disinterested members will be sufficient for ZBA action to be taken, provided a quorum exists.
- (5) The Town Board may appoint alternate members to the Zoning Board of Appeals which will allow for the Chairperson of the ZBA to designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on a matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Zoning Board meeting at which the substitution is made.

§ 190-72. Powers and duties.

The ZBA shall have the following powers and duties under this chapter:

- A. Administrative appeals. To hear and decide appeals from and review any order, requirement, decision or determination made by an official charged with enforcing any part of this chapter.
- B. Grant variances. To approve, approve with conditions, or disapprove appeals for variances from the strict enforcement of only the provisions of this chapter which relate to the use, space, area and size standards of the district regulations and performance standards.

C. Permit building in bed of mapped streets. The ZBA, after due notice and hearings required under § 280 of New York State Town Law, may grant a permit for a building on land within the bed of a mapped street located on the Official Map of the Town of New Scotland, said Official Map to be in compliance with § 270 of New York State Town Law. Said permit shall only be granted where the land within such mapped street is not yielding a fair return on its value to the owner. The ZBA may impose reasonable requirements as a condition of granting such permit designed to lessen, as practicable, increased costs of opening such street, of which tend to cause a change of such Official Maps.

D. Interpret district boundaries and provisions of this chapter. Upon appeal from a decision by the Inspector to decide any question involving the interpretation of any provision of this chapter, or where uncertainty exists as to the boundaries of any zone district, the ZBA shall, upon written application or upon its own motion, determine the location of such boundaries of such districts as are established and as designated on the Official Zoning Map of the Town of New Scotland.

E. Authorize temporary uses. To permit temporary occupancy and use of a structure in any district for a purpose that does not conform with the district requirements provided that such occupancy and use is truly of a temporary nature and subject to any reasonable conditions and safeguards which the ZBA may impose to minimize any negative effect upon the neighborhood or to protect contiguous property. The approval of the ZBA and any permit based thereon, for such temporary occupancy and use, shall not be granted for a period of more than 12 months and shall not be renewable more than once, and then for a period of not more than 12 months.

§ 190-73. Initiation of proceedings.

A. Procedure for appellant.

(1) An appeal to the ZBA pertaining to a ruling of any Town officer administering any portion of this chapter may be taken by any person aggrieved, or by an officer, department, board, or bureau of the Town affected. Such appeal shall be made by filing a notice of the appeal specifying the grounds of the appeal, with the

Inspector and officer whose action is the subject of the appeals.

(2) A notice of appeal shall be filed by the appellant within 60 days of notification of the decision to which an appeal applies.

(3) All applications and appeals made to the ZBA shall be in writing on forms prescribed by the ZBA. Every application or appeal shall contain the following information:

(a) The name, address and phone number of the applicant or appellant.

(b) The name and address of the owner of the lot to be affected by such proposed change or appeals.

(c) A brief written description and location of the lot to be affected by such proposed change or appeal including the present zoning classification of the lot in question, the improvements thereon and the present use thereof, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction details.

(d) Applicant's interest in the property.

(e) Sixteen complete copies of any application form and information prescribed by the ZBA.

(f) Additional information.

[1] If seeking an interpretation:

[a] A written description of the specific provision of the law in question and the interpretation claimed.

[b] A sketch plan of the real property to be affected, indicating the location and size of improvements proposed to be completed.

[2] If seeking a variance:

[a] A site plan as required by § 190-52E(4), a legal description of the property, plans and elevations necessary to show the proposed

variance, and other drawings or information reasonably considered necessary by the ZBA to establish an understanding of the proposed use and its relationship to surrounding properties.

[b] Name and mailing addresses of the owners of all property within 500 feet of the subject property.

B. Procedure for the Inspector.

- (1) The Inspector shall forthwith transmit to the ZBA all papers consisting of the record upon which the action appealed from was taken, or in lieu thereof, certified copies of said papers.
- (2) It shall be incumbent upon the Inspector to recommend to the ZBA a modification or reversal of the Inspector's action in cases where the Inspector believes substantial justice requires the same but where the Inspector has not himself sufficient authority to grant the relief sought.

C. Stay of proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Inspector certifies for the ZBA, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, stay would, in the Inspector's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the ZBA, or by the Supreme Court on application, on notice to the Inspector and on due cause shown.

D. Referral to the Planning Board.

- (1) Upon receipt of any application to the ZBA, the Inspector shall transmit a copy of said application to the Planning Board and shall request that the Planning Board submit an advisory opinion to the ZBA within 45 days and prior to the time set for the ZBA to render its decision. Failure of the Planning Board to submit such report shall be interpreted as a "no recommendation" opinion by the Planning Board.
- (2) In case of a request or an application to build in the bed of a mapped street, the Inspector shall transmit a copy of the application, plans, and

other available data to the Planning Board, upon receipt. Prior to, or at the time of hearing, the Planning Board shall submit a report as to the probable effect such an application would have on the Comprehensive Land Use Plan and the public health, safety and welfare of the Town of New Scotland.

E. Public hearings and notice. The ZBA shall fix a reasonable time for, and fix a date in the reasonable future for, the required public hearing on an application. Public notice shall be given in compliance with § 267-a of New York State Town Law by publishing a notice of such hearing in the official paper at least five days prior to the date thereof, and, at least five days prior to the date of the hearing, mailing notices of the hearing to the following officials, persons and owners of property:

- (1) In case of an appeal alleging error or misinterpretation in any order or other action by the Inspector: the appellant, and the person or persons, if any, who benefit from the order, requirement, regulations or determination, and any regional state park commission having jurisdiction over any state park within 500 feet of the property affected by such appeal;
- (2) In case of an appeal for a variance: all owners of the property within 500 feet of the nearest line of the property for which the variance is sought, and to such other property owners as the Chair of the ZBA may direct.

F. Adjournment of hearing. Upon the day for hearing any application or appeal, the ZBA may adjourn the hearing for a period not to exceed 45 days for the purpose of causing such further notices as it deems proper to be served upon such other property owners as it decides may be interested in said application or appeal.

§ 190-74. Decision.

- A. The ZBA shall decide each appeal within 62 days from the date of the final hearing, and notice shall be given to all parties in interest in accordance with § 267-a of New York State Town Law. At the hearing any party may appear in person or be represented by an agent or attorney.
- B. In the exercise of its functions upon such appeals or upon exceptions, the ZBA may, in conformity with

the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from or may make such order, requirement, decision or determination in accordance with the provisions thereof.

§ 190-75. Granting appeals.

When benefit to the applicant outweighs health, safety and welfare issues or when unnecessary hardships are encountered by the applicant in carrying out the strict letter of this chapter, the ZBA shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions set out here, in a way which observes the spirit of this chapter and secures public safety, yet provides relief from or unnecessary hardship caused by this chapter. In carrying out this power, the ZBA may modify a remedy requested by the appellant and prescribe and approve a remedy, the specifics of which, in its opinion, most closely effect the intent of this chapter.

§ 190-76. Standards for granting of appeals.

The ZBA shall grant an appeal only when it finds that the following standards have been met:

A. Administrative appeals. That the administrative official at whom the appeal is directed, erred in either interpretation of a code or in the application of it to a particular circumstance of the application. If the ZBA finds that the administrative official misinterpreted or misapplied the provisions of this chapter or another code, the decision of the administrative official shall be reversed and the ZBA shall make an interpretation of the code to be used by the administrative official.

B. Area variances.

- (1) The ZBA shall have the power, upon an appeal from a decision or determination of the Planning Board, to grant area variances as defined herein.
- (2) 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 district, neighborhood or community by such grant. In making such determination the ZBA shall also consider the following:

- (a) 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;
 - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (c) Whether the requested area variance is substantial;
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the district or neighborhood; and
 - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.
- (3) The ZBA, in granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate while at the same time preserve and protect the character of the district or neighborhood and the health, safety and welfare of the community.
- C. Use variances.
- (1) The ZBA shall have the power, upon an appeal from the decision or determination of the Planning Board, to grant use variances as defined herein.
 - (2) No such use variance shall be granted by the ZBA 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 ZBA the following:
 - (a) Under applicable zoning regulations the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) 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;

(c) That the requested use variance, if granted, will not alter the essential character of the district or neighborhood; and

(d) That the alleged hardship has not been self-created.

(3) The ZBA, in granting a use variance, 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 district or neighborhood and the health, safety and welfare of the community.

§ 190-77. Imposition of conditions.

A. The ZBA shall, in granting of both use variance 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, and/or the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the district, neighborhood or community.

B. Such conditions may include, but are not limited to, specifications for the following:

- (1) Vegetation, buffering, and screening;
- (2) Increased setbacks, yards, and access restrictions;
- (3) Hours of use and operation controls;
- (4) Location and design of signs, parking, and lighting;
- (5) Conservation easements and other deed restrictions;
- (6) Professional maintenance and inspection of facilities or improvements necessary to ensure adequate maintenance and inspection;
- (7) Any other standard or specification contained in this chapter.

§ 190-78. Expiration of appeal decision.

Unless otherwise specified by the ZBA, a decision of any appeal or request for a variance shall expire if the applicant fails to obtain necessary building permits, or comply with the conditions of said authorized permit within one year from the date of authorization.

§ 190-79. Required interval for hearings on applications and appeals after denial.

Whenever, after hearing all evidence presented upon an application or appeal under the provisions of this chapter, the ZBA denies the same, the ZBA shall refuse to hold further hearings on the said or substantially similar application or appeal by the same applicant, its successors or assigns, for a period of one year, except and unless the ZBA shall find and determine from the information supplied by the request for a rehearing, that changed conditions have occurred relating to the promotion of the public health, safety, convenience, comfort, prosperity, and general welfare, and that a reconsideration is justified.