SHELTER ISLAND
ZONING BOARD OF APPEALS
2018 MEETING SCHEDULE
7:30 PM Town Hall

January 17 Work Session
January 24 Hearing

February 7 Work Session
February 14 Hearing

March 21 Work Session
March 28 Hearing

April 18 Work Session
April 25 Hearing

May 16 Work Session
May 23 Hearing

June 20 Work Session
June 27 Hearing

July 18 Work Session
July 25 Hearing

August 15 Work Session
August 22 Hearing

September 19 Work Session
September 26 Hearing

October 17 Work Session
October 24 Hearing

Moved up - Thanksgiving
November 7 Work Session
November 14 Hearing

December 5 Work Session
December 12 Hearing

All meetings and work sessions start at 7:30 PM in the Shelter Island Town Hall. Deadline for applications to be handed in is the last business day of the month, except for November and December due to Holiday scheduling.

RESOLUTION NO. 273

Councilman Brown offered the following resolution, which was seconded by Councilman Reich, to wit:

BE IT RESOLVED, That the Town Board establishes the following Zoning Board of Appeals application fees pursuant to Section 133-34 of the Town Code:

Variances for mechanicals such as air conditioners, generators, and work under $5000	$100
Variances for projects <$20,000	$375 (this fee shall cover up to two variance requests per application, but if the applicant requests further variances there shall be an additional $375 fee per additional requested variance)
Variances for projects >$20,000	$750 (this fee shall cover up to two variance requests per application, but if the applicant requests further variances there shall be an additional $750 fee per additional requested variance)
Special Permit	$1,000

Applications for both a special permit and variances shall pay separate fee(s) for each, per above schedule

Variance or special permit extension fee	50% of original fee
Variances for work done without permit	Double the fee pursuant to the above schedule

Vote: 3 in favor 2 opposed (Councilmen Brown and Shepherd opposed)

The resolution was thereupon declared duly adopted.

Zoning Board of Appeals Application Completion Checklist

One (1) original, nine (9) copies and digital copy of all material requested below:
Each application should be in separate packets consisting of the following in each packet:

_____ A completed application
_____ The requisite application fee
_____ Letter of Denial from the Building Permit Examiner
_____ Property Deed from the Assessor's Office
_____ ZBA Certification
_____ Certificate of Occupancy, Certificate of Compliance, and Open Building Permits for all buildings, structures, and all improvements on site requiring same.
_____ **Up-to-date original survey prepared by a licensed surveyor showing**:
- _____ *All existing and, proposed buildings and structures with setback dimensions shown from all property lines in Red; including steps, decks, bilco doors, patios, AC equipment, pool equipment, generators and requisite slabs.*
- _____ The location of all known easements, right-of-way on or over the site;
- _____ The location of existing and proposed wells and septic systems;
- _____ The identification, size and location of all natural features such as wetlands bluffs, bodies of fresh and tidal waters, watercourses and the mean high water mark with setback dimensions to all existing and proposed buildings and structures;
- _____ Existing topography of the site at 2-foot contour intervals, (if requested).
- _____ **Building Envelope outlined in Red showing all setback requirements**

_____ Certified Abstract of Single and Separate Ownership going back to 1957 for applications on nonconforming lots. (Suspended)
_____ Short Environmental Assessment Form.
_____ In the case of an appeal from a determination of the Building inspector/Zoning Officer, a copy of the written determination or Stop Work Order
_____ **One (1) set of full size Building Plans to scale (1/4") (Three (3) sets for Special Permits)** ***with all setback dimensions shown in Red from all property lines including: steps, decks, bilco doors, patios, porches, decks, AC equipment, pool equipment, generators and requisite slabs fireplaces, chimneys, , etc. plus reduced size copies for each packet (If working drawings are submitted, they must be to scale.)***
_____ Permits or approvals from other agencies.
_____ **A professionally prepared radius map showing all property owners within two hundred (200) feet of applicant's property.**
_____ Any other information as may be required by the Zoning Board (Variance, Special Permit Form, etc).

After the Application is reviewed

When the Public hearing has been scheduled, you are required to send by Certified Return Receipt Mail, at least 10 days prior to the hearing, the "Notices to All Property Owners" form, to all owners of record of all properties within two hundred (200) feet of the applicant's property. You will be notified when this step is carried out. A copy of the Notice and Certified mail receipts must be given to the Clerk of the Zoning Board on or before the commencement of the hearing, or the hearing date will be postponed.

GUIDELINES FOR APPLICANTS TO THE ZONING BOARD OF APPEALS

This publication has been written to aid potential applicants in understanding and appreciating the appeals process, and to provide an explanation of the rules and standards under which appeals and variance decisions must be made. Applicants and their representatives should be guided in advance by the standards in deciding whether an appeal would be appropriate. These standards have been set forth in law and by the courts of the State, and cannot be modified by the Zoning Board of Appeals.

Why might you consider an appeal to the Zoning Board of Appeals?
A person may want to appeal to the Zoning Board of Appeals (ZBA) for two basic reasons. First, he or she may disagree with a decision the enforcement officer has made or an action he or she has taken. Second, the appealing party may believe that an exception (variance) to the zoning laws should be made for his or her property.

How is the appeals process initiated?
Either the applicant or the applicant's representative must file a Notice of Appeal with the ZBA within 60 days after the enforcement officer has filed his or her decision or action. The enforcement officer's decision is filed in his or her office, unless the municipal governing board has authorized it to be filed instead in the municipal clerk's office. A copy of the Notice of Appeal must also be filed with the enforcement officer.

Under what circumstances may an appeal be made to the Zoning Board of Appeals?
Except in certain instances, an applicant must be "aggrieved" by an actual decision or action taken by the enforcement officer. The exceptions occur where an applicant has already submitted an application for subdivision, site plan, or special use permit approval which requires an area variance in connection with that approval. In those instances, no decision of the enforcement officer is necessary. The applicant may simply file a Notice of Appeal directly with the ZBA.

Who may apply to the ZBA for relief?
Anyone who could be "aggrieved" by the decision or action of the enforcement officer, has standing to take an appeal before the ZBA. A person is "aggrieved" if his or her property value is affected negatively by the enforcement officer's action. Commonly, a property owner who either has been refused a permit or has been served with an enforcement action, is the "aggrieved party". Also note, as stated above, that a landowner who has submitted an application for subdivision, site plan, or special use permit approval, may apply to the ZBA for an area variance without a decision of the

enforcement officer. A neighboring landowner may also be an "aggrieved party", if he or she believes the enforcement officer's decision in issuing a permit was improper, and will negatively affect their property value. In addition, any officer, board or commission of the municipality may appeal a decision of the enforcement officer, whether or not that officer, board or commission is aggrieved.

What decisions or actions are appealable?
Any decision or action issued in writing by the enforcement officer, which affects anyone's rights, is appealable. These decisions include: the grant or denial of a permit, the issuance of an appearance ticket or summons, or any order which mandates certain action, such as a cease-and-desist or stop-work order.

I'm a resident who lives near the proposed project. What happens if I find out about the project more than 60 days after the permit is filed?
If you are a "third party", such as a nearby resident, you may still bring an appeal more than 60 days after the permit is filed, if you file within 60 days after you've had a reasonable opportunity to find out about the planned project. For example, you would have 60 days from the time a sign is posted on the property announcing the future construction of a new business (whether or not you actually see the sign), if the sign is posted after the permit has been issued.

What types of relief can the ZBA grant?
The ZBA can grant (or deny) two types of relief: interpretive and variance. In either case, the ZBA will either affirm, reverse, or modify the enforcement officer's decision. In so doing, it will either grant or deny the requested relief. If the appeal is for an interpretation, the ZBA's decision will be based on the municipal zoning regulations. On the other hand, if the appeal is for a variance, the ZBA's decision will be based on the standards of proof contained in the following state statutes: §267-b of the New York sate Town Law, §7-712-b of the Village Law, or §81-b of the General City Law.

Because of the range of powers the ZBA has, it is essential that the applicant (or the applicant's representative) know what type of relief to request when making application to the ZBA. If the applicant believes the enforcement officer's decision is incorrect, the appropriate request is for an *interpretation* reversing the officer's decision. If the applicant (in this case, the landowner) believes that the officer's decision may be correct, but that he or she can show proof under that statutes that a variance is warranted, then the appropriate request is for a decision granting a *variance*. It is also possible for an applicant to make a request for an interpretation, and, in the same application, ask for a variance if a favorable interpretation is not granted.

After a Notice of Appeal has been filed, what must happen?
After a Notice of Appeal has been filed, the ZBA will take up the matter at a future meeting. The ZBA is required to schedule a hearing on the applicant's appeal within a reasonable time, and give notice of the hearing to the applicant. If a variance is requested, the ZBA may be required to take some preliminary steps before it may hear the case.

First, the ZBA may have to make a determination of significance under the State's Environmental Quality Review Act (SEQRA). Based on this determination, an Environmental Impact Statement (EIS) may or may not be required. If an EIS is required, the case cannot be heard until the EIS has been completed and accepted by the ZBA. Environmental review is not necessary for interpretations of the zoning regulations or for area variances relating to setbacks and lot lines, or for area variances relating to one, two, or there family residences.

Second, depending on the location of the property, the ZBA may be required by State law to refer requests for variances to the county planning agency for a preliminary recommendation. If such a referral is required, the ZBA must give the county 30 days to respond. It is also possible that the county's recommendation could result in an increase in the number of votes needed for the ZBA to approve the variance. Appeals for interpretations need not be referred to the county.

What is the responsibility of the applicant at the hearing?
At the hearing, the applicant may submit written evidence and/or argument to support his or her case. Obviously, the sooner the written testimony or material is received, the more time ZBA members will have to consider the case and reach a proper decision. Therefore, it is a good idea to submit written material with the application, or as soon thereafter as possible, so that it can be sent to ZBA members prior to the hearing. (Please note that the applicant can present written evidence at any time up to the close of the hearing, or even after the hearing if the ZBA allows the record to remain open.)

At the hearing, the ZBA will offer the applicant and/or the applicant's representative the opportunity to present a case for relief. The applicant may personally testify, call witnesses, or submit written evidence, including drawings and graphics. Because an appeal is an adversarial proceeding, the ZBA will offer the municipality an equal opportunity to present its side of the case (the side which supports the enforcement officer's decision). Each side will be given an opportunity to question the other, or the other's witnesses. In addition, ZBA members may ask questions.

After the applicant and the municipality have presented their cases, any other interested persons will be given the opportunity to speak and/or submit written material. If necessary, the hearing may be adjourned and continued at a later date. When all parties and interested persons have been granted the opportunity to be heard, the hearing will be closed.

Will the ZBA make a decision the night of the hearing?
Once the hearing is closed, the ZBA may begin discussing the case and reach a decision, or may postpone discussion and/or its decision until a later meeting. If the ZBA deems it necessary, the hearing may be reopened at any time. Once the hearing has been finally closed, the ZBA must make its decision within 62 days.

What is the basis for the ZBA's decision on an interpretation?

If requesting a reversal on an interpretative basis, the applicant must prove that the enforcement officer's decision was incorrect, according to a proper reading of the municipality's zoning regulations. If the ZBA has heard a case in the past which involved an interpretation of the same provision, the ZBA's decision will be consistent with its prior ruling. If the ZBA has never interpreted the particular provision at issue, it will use its best judgment as to the municipal governing board's original intent in enacting the provision. Secondarily, the ZBA will try to arrive at the best practical solution for future application by the enforcement officer.

Careful and thorough reference will be given to all definitions and other provisions of the regulations. If necessary, the ZBA will refer to authoritative publications on planning and zoning law. The applicant may, of course, use those resources in presenting his own case as well.

What must be proven in order to be granted a use variance?
If requesting a use variance, that is, permission to establish a use of property not otherwise permitted in the zoning district, the applicant must prove "unnecessary hardship." To prove this, State law requires the applicant to show *all* of the following:

(1) that the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district (actual "dollars and cents" proof must be submitted)
(2) that the property is being affected by unique, or a least highly uncommon circumstances
(3) that the variance, if granted, will not alter the essential character of the neighborhood
(4) that the hardship is not self-created.

If *any one or more* of the above factors is not proven, State law requires that the ZBA must deny the variance.

What must be proven in order to be granted an area variance?
If requesting an area variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage regulations), then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

(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 which will be feasible for the applicant to pursue but would not require a 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 an alleged difficulty is self-created.

Unlike the use variance test, the ZBA need not find in favor of the applicant on every one of the above questions. Rather, the ZBA must merely take each one of the factors into account. The ZBA may also decide that a lesser variance than the one requested would be appropriate, or may decide that there are alternatives available to the applicant which would not require a variance.

Must the variance, if granted, be exactly what was applied for by the applicant?
Whether the ZBA decides to grant a use or area variance, State Law requires the ZBA to grant the *minimum variance necessary* to provide relief, while at the same time taking care to protect the character of the neighborhood and the health, safety and welfare of the community. For these same reasons, the ZBA may also impose reasonable conditions on the grant of any variance.

If there is no opposition to my variance request, must the ZBA grant the request?
The above rules and standards have been set forth in law and by the courts of the State, and cannot be modified by the Zoning Board of Appeals. If they are not followed, the municipality would be subject to costly lawsuits. The public is entitled to speak in favor of, or against, a proposed project, but opinions in and of themselves are not enough.

Applicants and their representatives should be guided in advance by the appropriate legal standards in deciding whether an appeal would be appropriate. If an appeal is taken, the applicant should present clear, definite facts showing that the standards have been met. The ZBA cannot grant relief where proper legal proof is not adequately presented.

NYS Department of State
41 State Street
Albany, New York 12231
(518)-473-3355 or (800)-367-8488
localgov@dos.state.ny.us
http://www.dos.state.ny.us December 1999

George E. Pataki,
Governor

Town of Shelter Island
Zoning Board of Appeals Application

TAX MAP NUMBER _____

Address of Subject Property:_____

1. APPLICANT -**Applicant must be a party in interest**

   NAME:_____

   COMPANY NAME (if applicable)_____

   ADDRESS: _____

   _____

   PHONE: _____

2. OWNER(S) - **All owners on the current deed.**

   NAME: _____

   NAME: _____

   ADDRESS: _____

   ADDRESS: _____

3. Are there any ***Violations*** or ***Notices of Violation*** outstanding on this property?
   YES / NO (Circle)
   If yes, attach copies.

NOTE: A Special Use Permit is NOT the same as a USE VARIANCE. Special Use applications must comply with the conditions of §133-34 of the Town Code of the Town of Shelter Island.

4. Property Description from the Letter of Denial from the Town of Shelter Island Building Department: (**Attach copy of the Letter of Denial**)

_____

_____

5. Is the property within one mile of a nuclear plant or airport or within 500 feet of: (a) the boundary of any existing or proposed county, state or federal park or other recreation area, (b) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway, (c) existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, (d) the existing or proposed boundary of any other county, state or federally-owned land or (e) the boundary line of any village or town?

   Yes_____ No _____

6. Located in Zone District designated as:_____
   (This should be specified on your Building Department Letter of Denial)

7. Previous appeals. Please check one.

   ( ) A previous appeal has been made dated _____
   ZBA#(s) _____

   ( ) A previous appeal has not been made with respect to this denial of the Building Inspector or with respect to this property.

8. Reason for Appeal to change present status: Please fill out and attach a VARIANCE answer sheet if you are seeking a VARIANCE, since it explains what you need to prove to the Zoning Board to get the variance. If you are filing an APPEAL or SPECIAL PERMIT application; please insert your reasons here:

_____

_____

_____

9. Names and addresses of all owners of real property within a radius of 200 feet.
(**ATTACH ON SEPARATE SHEET OF PAPER**)

10. Indicate value of project requiring variance:
$_____

I hereby affirm that to the best of my knowledge the list of property owners presented with this application is accurate and that all statements herein are true. By signing this form I authorize town staff and Zoning Board members to enter onto my property to perform an on-site inspection of the changes I am applying for.

_____

_____

Signature(s) of Owner(s). Print name(s) below Signature of Applicant. Print name below.

FOR OFFICE USE ONLY

I, Clerk of the Zoning Board of Appeals, do hereby affirm that legal notices of the hearing have been published in the official Town Paper(s) on _____.

_____

Date: _____ Clerk of the Zoning Board of Appeals

Fee: _____

Receipt #: _____

Zoning Board of Appeals
CERTIFICATION
To be Signed by Applicant(s)/Owner

STATE OF NEW YORK)
COUNTY OF SUFFOLK) SS.:

_____, being by me duly sworn, deposes and says:

1. I am interested in an application for a variance or special exception now pending before the Town of Shelter Island Zoning Board of Appeals, bearing Z.B. #_____.

2. I reside at _____.

3. The nature of my interest in the aforesaid application is as follows:

4. It is my understanding that the Shelter Island Town Board has determined that public policy requires a full, frank and complete disclosure of all persons having an interest, direct or indirect, in all applications to the Shelter Island Zoning Board of Appeals and other agencies of Town Government, to insure that no question of conflict of interest or favoritism may arise.

5. To the best of my knowledge, information and belief, there are no other persons, firms or corporations interested in this application, except as hereafter set forth (If either Corporation or Company, etc., list all officers):

Sworn to before me this
_____ day of _____, 20____

_____
Notary Public

_____ _____
Signature(s)

_____ _____
Please print name(s)

TOWN OF SHELTER ISLAND
TRANSACTIONAL DISCLOSURE FORM
(Conflict of Interest Form)

A Transactional Disclosure form is required when someone submits certain applications to the Town of Shelter Island. The purpose of the disclosure is to alert the Town if a party of influence has an interest in this application or if someone within the Town who will participate in the decision has an interest.

Name_____Address_____
City _____ State ____ Zip _____
Telephone _____ Email _____ Fax _____

This form is for:
□ An individual □ A partnership □ A corporation □ An association

Nature of Application:
□ Variance
□ Special Permit affecting real property

Affected parcel (address)
_____

Does any officer or employee of the Town of Shelter Island, member of the Zoning Board of Appeals, or his/her spouse, brother, sister, parent, child, grandchild or spouse of any of them, have an interest in this application by virtue of being the actual applicant, being the owner of the actual property or having an interest in the corporation, partnership or association making such application?

Yes ____ No ____

If No, sign and date at end of form.

If Yes, complete the appropriate section below.

Please complete the following relevant section below:

For <u>individual</u>:
Interested Party:
Name_____Address _____
City _____ State ____ Zip _____

For <u>corporation</u>:
Interested Party:
Name_____Address _____
City _____ State ____ Zip _____
Title _____ Department _____

Relationship to Public Officer/Employee and Title, if other than Self:
_____

Yes ___ No ___ Is the owner of greater than five percent (5%) of the corporate stock of the application when the applicant is a corporation whose stock is publicly traded.
Yes ___ No ___ The actual applicant,
Yes ___ No ___ An Officer, Director, Partner, or Employee of the applicant, or
Yes ___ No ___ Legally or beneficially owns or controls any stock of a non-publicly traded corporate applicant or is a member of a partnership or association of the applicant.

For <u>partnership</u> or <u>association</u>:
Interested Party:
Name_____Address _____
City _____ State ____ Zip _____
Title _____ Department _____
Relationship to Public Officer/Employee and Title, if other than Self:
_____

Yes ___ No ___ Does the owner hold greater than five percent (5%) interest of publicly traded shares?
Yes ___ No ___ The actual applicant,
Yes ___ No ___ An Officer, Director, Partner, or Employee of the applicant, or
Yes ___ No ___ Legally or beneficially owns or controls any stock of a non-publicly traded corporate applicant or is a member of a partnership or association of the applicant.

ALL APPLICANTS PLEASE FILL OUT BELOW:

Print Name _____ Date _____

Signature _____

Zoning Board of Appeals
Information for Applicants
About the ZBA Process

THE FOLLOWING SEVEN PAGES ARE FOR YOUR INFORMATION RELATIVE TO THE ZONING BOARD OF APPEALS PROCESS AND CODE REQUIREMENTS.

For many applicants, a hearing by the Zoning Board of Appeals is a once-in-a-lifetime experience. Questions are frequently asked as to what the appropriate procedure is, what questions the Board may raise, and why, indeed, a hearing is even necessary. This information sheet has been prepared to assist all interested applicants and those who may wish to oppose a particular application.

The Zoning Board of Appeals of the Town of Shelter Island consists of five (5) members, all fellow residents of yours. Although state and local laws give the Board specific responsibilities, most applications deal with matters where strict application of the terms of the Zoning Ordinance and literal enforcement would result in lack of reasonable benefit or unnecessary hardship. In making its decision, the Board is limited by the powers the Ordinance grants it as well as by prior legal decisions on similar cases.

The question frequently arises as to whether an applicant should retain an attorney to present his case. Any citizen is permitted to present his or her own case or, for that matter, for anyone else, and as such a case will be just as carefully considered as if presented by a lawyer. In most relatively simple matters applicants present their own cases. On the other hand, more complicated cased are frequently presented by attorneys. Since two cases are seldom exactly alike, the decision of whether to retain a lawyer (as well as which one) is left exclusively in the hands of the applicant.

Applicants are granted as much time as they feel is necessary to properly present their cases, but are encouraged to be reasonably concise in their presentations. The Board is interested in why the variance is needed, a brief description of the neighboring properties and any other information that will help it reach a sound decision. In short, the Board is interested in obtaining as much factual material as possible concerning the requested variance, both from proponents as well as opponents of the application. In this manner the Board can reach an equitable decision which will fairly balance the rights of the applicant and the community at large. However, opinions regardless of how strongly one might feel about them are not factual and therefore the Board requests that the time spent on opinions be limited.

Zoning Board of Appeals

Answer Sheet for Applicants Seeking a Use Variance

New York State TOWN LAW §267-1(a) states:

> "'Use variance" shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.'

New York State TOWN LAW §267-b(2)b states that the Zoning Board must answer the following questions in order to give you your variance. Help convince them by answering the following questions if you are seeking an USE VARIANCE. (A USE VARIANCE is hard to get. In order to get a USE VARIANCE the answer to <u>each</u> question <u>must</u> be Yes):

(1) Can you show that you cannot realize a reasonable return for each and every permitted use under the zoning regulations, and show that the lack of return is substantial as demonstrated by competent financial evidence?

_____

_____

_____

(2) Can you show 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) Can you show that the requested use variance, if granted, will not alter the essential character of the neighborhood?

_____

_____

_____

(4) Can you show that the alleged hardship has not been self-created.

_____

_____

_____

Zoning Board of Appeals

Answer Sheet for Applicants Seeking an Area Variance

New York State TOWN LAW §267-1(b) states:

> "'Area variance' shall mean the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations."

New York State TOWN LAW §267-b(3)b states that the Zoning Board must answer the following questions in order to give you your variance. Help convince them by answering the following questions if you are seeking an AREA VARIANCE:

(1) Will giving you a variance cause an undesirable change in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance? Why not?

_____

_____

_____

(2) Can the benefit you seek from this variance be achieved by some other method? What other methods have you considered and why won't they work?

_____

_____

_____

(3) How substantial is the variance you request from what the law allows?

_____

_____

_____

(4) Will the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district? Why or why not?

_____

_____

_____

(5) How did you get yourself into a situation where you need a variance? Was it a self-created problem? (This consideration is relevant to the decision of the board of appeals, but does not necessarily preclude the granting of the area variance).

_____

_____

_____

It would be beneficial to your case to secure a letter in support from neighbors of adjoining properties.

If the variance request is substantial or unusual, please be prepared to present examples of similar situations in your neighborhood in the form of photos and/or prior ZBA decisions.

Zoning Board of Appeals
INFORMATION FOR APPLICANTS ABOUT THE "NOTIFICATION BY MAIL" REQUIREMENTS

Town of Shelter Island Code §133-34 states:

> "at least ten days prior to the hearing, the applicant shall mail notice of the time, date, place and nature of the hearing to the owners of record of every property which abuts and every property which is within 200 feet of the property involved in the application. Such notice shall be made by certified mail and addressed to the owners at the addresses listed for them on the local assessment roll. On or before the commencement of the public hearing, the applicant shall file an affidavit with postal receipts annexed thereto confirming mailing of said notices."

Failure to mail the notices and/or provide the affidavit and/or the Certificates of Mailing to the Zoning Board of Appeals office may result in postponement of the public hearing.

Zoning Board of Appeals

Town of Shelter Island

In the matter of the Petition of:

Name of Property Owner: _____

Address of Property: _____

_____

All Property Owners within 200 feet

YOU ARE HEREBY GIVEN NOTICE:

1. That it is the intention of the undersigned to petition the Zoning Board of Appeals of the Town of Shelter Island to request a (Variance) (Special Permit) (other) [circle applicable]
2. That the property, which is the subject of the Petition, is located near your property and is described as follows (address):

   _____
3. That the property, which is the subject of such Petition, is located in the following zoning district:

   _____
4. That by such Petition, the undersigned will request the following relief:

   _____

   _____

   _____

   _____

   _____

   _____
5. That the provisions of the Shelter Island Town Zoning Code applicable to the relief sought by the undersigned are, Article _____ Section _____ or Section 280-A of the Town Law of the State of New York.
6. That before the relief sought may be granted, a public hearing must be held on the matter by the Board of Appeals; The public hearing is scheduled for Wednesday, _____, at 7:30 p.m., in the Shelter Island Town Hall, 38 North Ferry Road, Shelter Island, NY; that you or representative have the right to appear and be heard at such hearing.

AFFIDAVIT OF MAILING OF NOTICE
(Attach certified, return request receipts)

NAME ADDRESS

STATE OF NEW YORK)
)ss:
COUNTY OF SUFFOLK)

_____, residing at _____, being duly sworn deposes and says that on the _____ day of _____, 20__ deponent mailed a true copy of the Notice of Application, directed to each of the above-named persons at the addresses set opposite their respective names; that the addresses are shown on the current assessment roll of the Town of Shelter Island; and that said notices were mailed at the US Post Office at _____; that said notices were sent by Certified Mail, Return Receipt requested at least 10 days prior to the hearing.

_____

Sworn to before me, this
__ day of _____, 20__.

_____
Notary Public

Affidavit of Posting

Section 133-34, Variances and Special Permit, of the Town Code requires:

The applicant or his agent shall also erect or cause to be erected a sign or signs which shall be displayed on the parcel upon which the application is made, facing each public street on which the property abuts, giving notice that an application has been made to the Zoning Board of Appeals, and stating the time and place where the public hearing will be held. The sign(s) shall not be located more than 10 feet from the street line, and shall not be less than two feet nor more than six feet above the natural grade at the street line. The sign(s) shall be displayed for not less than 10 days immediately preceding the public hearing date. The applicant shall file an affidavit with the Zoning Board that he has complied with the provisions of this section. Failure to submit such affidavit shall result in the adjournment of the public hearing.

I hereby certify that the posting requirements of the above code section has been satisfied by (name of poster)_____ posting the require signs at least 10 days prior to the public hearing on ZBA application (name and number) _____.

SWORN TO BEFORE ME THIS
_____ DAY OF _____ 20__

_____ _____

NOTARY PUBLIC SIGNATURE

APPLICANT OR AGENT

Fill out this form only if applying for special permit

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action:				
Name of Applicant or Sponsor:	Telephone: E-Mail:			
Address:				
City/PO:	State:	Zip Code:		
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			**NO** ☐	**YES** ☐
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			**NO** ☐	**YES** ☐
3.a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, adjoining and near the proposed action. ☐ Urban ☐ Rural (non-agriculture) ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ☐ Parkland				

	NO	YES	N/A
5. Is the proposed action, a. A permitted use under the zoning regulations?	☐	☐	☐
b. Consistent with the adopted comprehensive plan?	☐	☐	☐
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO ☐	YES ☐	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO ☐	YES ☐	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO ☐	YES ☐	
b. Are public transportation service(s) available at or near the site of the proposed action?	☐	☐	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	☐	☐	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO ☐	YES ☐	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO ☐	YES ☐	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO ☐	YES ☐	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO ☐	YES ☐	
b. Is the proposed action located in an archeological sensitive area?	☐	☐	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO ☐	YES ☐	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	☐	☐	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: ☐ Shoreline ☐ Forest ☐ Agricultural/grasslands ☐ Early mid-successional ☐ Wetland ☐ Urban ☐ Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO ☐	YES ☐	
16. Is the project site located in the 100 year flood plain?	NO ☐	YES ☐	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? ☐ NO ☐ YES	NO ☐	YES ☐	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: ☐ NO ☐ YES _____			

	NO	YES
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____	☐	☐
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	☐	☐
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____	☐	☐

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: _____ Date: _____

Signature: _____

PRINT FORM

Zoning Board of Appeals or Town Board
Determinations on Special Permit

Applicant_____
Property Location_____.
Proposed Special Permit activity:_____

A. General suitability:
Is the proposed use the most appropriate uses of this land?

_____
Will the use be detrimental to surrounding property values?

_____
Will the use cause an overcrowding of land or undue concentration of population?

_____

B. Location:
Is the site suitable for the location of such use in the town?

_____
Is the proposal harmonious with the character of the existing and probable development of uses in the vicinity?

_____
Is it the proposed use accessible for fire and other emergency apparatus?

_____
Is the proposed use unreasonably near a church, school, theater, recreational area or other place of public assembly?

_____
Will the proposed use interfere with established uses in the neighborhood?

_____

C. Public services:
Are the driveways and sidewalks adequate to assure the public safety and avoid traffic congestion?

_____

D. Environmental concerns:
Are there adequate facilities for the treatment, removal or discharge of sewage, refuse or other effluent from this use?

_____
Will the proposed use cause odors, dust, light or noise, and if so, how can the impact be minimized?

_____
Will the proposed use impact the aquifer and other important natural resources, and if so, how can they be protected?

_____

E. Site development:

Is the lot big enough for the proposed use and its reasonable anticipated operation and expansion?

_____

Is there is enough off-street parking for employees or visitors and is parking laid out in a convenient and safe way?

_____

What buffers and screening are necessary to protect adjacent properties and land uses?

_____

Conclusion

Having considered all these factors, the Town Board/Zoning Board finds that the proposed use is/is not in the best interest of the town and the Special Permit use should/should not be allowed, subject to the following conditions:

_____

_____

_____

_____

_____