



Town of Shelter Island

Zoning Board of Appeals

**Application Package**

**Table of Content:**

Guidelines for the applicants to the ZBA	3
Information for applicants about the ZBA process	8
ZBA Fees	9
ZBA Application Checklist	10
After the application is reviewed / Notification by mail requirements	12
ZBA Application	13
ZBA Authorization form	15
ZBA Certification	16
Transactional Disclosure form	17
Use Variance Answer Sheet	19
Area Variance Answer Sheet	20
Special Permit Answer Sheet	21
Mailing Notice	23
Affidavit of mailing of Legal Notice	24
Affidavit of posting	25
Owner's Endorsement	26
Short Environmental Assessment Form	27

## **GUIDELINES FOR THE 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 an appeal may 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 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 State 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 the 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 three-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 that 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. Secondly, 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 at least highly uncommon circumstances;
- (3) That the variance, if granted, will not alter the essential character of the neighborhood; and
- (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  
One Commerce Plaza  
99 Washington Ave  
10th Floor, Suite 1015  
Albany, New York 12231-0001  
(518) 473-3355 or  
(800) 367-8488  
localgov@dos.ny.gov  
www.dos.ny.gov

Andrew M. Cuomo,  
Governor

Cesar A. Perales,  
Secretary of State

2015

## **Information for Applicants about ZBA process**

For many applicants, a hearing by the Zoning Board of Appeals (ZBA) is a one-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.

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 in 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 cases 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.

## ZBA Fees

Variations for mechanicals such as HVAC Units, generators and work under \$5,000 \$100

Variations for projects under \$20,000 \$375

This fee shall cover up to two variance requests per application, but if the applicant requests further variations there shall be an additional \$375 fee per additional requested variance.

Variations for projects over \$20,000 \$750

This fee shall cover up to two variance requests per application, but if the applicant requests further variations there shall be an additional \$750 fee per additional requested variance.

Special Permit \$1,000

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

Variance or special permit extension fee 50% of original fee

Variations for work done without permit Double the fee pursuant to the above schedule

## ZBA APPLICATION CHECKLIST

One (1) original, nine (9) copies and a digital copy of all material requested below must be submitted to ZBA Clerk. Each paper copy of the application should be in a separate packet consisting of the following in each packet:

- A completed ZBA Application form (attached)
- The requisite application fee
- Letter of Denial from the Building Permit Examiner
- Property Deed from the Assessor's Office
- ZBA Certification form (attached)
- Certificate of Occupancy, Certificate of Compliance, and Open Building Permits for all buildings, structures, and all improvements on site requiring same. (If you do not have these documents, they are accessible at the Building Department)
- **Up-to-date original survey prepared by a licensed surveyor- sealed, signed and dated; showing:**
  - All existing and proposed buildings and structures; including steps, decks, bilco doors, patios, AC equipment, pool equipment, generators and requisite slabs.
  - Setback dimensions shown from all property lines in red;
  - If in wetlands, 75' and 100' lines from wetlands must be noted in red;
  - 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 requirement**
- Short Environmental Assessment Form (if seeking for Special Permit, for is attached)
- 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
- **Building Plans – sealed, signed and dated: with all setback dimensions shown in red from all property lines. Plans must include: 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.)**

One (1) set of full size Building Plans to scale (1/4") and 9 copies of 11x17" prints is required if applying for variance. Three (3) sets of full size Building Plans to scale (1/4") and 7 copies of 11x17" prints is required if applying for Special Permits.

Submitted building plans must be the exact plans as denied by the Building Department.

- Permits or approvals from other agencies
- **A professionally prepared radius map showing all property owners within two hundred (200) feet of applicant's property and names and addresses of these owners** (surveyor and Assessor's Office can help to obtain this)
- Area Variance, Use Variance, Special Permit Answer Sheet (as applicable, form is attached)
- Any other information as may be required by the Zoning Board

## **AFETR THE APPLICATION IS REVIEWED / NOTIFICATION BY MAIL REQUIREMENTS**

When the Public hearing has been scheduled, you are required to send by Certified Return Receipt Mail, at least 30 days prior to the hearing, the "Mailing Notice" form (part of this application package), 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 can be carried out. A copy of the Mailing Notice form and Certified mail receipts must be given to the Clerk of the Zoning Board on or before the commencement of the hearing. Failure to mail the Notice and/or provide the Affidavit of Mailing and/or the Certified Mail Receipts to the ZBA office may result in postponement of the public hearing.

Town of Shelter Island Code §133-34 states:

"At least 30 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 a radius map prepared by a professional and an affidavit with postal receipts annexed thereto confirming mailing of said notices."



# ZONING BOARD OF APPEALS APPLICATION

TAX MAP NUMBER

\_\_\_\_\_

ADDRESS OF THE SUBJECT PROPERTY

\_\_\_\_\_

\_\_\_\_\_

1. APPLICANT- Applicant must be a party of interest

- Applicant is:    Owner                       Attorney                       Architect  
                          Builder                       Contractor  
                          Other (please specify) \_\_\_\_\_

NAME \_\_\_\_\_

COMPANY NAME (if applicable) \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

EMAIL \_\_\_\_\_

2. OWNER(S) –All owners on the current deed (if different from the applicant)

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

EMAIL \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

PHONE \_\_\_\_\_

EMAIL \_\_\_\_\_

3. Are there any Violation of Notices of Violation outstanding on this property?  
YES \_\_\_ NO \_\_\_ Violation number \_\_\_\_\_ (If yes, attach copies)

4. Is the property within one mile of an 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, state or federally-owned land or
  - d. The boundary line of any village or town

YES \_\_\_ NO \_\_\_

5. Located in Zone District designated as: \_\_\_\_\_

6. 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.

7. Indicate value of project requiring variance/special permit:

\_\_\_\_\_



# ZONING BOARD OF APPEALS AUTHORIZATION FORM

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.

NAME \_\_\_\_\_

OWNER'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_



# ZONING BOARD OF APPEALS CERTIFICATION

To be signed by Applicant(s)/Owner

\_\_\_\_\_, being by me duly sworn, deposes and says:

1. I have an interest in an application for a variance and/or special permit now pending before the Town of Shelter Island Zoning Board of Appeals.
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

PRINT NAME \_\_\_\_\_

APPLICANT'S SIGNATURE \_\_\_\_\_



# TRANSACTIONAL DISCLOSURE FORM (Conflict of Interest Form)

The purpose of this form 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.

This form is for:

- An individual     A partnership     A corporation     An association

APPLICANT'S NAME \_\_\_\_\_

OWNER'S NAME \_\_\_\_\_

Nature of the Application

- Variance                       Special Permit

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

PRINT NAME \_\_\_\_\_

APPLICANT'S SIGNATURE (if other than owner) \_\_\_\_\_

DATE \_\_\_\_\_

PRINT NAME \_\_\_\_\_

OWNER'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

If Yes, complete following relevant section:

**For individual:**

Interested Party:

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

**For corporation:**

Interested Party:

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TITLE \_\_\_\_\_ DEPARTMENT \_\_\_\_\_

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

- The owner 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 Yes \_\_\_ No \_\_\_

**For partnership or association:**

Interested Party:

NAME \_\_\_\_\_ ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TITLE \_\_\_\_\_ DEPARTMENT \_\_\_\_\_

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

- The owner 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 Yes \_\_\_ No \_\_\_



# ZONING BOARD OF APPEALS

## Use Variance Answer Sheet

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 §267-1(b) stated: ‘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 each question must 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 is 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

## Area Variance Answer Sheet

New York State Town Law §267-1(a) 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: “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 granting 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 condition 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 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

## Special Permit Answer Sheet

- 1) Is the proposed use the most appropriate use of this land? Yes  No 

---
- 2) Will the use be detrimental to surrounding property values? Yes  No 

---
- 3) Will the use cause an overcrowding of land or undue concentration of population? Yes  No 

---
- 4) Is the site suitable for the location of such use in the town? Yes  No 

---
- 5) Is the proposal harmonious with the character of the existing and probable development of uses in the vicinity? Yes  No 

---
- 6) Is the proposed use accessible for fire and other emergency apparatus? Yes  No 

---
- 7) Is the proposed use unreasonably near a church, school, theater, recreational area or other place of public assembly? Yes  No 

---
- 8) Will the proposed use interfere with established uses in the neighborhood? Yes  No 

---
- 9) Are the driveways and sidewalks adequate to assure the public safety and avoidance of traffic congestion? Yes  No 

---
- 10) Are there adequate facilities for the treatment, removal or discharge of sewage, refuse or other effluent from this use? Yes  No 

---
- 11) Will the proposed use cause odors, dust, light or noise, and if so, how can the impact be minimized? Yes  No 

---

12) Will the proposed use impact the aquifer and other important natural resources, and if so, how can they be protected? Is the lot big enough for the proposed use and its reasonable anticipated operation and expansion? Yes  No

---

13) Is there enough off-street parking for employees or visitors and is parking laid out in a convenient and safe way? Yes  No

---

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

---

---

---



# ZONING BOARD OF APPEALS

## Mailing Notice

(Must be submitted to the ZBA Clerk 7 days prior to the scheduled hearing)

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.



# ZONING BOARD OF APPEALS

## Affidavit of Mailing of Notice

**NAME**

**ADDRESS**

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

State of \_\_\_\_\_

County of \_\_\_\_\_

SS:

\_\_\_\_\_, residing at \_\_\_\_\_,

Being duly sworn deposes and says that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ deponent mailed a true copy of the Mailing 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 30 days prior to the hearing.

\_\_\_\_\_

Applicant's Signature

Sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public



# ZONING BOARD OF APPEALS

## Affidavit of Posting

(Must be submitted to the ZBA Clerk 7 days prior to the scheduled hearing)

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 30 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 \_\_\_\_\_ posting the require signs at least 30 days prior to the public hearing on ZBA application.

\_\_\_\_\_  
Signature

Sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public



# ZONING BOARD OF APPEALS

## Owner's Endorsement

State of \_\_\_\_\_

County of \_\_\_\_\_

SS:

\_\_\_\_\_, being duly sworn, deposes and says:

I reside at \_\_\_\_\_,

In the County of \_\_\_\_\_ and the State of \_\_\_\_\_,

and I am the (owner in fee) (officer of the Corporation which is the owner in fee) of the premises described in the foregoing and that I have authorized \_\_\_\_\_ to make the foregoing application as described herein.

Name: \_\_\_\_\_

Name of the Corporation \_\_\_\_\_

Office's Title \_\_\_\_\_

Signature \_\_\_\_\_

Sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

# *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.

<b>Part 1 - Project and Sponsor Information</b>				
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.			<b>NO</b>	<b>YES</b>
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:			<b>NO</b>	<b>YES</b>
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.				
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____				
<input type="checkbox"/> Parkland				



<p>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)?</p> <p>If Yes, explain purpose and size: _____</p> <p>_____</p> <p>_____</p>	<p><b>NO</b></p>	<p><b>YES</b></p>
<p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p><b>NO</b></p>	<p><b>YES</b></p>
<p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?</p> <p>If Yes, describe: _____</p> <p>_____</p> <p>_____</p>	<p><b>NO</b></p>	<p><b>YES</b></p>
<p><b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b></p> <p>Applicant/sponsor name: _____ Date: _____</p> <p>Signature: _____</p>		