

Town of Milo, New York

Department of Buildings
137 Main Street – Town Hall
Penn Yan, New York 14527
Telephone No.: (315) 531-8042
Facsimile No.: (315) 536-9760
Email: codeofficer@townofmilo.com

GUIDE FOR APPLICANTS APPLYING FOR AN AREA VARIANCE

This publication has been written to aid potential applicants in understanding and appreciating the variance process, and to provide an explanation of the rules and standards under which variance decisions of this Town's Zoning Board of Appeals (ZBA) must be made.

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.

The ZBA must 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 an 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.

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.

Application Checklist: Please make ten (10) collated copies of each document, except for the application fee, and submit the application package to the Town's Code Enforcement Officer.

- | | |
|---|---|
| <input type="checkbox"/> Completed application form | <input type="checkbox"/> Site plan / Survey map |
| <input type="checkbox"/> Statement of hardship | <input type="checkbox"/> Environmental Assessment Form (EAF) |
| <input type="checkbox"/> Application fee | <input type="checkbox"/> Construction drawings for proposed project |

AREA VARIANCE APPLICATION FORM

TOWN OF MILO, NEW YORK

WHEN TO USE THIS FORM: *This form is to be used by an owner seeking an appeal for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations prescribed within the Code of the Town of Milo. The applicant is responsible for complying with established rules and procedures which are available for inspection from the ZBA secretary.*

Contact Information:

Owner(s) Name:

Owner(s) Address:

Owner(s) Telephone No.:

Real Property Information:

Address of Property:

Is the area of proposed construction located on a steep slope? Yes No

Does the property abut Keuka or Seneca Lakes? Yes No

Does the property abut Keuka Lake Outlet or Plum Point Creek? Yes No

Brief Summary of Area Variance Request:

Zoning: (Note: The Code Enforcement Officer can fill in the Zoning District if you are unsure.)

Zoning District:	<input type="text"/>	Lot Coverage (%):	<input type="text"/>
Front Setback (feet):	<input type="text"/>	Side Setback (feet):	<input type="text"/>
Rear Setback (feet):	<input type="text"/>	Total Sides Setback (feet):	<input type="text"/>

STATEMENT OF HARDSHIP

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 feasible for the applicant to pursue, other than an area 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 condition in the neighborhood or zoning district.

5. Whether the alleged difficulty is self created; which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of an area variance.

AGREEMENT TO PAY FEES FOR CONSULTANT SERVICES INCURRED BY THE TOWN

When reviewing an application for, or when conducting inspections in relation to, an application, the Town of Milo, New York may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the application. Whenever possible, the Town of Milo, New York shall work cooperatively with the applicant to identify what scope of work shall require the employment of consultants. Additionally, the Town may require that an applicant deposit a lump sum in order to retain consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Town of Milo, New York may require additional deposits.

Let it be understood and the property owner agrees that:

1. In hiring outside consultants, the Town of Milo, New York may engage registered design professionals, financial analysts, planners, lawyers or other appropriate professionals who can assist the Town in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Town's decision or regulations, or inspecting a project during construction or implementation.
2. Funds received by the Town of Milo, New York pursuant to this section shall be deposited with the Town Clerk who shall establish a line item for this purpose. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation. Expenditures from this line item shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the property owner. Additionally, the failure of a property owner to pay any fee shall be grounds for denial of an application. Lastly, any outstanding fees incurred by the Town of Milo, New York shall be charged against the property, and shall constitute a lien thereon in favor of the municipality, and the amount of such costs shall be entered on the tax rolls as being due and payable. Such fees may also be recovered in any other lawful manner.
3. At the completion of the Town's review of a project, any excess amount in the line item attributable to a specific project shall be repaid to the property owner. A final report of said line item shall be made available to the property owner if requested.
4. Any property owner may take an administrative appeal from the selection of the outside consultant to the Town Board. Such appeal must be made in writing and may be taken only within twenty (20) days after the Town has mailed or hand-delivered notice to the property owner of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The required time limit for action upon an application by the Town Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Board within one month following the filing of the appeal, the selection made by the Town of Milo, New York shall stand.

DISCLOSURE AFFIDAVIT (GML SECTION 809)

The Applicant has read and is familiar with the provisions of the General Municipal Law, Section 809, which states:

- A. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of plat, exemption of plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality or a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
- B. For the purpose of this section of State law, an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
 - 1. is the applicant;
 - 2. is an officer, director, partner or employee of the applicant;
 - 3. legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or
 - 4. is a party to an agreement with such an applicant, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request.
- C. Ownership of less than five per cent of the Stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
- D. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

If a Town of Milo officer, employee or relative of either as defined in the General Municipal Law, Section 809 has any interest in this application, the full particulars are provided on an attached sheet.

OWNER'S AGREEMENT TO CONTENTS OF APPLICATION

It is hereby understood that the contents of this entire application is hereby subscribed by the property owner, all matters understood and agreed to, and is hereby affirmed by the owner as true under the penalties for perjury.

Property Owner's signature

Date:

Property Owner's name:

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 _____ County _____	
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? <input type="checkbox"/> Yes <input type="checkbox"/> 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	
<p style="text-align: center;">I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE</p> Applicant/sponsor name: _____ Date: _____ Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER
1

Reset

Town of Milo, New York

Department of Buildings
137 Main Street – Town Hall
Penn Yan, New York 14527
Telephone No.: (315) 531-8042
Facsimile No.: (315) 536-9760
Email: codeofficer@townofmilo.com

AUTHORIZED REPRESENTATIVE FORM

WHEN TO USE THIS FORM: *This Authorized Representative form is enclosed if the owner wants to authorize someone to represent him/her/they at the public meeting and hearing. Please complete this form and submit it to this Town's Code Enforcement Officer. Lastly, the owner is responsible to notify his/her/their representative of the time and place of the public meeting and hearing.*

Owner's Name:

Owner's Address:

Owner's Telephone No.:

Representative's Name:

Representative's Address:

Representative's Telephone No.:

The Owner hereby permits the Authorized Representative to act on his/her/their behalf regarding an application submitted to the Town of Milo, New York. Such Owner also authorizes this Town to release any or all information relating to this application to this Authorized Representative.

Owner's Signature:

Date of Signature:

STATE OF NEW YORK)
 SS.:
COUNTY OF)

On this _____ day of _____, 20____, before me personally came _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

Notary Public