



Use Variance Application - Modifications

City of Buffalo - Office of Strategic Planning

The following are modifications to the Use Variance application requirements and process during the Covid 19 crisis

1. Per the normal application process, a project must first be registered with the Department of Permit and Inspection Services (DPIS). During Registration, DPIS staff will provide a Notice of Denial (NOD) indicating an area variance from the Zoning Board of Appeals is required prior to receiving a building permit. During the Covid 19 crisis, an appointment is required prior to meeting with DPIS staff in 301 City Hall. For more information or to register online, go to www.buffalony.gov/722/Permit-Process.
2. Complete the use variance application that follows and provide any additional pertinent documentation including:
 - Completed Part 1 of the New York State Environmental Quality Review (SEQR) Short Environmental Assessment Form (SEAF) (available on-line or provided by Office of Strategic Planning staff). For more information go online to www.buffalony.gov/870/State-Environmental-Quality-Review-Act-S.
 - Photos of the site of the variance request.
 - Any additional materials such as site plan, elevations, or other materials.
 - Notice of Denial issued by DPIS.
 - Competent financial evidence of hardship must be provided, per New York State General City Law, Article 5A, Section 81-B.3 - "Use Variances." An applicant must prove (as demonstrated by "dollars and cents proof") that he or she cannot realize a reasonable return from each of the uses permitted in the zoning district. A list of permitted principal uses by zoning district is provided on pages 6-4 and 6-5 of the City of Buffalo Unified Development Ordinance (www.buffalony.gov/1224/Using-the- Unified-Development-Ordinance).
3. Email the completed/signed use variance application, NOD, and additional pertinent documentation to John Fell at jfell@city-buffalo.com. If possible email a link to a file sharing site instead of attaching the documents directly to the email.
4. Mail or deliver one copy of the variance application package (including the NOD) to: Buffalo Zoning Board, City Hall Room 901, 65 Niagara Sq., Buffalo, NY 14202.
5. Mail or send by courier one hardcopy of the variance application package to: Buffalo Zoning Board, C/O COB Mailroom, City Hall Room 901, 65 Niagara Sq., Buffalo, NY 14202.
6. During the Covid 19 crisis, meetings for the Zoning Board of Appeals are being held "virtually," rather than "in person." For more information or to view the meeting schedule and submittal deadlines, go online to: www.buffalony.gov/386/Zoning-Board-of-Appeals.

Additional information

The New York State Department of State provides resources regarding applying for variances and the zoning board of appeals and, including:

- Guidelines for Applicants to the Zoning Board of Appeals - www.dos.ny.gov/lg/publications/Guidelines_for_Applicants_to_the_Zoning_Board_of_Appeals.pdf
- Zoning Board of Appeals - www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf



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Section 496-11.3.5 of the City Code: A Use Variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.

Procedure

1. If not already completed, register the project with the Department of Permit and Inspection Services (DPIS) in Room 301 of City Hall. During Registration, DPIS staff will provide a Notice of Denial indicating a Use Variance from the Zoning Board of Appeals will be required.
2. Complete the Use Variance Application Form (available from Room 901 City Hall).
3. Attach to the Use Variance Application Form, no larger than 11"x17":
 - a. Completed Part 1 of the New York State Environmental Quality Review (SEQR) Short Environmental Assessment Form (SEAF) (available on-line or provided by Office of Strategic Planning staff).
 - b. Photos of the site of the variance request.
 - c. Any additional materials such as site plan, elevations, or other materials.
 - d. The Notice of Denial issued by DPIS.
 - e. Competent financial evidence of hardship may be required by the Zoning Board of Appeals (in addition to information provided in the application).
4. Deliver seven (7) copies of the completed Use Variance Application Form with attachments to Room 901 City Hall. Only one (1) copy of the completed Part 1 SEQR SEAF should be included as part of the application. Include one (1) Compact Disc (CD) or USB flash drive with an electronic copy (PDF preferred) of the form and attachments. If applicant is unable to provide an electronic copy, notify Office of Strategic Planning Staff.
5. Staff will review the Use Variance Application and determine if it is complete.
 - a. **An application is complete if:** All questions on the Use Variance Application Form have been fully answered and sufficient photos and relevant materials have been attached.
 - b. **An application is not complete if:** One or more questions on the Use Variance Application Form have not been answered or if additional relevant photos or relevant materials need to be attached. Notice will be provided to the applicant identifying any needed changes.
6. Once the application is determined complete, the applicant will receive a Notice of Complete Application which includes a public hearing date. Until a Notice of Complete Application is issued, the project will not be scheduled for a public hearing regardless of the date the application was submitted by the applicant.
7. Ten (10) days prior to the scheduled public hearing, all applicants for variances must install a sign at the project site. An electronic template of this sign is available from Office of Strategic Planning Staff. Requirements and standards for this sign are found within the Posted Notice Section 496-11.2.2.C. of the City Code. The sign can be removed when the public hearing is closed. **If the sign is not installed the hearing cannot be scheduled.**
8. Attend the public hearing and present the Use Variance Application to the Zoning Board of Appeals. Please be prepared to answer questions related to the variance request.
9. After the public hearing, the Zoning Board of Appeals has up to 62 days to approve, approve with modifications, or deny the application. Once the Zoning Board of Appeals has made a decision, a written notice will be sent to the applicant within 5 business days.

For assistance with the Area Variance Application, please contact:

John Fell, (716) 851-4533, JFell@City-Buffalo.com or Angela Webber, (716) 851-4064, AWebber@City-Buffalo.com

Please note: Any information provided with this application will be made public at www.buffalony.gov/meetings

Fee

Pay associated fee of \$250.



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Applicant Information

Property Owner Name(s): _____

Phone Number: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

Architect Name(s): _____

Phone Number: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

Contractor Name(s): _____

Phone Number: _____ Email: _____

Address: _____ City: _____ State: _____ Zip: _____

Property Information

Assessed Address: _____

Area of Parcel (square feet): _____ Acres: _____

Zone: _____ Zone Overlay (if applicable): _____

Project Description

Current Use: _____

Proposed Use: _____

Briefly Describe the Proposed Project (attach additional information if necessary):



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Use Variance Request

No use variance will be granted without showing by you (the applicant) that applicable zoning regulations and restrictions have caused unnecessary hardship. The following tests must be met for each and every use allowed by zoning on the property, including uses allowed by special use permit. Below please briefly describe how each of the four variance tests are met. Attach all supporting materials.

A. Description of Hardship. Provide evidence the applicant cannot realize a reasonable return demonstrated by competent financial evidence:

B. Unique Circumstances. Describe how the alleged hardship related to the property in question is unique and does not apply to a substantial portion of the zone or neighborhood:

C. Character of Neighborhood. Describe how the proposed use would not alter the essential character of the neighborhood:

D. Not self-created. Describe how the alleged hardship is not self-created:

Disclosure Affidavit

I affirm that the information provided above is true and accurate to the best of my knowledge:

Property owner or applicant name (print): _____ Date: _____

Property owner or applicant signature: _____



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Office Use Only

Date form received: _____ A/P#: _____

Internal Checklist:

- Use Variance Form (7 copies)
- Site Photo(s)
- Part 1 SEQR SEAF
- Site Plan and Architectural Elevations (if appropriate)
- Fee (\$250)

Date of Determination of Completeness: _____

Date of Decision: _____

- Approved
- Approved with modifications
- Disapproved