

TOWN OF DANBY
1830 DANBY ROAD
ITHACA, NY 14850
(607) 277-0799

Applying For a Zoning Variance

Generally, there are (2) types of variance requests made to the Board of Zoning Appeals:

- 1) Allowed land use in a Zoning District. (Any uses not specifically permitted in a zone established by the zoning ordinance are prohibited from the zone.)
- 2) Area requirement by Zoning District. (such as insufficient frontage, yard set backs, lot size or other such location problems.)

The Board of Zoning Appeals may also be requested to review a determination made by the administrative official charged with enforcement of the Zoning Ordinance or local law.

See General Criteria for requirements.

The Board of Zoning Appeals meets as needed at the Town Hall. Once a public hearing date and time have been established, you will be notified. All property owners within 500' of the affected property and all others as prescribed by NYS law must be notified by mail of the public hearing, date and time, who is applying and the basic nature of the request. This notification is completed by the Town. A Notice of Hearing will be posted by the Town in The Ithaca Journal. Applicants or their Agent must appear at the public hearing.

General procedure for filing an application for a variance request.

- 1) Fill in all requested information. Include any documentation that you believe supports your request. If you are applying for an area variance, also include a site plan showing all dimensions and obstacles which are creating the need for an area variance. The site plan should include the following:
 - a) Dimensions of the lot boundaries, including road frontage.
 - b) Locations and dimensions of existing and proposed structures.
 - c) Location of driveway, well, septic field, retaining walls, fences, etc.
 - d) Any known utility easements of record.
 - e) Significant topographical and hydrological features, including wetlands
 - f) North arrow placement, property location, tax map #, name & date.
- 2) Return the Appeal Form and all supporting documentation along with the Zoning Appeals fee of **\$125** to the Danby Code Enforcement Office at the above address. If you are paying by check, make payable to **The Town of Danby.**
- 3) If you have any questions or concerns, please feel free to call the Code Enforcement Office at 277-0799 between 10:00 AM and 5:00 PM Tuesday-Friday.

General Criteria

Town Law S267-b. Permitted action by board of appeals:

1. **Orders, requirements, decisions, interpretations, determinations.**

The board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such ordinance or local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
2. **Use variances.**
 - (a) The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances.
 - (b) No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located,
 - (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) 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) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) that the alleged hardship has not been self-created.**
 - (c) The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
3. **Area Variances.**
 - (a) The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances.
 - (b) In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - (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 conditions in the neighborhood or district; and
 - (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - (c) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. **Imposition of conditions.**

The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**APPEAL TO BOARD OF ZONING APPEALS
TOWN OF DANBY**

Having been denied permission to _____

At the property located at _____ in the Town of Danby, as shown on the accompanying Application, Plans, and/or other supporting documents, for the stated reason that the issuance of such permit would be in violation of

Section (s) _____
Of the Town of Danby Zoning Ordinance

The UNDERSIGNED respectfully submits this appeal from such denial and in support of the appeal, affirms that strict observance of the Ordinance would impose **PRACTICAL DIFFICULTIES and/or UNNECESSARY HARDSHIP** as follows:
(provide description here or on attached separate sheet)

Applicant Signature: _____ **Date:** _____

Address: _____ **Phone:** _____

Email Address (optional) _____