

NUMBER \_\_\_\_\_ FEE <sup>#</sup> 50.00  
MEETING DATE \_\_\_\_\_

APPLICATION FORM - AREA VARIANCE - **RESIDENTIAL**

Instructions to Applicant

1. Submit **original** and **11 (eleven)** copies of this application Type or print.
2. A non-refundable fee shall accompany this application. See current fee schedule.
3. **Twelve (12) copies** of a tape location or instrument survey map should be attached to the application.
4. **Twelve (12) copies** of a building elevations plan, **when necessary**, should be attached to the application.
5. A sign giving notice of the appeal must be posted on the front property line 10 days prior to the hearing.
6. Zoning Boards of Appeal in New York State are bound by court cases which have clearly set forth the factors to be considered by the Board in reviewing your request. These may seem unnecessary in many instances but by handling all cases under the same guidelines, you are assured equitable treatment by the Board.

**1. APPLICANT**

Name \_\_\_\_\_ Phone \_\_\_\_\_  
Street & Number \_\_\_\_\_ Post Office \_\_\_\_\_ Zip \_\_\_\_\_  
Interest in Property: Owner \_\_\_\_\_ Lessee \_\_\_\_\_ Other \_\_\_\_\_

**2. OWNER** (if other than above)

Name \_\_\_\_\_ Phone \_\_\_\_\_  
Street & Number \_\_\_\_\_ Post Office \_\_\_\_\_ Zip \_\_\_\_\_

**3. ATTORNEY** (If represented)

Name \_\_\_\_\_ Phone \_\_\_\_\_  
Street & Number \_\_\_\_\_ Post Office \_\_\_\_\_ Zip \_\_\_\_\_

**4. INTEREST:** Does any officer or employee of the State of New York, County of Monroe, or Town of Perinton have any interest in the owner/applicant or the subject property?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, who? Name \_\_\_\_\_ Address \_\_\_\_\_

INTEREST (explain): \_\_\_\_\_

(continued)

5. LOCATION: Street Address or Legal Description (subdivision and lot number)

6. SIZE OF PARCEL: \_\_\_\_\_

7. PRESENT USE OF PROPERTY: \_\_\_\_\_

8. ZONING DISTRICT: \_\_\_\_\_ TAX ACCOUNT # \_\_\_\_\_

9. APPLICATION FOR VARIANCE OF SECTION(S): \_\_\_\_\_

10. DESCRIBE SPECIFICALLY THE NATURE OF YOUR REQUEST: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. DESCRIBE THE LOCATION, USE AND SIZE OF STRUCTURES AND OTHER LAND USES WITHIN 100 FEET OF THE BOUNDARIES OF THE SUBJECT PROPERTY: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. HOW SUBSTANTIAL IS THE VARIANCE REQUESTED IN RELATION TO THE CODE?

CODE REQUIRES : \_\_\_\_\_

REQUEST : \_\_\_\_\_

13. WILL GRANTING YOUR REQUEST RESULT IN AN INCREASE IN POPULATION DENSITY? NO  YES  IF YES, WHAT EFFECT WILL THIS HAVE ON AVAILABLE GOVERNMENT FACILITIES? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

14. WILL YOUR REQUEST RESULT IN A SUBSTANTIAL CHANGE IN CHARACTER OR BE DETRIMENTAL TO SURROUNDING PROPERTIES? NO  YES

15. CAN THE DIFFICULTY WHICH LEADS YOU TO APPLY FOR THIS VARIANCE BE SOLVED IN ANOTHER MANNER? NO  YES  If yes how? \_\_\_\_\_

\_\_\_\_\_

16. WHY DO YOU FEEL YOUR VARIANCE REQUEST IS PROPER? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

17. IS THIS PROPERTY IN A LIMITED DEVELOPMENT DISTRICT? NO  YES

I certify that the information supplied on this application is complete and accurate, and that the project described, if approved, will be completed and the premises used as stipulated in this request.

Signature of Applicant: \_\_\_\_\_ Date \_\_\_\_\_

**Owner** (If other than above)

I have read and familiarized myself with the contents of this application and do hereby consent to its submission and processing.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_



## TOWN OF PERINTON

1350 TURK HILL ROAD ■ FAIRPORT, NEW YORK 14450-8796  
(585) 223-0770 ■ Fax: (585) 223-3629 ■ www.perinton.org

### BURDEN OF PROOF AND STANDARD OF PROOF FOR AN AREA VARIANCE

When the applicant requests an area variance, the Board of Appeals is required to balance the benefits from the variance to the applicant with the detriment to the health, safety and welfare of the community.

Before the Zoning Board of Appeals can grant an area variance, the Board must consider the following factors and the applicant must offer competent proof as to each factor:

- A. Whether the variations requested are substantial in relation to the requirement set forth in the Zoning Ordinance
- B. Whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to adjoining properties will be created, if the variance is granted
- C. Whether the benefit sought by the applicant can be achieved by some reasonable, alternate method, other than a variance
- D. Whether the alleged difficulty was self created (this will not necessarily preclude the granting of an area variance)
- E. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district

Generally, in a request for an **AREA VARIANCE**, the property will continue to be used in a permitted manner, but some relief from the strict requirements of the ordinance is requested because the applicant cannot comply with the requirements without **PRACTICAL DIFFICULTIES**, if at all. An applicant for an Area Variance may want to construct an addition to his home, but may want to build closer to his property line than the zone allows; or he may have a lot in which he wants to construct a dwelling in a zone which requires a 20,000 sq. ft. lot



and his lot has only 19,000 sq. ft. In each case, a variance would be needed, but can only be granted by the Board of Appeals, if the applicant meets his burden of proof to establish his entitlement to the variance.

Under N.Y.S. Town Law, the Zoning Board of Appeals is required to grant the minimum area variance. The Zoning Board of Appeals is also given statutory authority to impose reasonable conditions or restrictions which relate directly to the proposed use of the property. It is recommended that, as part of your application, you suggest reasonable conditions which will mitigate the impact of your variance. For example, it would be appropriate to propose planting shrubbery to lessen the impact of construction in a side setback.

For more information, contact the Zoning officer at 223-0770.

**PROCEDURES FOR FILING AN APPLICATION WITH THE BUILDING  
DEPARTMENT TO APPEAR BEFORE THE ZONING BOARD OF APPEALS**

1. Applicant obtains application form from Code Enforcement & Development and fills it out with complete detailed information as requested. Also, complete short E.A.F. form (if applicable). Print or type.
2. The original application, along with 11 copies, shall be returned to the Office of Code Enforcement & Development, according to cut-off date schedule with cash or check made out to the Town of Perinton. (see fee schedule for pricing). Attach to each application, **twelve (12)** copies of maps and plans with name and address of application shown on each copy. If address of property is different than applicant's address, also show that on map and plans. Please return application in person; they may not be mailed in, as there is paperwork to be completed at the time of submission.
3. APPLICATIONS WILL NOT BE PUT ON THE AGENDA FOR A PUBLIC HEARING IF ANY OF THE ABOVE ITEMS OR INFORMATION IS MISSING.
4. CODE ENFORCEMENT & DEVELOPMENT STAFF WILL POST A NOTICE OF APPLICATION RECEIVED SIGN AT THE FRONT PROPERTY LINE TWO WEEKS PRIOR TO THE PUBLIC HEARING.
5. The Town will place a legal notice in the proper newspaper, advertising applicant's name, Location, and request.
6. Town staff & Zoning Board of Appeals members will inspect the property to review the application request.
7. The next step is that the applicant or agent of the applicant must appear before the Zoning Board of Appeals on the scheduled date to explain what they would like to do. The meetings are held the fourth (4th) Monday of each month starting at 7:30 P.M, unless otherwise noted.

At the hearing, any party may appear in person or by agent or attorney. The Board of Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinances, the Board of Appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

8. A notification letter is mailed out by the Board Clerk to each applicant stating the Board's decision. Several days may elapse after a meeting before notification is mailed out, depending on the number of applications and other duties that the Clerk is responsible to fulfill as Clerk of the Zoning Board.
9. Should an applicant desire to know the outcome of the Board's action before receiving a formal notice, they may call the Zoning Board Clerk at 223-0770.

Minutes of Board meetings are not final until approved by the members at a future meeting and then filed with the Town Clerk.

10. Next step, if applicable, is to obtain a Building Permit from Office of Code Enforcement & Development.

In addition, it may be necessary to obtain a Certificate of Occupancy prior to occupying or starting operations. This can be verified by checking with the Office of Code Enforcement & Development at 223-0770.

WHEN IN DOUBT, PLEASE CALL THE OFFICE OF CODE ENFORCEMENT & DEVELOPMENT

5/31/13