

Application Number _____
Date Received _____

Tax Parcel Number _____
Fee _____

Town of Campbell

8529 Main Street
Town Clerk (607) 527-8244



Use Variance Application

Applicant	
Name	_____
Street	_____
City	_____
State/Zip	_____
Telephone	_____

Property Owner	
Name	_____
Street	_____
City	_____
State/Zip	_____
Telephone	_____

Location of Property: _____

Applicable Code(s): _____

Instructions:

- Complete all sections of this application and submit it to the Town Clerk.
- Include a detailed property map showing dimensions of existing and proposed structures, as well as setbacks of existing and proposed structures to structures, boundaries, septic system and water supply. (Sample map provided)
- This application constitutes an appeal from a decision of the Zoning Enforcement officer denying a Zoning Permit. A copy of this decision must be attached.
- Complete the Short Environmental Assessment Review form. (Front page only)
- Include any additional attachments that you feel will adequately support your appeal, such as photographs, building plans, surveys, and tax maps.
- Include an application fee in the amount of \$75.00, payable to the Town Clerk. The fee is nonrefundable in the event that your variance is denied.
- Upon receipt of a completed application the Town Clerk will forward your application to the Planning Board for their recommendation to the ZBA.
- After Comment from The Planning Board the Town Clerk will post a legal notice advertising the Public Hearing for your appeal and notify you of the time and date of the Public Hearing. You, or a duly authorized representative, must attend the Public Hearing.
- Upon the close of the Public Hearing the ZBA may be able to render a decision at that time.

- If the ZBA requires additional time, the decision must be reached within 62 calendar days. You will receive a written copy of this decision.
- Any variance granted which is not exercised within one year from the date of issuance must be declared to be revoked without further hearing by the Board of Appeals.

A Use variance allows landowners to use their land in a way not permitted under the zoning law. Use variances generally are more difficult to obtain than area variances. Before a use variance may be permitted by the zoning board of appeals, the applicant must show “unnecessary hardship.” To demonstrate “unnecessary hardship” the applicant must prove (1) he cannot realize a reasonable return; (2) the hardship is unique to his property; (3) the variance will not alter the essential character of the neighborhood; and (4) the hardship is not self-created. Additionally, the statute mandates the granting of the minimum variance necessary to alleviate the hardship. Consequently, in granting the minimum variance, the board may impose conditions to protect the “essential character of the neighborhood”.

Applicant Narrative: Please provide an overview of your project. Use addition pages where necessary.

The owner cannot realize a reasonable return on the property as zoned. The lack of return must be substantial and proven by competent financial evidence. It is insufficient for the applicant to show that the desired use would be more profitable than the use permitted under the zoning law. Please explain:

The hardship must be unique to the owner’s property and not applicable to a substantial portion of the zoning district. If the hardship is common to the whole neighborhood, the remedy is to seek a change in the zoning from the local legislature, not to apply for a use variance from the zoning board of appeals. What conditions exist on your property that do not exist on similarly zoned properties and how do these conditions result in an unnecessary hardship?

Granting the variance will not alter the essential character of the neighborhood. In making this determination, the zoning board should consider the intensity of the proposed development as compared with the intensity of the existing and permitted uses in the neighborhood

The hardship is not self-created. What conditions on this property are unique to the property in question, and are not present in a substantial portion of the district or neighborhood? Explain why you "need" relief from the code versus "want" relief from the code.

Signature and Verification

Please be advised that no application can be deemed complete unless signed below.

I hereby certify that the information enclosed herewith and on the application is accurate and factual:

Signature of Applicant: _____ Date: _____

I, the record owner do hereby authorize _____ to represent me before the Zoning Board of Appeals during the area variance process:

Signature of Owner: _____ Date: _____

THE DECISION/YOUR APPEAL RIGHTS

If it is the Board decision to grant your Variance, you will probably be able to proceed with your plans.

If the Board denies your request, then you have thirty (30) days, to appeal from the date the written decision is filed with the Town Clerk's Office and you are forwarded a copy.

It would be an appeal to the Supreme Court for review under an Article 78 proceeding of the Civil Practice Law and Rules. Town Law Section 276.c sets forth the details concerning the appeal. A copy of that section of Law follows.

TOWN LAW

267-c Article seventy-eight proceeding

1. Application to Supreme Court by aggrieved persons. Any person or persons, jointly or severally aggrieved by the decision of the board of appeals or any officer or department, board or bureau of the Town may apply to the Supreme Court for review by a proceeding under article seventy eight of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the town clerk.
2. Cost of appeal. Costs shall not be allowed against the board of appeals unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
3. Preference of appeal to court. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
4. Power of court. If upon the hearing of the supreme court, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought for review determining all questions which may be present for determination.

QUESTIONS: If you have any questions , feel free to call the Town Clerk or the Code Enforcement Officer at 607-527-8244