

APPLICATION INSTRUCTIONS
TOWN OF DEWITT
ZONING BOARD OF APPEALS (ZBA)

A. PROCEDURE:

- First review the Application and Hearing Guide and **prepare a draft** application. DO NOT MAKE COPIES YET.
- Next **schedule an appointment** with the Planning & Zoning staff to review your draft. Corrections can be made at this time. After staff approval, then continue with a final application and submittal (proceed to make copies & CD).
- Applications must be submitted and deemed complete on or before **3PM of the last Monday of the previous month** in order to be considered on the Agenda for the next ZBA meeting.
- You will be notified when the matter is scheduled to be heard before the ZBA. Please be advised that the **owner or his/her authorized agent(s) must attend the ZBA meeting and public hearing.**

All ZBA meetings are held on the 3rd Monday of each month beginning at 7:00 p.m.

B. APPLICATION MATERIALS:

Submit twelve (12) collated copies and (1) one CD in pdf format of the following:

- 1) Site plans and details of your proposal;
- 2) Updated Survey (Showing all structures, Buildings & Improvements) stamped & signed by a licensed surveyor. Faxes or scanned reduced copies will NOT be accepted;
- 3) Application to the ZBA (**one application must have an original signature**);
- 4) State Environmental Quality Review (SEQR) short form (complete PART 1 only)- **one SEQR form must have an original signature**;
- 5) *Fee: \$300.00 -For lots 1 Acre or less, or building less than 3,000 SFGFA
\$400.00 -For all lots greater than 1 Acre or building greater than 3,000 SFGFA
\$400.00 -For all signs
***\$50 per additional variance requested**

Documents must be FOLDED TO NO LARGER THAN 11" x 14"; collated in 12 sets; and secured by staple, paper clip, or rubber band. If it is not collated, a \$25 fee will be charged.

C. PLANS:

Plans must be prepared by a licensed design professional (architect, engineer or landscape architect) in a drawing with scaled, dimensioned accuracy from a new or updated survey.

D. CONTACT INFORMATION:

Your application will be promptly reviewed by Planning & Zoning and referred to the Town Clerk and Attorney Offices. You may call the following numbers for questions about your application:

TECHNICAL QUESTIONS/REVIEW	Planning & Zoning	(315) 446-3910 x3
HEARING SCHEDULE	Town Clerk	(315) 446-3826 x2

E. INFORMATION INCLUDED:

Application Instructions (1 page), Hearing Guide (3 pages), Application form (2 pages)

TOWN OF DEWITT ZONING BOARD OF APPEALS HEARING GUIDE

I. INTRODUCTION

The purpose of this guide is to acquaint you -- an applicant or an authorized representative -- with the procedures and considerations involved in obtaining a determination of the Zoning Board of Appeals (ZBA).

The ZBA is a quasi-judicial body of Town government composed of seven members plus two alternate members appointed by the Town Board of DeWitt. Each regular member serves a term of seven years and receives no compensation for his or her community service.

The ZBA has three basic responsibilities or powers under the Town of DeWitt Zoning Ordinance (“Zoning Ordinance”): 1) hearing and deciding variances (exceptions to the Zoning Ordinance); 2) hearing and deciding requests for specific use permits (permitted uses requiring special review under the Zoning Ordinance); and 3) interpretations of the Zoning Ordinance.

In order to be in front of the ZBA the following procedures will ordinarily occur:

- A. First you must have received a formal decision (quite likely a denial) to an application for a development permit (building, sign, alteration, grading, etc.) from the Town Planning & Zoning office.
- B. You or your agent may then elect to appeal to the ZBA based on the denial of the permit, or, as may be authorized, apply directly to the ZBA for the relief requested which may involve an “area” or “use” variance, a specific use permit, or interpretation of the Zoning Ordinance or a combination of the foregoing.
- C. Following receipt of an appeal or application, the ZBA will fix a reasonable time for a public hearing and give appropriate public notice.

In certain circumstances the matter may also be referred for recommendation to the Syracuse Onondaga County Planning Agency (SOCPA). In this event, SOCPA must by law make a recommendation prior to the ZBA voting. For this reason, a decision on your application may be delayed. You will be notified by the Planning & Zoning office if this will occur.

II. TYPES OF APPLICATIONS

Following are brief descriptions of the three types of matters the ZBA is required to hear and decide as well as some of the factors to be considered:

- A. **AREA VARIANCE.** Where a property owner does not comply with setback, lot area, parking, or other dimensional or physical requirements of the Zoning Ordinance, the applicant will be required to furnish competent proof of why he or she is entitled to an “area variance.” In this regard, an applicant must be prepared to show the benefit to him or her 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 this determination the ZBA is obligated to apply a balancing test considering the following five (5) factors:

- (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 ZBA decision, but shall not necessarily preclude the granting of the area variance.

B. USE VARIANCE. You are requesting a “use” variance when you propose to establish an activity or use of your property which would not otherwise be permitted in the zoning district by the applicable regulations under the Zoning Ordinance. A use variance permits a use of land that is otherwise prohibited.

- (1) In this regard, the ZBA may not grant a use variance without a showing by the applicant that the applicable zoning regulations have caused unnecessary hardship.
- (2) In order to prove unnecessary hardship, the applicant must demonstrate to the ZBA that for each and every permitted use under the Zoning Ordinance for the district in which the property is located:
 - a) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - b) 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;
 - c) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d) that the alleged hardship has not been self-created.

The ZBA may grant a use variance only if **each** of the four criteria above has been met; failure to satisfy one or more of the statutory requirements means that the variance must be denied. Conversely, where the applicant meets all the criteria, the use variance must be granted.

C. MINIMUM VARIANCE. The ZBA, in the granting of use or 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.

- D. CONDITIONS.** In the granting of both use and area variances, the ZBA has 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 and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- E. SPECIFIC USE PERMIT.** The Zoning Ordinance provides that certain uses are allowed only upon recommendation of the Town Planning Board and issuance of a Specific Use Permit (SUP) by the ZBA after public hearing and appropriate findings.

The findings necessary for approval of a SUP must establish that the proposed structure or use is:

- (1) Appropriate for the particular lot and location;
- (2) Not unreasonably detrimental to neighboring properties, areas and districts;
- (3) Consistent with an orderly and appropriate development of neighboring properties, areas and districts;
- (4) where adjoined by existing or permitted uses, a suitable transition between neighboring properties, areas and districts; and
- (5) An appropriate evolution of the Comprehensive Plan for the Town of DeWitt.

An application for a SUP is automatically referred to the DeWitt Planning Board, which may submit such report and recommendations as it deems proper and the ZBA may not take action until it receives said report and recommendations from the Planning Board or until 30 days have passed since such reference. It is important to know that, as with variances, the ZBA has the power to attach reasonable conditions and restrictions to any SUP it may grant.

- F. INTERPRETATION.** Where there is a question as to the interpretation of the Zoning Ordinance, you may elect to file with the ZBA an application for an interpretation, or an application in the alternative, i.e., asking for the variance if the interpretation you desire is not forthcoming.

III. OTHER CONSIDERATIONS

- A. BURDEN OF PROOF.** At the hearing, the ZBA will offer you the opportunity to present your case. You may testify, call witnesses, and/ or submit written evidence. In the end, you must prove your case with logic and facts under the rules established by the Zoning Ordinance and the laws of the State of New York. Consequently, you may wish to retain an attorney (and perhaps design professionals) to properly assist in presenting your case.
- B. CONCLUSION.** The ZBA wishes all applicants, and their agents, to realize that the above standards are only illustrative and have been set forth in greater detail in the Zoning Ordinance, the New York State Town Law and by the Courts of the State of New York.

Please contact the Planning & Zoning Office for questions and application materials.

Call 315-446-3910 x3 or go to: www.townofdewitt.com

Thank you.

P&Z _____

APPLICATION

DATE FILED _____

SOCPA _____

TO THE TOWN OF DEWITT

DISTRIBUTION _____

ZONING BOARD OF APPEALS

1. Name of Applicant: _____

Applicant's address _____

City/State/Zip _____

Title: _____ Email: _____ Ph# _____

2. Project Address: _____

City/State/Zip _____

3. Property Owner's Name: _____ Ph#: _____

4. Prop. Owner's Address /City/ST/Zip: _____

5. Property Owner's Email: _____

6. Tax Map No.: _____ - _____ - _____ Zoning District: _____ Total Lot Area: _____

7. Licensed Designer: _____ Email: _____ Ph# _____

8. Attorney: _____ Email: _____ Ph# _____

9. Existing Land Use: _____

10. Is property in floodplain? Yes No In Wetlands? Yes No

11. SPECIFY Section(s) of Zoning Code for which Application is made:

Area Variance Use Variance Specific Use Permit Interpretation

12. Brief Project Description & Other Pertinent Information:

13. IF AREA VARIANCE, SPECIFY dimensions, measurements or other requirement for which relief is sought in chart below: (Add additional sheets if necessary)

ZONING CODE SPECIFIES	ZONING CODE §	PROPOSAL CALLS FOR	VARIANCE SOUGHT IS:
A)			
B)			
C)			

14. For **AREA VARIANCE(S)**:

The applicant shall **respond in writing to all** of the following criteria. The ZBA in determining whether to grant the variance(s) will apply a balancing test of the following five (5) criteria:

(a) 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 **Yes/No and state why**; Applicant response: _____

(b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance **Yes/No and state why**; Applicant response: _____

(c) whether the requested area variance is substantial **Yes/No and state why**; Applicant response: _____

(d) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district **Yes/No and state why**; Applicant response: _____

(e) and whether the alleged difficulty was self-created, which consideration shall be relevant to the ZBA decision, but shall not necessarily preclude the granting of the area variance **Yes/No and state why**. Applicant response: _____

15. If applying for:

A) a **USE VARIANCE**, please attach a **USE VARIANCE ADDENDUM**.

B) a **SPECIFIC USE PERMIT**, please attach a **SPECIFIC USE PERMIT ADDENDUM**.

C) an **INTERPRETATION**, please attach on additional sheet(s) basis for request.

16. **REQUIRED ACKNOWLEDGEMENTS:** (Please initial and sign where indicated)

_____ I have received and read the Hearing Guide of the ZBA attached hereto and am aware of the recommendations and requirements contained therein.

_____ I understand that it is my responsibility to present legal proofs as described in the NY State Town Law and the DeWitt Zoning Code as outlined in the Hearing Guide so that the Board may make an informed decision.

Signature of Owner
REQUIRED

Date

Signature of Applicant
REQUIRED

Date

617.20
Appendix B
Short Environmental Assessment Form

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information				
Name of Action or Project:				
Project Location (describe, and attach a location map):				
Brief Description of Proposed Action:				
Name of Applicant or Sponsor:		Telephone:		
		E-Mail:		
Address:				
City/PO:		State:	Zip Code:	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO	YES
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			NO	YES
3.a. Total acreage of the site of the proposed action? _____ acres				
b. Total acreage to be physically disturbed? _____ acres				
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, adjoining and near the proposed action.				
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)				
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____				
<input type="checkbox"/> Parkland				

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
b. Consistent with the adopted comprehensive plan?			
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ _____	NO	YES	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation service(s) available at or near the site of the proposed action?			
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?			
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
10. Will the proposed action connect to an existing public/private water supply? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing potable water: _____ _____	NO	YES	
11. Will the proposed action connect to existing wastewater utilities? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO	YES	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES	
16. Is the project site located in the 100 year flood plain?	NO	YES	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <input type="checkbox"/> NO <input type="checkbox"/> YES _____ _____	NO	YES	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?		
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?		
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

_____	_____
Name of Lead Agency	Date
_____	_____
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
_____	_____
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)