

TOWN OF SOUTHAMPTON

**Department of Land Management
Zoning Board of Appeals**
116 HAMPTON ROAD
SOUTHAMPTON, NY 11968



ADAM GROSSMAN
CHAIRPERSON

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JAY SCHNEIDERMAN
TOWN SUPERVISOR

TOWN OF SOUTHAMPTON ZONING BOARD OF APPEALS INSTRUCTIONS

Filing Fee of \$750.00 must be presented with the application, payable to the Town of Southampton. If applying for relief from the Coastal Erosion Hazard Area (Chapter 138) a fee of \$1,000.00 is required. Fees will be doubled for an application requesting relief for any building, structure or use existing without the benefit a Building Permit, Certificate of Occupancy or Certificate of Compliance issued by the Town of Southampton Building and Zoning Division.

Filing fees are NON-REFUNDABLE (See attached fee schedule for all other fees).

APPLICATIONS ALONG WITH RELATED DOCUMENTS MUST BE COLLATED INTO PACKETS

1. Original and ten (10) copies of application. (pages 1-5)
2. Original (**must have original signatures and original notary stamps**) and ten (10) copies of certification form, owner's endorsement and Open Government disclosure affidavit (pages 6-10) signed by the owner.

Note: If the owner is a Corporation or Company, submit two (2) copies of Corporation/Company documentation or an original + one (1) copy of an attorney opinion letter to verify the authorization of the person(s) signing this application.

3. Original (**must have original signatures and original notary stamps**) and ten (10) copies certification form, and Open Government disclosure affidavit (pages 6 and 8-10) signed by the applicant (if not the owner), agent, attorney or any other representative for the owner.
4. Eleven (11) copies of the deed, lease or contract, and/or other information.
5. Original and ten (10) copies of a certified abstract of single and separate ownerships for variances regarding undersized lots (dated within 6 months - 1 year). Undersized lots must also submit information required by Southampton Town Code §330-167(H) and (I), where applicable.
6. Eleven (11) copies of a New York State Department of Environmental Conservation permit or letter of non-jurisdiction if property is within 300 feet of tidal waters.

7. Two (2) original, and Nine (9) photocopies of up-to-date surveys (dated within 6 months – 1 year) showing all buildings, structures (including, but not limited to roof overhangs) that currently exist and/or are proposed on the property, and setbacks from all property line of the same. The survey must also include the following as may be applicable: flood zone elevations, clearing calculations, wetlands boundaries, percentage of existing and proposed rear yard coverage, existing and proposed total lot coverage, percentage of proposed lot coverage and the 3/10th – 4/10th calculations. These coverages must be calculated by your surveyor and must appear on the current survey. Survey must also show setbacks for all existing and proposed structures and additions. If relief is requested for additional parking spaces, all parking areas must be depicted on the survey with dimensions for each space. (If you are inclined to submit a site-plan from an architect (rather than submit a survey), the site-plan must indicate the name and last revision date of the survey used to create the site plan. Copies of said survey must also be submitted with the application. Two (2) original, and Nine (9) photocopies of the site-plan (dated within 6 months – 1 year) is required and must indicate the same information as stated above.
8. If you are seeking a variance for height/pyramid relief please include two (2) (full-size, to-scale) original and (9) copies (11” x 17”) vertical cross-section diagrams of the building/structure showing areas exceeding the Pyramid Law requirements. (See information below) **Please have a licensed architect calculate the amount of square footage (existing and proposed (as may be applicable)) penetrating the pyramid, as well as a volume (cubic feet) calculation. Diagrams must be sealed, signed and dated by the licensed architect.**

Pyramid Law formula for buildings and structures located in the “X” Flood Zone or “0.2% Chance” Flood Zone

The volume of pyramid encroachment shall be provided using the accepted method of determining compliance as follows: As directed by the Chief Building Inspector, the method of determining both the height of a structure and the method of delineating the sky plane from each lot line is as follows: a) Determine the average natural grade elevation prior to disturbance (using NAVD 1988), by indicating spot elevations taken at the corners along the side of the facade wall of the BUILDING/STRUCTURE adjacent to the nearest street on the survey and, b) The architect (or NYS licensed design professional) shall calculate the average using the spot elevations as stated and draw the pyramid line from all property lines using the grade plane as applied to the subject structure(s) on the lot. (Note: This average elevation and the setbacks from the property line must be indicated on the pyramid drawing.) This method will establish a grade plane and form the basis for calculating the volume of encroachment. The applicant shall submit this information in order to verify the accuracy of the diagram and pyramid calculations.

Note: See Town Code §330-84D(2) for buildings and structures in any AE or VE Zone as shown on the applicable Floor Insurance Rate Map

9. If property has any improvements, eleven (11) copies of the Certificate of Occupancy, Certificate of Compliance and copies of any open Building Permits for all on site structures will be required.
10. If any previous Variance applications or appeals have been made with the respect to this property, please provide Eleven (11) copies of determination/decision.

11. Two sets of building (floor) plans. Plans must include elevations (N, S, E, W) and the height of the buildings/structures. **Plans must be sealed, signed and dated by a licensed professional.**
12. If the property is located within 500 feet of water, or listed on the Town wetlands inventory, please submit the original and thirteen (13) copies of the entire application package.
13. If the property has a commercial use or you are requesting to subdivide a parcel, please submit the original and twelve (12) copies of the entire application package
14. If the application is for relief from the Coastal Erosion Hazard Area (Chapter 138 of the Town Code), please submit the original and seventeen (17) copies of the entire application package. The application will be referred to the Town Board, the Coastal Erosion Administrator, Town Chief Environmental Analyst, Deputy Town Attorney, Suffolk County Planning Commission, Town Trustees and the NYS Department of Environmental Conservation.
15. If the application is for relief from Town Code §330-46 (Coastal erosion management permit required; effect on zoning regulations) please submit the original and twelve (12) copies of the entire application package. The application will be referred to the (Coastal Erosion Administrator).

DIRECTIONS

Answer ALL questions on the enclosed application form excluding the application number.

1. Applications must be **typewritten or neatly printed in blue or black ink**, and submitted with one **(1) set of original documents and ten (10) copies** (total of 11) of the same in packet form to include the following in each packet:
 - I. Application and certificate or owners' endorsement form;
 - II. Property deed;
 - III. Surveys, showing all details in connection with this application and prepared by a licensed surveyor;
 - IV. Certificate of Occupancy for the original dwelling/building and certificates of compliance for all accessory structures; and
 - V. All other required documentation as applies (see cover page).

NOTES:

- Upon notification of a hearing date, you will be required to mail all abutting neighbors a copy of pages 1-6 of your application (including addendum, memo of support, etc. – if applicable) and survey. Please retain a copy of each.
- **All additional documentation/submittals (pictures, correspondence, copy of tax maps, etc. - including those being submitted during the public hearing) MUST indicate the owner(s) name and SCTM# of the subject application.**

VARIANCES

One of the basic powers given by law to a Zoning Board of Appeals is called the “Variance” power. The Board has the authority to “vary” or modify the strict letter of a zoning ordinance or local law under certain circumstances. Appeals Boards are frequently confronted with requests for variances. There are two types of requests that come before the Board and the standards by which they are judged differ. A use variance is a request to utilize property for a use or activity which is not permitted by the zoning ordinance and the applicant must demonstrate “unnecessary hardship”. An area variance is a request for relief from dimensional standards contained in the zoning ordinance and takes into consideration the benefit to the applicant weighed against the detriment to the health, safety, and welfare of the neighborhood.

USE VARIANCE

An individual who wants to utilize property for a use that is not permitted by the zoning ordinance must apply for a use variance. An application for a use variance must demonstrate unnecessary hardship by satisfying each of the following four tests:

1. Uniqueness - The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone *and* that these features make it impossible to earn a reasonable return without some adjustment. If the features or conditions are generally applicable throughout the district a variance should not be granted. In those situations, where the difficulty is shared by others, the relief should be accomplished by an amendment to the zoning ordinance, not a variance.
2. Reasonable Return – The applicant must demonstrate an inability to realize a reasonable return under any of the uses permitted by the zoning ordinance. There must be a “dollar and cents” proof of the applicant’s inability to realize reasonable return; speculation of qualitative assessment is inadequate. Failure to realize the highest return is not considered a hardship.
3. Character – The applicant must prove that the requested modification will not change the character or quality of the neighborhood. In addition, the “spirit” of the ordinance or local law should be preserved.
4. Self-Created Hardship – The applicant must prove that the alleged hardship is not self-created.

The applicant for a use variance must meet all four tests before the Appeals Board may grant relief. A use variance should not be granted if the “unnecessary hardship” was created by the applicant. If the Appeals Board grants a use variance to an applicant who has failed to meet each of the tests, it runs the risk of assuming the function of the legislative body and making a decision contrary to the legislative intent of the zoning ordinance.

SINGLE AND SEPARATE DETERMINATION

Town Code §330-115D (Continuance) provides relief to nonconforming lots so long as the subject property has been held in single and separate ownership as demonstrated by an abstract of title showing the changes of title to subject lot. If such an abstract indicates a period of common ownership, the Zoning Board of Appeals has the power to determine single and separate status of the subject property based upon evidence provided at a public hearing.

AREA VARIANCE

The Zoning Board of Appeals shall have the power, upon an appeal from a decision of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

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, 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 other 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.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not preclude the granting of the area variance.

The Appeals Board should grant the minimum relief necessary to allow reasonable use of the land in question. An applicant is not automatically entitled to receive relief.

SUMMARY

The major difference between a use variance and an area variance involves the use of the property. An area variance results in a modification of physical restrictions so that an allowable use may be established on the property. By contrast, a use variance permits the establishment of a use which is prohibited by the zoning ordinance and the zoning map. It is for this reason that the standards established for an area variance.

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BOARD MEMBERS
KEITH TUTHILL
HELENE BURGESS
CORNELIUS KELLY
MICHAEL DALY
JASON HANN

BOARD OF APPEALS APPLICATION Town of Southampton, New York

Application Number _____

SCTM# 473689 (900) - _____ - _____ - _____ - _____

Parcel Location:

House Number	Street	Hamlet
_____	_____	_____

1. _____
Applicant

Address	Telephone Number
_____	_____

E-Mail Address

NOTE: If applicant is not the owner, state whether applicant is owners' attorney, agent, architect, builder, consultant, general contractor etc.

2. _____
Owner

Address	Telephone Number
_____	_____

E-Mail Address

3. _____
Attorney (If Applicable)

Address	Telephone Number
_____	_____

E-Mail Address

4. _____
Surveyor

Address	Telephone Number
_____	_____

Please specify whom you wish correspondence to be mailed to from the above names listed.

Applicant Owner Attorney Surveyor

5. C.O. Number _____ Flood Zone _____
Current Zoning District _____ Parcel Size _____ square feet

Subdivision Name, Date and Lot No.

6. An Application is hereby made for:

- An appeal from the Building Inspectors determination (330-165 A & B)
- An area variance
- A use variance
- Other _____

7. The applicable provisions of the Zoning Ordinance from which relief is sought are:

Article § 330 - _____ Article § 330 - _____
 Article § 330 - _____ Article § 330 - _____
 Article § 330 - _____ Article § 330 - _____
 Article § 330 - _____ Article § 330 - _____
 Chapter 138- _____ (if relief is requested from this Chapter, applicant must address the
 criteria for variances set forth in Town Code §138-22).

8. Have any previous Variance applications or appeals been made with the respect to this property? If so, give date and name of each application.

9. Is the property in separate ownership from all adjoining properties?

- Conforming Lot
- Yes If yes, since what date? _____
- No If no, which adjoining property is held by the same owner?

10. Pursuant to the State Environmental Quality Review Act (“SEQRA”), 6 NYCRR 617 et seq., is the proposed action a Type I, Type II, or unlisted? (See SEQRA classifications attached – pgs. 16-22)

Note: Part I of an Environmental Assessment Long Form must be submitted for all Type I Actions and an Environmental Assessment Short Form Part I must be submitted for all Unlisted Actions.

15. Will the grant of the variance(s) cause an undesirable change in the character of the neighborhood or will it create a detriment to nearby properties? If not, please explain.

16. Can the benefits sought be feasibly achieved by some method other than an area variance? Please explain.

17. Will the variance(s) sought be substantial and if not, why not?

18. Will the grant of the variance(s) have an adverse effect or impact on the physical or environmental conditions in the neighborhood or in the affected area of the Town? Please explain.

19. What reasons lead you to the request of this variance rather than to comply with the Town Code?

20. Were all permits and/or Certificates acquired from the Building Department for this building, structure and/or use?

21. Are there any filed Covenants & Restrictions on the property? _____
(If so, please provide a copy)

CERTIFICATION

Town of Southampton Zoning Board of Appeals Application of _____

**STATE OF NEW YORK)
COUNTY OF SUFFOLK) ss:**

_____, being by me duly sworn, deposes and says:

1. I am interested in an application for a variance or special exception now pending before the Southampton Zoning Board of Appeals.

2. I _____ reside at _____

3. The nature of my interest in the aforesaid application is as follows:

If applicant or owner is a corporation, list officers:

President _____ Secretary _____

Vice Pres. _____ Treasurer _____

Do any of the following individuals have an interest as defined below in the owner or applicant:

- A. Any New York State officer, or
- B. Any officer or employee of Southampton Town or Suffolk County.

For the purpose of this disclosure an officer or employee shall be deemed to have an interest in the owner or applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:

- a. Is the applicant or owner, or
- b. Is an officer, director, partner, or employee of the applicant or owner, or
- c. Legally or beneficially owns or controls stock of a corporate applicant or owner, or is a member of a partnership or association applicant or owner, or
- d. Is a party to an agreement with such an applicant or owner, express or implied, whereby he may receive any payment or other benefit, whether or not for services rendered dependent or contingent upon the favorable approval of such application.

A person who knowingly and intentionally fails to make such disclosure shall be guilty of a misdemeanor as provided in General Municipal Law, Section 809.

Yes No If yes, state the residence and nature and extent of the interest of such individual.

Name _____ Residence _____

Sworn before me this

_____ day of _____ 20 _____ Signature of Applicant _____

5. During the 24 months before the filing of this application, have any of the following individuals made campaign contributions exceeding \$500 in total, in cash or in kind, to the campaign for public office of any Town officer or employee, to any individual campaign committee, or to any political party committee designated to accept donations on such Town official's or employee's behalf as a candidate for public office?

	<u>Yes</u>	<u>No</u>
1. Owner	<input type="checkbox"/>	<input type="checkbox"/>
2. Applicant	<input type="checkbox"/>	<input type="checkbox"/>
3. Agent for owner or applicant	<input type="checkbox"/>	<input type="checkbox"/>
4. Attorney	<input type="checkbox"/>	<input type="checkbox"/>
5. Other	<input type="checkbox"/>	<input type="checkbox"/>

If the answer to Question 5 is yes, Town Code Chapter 23 requires that the information be provided below:

<u>Name/Address</u>	<u>Amount/Date</u>	<u>Name of Campaign Committee</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. During the preceding 24 months before the filing of this application, have any of the following individuals employed any Town officer or employee or a relative thereof involving compensation in an amount of \$500 or more? Said compensation may be directly made, or indirectly made through a corporation or business interest held by any Town officer or employee or their relative.

	<u>Yes</u>	<u>No</u>
1. Owner	<input type="checkbox"/>	<input type="checkbox"/>
2. Applicant	<input type="checkbox"/>	<input type="checkbox"/>
3. Agent for owner or applicant	<input type="checkbox"/>	<input type="checkbox"/>
4. Attorney	<input type="checkbox"/>	<input type="checkbox"/>
5. Other	<input type="checkbox"/>	<input type="checkbox"/>

If the answer to Question 6 is yes, Town Code [Chapter 23](#) requires that the information be provided below:

<u>Name</u>	<u>Position</u> (Owner, Agent, Attorney, Other)	<u>Corporation</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

READ AND CHECK BOX

False statements made herein are punishable as a class "A" Misdemeanor pursuant to Section 210.45 of the New York State Penal Law.

A. For the purposes of this disclosure, an official of the State of New York or an elected or appointed official or employee of the Town of Southampton shall be deemed to have an interest in the owner and/or applicant when that official or employee, their spouse, brothers, sisters, parents, children, grandchildren or the spouse of any of them is:

- a. the owner or applicant; or
- b. an officer, director, partner, or employee of the applicant or owner; or
- c. Legally or beneficially owns or controls stock of a corporate applicant or owner, or is a member of a partnership or association applicant or owner; or
- d. Is a party to an agreement with the applicant or owner, express or implied, whereby said official or employee may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York Stock or American Stock Exchange shall not constitute an interest for the purposes of this disclosure.

Submitted by (please print): _____