



Town of Marbletown

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Variance Application Packet

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Please review the information in this packet and Chapter 200 of the Town of Marbletown Code thoroughly.

All Applications must be completed and dropped off to Secretary 2 weeks before the meeting by 4:00PM to be placed on the following agenda.

**TOWN OF MARBLETOWN ZONING BOARD OF APPEALS
ULSTER COUNTY, NEW YORK**

Application # _____
Date Filed: _____
Fee Paid: _____
Area: _____ Use: _____

Area and Use Variance Application

1. Name of Project: _____

2. Property owner: _____
Address: _____

Primary Phone: () _____ Cell Phone: () _____
Email Address: _____

3. Applicant Name (if other than owner): _____
Address: _____

Primary Phone: () _____ Cell Phone: () _____
Email Address: _____

4. Site Location: _____
Tax Map Section: _____ Block _____ Lot _____
Zoning District: (Circle one) A A-1 R-1 R-2A B1 B2 I1
Total Acreage of Parcel(s): _____

5. This project is (check one):
 () Expansion of Use () Change of use () New Construction

6. Description of current use and facilities (buildings, use, other facilities, vacant land, etc.): _____

7. Describe current use(s) of all contiguous parcels (Include all types, *Vacant Land, Residential, Commercial, Agricultural, Industrial, etc.*): _____

8. Description of proposed use and facilities of parcel (If more space is needed please use a separate piece of paper): _____

9. Will this project require permits or approval from any Federal, State or County agencies? _____ If yes, please list the names: _____

10. Is the project contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places: _____ If yes, name: _____

11. On a separate sheet of paper please answer the criteria for a variance listed in Section 200-74 Variances and in this packet.

12. Surveyor/Engineer/Attorney/Architect

Name: _____

Address: _____

Telephone: () _____ Cell Phone: () _____

Email: _____

Applicant states the he/she is the owner or authorized agent of the owner for which the foregoing work is proposed to be done, and that he/she is duly authorized to perform such work, and that all work will be performed in accordance with all applicable State, County, and Local Ordinances.

Signature of Applicant

Date

If any agent is representing an applicant and/or property owner, a signed letter by the applicant and/or property owner authorizing the named individual to act as his/her agent must accompany the application.

If applicant is not the property owner, a signed letter by property owners authorizing named individual to act as his/her agent must accompany the application.

A Pre-Application meeting may be requested or required by applicant or the Board.

Forms and Submittals – Required with submission

- Code Review Form – Code Enforcement Office
- Application
- Fee
- SEQRA Environmental Assessment Form (Short EAF Part 1 only)
<http://www.dec.ny.gov/eafmapper/>
- Written Narrative detailing planned uses and existing uses to be retained
- Letter Authorizing Representative Powers
- A sketch plan drawn to scale or site plan
- Aerial Photos <https://ulstercountyny.gov/maps/parcel-viewer/>
- If your parcel is in the B-1, S-R or B-2 Zoning Districts, please complete the Design Guidelines Packet.

Forms and Submittals – May be required with submission for some reviews

- Deed and Easements
- Existing or proposed other agency Permits/Applications
- Ag Data Statement

Site Plan Checklist (Legal Data)

- Name and Address of applicant(s)
- Name and Address of owner(s)
- Name and Address of person or firm preparing the plan and map
- Address, SBL, and Deed Liber Identification of parcel
- Zoning Classification of property, including exact zoning boundary if in more than one district
- North Arrow, Scale, Plan Date and Revision Dates
- Location/Area Insert Map
- Total Acreage of entire parcel
- Total acreage of area proposed for development
- Table of Required Development Standards for Zoning District – Proposed/Existing Relationship
- Plan Reference Sources and Plan Notes
- Certification of Plan
- Approval Signature Block

Area Variance Criteria: 200-74

In making its determination regarding a request for an area variance, the Board 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.

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

(b) The Board, when granting an area variance, shall grant the minimum variance that it shall deem necessary and adequate to alleviate the difficulty shown by the applicant and that also will preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Use Variance Criteria: 200-74

If a use variance is granted, the applicant shall obtain site plan review approval from the Planning Board prior to commencing the use and prior to obtaining a building permit.

No use variance shall be granted unless, in addition to satisfying all other applicable provisions of law and this chapter, the Board of Appeals finds that otherwise applicable zoning regulations and restrictions have caused unnecessary hardship.

[1] Unnecessary hardship. In order to prove such unnecessary hardship the applicant is required to clearly demonstrate to the Board of Appeals that, with respect to every permitted use under the zoning regulations for the particular district where the property is located, each and every of the following four criteria is satisfied:

[a] The applicant cannot realize a reasonable return on the entire parcel of property, and such 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 involved;

[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.

(c) The Board of Appeals, in the granting of use variances, shall grant only the minimum variance that it shall deem necessary and adequate to allow an economically beneficial use of the property, and at the same time preserve and protect the essential character of the neighborhood and the health, safety and welfare of the community.

(d) The Board of Appeals, in the granting of use variances, shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed project. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such use variance may have on the neighborhood or community. Such conditions may include, but are not limited to, landscaping, lighting, access and egress, signs, screening, architectural features, location and layout of buildings, limitations upon the use or characteristics of the use which are reasonably related to the public health, safety and general welfare and as may be necessary to carry out the intent of this chapter. If the applicant refuses to accept such requirements and conditions, the use variance shall be denied.

Application Referrals

The Zoning Board of Appeals may be required by law to refer your application to outside agencies for review when specific conditions apply. The most common of these are detailed below. Additionally, the Zoning Board of Appeals may refer your application to interested and/or involved agencies for review, comment and/or further information on items particular to your applications.

Town Planner or Engineer:

In accordance with the Town of Marbletown Code, any application received by the Town of Marbletown Zoning Board of Appeals may be referred for professional review and an escrow account established.

The Zoning Board of Appeals shall review applications and shall authorize professional referral by resolution.

The applicant is responsible for the fees associated with the Planner and/or Engineer through an Escrow Account.

Ulster County Planning Board:

In accordance with New York State General Municipal Law sections 239-M and 239-N, the Zoning Board of Appeals is required to refer your application to the Ulster County Planning Board for recommendations upon meeting certain thresholds as follows:

Within 500 feet of:

- The boundary of any City, Village or Town
- The boundary of any existing or proposed county or state park or any other recreational area
- The right of way of any existing or proposed county or state parkway, thruway, expressway, road or highway
- The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated
- The boundary of a farm operation located in an agricultural district, defined by article 25-AA of the Agriculture and Markets Law.

In accordance with Ulster County Charter Sections C-51- A and B the Zoning Board of Appeals may be required to refer your application to the Ulster County Planning Board for recommendations.

Some examples of other involved/interested agencies

(This list is not meant to be all inclusive but rather to illustrate the types of agencies which might be contacted for information and comment)

- Army Corps of Engineers
- NYS Department of Environmental Conservation (DEC)
- NYS Department of Transportation (DOT)
- NYS Office of Parks, Recreation and Historic Preservation (SHPO)
- NYS Agriculture and Markets
- Ulster County Board of Health
- Ulster County Department of Public Works
- Local Fire Districts
- Town of Marbletown Highway Department
- Town of Marbletown Environmental Conservation Commission
- Town of Marbletown Historic Preservation Committee