City of Binghamton Planning Department

Zoning Board of Appeals Application

Dear Applicant,

Please review the following memo regarding the planning approval process. It is recommended that applicants review the Zoning Ordinance to ensure compliance and to facilitate the application. The Ordinance may be viewed by on the City's Website, www.binghamton-ny.gov.

1. Prior to submitting an application it is recommended that the applicant attend a Tuesday afternoon pre-development meeting to discuss the project with City Staff. Applicants may schedule an appointment by calling the Planning Department at (607) 772-7028.
   The purpose of the pre-development meeting is to address technical issues, to identify potential concerns, to consider other involved or interested agencies (*e.g*. Broome County Planning Department, NYSDOT, NYSDEC, other City Boards/Commissions, etc.) and to review information likely to be necessary to refer the application to the appropriate City Board or Commission.
2. The deadline for application submittal, including all required documentation, is the first Wednesday of each month. This will place your application on the following month's meeting agenda. The Zoning Board of Appeals meets the first Monday of each month at 5:15pm and the Planning Commission meets on the second Monday of each month at 5:15pm.
3. Once the application is received, a Planning Department staff member will be assigned to review the application material. The staff member will then contact the applicant to open communication and to answer any questions the applicant may have. Staff may request any additional information, material, or documentation as deemed necessary.
4. Once the staff member is satisfied that all material has been submitted, they will write a staff report including all relevant information necessary for review of the application. This will be delivered to board members approximately 10 days prior to the meeting. The staff report can be made available to the applicant upon request.
5. If the subject property is within 500 feet of a municipal boundary, a County or State road, a County or State park or recreation area, a State or County owned facility, or the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, then staff will file a 239 L, M, and N request with the Broome County Planning Department for comment. The County reserves the right to 30 days to respond to the request. The County's comments will be delivered to the applicant when they are received.
6. Approximately ten (10) days prior to a scheduled public hearing, Planning Department staff will execute legal notice. Staff will submit legal notice to the Press and Sun Bulletin, which will be published for one day in print 7 days prior to the public hearing. Staff will also mail all landowners within 200 feet of the subject parcel(s). Lastly, staff will prepare public notice signs. The applicant is responsible for paying all public notice fees and for posting the public notice sign on the property for 7 days prior to the public hearing.
7. At the public meeting, the applicant or their designee should appear to present information on the proposal and to answer any questions. This is not strictly required, however the City reserves the right to review or to table review of any application where the applicant is not in attendance.
8. A. Complete applications for the Zoning Board of Appeals will be set for immediate public hearing at the first available meeting.
   B. Complete applications for the Planning Commission generally take two meetings to complete review. Some minor projects may be reviewed in one meeting.
9. Within ten (10) days of a final decision, the official decision letter will be filed with the City Clerk. Staff will then email and/or mail a copy of the official decision letter to the applicant.

Any questions may be directed to the Planning Department at (607) 772-7028.

Planning Department • City Hall • 38 Hawley St • Binghamton, NY 13901

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Zoning Board of Appeals Application

Procedural Guidelines

Area Variances

In granting an area variance, the Zoning Board of Appeals must weigh the benefit to the applicant if the variance is granted against the detriment to the health, safety, and welfare of the neighborhood or community by such a grant. The following must also be considered:

(a). ***Undesirable change***: Whether an undesirable change will be produced in the character of the neighborhood, or whether a detriment to nearby properties will be created;

(b). ***Reasonable alternative***: Whether the Applicant can achieve his goals via a reasonable alternative that does not involve the necessity of an area variance;

(c). ***Substantial request***: Whether the variance requested is substantial;

(d). ***Physical and Environmental Conditions***: Whether the requested variance will have an adverse impact on the physical or environmental conditions in the neighborhood or district;

(e). ***Self-created hardship***: Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Use Variances

In granting a use variance, the Zoning Board of Appeals must find the applicant has adequately demonstrated all of the following:

(a). ***Economic deprivation***: That under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question. Deprivation must be established by competent financial evidence;

(b). ***Unique circumstances***: That the alleged hardship for the property is unique and does not apply to a substantial portion of the district or neighborhood;

(c). ***Neighborhood character***: That granting the variance will be in harmony with the spirit and intent of this ordinance and will not alter the essential character or quality of the neighborhood, endanger public health or safety, or substantially diminish or impair property values in the neighborhood.

(d). ***Self-created hardship***: That the alleged hardship has not been self-created.

**** In granting a variance, the Zoning Board of Appeals shall grant the minimum variance that is deemed necessary and adequate. The Board should strive to preserve and protect the character of our neighborhoods as well as the health, safety, and welfare of our community at large****

City of Binghamton Planning Department

Zoning Board of Appeals Application

Zoning Board of Appeals Application Checklist	
	1. Application Fee (see fee schedule below). 2. One (1) complete copy of this application. 3. One (1) complete copy of an EAF (short-form or long-form as identified by staff). 4. One (1) copy of a full size site plan (see attached checklist). 5. One (1) copy of a scaled site plan (11" x 17"). *See next page.* 6. One (1) copy of a scaled floor plan. 7. Digital files of all plans, drawing, graphics, and any other relevant material delivered electronically to Planning Department Staff via email. ***Applications will not be processed until all required items are submitted. Additional copies may be requested.***

Application Fee Schedule

Area Variance

- One and two unit residential lots: $75.00
- Multiple-unit (3+) residential, commercial or industrial lots: $100.00

Use Variance

- $250.00

Expansion of a Non-Conforming Use

- Lot(s) under 2,500 square feet: $100.00
- Lot(s) over 2,500 square feet: $100.00 plus $.03 for every square foot over 2,500 square feet ($2500 max.)

Request for an Interpretation/Appeal $100.00

Public Notice Fee Schedule

Approximately 10 days prior to the public hearing, Planning Department staff will issue all necessary legal notices. The applicant is responsible for paying any applicable fees and is responsible for posting public notice sign on the property. Fees are as follows:

- **Legal Notice (printed in the Press & Sun Bulletin)** $50.00
- **Mailings** $2.00 per mailing
- **Signs** $50.00 per sign ($40.00 reimbursement upon return of sign)

City of Binghamton Planning Department

Zoning Board of Appeals Application

Site Plan Checklist					
Plan Component	**For plans involving existing building (s)**	**For plans involving new construction**	**For plans involving a parking area**	**For plans involving landscaping**	**For plans involving site grading**
Acceptable scale: ¼”=1’; 3/16” = 1’; 1/8” = 1’; 1” = 10’: 1” = 20’; 1” = 30’	**X**	**X**	**X**	**X**	**X**
Bulk table. Including all setbacks, lot coverage (%) and building height	**X**	**X**	**X**	**X**	**X**
Elevations (architectural renderings)		**X**			
Existing and proposed structures	**X**	**X**	**X**	**X**	**X**
Gross floor area of each land use	**X**	**X**			
Instrument Survey, including public rights-of-way and easements		**X**	**X**		**X**
Structures on adjacent properties	**X**	**X**	**X**	**X**	**X**
Parking layout including drive aisles	**X**	**X**	**X**		
Existing and proposed driveways, curbing, and curb cuts	**X**	**X**	**X**		
Snow storage for parking areas	**X**	**X**	**X**		
Bicycle parking		**X**	**X**		
Existing and proposed lighting	**X**	**X**	**X**		
Existing topography and proposed grading		**X**	**X**		**X**
Existing and proposed signage	**X**	**X**			
Property lines of all parcels in project site	**X**	**X**	**X**	**X**	**X**
Trash storage	**X**	**X**			
Proposed landscaping and fencing	**X**	**X**	**X**	**X**	**X**
Urban Runoff Reduction Plan (URRP)	*Please discuss with Planning Department staff.*				
Storm Water Pollution Prevention Plan (SWPPP)					

City of Binghamton Planning Department

Zoning Board of Appeals Application

1. Property/Project Location Information:

Address of Property: _____ Tax Map #: _____

Dimensions: Frontage_____ ft. Depth _____ft. Square Footage: _____sf

Zoning District: _____

2. Application for (check all that apply):

_____ Area Variance

_____ Use Variance

_____ Interpretation/ Appeal

_____ Expansion of a Non-Conforming Use

3. Applicant: _____

Address: _____
(Street) (City) (State) (Zip)
Telephone: _____ Email: _____

Applicant's relationship to property: _____ _____

4. Property Owner: _____

Address: _____
(Street) (City) (State) (Zip)
Telephone: _____ Email: _____

5. Contact Person: _____

Address: _____
(Street) (City) (State) (Zip)
Telephone: _____ Email: _____

6. Engineer/Architect: _____

Address: _____
(Street) (City) (State) (Zip)
Telephone: _____ Email: _____

7. Attorney: _____

Address: _____
(Street) (City) (State) (Zip)
Telephone: _____ Email: _____

City of Binghamton Planning Department
Zoning Board of Appeals Application

8. Please provide a description of the project:

9. For commercial establishments, please complete the following:

		Existing	Proposed
a)	Number of customers per day:	_____	_____
b)	Number of employees:	_____	_____
c)	Hours of operation:	_____	_____
d)	Days of operation:	_____	_____
e)	Hours of deliveries:	_____	_____
f)	Frequency of deliveries (check one):		

Less than once a month Monthly
Biweekly Weekly
Several times a week Daily

10. Is the site currently serviced by water, sanitary, and storm sewer lines? Yes No
If serviced, are the lines large enough to accommodate the water and sewer needs of your proposed use? Yes No
If water and sewer lines are not present, how will they be provided?

11. Is the site within the 100-year floodplain? Yes No
If yes, a floodplain development permit is required.

12. Is the site within a Historic District? Yes No
If yes, design review from the Commission on Architecture and Design is required.

13. Is the site within the boundaries of the Local Waterfront Revitalization Program? Yes No
If yes, Waterfront Advisory Committee Review is required.

14. Involved and Interested Agencies:
Other than the Building & Construction Department of the City of Binghamton, list all other agencies from which a permit or approval will be required for this project:

_____ City Council (specify_____)
_____ Broome County (specify_____)
_____ NYS Department of Environmental Conservation (specify_____)
_____ NYS Department of Transportation (specify_____)
_____ CAUD (specify_____)
_____ Other (specify_____)

15. Did you do something to your property to cause the need for this variance (i.e. previous activities such as grading, excavation, additions, or improvements)?

16. Why can't the location, dimensions, or other size factors be reduced or modified to minimize the variance(s) requested?

17. For <u>area variance</u> applications please answer the following questions:

a) Please describe how the proposed project will positively impact the character of the neighborhood and why it will not be a detriment to nearby properties.

b) Please describe why the proposed project cannot be achieved without an area variance(s).

c) Please describe why you feel the proposed project is not substantial in nature.

d) Please describe any changes to the physical or environmental conditions in the neighborhood which may result from the proposed project.

City of Binghamton Planning Department

Zoning Board of Appeals Application

18. For <u>use variance</u> applications please answer the following questions to show that the current property owner is being deprived of all economic use or benefit from the property in question under the applicable zoning regulations. The deprivation must be established by competent financial evidence.

a) Estimated cost of the proposed improvements/alterations to the property that necessitates the variance(s)? $_____

b) How was this estimate determined? _____

c) When was the property purchased? _____

d) What was the purchase price for the property? _____

e) What is the present value of the property? If a professional appraisal has been done of the property, what is the appraised value? _____

f) What are the monthly/annual expenses for the property?

1. Monthly mortgage: $_____
2. Monthly heat/electric: $_____
3. Monthly sewer/water: $_____
4. Yearly taxes: $_____
5. Yearly insurance: $_____
6. Other: $_____

g) Amount of outstanding debts against the property per month? $ _____

h) How much income is generated from the property per month: $_____

i) What is the nature of this income (rent, sales, etc.)? _____

j) Is your property currently for sale? Yes No (If No, please continue with question k)

1. How long has the property been for sale? _____
2. How has it been advertised? _____
3. How many offers have been made for the property and for how much?

   _____
4. Is the property listed with a realtor? Yes No

   If Yes, please name the realtor: _____

k) Have you previously tried to sell your property? Yes No

1. How much were you asking for the property? _____
2. How long was the property for sale? _____
3. How was it advertised? _____
4. How many offers were made for the property and for how much? _____
5. Was the property listed with a realtor? Yes No

   If Yes, please name the realtor: _____

City of Binghamton Planning Department
Zoning Board of Appeals Application

l) Explain how you would be negatively affected in an economic or financial way if you did not obtain the variance(s) requested. *Please do not comment on your personal financial situation*. Your answer must address economic circumstances in relation to the property and its present inability to provide you with a reasonable financial return under the present zoning regulations.

m) Please describe how the alleged hardship is unique to the property in question and does not apply to a substantial portion of the district or neighborhood.

n) Please describe how the proposed use would be compatible with the existing neighborhood and would not negatively impact traffic patterns, general safety, architectural character, property values, and the atmosphere of the area.

City of Binghamton Planning Department
Zoning Board of Appeals Application

19. For <u>expansion of nonconforming use</u> applications please answer the following questions:

a) Please explain why a "hardship and injustice" will occur if permission is not granted to alter, enlarge, reconstruct, move, or replace the non-conforming use.

b) Please describe how the proposed alteration, enlargement, reconstruction, moving, or replacement of the non-conforming use would be compatible with the existing neighborhood and why it would <u>not</u> substantially reduce neighboring property values or otherwise substantially alter the character of the neighborhood.

By signing below, I/we acknowledge that all information presented herein is true to the best of my/our knowledge. I/we further understand that any false information intentionally provided or omitted is grounds for the revocation of the variance(s). I/we also give the Planning Department staff and ZBA Members the right to access the premises (both interior and exterior) at reasonable times and upon reasonable notice for the purpose of taking photographs and conducting other visual inspections.

Date: _____ _____
Applicant's Signature

Date: _____ _____
Property Owner's Signature (if different than Applicant)