

TOWN OF GLENVILLE

USE VARIANCE

**INSTRUCTIONS AND APPLICATION
(Please read thoroughly)**

A. DEFINITION

The use variance is a mechanism that allows for the establishment of a land use that is not permitted within a particular zoning district. For example, if an individual would like to open a restaurant in a residential zoning district that prohibits restaurants, the use variance provides a means of "relief," if warranted.

B. PURPOSE

While the establishment of a prohibited land use within a particular zoning district could have a significant adverse impact on a neighborhood, there may be instances where a property owner is subjected to "unnecessary hardship" as a result of zoning restrictions placed on his/her property. Following denial of a building permit by the Building Inspector or Code Enforcement Officer, an individual or corporation may appeal to the ZBA and seek administrative relief via a use variance.

C. REVIEW CRITERIA

In assessing the appropriateness of a use variance, the Zoning Board of Appeals (ZBA) must determine if the applicable zoning restrictions have caused "unnecessary hardship" on the part of the applicant.

In order to prove unnecessary hardship, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return is demonstrated competent financial evidence;
2. 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.
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

D. APPLICATION PROCEDURE

1. An application for a use variance, including supporting materials and a site plan, must be submitted to the Planning Department at least twelve (12) calendar days prior to the next regularly scheduled meeting of the Glenville Environmental Conservation Commission (GECC). LATE APPLICATIONS WILL NOT BE ACCEPTED. Providing the applicant submits a complete application within the prescribed time frame, he/she will be placed on the GECC's next meeting agenda. If not, the applicant must wait until the following regularly scheduled GECC meeting.
2. The GECC, acting in an advisory capacity to the ZBA, conducts the first substantive review of the application during one of their regular meetings. The GECC's purpose is to review the application and to make a recommendation to the ZBA as to whether or not the proposed use variance could

result in a significant environmental impact, in compliance with the provisions of the State Environmental Quality Review Act (SEQRA) and Glenville Local Law #4 of 1984 (Environmental Quality Review).

As an advisory body, the GECC cannot approve or deny a use variance application. However, if they feel that they don't have enough information to adequately assess any potential environmental impacts associated with the application, the GECC can table the application and request the applicant to reappear before them at a future meeting. If the GECC does table an application, the revised application again must be submitted to the Building Inspector or Planner at least twelve (12) calendar days prior to the next GECC meeting, in order to be placed on their agenda.

2. The Planning and Zoning Commission also reviews the application in an advisory role to the ZBA. The role of the PZC in use variance applications is to review the proposed site plan to determine whether any negative community impacts created by the proposed use can be minimized through design elements and conditions/restrictions.
3. Following review by the GECC and PZC, the ZBA will conduct a public hearing on the use variance application. Having considered the review factors and the outcome of the public hearing, the ZBA shall act within sixty-two (62) calendar days of the hearing date. In deciding on the use variance application, the ZBA may approve, approve with modifications or disapprove the application. In addition, the ZBA may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the variance, as is determined necessary to secure compliance with the zoning ordinance.

Failure of the ZBA to act on a complete application within sixty-two (62) calendar days of the public hearing shall constitute an approval. However, this time period may be extended by mutual consent of the applicant and the ZBA.

NOTE: Should the ZBA determine that the application may result in a significant environmental impact, whether or not the GECC came to the same conclusion, the applicant must satisfy all provisions of SEQRA and Glenville Local Law #4 of 1984 prior to any action being taken by the ZBA on the actual variance application. In this case, the ZBA's 62-day review clock does not begin until the SEQRA process has concluded.

E. MEETING DATES

The GECC and ZBA both meet on the fourth Monday of the month. The PZC meets on the second Monday of the month. All meetings take place at 7:00 PM at the Glenville Municipal Center. The applicant, or a representative of the applicant, should be present at all meetings in order to address any questions raised. The use variance application will be heard by the GECC first, then by the PZC and finally by the ZBA.

F. MATERIALS TO BE SUBMITTED

A complete site plan must include all of the following:

1. Twenty-four (24) copies of a completed application form, as attached herein.
2. Twenty-four (24) copies of a site plan and all supporting documentation. **THE APPLICATION WILL ONLY BE ACCEPTED IF THE SITE PLAN CONTAINS ALL APPLICABLE INFORMATION AS INDICATED ON THE SITE PLAN CHECKLIST** (see Section G for required site plan details).
3. Twenty-four (24) copies of Part 1 of the Full Environmental Assessment Form, as attached herein.

4. A copy of the legal description (deed) of the property.
5. The application fee:

- Residential Zoning and/or Use
\$200.00
- Non-Residential Zoning and/or Use
\$500.00

PLUS

6. SEQRA fee:
 - 1% of the total cost of surveying, planning, engineering, etc., OR \$10.00, whichever is more. The cost of construction is not to be included as part of the "total cost".

AND, IF APPLICABLE

7. MS4 Review fee: (applicable for projects with 1 acre or more of disturbance)
 - \$500 for the 1st acre of disturbance plus \$100 for each additional acre or portion thereof.

A. SITE PLAN CHECKLIST

Complete site plans must illustrate ALL of the following

1. Site plan or map prepared on mylar, linen or acceptable reproducible material drawn to scale no smaller than 50 feet to 1 inch.
2. Name and signature of professional engineer, land surveyor, and/or architect.
3. Certification by a licensed professional engineer and a licensed land surveyor as evidence of professional responsibility for the preparation of the construction sheet.
4. Location map showing approximate location of site in relationship to adjacent roads, intersections, and landmarks. Preferably the location map will be illustrated as an inset on the site plan.
5. Title of drawing, name and address of applicant.
6. North arrow, scale, and date showing when the plan/map was prepared.
7. Boundaries of the property, plotted to scale.
8. If revisions are made, a table is to be included showing the date of the original map and all revisions, and a description detailing the nature of the map amendments
9. Ownership and zoning of all abutting properties, and of properties directly across the street or road.
10. Existing watercourses and direction of flow.
11. Location, names, and widths of existing and proposed streets.

12. Typical cross sections and details of street pavements, including curbs, sidewalks, manholes, catch basins and trench details.
13. Profiles of proposed streets and/or parking areas.
14. Location, dimensions, and description of existing and/or proposed septic system.
15. Profiles of all existing and proposed storm, sanitary and water mains.
16. If the disturbed area is one acre or more in size, a final grading plan including plans for controlling erosion, siltation and off-site stormwater movement. The grading plan should show one-foot contours or sufficient spot elevations to allow reviewers to determine drainage patterns. Stormwater/erosion control plans must comply with Article 11 of the Zoning Ordinance (Stormwater Management and Erosion Control).
17. For those projects disturbing less than one acre, or otherwise not subject to Article 11 of the Zoning Ordinance, a topographic map with five (5) foot elevation contours if grades exceed five percent (5%), or if local conditions make the site susceptible to erosion, flooding or ponding.
18. Proposed use and dimensions of all existing and proposed buildings.
19. Parking and loading areas. (Existing and proposed)
20. Driveways and their dimensions. (Existing and proposed)
21. Location and details of all outdoor storage, including elevations of all proposed architectural screening, such as fencing.
22. Location of floodplains, showing boundary of 100-year floodplain (If present on or adjacent to site.)
23. Landscaping plan, including the following:
 - a. All existing vegetation, including locations of all trees over 10" in diameter at breast height (DBH)
 - b. All proposed vegetation
 - c. Planting schedule with botanical and common names, cultivar (if appropriate), quantity, and initial size of all plant material
 - d. Typical construction details
 - e. Calculations showing that minimum landscape area requirements have been met
24. Location of regulated wetlands and 100-foot buffer area if wetland is state regulated. (If present on or adjacent to site.)
25. Existing and/or proposed site improvements as follows:
 - a. Sidewalks or sidewalk easements
 - b. Drains
 - c. Culverts
 - d. Retaining walls and fences
 - e. Storm water drainage
 - f. Size, location and details of all signs
 - g. Buffer areas
 - h. Design and location of lighting facilities
 - i. Bus Stops
 - j. Curbs
 - k. Utilities or utility easements

TOWN OF GLENNVILLE

USE VARIANCE APPLICATION

All questions must be answered in entirety.
INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED.

TO BE COMPLETED BY THE APPLICANT:

Name of Project: _____

Location of Project: _____

Tax Map ID# _____ Zoning Classification: _____

Applicant: _____ Property Owner (if different from applicant): _____

Name: _____ Name: _____

Address: _____ Address: _____

Phone: _____ Phone: _____

Engineer/Land Surveyor/Architect: _____ Contact Person (to whom all correspondence will be directed): _____

Name: _____ Name: _____

Address: _____ Address: _____

Phone: _____ Phone: _____

Description of project:(list use variance being requested) _____

Address the following review criteria as noted on Page #1: (attach additional pages if needed)

1. Reasonable Return (competent financial evidence must be shown.)

2. Unique Circumstances

3. Impact on Neighborhood

4. Self-Created Hardship

SIGNATURE OF PROPERTY OWNER

DATE

(Signed agreement between the property owner and representative may be accepted.)

TO BE COMPLETED BY THE TOWN:

Application fee:	_____	SEQRA Fee:	_____
	_____	MS4 Fee:	_____
Date Received:	_____	By:	_____
	_____		_____