

CITY OF ROME ZONING BOARD OF APPEALS

Use Variance Application

IN THE MATTER OF THE APPEAL, OF _____, Appellant (s):
for an Area Variance pursuant to Article VIII, Section 56 (b) of the Code of Ordinances of the City of Rome, Chapter 80 and Article 5-A, Section 81-b of the New York State General City Law

TO THE CITY OF ROME ZONING BOARD OF APPEALS:

SECTION I (SECTION I TO BE COMPLETED BY ZONING OFFICER AND REVIEWED BY APPLICANT):

A. The appellant (s) hereby appeals to the Zoning Board of Appeals of the City of Rome, New York from a determination of the Zoning Officer who, on the ____ day of _____, 20____, did deny the application of the Appellant, said application affecting property at _____ in a _____ zoning district, in the City of Rome, and having been submitted to the Zoning Officer for the purpose of _____

that such application was denied by the Zoning Officer insofar as it contained a proposed use not permitted or authorized and constituting a violation of Section _____, Schedule _____ of the Rome Code of Ordinances, Chapter 80.

B. Use Variance Standard: Appellant recognizes that, pursuant to Article 5-A of the General City Law, §81-b(3), no Use Variance shall be granted by the Zoning Board of Appeals without a showing by the Appellant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the Appellant shall demonstrate to the Zoning Board of Appeals that for **each and every** permitted use under the zoning regulations for the particular district where the property is located all of the following are applicable:

(i) the Appellant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; **and**

(iv) the alleged hardship has not been self-created.

The Appellant recognizes that the Zoning Board of Appeals, in the granting of Use Variances, shall grant the **minimum variance** that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community by such conditions as it may deem reasonable under the circumstances.

SECTION II (SECTION II TO BE COMPLETED BY APPELLANT (S)---attach additional sheets and/or addendums as necessary)

* It may be in your best interest to seek the assistance of an attorney in filling out this Section.

**Explanatory Note(s) are for the sole purpose of helping you, as Appellant, understand the requirements necessary to obtain the Variance contemplated and shall not have any significance to your application or any denial thereof. These Notes are not intended as legal advice, nor are they to be relied on as the current state of the law.

A. Having fully reviewed the above requirements for the granting of a use variance I hereby request such Use Variance in order to supersede the determination of the Zoning Officer denying my application for the following reasons: (complete each paragraph below)

(i) The Appellant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence. Note: to meet this prong of the Use Variance standard, you must show that the property in question cannot be sold or leased for any permitted use. This showing should be done by demonstrating that an active effort was made to sell or rent the property for each and every permitted use under the zoning regulations. Evidence demonstrating an active effort includes evidence that a realtor was contacted and the property was shown to potential buyers or lessees without success. Additionally, lack of reasonable return may be proven by, among other things: amount paid for the property, the present value of the property, expenses for maintenance, amount of taxes paid, mortgages, income from the land and other relevant factors.

(ii) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood. Note: to meet this prong of the Use Variance standard, you must show that the alleged hardship is unique to the parcel in question, not the neighborhood or City in general.

(iii) The requested use variance, if granted, will not alter the essential character of the neighborhood. Note: under this prong of the Use Variance standard, the Zoning Board of Appeals must determine whether or not the requested Use Variance will disrupt or alter the character of a neighborhood or inhibit/diminish uses that conform to the zoning regulations. In making said determination, the Board will consider, among other things: change in parking patterns, change in traffic patterns, noise levels, lighting and such other factors it deems necessary. You may meet this prong of the Use Variance standard, by demonstrating the proposed use is substantially similar to existing uses in the particular area.

(iv) The alleged hardship has not been self-created. Note: this is, perhaps, the most difficult prong of the Use Variance standard to meet, and requires a showing by you that you have not done anything which created the unnecessary hardship for which you are seeking the Use Variance. Purchasing the property knowing the proposed use is not allowed, buying the property without checking the zoning regulations and investing in the proposed use without complying with the zoning regulations are all self-created hardships.

B. I hereby attest that no previous appeal has been made for the Area Variance requested herein.

Sworn to before me this _____ Day of _____, 20_____.

Notary Public

Appellant

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 <input type="checkbox"/>
			YES <input type="checkbox"/>
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 <input type="checkbox"/>
			YES <input type="checkbox"/>
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
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	
	<input type="checkbox"/>	<input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	

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
	<input type="checkbox"/>	<input type="checkbox"/>
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
	<input type="checkbox"/>	<input type="checkbox"/>
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
	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>

	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?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

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.

<input type="checkbox"/>	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.
<input type="checkbox"/>	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)

PRINT