



# Use Variance Application

## Town of Amherst – Planning Department

### Procedure

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A Use Variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.

1. Applicant shall contact the Planning Department confirming that a Use Variance from the Zoning Board of Appeals will be required.
2. Complete the Use Variance Application Form and **email** to one of the Planners listed below. If the attachment exceeds 5 MB contact the Planning Department for a file share link. Planning Staff will review the Use Variance Application and determine if it is complete.  
**An application is complete if:**
  - a. All questions on the Use Variance Application Form have been fully answered.
  - b. Relevant materials listed below have been attached.
3. Once the application is determined complete, the applicant will be directed to make (6) stapled copies with attachments and deliver to the Town Clerk's office for payment.
4. Applicant or designated representative shall attend the public hearing, present the request for a use variance to the Zoning Board of Appeals, and be prepared to answer questions related to the use variance request. The meeting may be recorded live and streamed on the Town web site for public viewing.
5. After the public hearing is closed, the Zoning Board of Appeals has up to 62 days to approve, approve with conditions, or deny the application. Once the Zoning Board of Appeals has made a decision, a written notice will be sent to the applicant within 5 business days.

For assistance with this application, please contact Daniel J. Ulatowski, AICP, Assistant Planning Director [dulatowski@amherst.ny.us](mailto:dulatowski@amherst.ny.us) or Greg Dionne, Assistant Planner [gdionne@amherst.ny.us](mailto:gdionne@amherst.ny.us) at 716-631-7051.

### Fee

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The filing as set by the Town Board, currently \$115 (including \$ 15 affidavit fee) payable to the Town of Amherst is required at time of application.

### Information to be provided with application

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- A. Property Survey.
- B. Part one of a long Environmental Assessment Form (EAF) as required by SEQR and found by the following link [http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/feafpart1.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/feafpart1.pdf)
- C. Letter of permission from the land owner if the applicant is not the land owner.
- D. Competent financial evidence that shows that the current zoning regulations deprive the owner of all economic use or benefit of his/her land.



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## Conflict Disclosure

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Section 809 of the NYS General Municipal Law requires an applicant to disclose any potential conflicts of interest with the members of a decision making body. Thus, allowing such conflicted member(s) to abstain from all deliberations and/or decisions.

1. Every application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, exemption from a plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality of which such municipality is a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
  2. For the purpose of this section an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
    - a) is the applicant, or
    - b) is an officer, director, partner or employee of the applicant, or
    - c) legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant, or
    - d) is a party to an agreement with such an applicant, 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, petition or request.
  3. Ownership of less than five percent of the stock of a corporation whose stock is listed on the New York or American Stock exchanges shall not constitute an interest for the purposes of this section.
  4. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.
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## Applicant Information

Property Owner Name(s): \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Applicant Name(s): \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## Property Information

Address: \_\_\_\_\_

SBL No.: \_\_\_\_\_ Zoning District: \_\_\_\_\_

## Project Description

Current Use: \_\_\_\_\_

Proposed Use: \_\_\_\_\_

Briefly Describe the Proposed Project (attach additional information if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I have the following conflicts pursuant to section 809 of the General Municipal Law as follows (see conflict disclosure on back of instruction page)

\_\_\_\_\_

## Office Use Only

The applicant is appealing the decision of the Zoning Enforcement Officer to not approve a

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

TOWN CLERK USE
DATE: _____
TIME: _____
REC'D BY: _____

Appl. No. \_\_\_\_\_

Date Filed: \_\_\_\_\_

Mtg. Date \_\_\_\_\_

Accepted By: \_\_\_\_\_



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## Use Variance Request

No use variance will be granted without a showing by you (the applicant) that the applicable zoning regulations and restrictions have caused unnecessary hardship. The following (4) four tests must be met. Attach any supporting materials to support your case.

- 1. Description of Hardship.** Provide evidence that the applicant cannot realize a reasonable return for each of the uses permitted in the current zoning district, including uses permitted by special use permit. Evidence shall be demonstrated by a showing of competent financial evidence that under the applicable zoning regulations the applicant is deprived of all economic use or benefit from the subject property.

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- 2. Unique Circumstances.** Describe how the alleged hardship related to the property in question is unique and does not apply to a substantial portion of the zoning district or neighborhood:

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- 3. Character of Neighborhood.** Describe how the proposed use will not alter the essential character of the neighborhood:

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- 4. Not self-created.** Describe if the alleged difficulty was self-created (did you cause the need for the variance).

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## Disclosure Affidavit

I maintain that the information provided in this application is true and accurate to the best of my knowledge:

Property owner or applicant name (print): \_\_\_\_\_

Property owner or applicant signature: \_\_\_\_\_

Date: \_\_\_\_\_

If the applicant is not the property owner, has a letter of permission allowing the applicant to file this application been provided.

<p>STATE OF NEW YORK COUNTY OF ERIE</p> <p>On the _____ day of _____ in the year _____ before me,</p> <p>The above individual personally appeared, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same for the purposes therein stated.</p>	<p>WITNESS my hand and official seal:</p> <p>Signature of Notary Public</p> <p>_____</p> <p>Print Name</p>
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## Office Use Only

SEQR is not required.       239M is applicable \_\_\_\_\_

The applicant is also seeking a \_\_\_\_\_ which is attached.