

# TOWN/VILLAGE OF LIMA

7329 East Main Street, Lima, NY 14485 Email: codes@townoflima.org Web Site: Lima-ny.org Telephone: 624-7911

## APPEAL TO THE ZONING BOARD FOR AN USE VARIANCE

### SECTION I: APPLICANT INFORMATION

	APPLICANT	OWNER (if not applicant)	ATTORNEY/AGENT
NAME:	_____	_____	_____
ADDRESS:	_____	_____	_____
TEL./FAX:	_____ / _____	_____ / _____	_____ / _____
E-MAIL:	_____	_____	_____

Applicant's interest in the premises:  Owner  Lessee  Under option to lease or purchase

Applicant must be the property owner. If applicant is lessee or one with an option to lease or purchase the property in question then an Owner's signed consent statement must be attached.

### SECTION II: PROPERTY INFORMATION

- Property Address: \_\_\_\_\_
- Tax Parcel No.: \_\_\_\_\_
- Zoning District: \_\_\_\_\_
- The following designations are located on the property: (check all that apply)
  - Historic Preservation Overlay
  - Steep Slope Protection Overlay
  - Wetland Protection Overlay
  - Stream Corridor Protection Overlay
  - Land Conservation District
  - Flood Plain
- Deed restrictions or covenants applying to property: \_\_\_\_\_
- Has a ZBA variance been granted for this property?  Yes  No  
When: \_\_\_\_\_ For what: \_\_\_\_\_
- The applicant requests relief from the following Town / Village Zoning Ordinance: \_\_\_\_\_
- A use variance is requested to permit the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION III: USE VARIANCE QUESTIONS** *(add additional information as necessary)*

In order for the Zoning Board of Appeals to grant a Use Variance, an applicant must prove that the Zoning Regulations create an unnecessary hardship in relation to the property. In seeking a use variance, New York State law requires an applicant to prove all four of the following "tests".

**1. THE APPLICANT CANNOT REALIZE A REASONABLE FINANCIAL RETURN ON INITIAL INVESTMENT FOR ANY CURRENT PERMITTED USE ON THE PROPERTY.** "Dollars and Cents" proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons: \_\_\_\_\_

A. Submit the following financial evidence relating to this property (attach additional evidence as needed):

1) Date of purchase: \_\_\_\_\_ Purchase Amount: \_\_\_\_\_

2) Indicate dates and costs of any improvements made to property after purchase:

<u>Date</u>	<u>Improvement</u>	<u>Cost</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

3) Annual maintenance expenses: \$ \_\_\_\_\_

4) Annual taxes: \$ \_\_\_\_\_

5) Annual income generated from property: \$ \_\_\_\_\_

6) Assessed value: \$ \_\_\_\_\_

7) Appraised value: \$ \_\_\_\_\_

8) Appraiser: \_\_\_\_\_ Date: \_\_\_\_\_

Appraisal assumptions: \_\_\_\_\_

B. Submit the following sale information relating to this property.

1) Has the property been listed for sale with the Multiple Listing Service? \_\_\_\_\_  
If "yes" for how long? \_\_\_\_\_ Original listing date: \_\_\_\_\_

2) Original listing price: \_\_\_\_\_  
If listing was reduced, describe when and to what price \_\_\_\_\_

3) Has the property been advertised online and in newspapers?  
If "yes" describe frequency and name of publications: \_\_\_\_\_

4) Has the property had a "For Sale" sign posted?  
If "yes" list date sign was posted: \_\_\_\_\_

5) How many times has property been shown and with what results? \_\_\_\_\_  
\_\_\_\_\_

**2. THE FINANCIAL HARDSHIP RELATING TO THIS PROPERTY IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE NEIGHBORHOOD** (this hardship may not apply to a substantial portion of the zoning district or neighborhood.) This previously identified financial hardship is unique for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

ILLUSTRATIONS OF UNIQUENESS

- ❖ Topographic or physical features preventing development for a permitted use.
- ❖ Why would it be possible to construct applicant's proposal and not any of the permitted uses.
- ❖ Board member observations of property and surrounding area.

**3. THE GRANTING OF THIS VARIANCE WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD.** Changes that will alter the neighborhood or district character would be at odds with the purpose of the Zoning Ordinance. The requested variance will not alter the essential character of the neighborhood or district for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NEIGHBORHOOD CHARACTER FACTORS

- ❖ Board members observations
- ❖ Expected effect of proposal on neighborhood, ie: change in parking patterns, noise levels, lighting, traffic, etc.

**4. THE ALLEGED HARDSHIP HAS NOT BEEN SELF CREATED.** An applicant cannot claim "unnecessary hardship" if that hardship was created by the applicant or if the applicant acquired the property knowing (or was in a position to know) the conditions for which the applicant is seeking relief. The hardship has not been self created for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SELF CREATED

- ❖ What were the permitted uses at time of property purchase by applicant.
- ❖ Was property received through inheritance, court order or divorce.
- ❖ Were substantial sums spent on remodeling for a use not permitted by zoning.

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**SECTION IV: APPLICATION CHECKLIST**

YES NO NR

- |                          |                          |                          |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Agricultural Data Statement  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Part 1 of Short Environmental Assessment Form  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | County Planning Board Referral   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | An instrument survey map or tape location map that shows all existing and proposed structures setback dimensions and property area |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Fee paid at time of application  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Sign posting by Building Inspector   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Notification of surrounding property owners by Building Inspector  |

The Zoning Board reserves the right to request additional information, as necessary, to support an application. Town/Village staff will review the application and related information as submitted and determine that the application is complete or if additional information is required in order for the Zoning Board to adequately review the application. Applicant shall submit any supplementary information requested no later than one week prior to the Zoning Board meeting date in order to afford time for review of information prior to the meeting. The applicant shall submit ten (10) complete sets of all materials.

**SECTION V: DISCLOSURE AND APPLICANT CERTIFICATION**

**DISCLOSURE**

Does any Village/Town officer, employee, or family member thereof have a financial interest in this application?

Yes  No

If "yes", the name, address and nature and extent of this interest must be detailed below:

Name: \_\_\_\_\_

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

Nature/Extent of Interest: \_\_\_\_\_

**APPLICANT CERTIFICATION**

I/we, the property owner(s), or purchaser(s)/lessee(s) under contract, of the land in question, hereby request an appearance before the Zoning Board of Appeals.

By the signature(s) attached hereto, I/we certify that the information provided within this application and accompanying documentation is, to the best of my/our knowledge, true and accurate. I/we further understand that intentionally providing false or misleading information is grounds for immediate denial of this application.

\_\_\_\_\_

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

(applicant signature)

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(applicant signature)