Village of Rye Brook

938 King Street
Rye Brook, New York 10573
Phone (914) 939-0668 Fax (914) 939-5801
www.ryebrook.org

ZONING BOARD OF APPEALS APPLICATION & FILING INSTRUCTIONS

Please note that the deadline for submission of a zoning variance application is the 1st Wednesday of the month in order to be considered eligible for the following monthôs agenda. The Zoning Board of Appeals meets on the 1st Tuesday of every month unless otherwise directed by the Board. The applicant or their duly authorized representative must appear and be heard at the Zoning Board of Appeals meeting.

APPEALING FOR A VARIANCE

After a building permit has been denied because the intended construction cannot conform to the zoning ordinance, an appeal from the Building Inspectorôs decision may be brought before the Zoning Board of Appeals. The most common method of providing relief from the provisions of a zoning ordinance is through the granting of a variance. This is an authorization to use land or to construct or maintain a building in a way that would otherwise be prohibited by the zoning ordinance. There are two types of variances:

1. AREA VARIANCE: This type relates to the arrangement of structures on the land, including yard requirements and density regulations. Area variances are granted on grounds of practical difficulty, that is, the owner cannot comply with the zoning regulations because of the propertyôs peculiar size, shape grade or other physical features. In assessing practical difficulty, the Zoning Board of Appeals will consider such questions as: How substantial is the requested variance? Does an applicant have means other than a variance for overcoming the difficulties? Would granting this variance have a substantial negative impact of the surrounding properties? These questions are intended to bring out the facts in each case, and assist the Board in coming to a decision. The burden of proof is on the applicant, not on the Board of Appeals. The applicant must demonstrate that the relief requested (the variance), is necessary and should be allowed.

2. USE VARIANCE: This type permits a use of land, which the zoning ordinance does not allow in a district. Use variances can only be granted in cases of unnecessary hardship. An applicant must demonstrate factually that:
1) He/she cannot realize a reasonable rate of return (stated in dollars and cents), under existing permitted use, and
2) The use to be authorized will not alter the essential character of the locality. The purpose of the hearing before the Zoning Board of Appeals is to gather facts, which it will use to make a decision. You will have an opportunity to make a statement before the Board as to your needs. Interested parties such as neighbors, architects, or contractors may speak in support of your application. The Board will also hear interested parties who may be opposed. After discussion of your application in public, the Board will vote to either grant or deny the variance. In some cases, the Board will postpone a decision to the next meeting if further study is needed.

APPLICANTS FILING FOR A VARIANCE MUST SUBMIT THE FOLLOWING:

1. One copy of the Notice of Disapproval issued by the Building Inspector.
2. A properly completed & notarized original Zoning Application, including a complete list of all previously filed zoning variance applications regarding the subject property and their respective dispositions.
3. Three (3) copies of an original current accurate survey of the subject property.
4. Three (3) sets of plans, prepared, signed & sealed by a NY State Registered Architect or NY State Licensed Professional Engineer. The plans should include a complete, dimensioned site plan showing all existing & proposed structures with set back information to property lines, proposed elevation drawings and proposed heights and height set back information as well as any other relevant information.
5. One electronic copy (disc) of the plans and of all application materials.
6. Filing Fee: **$350.00** (filing fee is non-refundable)
7. Escrow Account Fee: **$1,000.00**

PUBLIC NOTIFICATION REQUIREMENTS [Village Code §250-40] In order to provide adequate notice to neighboring property owners and others affected by land development applications within the Village of Rye Brook, the following requirements shall apply:

A. PUBLIC NOTICE SIGNS

1. The applicant shall post a sign on the subject property no later than 1 week prior to the Zoning Board of Appeals' scheduled hearing on the matter. Such sign shall be at least 3ôX 4ôin size, consist of sturdy & serviceable material containing a white background with black letters and be placed in a location visible from the most commonly traveled street or highway upon which the property fronts, or in the case of a corner lot on both streets, but in no case more than 20ôback from the front lot line. Such sign shall read as follows, in legible lettering with the heading at least 5òin height & the content at least 2òin height:

PUBLIC NOTICE

A PUBLIC HEARING FOR A

ZONING VARIANCE APPLICATION

WILL BE HELD BY THE

VILLAGE OF RYE BROOK

ZONING BOARD OF APPEALS

ON (insert date) AT (insert time) P.M.
AT THE RYE BROOK VILLAGE HALL, 938 KING STREET

ADDITIONAL INFORMATION IS AVAILABLE AT THE RYE BROOK BUILDING DEPARTMENT (939-0668)

2. The applicant shall install and update such sign at least two weeks prior to every board meeting in which the applicant's matter will be heard.
3. The applicant shall submit to the Building Department, a notarized affidavit certifying to the fact & date of said posting the Thursday before the meeting date.
4. The applicant shall remove the notification sign within 5 days of the adoption of the resolution concerning the application.

B. MAIL NOTIFICATION

1. The applicant shall give adequate prior written notice to affected property owners via 1st Class Mail using the Notice of Public Hearing issued by the Village Administrator, and supplied to the applicant by the Building Department. It shall be mailed out at least ten (10) days prior to the initial meeting in which the applicant's matter will be heard. If the address of the property owner of record set forth on the tax roll is different than the property address, mail notification must be sent to the property address within the notification area as well as to the property owner.
2. The notification area shall be defined as a radius line measured 250 feet from the property lines of the subject property. Should the radius line extend into a public right-of-way, the lots directly opposite the portion of the radius line within the public right-of-way shall also be included in the notification area.

3. An **Area Map** shall be prepared, using the most current Tax Maps and Tax Assessment Roll, depicting the site and surrounding properties, zoning district boundary lines, municipal boundary lines, the notification area, and the tax lot identification for each lot wholly or partially within the notification area.

4. A public **Notification List** of neighboring properties within the Notification Area shall be prepared using the most current Village of Rye Brook Tax Maps and Tax Assessment Roll, including: the Tax Map section, block and lot number, owner's name and owner's mailing address for each property located wholly or partially within the specified notification area.

NOTE: The notification area map & mailing address list can be obtained via the ñI want toò link on the Village website at; www.ryebrook.org.

5. The applicant must also submit to the Building Department an **Affidavit** certifying to the fact & date of said First Class mailing by no later than the **Thursday** before the noticed meeting.

NOTE: The certified affidavits of mailing & sign posting, area map, notification list and notice of public hearing letter must be submitted to the Building Department by no later than the Thursday prior to the noticed meeting in accordance with §250-40 of Village Code.

Failure to do so may result in your application being adjourned out for the next month's agenda.

C. NEWSPAPER PUBLICATION

The Village of Rye Brook shall be responsible for placing a notification in the official Village newspaper no less than 5 and no more than 15 days prior to the public hearing in which the subject property is discussed.

D. ADJOINING MUNICIPALITIES

If the land involved in any application lies within 500 feet of the boundary of any other municipality, the Village Clerk shall mail a copy of the notice of the public hearing along with supporting material describing the substance of the application to the Municipal Clerk of such adjoining municipality at least 10 calendar days prior to the public hearing.

E. COUNTY NOTIFICATION

If the proposed application affects the interest of the County in accordance with Section 277.61 of the Westchester County Administrative Code and § 239-m of the General Municipal Law, the Village Clerk shall mail a copy of the notice of the public hearing and a copy of the proposed application with supporting material describing the substance of the application to the County Planning Board, at least 10 calendar days prior to the public hearing and at least 30 calendar days prior to Village action.

F. MODIFICATIONS TO NOTIFICATION REQUIREMENTS

The Village of Rye Brook Board of Trustees may modify or waive the notification requirements as described herein unless required elsewhere by county or state law.

G. PUBLIC HEARINGS

No public hearing shall be conducted unless the notification requirements contained in this chapter have been met.

Please keep these instructions sheets throughout the permitting process for reference.

BUILDING DEPARTMENT
VILLAGE OF RYE BROOK
938 KING STREET
RYE BROOK, NY 10573
PHONE (914) 939-0668 · FAX (914) 939-5801
www.ryebrook.org

APPLICATION TO THE ZONING BOARD OF APPEALS

Application Fee: $350.00 ( ) paid · Escrow Fee: $1,000.00 ( ) paid Date: _____

****

Subject Property: _____ Parcel ID#: _____ Zone: _____

Property Owner: _____Address: _____

Phone #: _____Cell #: _____email: _____

Applicant: _____Address: _____

Phone #: _____Cell #: _____email: _____

Attorney/Agent: _____ Address: _____

Phone #: _____Cell #: _____email: _____

****

The applicant named herein does hereby request an appeal from the decision made by the Building Inspector on an application dated _____, 20_____, whereby the Building Inspector did: Grant: ( ) / Deny: ( ) the applicant a permit for _____

_____.

1. **Type of Appeal:** ( )Variance to the Zoning Ordinance ( )Interpretation of the Zoning Ordinance
   ( ) Certification for Continuation of a Nonconforming Use ( ) Permit for Occupancy
   ( ) Permit for Use

2. **This application relates to:** ( )Use ( )Area ( )Height ( )Setback ( )Other: _____
   In connection with: ( )A Proposed Building ( )An Existing Building

3. **Previous Appeal(s);** ( )Have ( )Have Not been made with respect to this particular decision of the Building Inspector, and ( )Have ( )Have Not been made with respect to any other previous decision(s) made by the Building Inspector regarding the subject property.

List All Previous Zoning Appeals Either Granted or Denied Concerning the Subject Property

a. A requested variance was ( )Granted / ( )Denied on application #_____ dated, _____ for,

_____

b. A requested variance was ( )Granted / ( )Denied on application #_____ dated, _____ for,

_____

c. A requested variance was ( )Granted / ( )Denied on application #_____ dated, _____ for,

_____

(Use additional sheets if necessary)

4. **Alteration:**

If work constitutes an alteration or extension to an existing building, describe briefly:

_____

_____

_____

_____

5. **Construction Cost:** What is the estimated cost of the proposed work? $ _____

6. **Reasons for Appeal:**

A. An **Area Variance** to the Zoning Ordinance is requested because strict application of the ordinance would create the following hardship: _____

_____

_____

_____

_____

_____

B. An **Interpretation of the Zoning Ordinance** is requested because: _____

_____

_____

_____

_____

_____

C. A **Use Variance** to the Zoning Ordinance is requested because strict application of the ordinance would create the following hardship: _____

_____

_____

_____

_____

_____

7. **Requested Zoning Appeals:**

I. Section of Rye Brook Code: §_____

Zoning Requirement: _____

_____

Proposed Work: _____

_____

Requested Variance: _____

_____

II. Section of Rye Brook Code: § _____

Zoning Requirement: _____

_____

Proposed Work: _____

_____

Requested Variance: _____

_____

III. Section of Rye Brook Code: § _____

Zoning Requirement: _____

_____

Proposed Work: _____

_____

Requested Variance: _____

_____

IV. Section of Rye Brook Code: § _____

Zoning Requirement: _____

_____

Proposed Work: _____

_____

Requested Variance: _____

_____

V. Section of Rye Brook Code: § _____

Zoning Requirement: _____

_____

Proposed Work: _____

_____

Requested Variance: _____

_____

(Use additional sheets if necessary)

8. Item checklist of information from instruction sheet:

( ) Letter of Disapproval
( ) Properly completed & Signed Original Zoning Variance Application
( ) Three (3) Sets of Sealed Plans
( ) Non-refundable Application Fee of $350.00
( ) Escrow Account Fee of $1,000.00
( ) Provisions of any deeds, covenants, easements or restrictions affecting the kind of improvements allowed or prohibited upon the premises.
( ) Notarized Mailer & Sign Affidavits, Area Map & Public Notification List
(Please note that the notarized affidavits must be received by the Building Department by no later than the Thursday prior to the scheduled zoning hearing)

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This application must include the notarized signature(s) of the applicant of record as well that of the legal owner(s) of the subject property in the spaces provided below. Any application not properly signed shall be deemed null and void and will be returned to the applicant.

STATE OF NEW YORK, COUNTY OF WESTCHESTER) as:

_____, being duly sworn, deposes and states that he/she is the applicant above named,
(print name of individual signing as the applicant)
and further states that (s)he is the legal owner of the property to which this application pertains, or that (s)he is the _____for the legal owner and is duly authorized to make and file this application.
(indicate architect, contractor, agent, attorney, etc.)
That all statements contained herein are true to the best of his/her knowledge and belief, and that any work performed or use conducted at the above captioned property will be in conformance with the determination of, and any conditions set by the Rye Brook Zoning Board of Appeals, with the details as set forth and contained in this application and in any accompanying approved plans and specifications, as well as in accordance with the New York State Uniform Fire Prevention & Building Code, the Code of the Village of Rye Brook and all other applicable laws, ordinances and regulations.

Sworn to before me this _____

day of _____, 20_____

_____
Notary Public

_____
Signature of Property Owner

_____
Print Name of Property Owner

Sworn to before me this _____

day of _____, 20_____

_____
Notary Public

_____
Signature of Applicant

_____
Print Name of Applicant

Last Revision 1/7/16