

# TOWN OF CHILI

3333 Chili Avenue, Rochester, NY 14624

Tel: 889-6143 Fax: 889-8710

[www.townofchili.org](http://www.townofchili.org)

development@townofchili.org

## USE VARIANCE CHECKLIST:

- Application Fee** - (See Town Fee Schedule for Amount. Fee is Non-Refundable)
- Pre-Submission Review Conference**- (Call the Building Department to schedule an appointment at least one week before scheduling deadline. See Zoning Board Schedule for monthly meeting deadline.)
- Application Packet**– (Submit **One (1) Original and Seven (7) copies** of the following Application Packet. **All items shall be no larger than 8 ½" x 11". However, a survey map no larger than 11" x 17" is permitted.** )

### Contents of Application Packet:

The following shall be attached to all applications, along with the application fee:

- Application Form**– Completed, signed by all property owners, dated, notarized.
- Survey Map of the Property/Plot Plan** (A detailed "to scale" drawing of the proposed project. Identify all existing and proposed structures, lot boundaries and dimensions. For homeowners, this may be a neatly hand drawn sketch on a photocopy of the survey map.)
- Short Environmental Assessment Form**– (Complete page 1.)
- Denial Letter** – (You will receive this at the Pre-Submission Review Conference.)
- Statement of Income and Expense**
- Expert Proof** (Ex: professional appraisals)

The following are required, if applicable:

- Building Elevations**– (Architectural plans & sketches for projects involving construction, remodeling & Signs. Required for both homeowners and commercial projects.)
- Long Form Environmental Assessment Form** (Typically not required for homeowners.)
- Engineering/Legal/Consultant Escrows**– (Typically not required for homeowners.)
- Photos of Existing Conditions**– (Not required, but often helpful.)
- Notices of Violation & Stop Work Orders** - (Attach if they exist.)
- Any Other Supporting Documents**
- Post Sign(s) on the Property**-- (Applicants must post at least one sign on the property near the road. Corner lots require 2 signs. Additional signs may be required for lots wider than 500').
  - Signs are obtained from the Building Department.
  - All signs must be posted so they can be easily seen by pedestrians and motorists.
  - All signs must be erected and maintained in an upright & visible position for the 10 day period immediately prior to the public hearing. (Ex: If the wind blows the sign down, the applicant must promptly put the sign back up.)
- Meet With Your Neighbors**– (While optional, you are encouraged to discuss your proposal with your neighbors before the public hearing. Addressing neighborhood concerns before the public hearing may help expedite the Zoning Board's decision.)

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## APPEAL TO THE ZONING BOARD FOR AN USE VARIANCE

### SECTION I: APPLICANT INFORMATION (to be filled in by applicant)

<u>APPLICANT(S)*</u>	<u>OWNER(S) (If not applicant)</u>	<u>ATTORNEY/AGENT</u>
Name: _____	_____	_____
Address: _____	_____	_____
Tel/Fax: _____/_____	_____	_____
E-Mail: _____	_____	_____

**\* The application must be signed by the Property Owner(s).** If the property owner is not the applicant, then the Property Owners must identify the applicant who is authorized to appear on the property owner's behalf. Attorneys/consultants/agents may not sign on behalf of the Property Owner.

### SECTION II: PROPERTY INFORMATION (to be filled in by applicant)

- Property Address (No. & St.): \_\_\_\_\_
- Tax Parcel No.: \_\_\_\_\_ 3. Current Zoning District: \_\_\_\_\_
- Has a previous ZBA application/appeal been filed for this property?  Yes?  No?  
If Yes, then: When: \_\_\_\_\_ For What: \_\_\_\_\_
- Is property located within (check all that apply)?:  Flood Plain  Wetland
- Is there a written violation or "stop work order" for this Property  Yes  No  
 **If "Yes", then attach a copy of the violation notice(s) and stop work order(s).**
- Has the work, use, or occupancy to which this appeal relates already begun?  Yes  No
- Brief description of the project: (include current and proposed use):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Are there special circumstances such as lot size, slope, or other physical conditions of the property which make compliance with the zoning regulations challenging? If so, please explain:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SECTION II: USE VARIANCE – PLEASE ANSWER THE FOLLOWING

The applicant requests relief from the following Zoning Law article(s): \_\_\_\_\_

A use variance is requested to permit the following: \_\_\_\_\_

In order for the Zoning Board of Appeals to grant a use variance, an applicant must offer evidence in the record that the restrictions of the Zoning Code have caused “unnecessary hardship”. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the Zoning Code for the particular district where the property is located, that all four (4) of the tests found in §267-b of the New York State Town Law have been proven. Additional documentation may be included. If any one of these tests have not been proven, the Zoning Board of Appeals must deny the variance.

1. **Reasonable Return.** The subject property is not capable of yielding a reasonable rate of return if used for its present use or developed, redeveloped, or used for any other use permitted in the district in which such property is located. There is no means other than the granting of the variance by which the property can yield a reasonable return. Such inability to yield a reasonable return must be shown by competent financial evidence (**Dollars and Cents Proof**) which is usually documented by experts (ex: accountants and appraisers), not the unsupported opinion of the owner or those appearing for the owner.

The property in question cannot yield a reasonable return for the following reasons:

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**PLEASE NOTE:**

- **TO SUPPORT YOUR ANSWER, YOU MUST COMPLETE and ATTACH THE “STATEMENT OF INCOME AND EXPENSE”**
- **THIS IS BEST PREPARED BY AN EXPERT SUCH AS A CERTIFIED PUBLIC ACCOUNTANT (CPA).**
- **PROFESSIONAL APPRAISALS ARE OFTEN REQUIRED TO PROVE THE PROPERTY’S CURRENT VALUE.**

2. **Unique Hardship.** The inability to yield a reasonable return results from a unique circumstance peculiar to the subject property which does not apply to or affect other properties in the immediate vicinity that are subject to the same regulations. The personal situation of the owner shall not be considered unique.

This previously identified financial hardship is unique for the following reasons:

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**3. Essential Character of the Neighborhood.** The granting of the variance will not be materially detrimental to the public health, safety, and welfare or injurious to the enjoyment, use or development of neighboring properties or the community. Applicant must demonstrate that the proposed use will not change the essential character of the neighborhood with regard to such physical and environmental elements such as parking, traffic, signage, landscape, architectural and structural features, location and dimensions of buildings, any by-products of proposed use such as noise or smoke, and any other impacts upon adjacent or neighboring lands.

The requested variance will not alter the character of the neighborhood for the following reasons:

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**4. Not Self-Created.** The inability to yield a reasonable return is not the result of any action by the owner or prior owners. The applicant must show that when the property was purchased the zoning restrictions from which a use variance is now sought were not in existence or that some other change or factor has occurred that has resulted in an inability to yield a reasonable return. Otherwise, the hardship is self-created.

The hardship has not been self-created for the following reasons:

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## DISCLOSURE

Does any Town officer, employee, or family member thereof have a financial interest (as defined by General Municipal Law Section 809) in this application?  Yes  No If "yes", a statement disclosing the name, residence and nature and extent of this interest must be filed with this application.

## APPLICANT & PROPERTY OWNERS' CERTIFICATIONS:

- Application to the Zoning Board:** I/we, the property owners of the land in question and the applicants hereby request an appearance before the Zoning Board of Appeals.
- Authorization to Enter Property:** I/we, the undersigned Property Owners, hereby authorize the members of the Zoning Board of Appeals and designated Town staff to enter the property associated with this application for purposes of conducting any necessary site inspections relating to this application.
- Property Owner's Authorization of Applicant and Liability:** I/we certify that I/we, the undersigned Property Owners, am/are all of the Owners of the Property which is the subject of this application, that I/we have authorized the applicant to make this application and that **I/we agree to be bound by the application, the representations made by the applicant, and the decision of the Town.**

4. **Truth Required By Law: I/we understand that false statements made herein are punishable as a Class A Misdemeanor, pursuant to section 210.45 of the Penal Law of the State of New York.**

Sworn to before me this

\_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Applicant

**BUILDING INSPECTOR DENIAL  
OF APPLICATION FOR LAND USE AND/OR BUILDING PERMIT**

APPLICANT: \_\_\_\_\_ TAX PARCEL No.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

PROPERTY ADDRESS: \_\_\_\_\_ ZONING DISTRICT: \_\_\_\_\_

This applicant has applied to use the identified property within the Town of Chili for the following:

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

This application is hereby denied upon the grounds that such use of the property would violate the Town Zoning Law article(s) \_\_\_\_\_.

As such, the following relief would be required to proceed:

- Appeal of My Interpretation  
 Use Variance to permit the following: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Area Variance seeking the following relief:

Section of Code*	Concerning*	Change From*	Change To*
500-			
500-			
500-			
500-			
500-			
500-			

\*See example below:

500-13(D)(1)	Rear Yard Setback	60 feet	58 feet
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\_\_\_\_\_ 20 \_\_\_\_\_  
Date

\_\_\_\_\_  
Code Enforcement Officer

**“STATEMENT OF INCOME AND EXPENSE”**

**(MUST BE COMPLETED AND ATTACHED TO ALL USE VARIANCE APPLICATIONS)**

**PLEASE NOTE: AT HEARING TIME, APPLICANTS MAY BE ASKED TO PROVIDE AT LEAST TWO (2) CALENDAR YEARS OF FINANCIAL INFORMATION, OR FROM THE DATE OF PURCHASE, WHICHEVER IS LESS.**

**PROPERTY ADDRESS:** \_\_\_\_\_

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

1) Date of purchase: \_\_\_\_\_ Purchase amount: \$ \_\_\_\_\_

2) Was a Certificate of Occupancy issued? \_\_\_\_\_  
Date of issuance? \_\_\_\_\_  
If so, for what use(s)? \_\_\_\_\_  
If not, why? \_\_\_\_\_

3) Original Amount of Mortgage(s): \_\_\_\_\_  
Mortgage Holder(s): \_\_\_\_\_  
Address \_\_\_\_\_  
Interest Rate(s) \_\_\_\_\_ Term of mortgage(s) \_\_\_\_\_

Original Amount of Mortgage(s): \_\_\_\_\_  
Mortgage Holder(s): \_\_\_\_\_  
Address \_\_\_\_\_  
Interest Rate(s) \_\_\_\_\_ Term of mortgage(s) \_\_\_\_\_

Original Amount of Mortgage(s): \_\_\_\_\_  
Mortgage Holder(s): \_\_\_\_\_  
Address \_\_\_\_\_  
Interest Rate(s) \_\_\_\_\_ Term of mortgage(s) \_\_\_\_\_

4) Town assessed value: \$ \_\_\_\_\_ Equalization rate: 100% Estimated Market Value: \$ \_\_\_\_\_

5) Appraised Value: \$ \_\_\_\_\_ Appraiser: \_\_\_\_\_ Date: \_\_\_\_\_ 20\_\_\_\_  
Appraisal Assumptions: **(Please attach copy of appraisal and describe assumptions below)**

\_\_\_\_\_

6) Has property been listed for sale with the Multiple Listing Service?  Yes  No. If "yes", for how long?  
\_\_\_\_\_

7) Original listing date(s): \_\_\_\_\_ Original listing price: \$ \_\_\_\_\_

If listing price was reduced, describe when and to what extent: \_\_\_\_\_

\_\_\_\_\_

8) Has the property been advertised in the newspapers or other publications?  Yes  No

If yes, describe frequency and name of publications: \_\_\_\_\_

9) Has the property had a "For Sale" sign posted on it?  Yes  No

If yes, list dates when sign was posted: \_\_\_\_\_

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

**B. GROSS ANNUAL INCOME: (Information provided must be for permitted uses, not the proposed use)**

USE (# of Apts., Retail Store, Office, etc.)	UNIT SIZE (sq. ft.; # of bedrooms)	MONTHLY RENT AMOUNT	ANNUAL RENT AMOUNT
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

**TOTAL ANNUAL INCOME:** \_\_\_\_\_  
**LESS (8%) VACANCY FACTOR:** \_\_\_\_\_  
(Explain, if greater than 8%)

**TOTAL ADJUSTED GROSS INCOME:** \_\_\_\_\_

**C. ANNUAL EXPENSES:**

- 1. Annual Fixed Charges
  - Real Estate Taxes (School & County) .....
  - Insurance .....
  - Average Annual Interest (over next 5 years) .....
- 2. Operating Expenses
  - Electric .....
  - Fuel .....
  - Water .....
  - Advertising .....
  - Miscellaneous (attach explanation) .....
- 3. Maintenance Expenses (attach list)
  - Repairs .....
  - General Building Maintenance .....
  - Yard and Ground Care .....
  - Miscellaneous .....

**TOTAL ANNUAL EXPENSES:** \_\_\_\_\_



**PROFIT or (LOSS)**

\_\_\_\_\_

**D. TOTAL INVESTMENT:**

- 1. Down payment .....
- 2. Capital Improvements (attach list) .....
- 3. Principal paid to date (original mortgage less current principal balance) .....

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TOTAL INVESTMENT:**  
(Sum of D1, D2 & D3)

\_\_\_\_\_

**E. RATE OF RETURN/YR. [Profit or Loss divided by Total Investment]**

\_\_\_\_\_

SIGNATURE OF PREPARER: \_\_\_\_\_ DATE \_\_\_\_\_ 20\_\_

PROFESSION OF PREPARER: \_\_\_\_\_