

# TOWN OF PITTSFORD

## GUIDELINES & APPLICATION FOR APPROVAL OF AN AREA VARIANCE

Zoning Board of Appeals – 11 S. Main Street – Pittsford, 14534 – 248-6260

**COMPLIANCE WITH THE FOLLOWING RULES WILL IN NO WAY GUARANTEE APPROVAL OF AN APPLICATION. It may even be necessary for the board to request additional information to make its decision.**

The Zoning Board of Appeals meets on the third Monday of each month at 7:00 P.M. local time at the Pittsford Town Hall, 11 South Main Street, Pittsford, New York. The Board adopts a schedule of meetings each year, which is available upon request.

The burden of proof for all applications is on the applicant, who should be prepared at the time of the public hearing to describe the application, state the necessity for the application, and show compliance with the applicable tests for approval (see attached sheets applicable specifically to area variance). The applicant, or the applicant's duly authorized agent, must appear at all public hearings held on the application. Failure to appear may result in automatic denial.

The requirements set out in this packet for the applications to the Zoning Board of Appeals are not to be considered all-inclusive. Depending on the nature and scope of a particular application, it is the prerogative of the Building Inspector, the Zoning Board secretary or the Zoning Board of Appeals to request more information of the applicant.

A complete package of application materials must be filed with the secretary of the Zoning Board of Appeals of the Town of Pittsford on or before the submission deadline for the required hearing date of the application. A schedule of public hearing dates, including submission deadlines, is available from the Zoning Board of Appeals secretary. An application to the Zoning Board of Appeals will not be accepted until all required materials have been deemed to be complete and accurate. The Board has adopted a policy of accepting only the first four (4) complete applications submitted for any one agenda. **All application materials will be available for public review.**

Approximately ten (10) days prior to the public hearing, the Town will post a sign in a conspicuous location on the subject property. This sign should be maintained on the property until it is removed by the Town.

The Zoning Board of Appeals is made up of community volunteers. All members are expected to visit the project site at their convenience. **If you have any visitation restrictions such as times/dates etc., please notify the Building Department so specific arrangements can be made.**

### REQUIREMENTS FOR ALL APPLICATIONS

A complete application consists of the following forms and documentation. Except where otherwise specified, twelve (12) copies of each form/item of documentation should be collated into packets no larger than 8½" by 11".

1. The one page application form (pg. 5) filled out completely and accurately, typed or printed. **[12 copies]**
2. Referral Form – The Town Building Inspector must be shown the herein-described instrument survey and/or plans for any proposed changes to the site, or for any proposed changes to the use on the site. He/she will make a determination as to what variances you need to apply for and provide you with a referral form indicating the current zoning of the subject property and what type of application is relevant, once the application is submitted. The Zoning Officer will complete this form after an applicant has submitted an application. **[12 copies]**
3. Authorization to make application – When the applicant is not the owner of the subject property, the Authorization to Make Application form (pg. 6) must be completed and signed by the owner and included as part of the application. **[12 copies]**

4. A current Instrument Survey of the subject property – A signed and/or sealed INSTRUMENT SURVEY MAP, prepared by a professional engineer or licensed land surveyor, accurately depicting the CURRENT status of the subject property, and the setbacks of all such existing structures, i.e., the closest distance between the nearest property line and the structural wall closest to that property line. **[One (1) stamped original and Eleven (11) copies]**

- **NOTE:** In a situation where average lot width at the required front setback, or percentage of impervious surface coverage, or the size of a structure is a possible issue, that information should be clearly indicated on the instrument survey.

All instrument surveys shall include the following information for the subject property:

- a. Front, side and rear property lines with lengths indicated
- b. ALL structures
- c. Front, side and rear setbacks of all structures
- d. Easements
- e. Driveways
- f. Any abutting roads and the name(s) of such road(s)
- g. North arrow and scale
- h. Distance of structural wall on most affected abutting property from common property line.

- **NOTE:** The Building Inspector may waive the requirement of an instrument survey, by so writing on the referral form.
5. A sketch, drawn to scale and signed, showing any proposed new structure or addition to an existing structure, showing setbacks. This is best accomplished by having a licensed land surveyor add this information to an instrument survey. When deemed acceptable by the Building Inspector, an applicant may alter an instrument survey to show a proposed addition to an existing structure. Such altered survey must be labeled “SKETCH” in large letters to indicate it has been altered, and additions must be accurately drawn to scale. **[12 copies]**
  6. Architectural elevations – If the variance requested concerns a new structure or an addition to an existing structure, architectural elevations, with scale indicated, are required. The height of the structure as defined in the Town Zoning Ordinance, i.e., “...the vertical distance as measured from the average elevation of the proposed finished grade at the front of a building or of a structure to the highest point of the building or the structure, which highest point shall include, but not be limited to, the highest or topmost point of the roof together with all towers, elevator penthouses, signs, tanks, elevator or stair bulkheads, mechanical equipment, light poles and light standards, except for poles or standards of a public utility company,” must be clearly shown on the elevation. **[12 copies]**
  7. Any other materials, such as photographs, maps, landscape plans, specifications, details, etc. which would further clarify the application. **[12 copies]**
  8. Tests for Granting Area Variances as listed on page 3. Prepare response form (pg. 7) as completely as possible. **[12 copies]**
  9. Disclosure Form E (pg. 8) in compliance with Section §809 of the General Municipal Law. (pg. 9) **[12 copies]**
  10. A PDF of all submission materials is also required.
  11. Submission of the appropriate application fee, in accordance with the current fee schedule. (pg. 11) This fee covers the cost of the legal ad, which appears in THE DAILY RECORD, and part of the administrative costs involved. The check should be made payable to the “TOWN OF PITTSFORD”.

The Town of Pittsford zoning staff will be responsible for contacting property owners through a mailing describing the requested application and informing them of the hearing date and time. The applicant is **strongly advised** to also communicate with adjacent property owners who might be affected by the granting of the variance or special permit. Public comment on an application will not in itself be the basis of a decision, but may factor into the board’s decision process.



# NEW YORK STATE

## STANDARDS FOR THE GRANTING OF AREA VARIANCES TOWN LAW SECTION § 267-b.

### § 267-b. Permitted action by board of appeals.

#### *Power to Grant Area Variances*

3. Area variances.
  - a. The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

#### *Tests for Granting Area Variances*

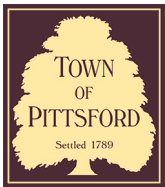
- b. In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
  1. whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
  3. whether the requested area variance is substantial;
  4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;  
and
  5. whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

#### *Minimum Variance Necessary*

- c. The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

#### *Power to Impose Conditions*

4. Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.



# TOWN OF PITTSFORD

## AREA VARIANCE APPLICATION FORM CHECK LIST

Zoning Board of Appeals – 11 S. Main Street – Pittsford, 14534 – 248-6260

**CHECKLIST:** Please check your paperwork against the following list prior to submitting it to the Zoning Board of Appeals Secretary. These documents should be collated into packets no larger than 8 ½” by 11” in size so they are readily mailable.

- 1. Zoning Board of Appeals application form (pg. 5) **12 copies**
- 2. Authorization to make application (pg. 6) **12 copies (when applicable)**
- 3. Instrument survey map, **12 copies**
- 4. Scaled sketch, **12 copies**
- 5. Elevations, **12 copies**
- 6. Any other materials, such as photographs, maps, landscape plans, specifications, details, etc. which would further clarify the application, **12 copies**
- 7. Tests (written response to each) for granting area variances (pg. 7) **12 copies**
- 8. Disclosure Form E (pg. 8) **12 copies**
- 9. A PDF of all submission materials is also required.
- 10. Check made out to “Town of Pittsford” for application fee.

**GIVEN TO APPLICANT:**

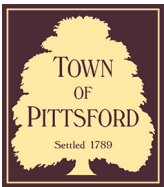
- Referral form
- Applicable Code Sections
- Application Packet

**RECEIVED FROM APPLICANT:**

- 12 complete sets of application materials
- Fee Payment

Date of Public Hearing: \_\_\_\_\_

**NOTE: All application materials will be available for public review.**



# TOWN OF PITTSFORD ZONING BOARD OF APPEALS APPLICATION FOR AREA VARIANCE

Submission Date: \_\_\_\_\_ Hearing Date: \_\_\_\_\_

Applicant: \_\_\_\_\_

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Agent: \_\_\_\_\_  
*(if different than Applicant)*

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Property Owner: \_\_\_\_\_  
*(if different than Applicant)*

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

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

**(If applicant is not the property owner please complete the Authorization to Make Application Form.)**

Property Location: \_\_\_\_\_ Current Zoning: \_\_\_\_\_

Tax Map Number: \_\_\_\_\_

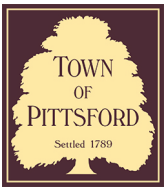
Application For:       Residential       Commercial       Other

Please describe, in detail, the proposed project:

**SWORN STATEMENT:** As applicant or legal agent for the above described property, I do hereby swear that all statements, descriptions, and signatures appearing on this form and all accompanying materials are true and accurate to the best of my knowledge.

\_\_\_\_\_  
*(Owner or Applicant Signature)*

\_\_\_\_\_  
*(Date)*



# TOWN OF PITTSFORD

## AREA VARIANCE AUTHORIZATION TO MAKE APPLICATION

Zoning Board of Appeals – 11 S. Main Street – Pittsford, 14534 – 248-6260

***If the applicant is not the owner of the subject property, this form must be completed and signed by the owner.***

I, \_\_\_\_\_, the owner of the property located at:

\_\_\_\_\_  
*(Street)*

\_\_\_\_\_  
*(Town)*

\_\_\_\_\_  
*(Zip)*

Tax Parcel # \_\_\_\_\_ do hereby authorize

\_\_\_\_\_ to make application to the

Town of Pittsford Zoning Board of Appeals, 11 South Main Street, Pittsford, NY 14534 for the purpose(s) of \_\_\_\_\_

\_\_\_\_\_  
*(Signature of Owner)*

\_\_\_\_\_  
*(Date)*



# NEW YORK STATE STANDARDS FOR THE GRANTING OF AREA VARIANCES TOWN LAW SECTION § 267-b-3(b).

## TESTS FOR GRANTING AREA VARIANCES

In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the board shall also consider the following:

*(Please answer the following questions to the best of your knowledge)*

1. Please explain why you feel the requested variance will not produce an undesirable change in the character of the neighborhood and why a detriment to nearby properties will not be created by the granting of this area variance:

2. Please explain the reasons why the benefit sought by the owner/applicant cannot be achieved by some method other than an area variance:

## **TESTS FOR GRANTING AREA VARIANCES (Continued)**

3. Please explain whether the requested area variance is minimal or substantial:

4. Please explain why you feel the requested area variance will not have an adverse effect or impact on the physical or environmental condition in the neighborhood or zoning district:

- **NOTE:** *Consideration of the following question shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of an area variance;*

5. Is the alleged difficulty self-created?



# Disclosure Form E

STATE OF NEW YORK  
COUNTY OF MONROE

TOWN OF PITTSFORD

In the Matter of

\_\_\_\_\_  
*(Project Name)*

The undersigned, being the applicant(s) to the...

**Town Board**     **Zoning Board of Appeals**     **Planning Board**     **Architectural Review Board**

...of the Town of Pittsford, for a...

**change of zoning**     **special permit**     **building permit**     **permit**     **amendment**  
 **variance**     **approval of a plat**     **exemption from a plat or official map**

...issued under the provisions of the Ordinances, Local Laws, Rule or Regulations constituting the zoning and planning ordinances regulations of the Town of Pittsford, do hereby certify that I have read the provisions of Section §809 of the General Municipal Law of the State of New York attached to this certificate.

I do further certify that there is no officer of the State of New York, the County of Monroe or of the Town of Pittsford or of any other municipality of which the Town of Pittsford is a part who is interested in the favorable exercise of discretion by said Board as to this application, except for those named below:

Name(s)

Address(es)

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

\_\_\_\_\_  
*(Signature of Applicant)*

\_\_\_\_\_  
*(Dated)*

\_\_\_\_\_  
*(Street Address)*

\_\_\_\_\_  
*(City/Town, State, Zip Code)*



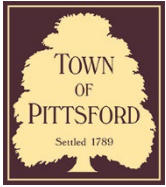
# NEW YORK STATE

## GENERAL MUNICIPAL LAW SECTION § 809

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.

Section eight hundred six of the General Municipal Law added by this act, shall apply only to application, petitions or requests as described therein which are submitted on or after the effective date of this act.

This act shall take effect September 1, 1969.



# TOWN OF PITTSFORD

## AREA VARIANCE

### FEE SCHEDULE

### EFFECTIVE – 2023

Zoning Board of Appeals – 11 S. Main Street – Pittsford, 14534 – 248-6260

#### **Area Variances – Residential and Non-Profit**

Single	\$ 75.00 each
Each additional – up to 5	\$ 15.00 each

#### **Area Variances – Non-Residential**

Single	\$150.00 each
Each additional – up to 5	\$ 15.00 each

#### **Re-advertisement**

Every re-advertisement	\$150.00 each
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Applicant's request for postponement may require a re-advertisement fee