

BOARD OF ZONING APPEALS

Docket # _____

APPLICATION FOR VARIANCE OR
APPEAL TO BOARD OF ZONING APPEALS

Name of Appellant _____

Mailing Address _____

City _____ State _____ Zip _____ Tel. No. _____

Name of Owner _____

Location of Subject Property if Different from Above _____

_____ Map ____ Lot ____

The undersigned requests that the Board of Zoning Appeals consider one of the following:

___ 1. An Administrative Appeal: Relief from the decision, or lack of decision, of the Code Enforcement Office or Planning Board in regard to an application for a permit. The undersigned believes that (check one):

- _____ an error was made in the denial of the permit
- _____ the denial of the permit was based on the misinterpretation of the ordinance
- _____ there has been a failure to approve or deny the permit within a reasonable period of time
- _____ Other _____

Please explain, in more detail, the facts surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

___ 2. A Variance:

Nature of Variance: Describe generally the nature of the variance.

In addition, a sketch plan of the property to scale must accompany this application showing dimensions and shape of the lot, the size and locations of existing structures, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

- a. Please describe the well-documented, exceptional conditions that affect the particular land or building which do not affect other property in the district (Augusta Land Use Ordinance, Sec. 6.6.2.2.1 (a)).

- b. Justification of Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Zoning Appeals that the strict application of the terms of the ordinance would cause undue hardship. There are four criteria which must be met before the BZA can find that a hardship exists. Please explain how your situation meets each of these criteria listed below:

- i. The land in question cannot yield a reasonable return unless the variance is granted (Augusta Land Use Ordinance, Sec. 6.6.2.2.1 (b) i).

- ii. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood. (Augusta Land Use Ordinance, Sec. 6.6.2.2.1 (b) ii).

- iii. The granting of a variance will not alter the essential character of the locality. (Augusta Land Use Ordinance, Sec. 6.6.2.2 1 (b) iii).

- iv. The hardship is not the result of action taken by the appellant or a prior owner. (Augusta Land Use Ordinance, Sec. 6.6.2.2.1 (b) iv).

c. Additional Factors Applicable to Variances: Please address the following additional factors:

- 1. Explain how a variance from the particular terms of this ordinance can be granted without detriment to the public interest or the health, safety, or general welfare of the residents of the municipality, and without impairment of the integrity of the Comprehensive Plan for municipal development, or of the purpose and intent of this ordinance. (Augusta Land Use Ordinance, Sec. 6.6.2.2 (c)).

- 2. No variance shall be granted for placement of a structure less than five (5) feet from the property line unless the abutting owner gives a construction, maintenance and repair easement which shall be recorded with the Kennebec County Registry of Deeds. No variance shall be granted which does not provide for a snow storage area of a minimum of five (5) feet from the right-of-way line. In shore land areas, the minimum setback from the normal high water mark for subsurface sewage disposal facilities shall not be reduced by variance. (Augusta Land Use Ordinance, Sec. 6.6.2.2 (2))

- 3. The issuance of any variance shall be contingent upon the applicant's agreeing in writing to indemnify and save harmless the City against all loss, cost, damage or expense occurring by reason of the erection or maintenance of a structure and upon his or her filing with the City clerk a certificate of public liability insurance covering property damage up to one thousand dollars (\$1,000) and bodily damage with a coverage of ten thousand to twenty thousand dollars (\$10,000-\$20,000) minimum limits. (Augusta Land Use Ordinance, Section 6.6.2.5)

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4. In shore land areas, the Board of Appeals shall not grant a variance unless it makes a finding, based on clear and convincing evidence presented to it, that the proposed use would meet the provisions of the following: (as listed in section 6.6.2.3))
 - a. If the proposal contains known sensitive areas such as erodible or shallow soils, wetlands, aquifers, aquifer recharge areas, floodplain or steep slopes (over 15%), what special engineering precautions will be taken to overcome these limitations?
 - b. Does the proposal conform to applicable local, State DEP and Federal EPA air quality standards including, but not limited to odor, dust, fumes or gases which are noxious, toxic or corrosive, suspended solid or liquid particles, or any air contaminant which may obscure an observer's vision?
 - c. Does the proposal conform to applicable local, State DEP, and Federal EPA water quality standards, including, but not limited to erosion and sedimentation, runoff control, and solid wastes and hazardous substances?
 - d. Will all sewage and industrial wastes be treated and disposed of in such a manner as to comply with applicable federal, state and local standards.
 - e. Shore land and Wetland Districts: Will the proposal:
 - i. Maintain safe and healthful conditions;
 - ii. Not result in water pollution, erosion, or sedimentation to surface waters;
 - iii. Adequately provide for the disposal of all wastewater;
 - iv. Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
 - v. Conserve shore cover and visual, as well as actual points of access to inland and coastal waters;
 - vi. Protect archaeological and historic resources as designated in 1988 Growth Management Plan;
 - vii. Avoid problems associated with flood plain development and use; and
 - viii. Conform to the provisions of Section 5.3.1, Special Shore land Standards.

I certify that the information contained in this application and its supplement is true and correct.

Date _____

Appellant

Note to the Appellant: This form should be returned to the Chairperson of the Board of Zoning Appeals, Bureau of Code Enforcement, City Center, 16 Cony Street, Augusta, ME 04330-5298.

You will be notified of the date of the hearing on your appeal. Please submit 15 copies of application by 3 p.m.

FILING FEE: \$100.00 (non-refundable) to be paid when variance is filed.

\$ 50.00 (non-refundable) to be paid when an appeal of the Code Enforcement Officer's decision is filed.

\$100.00 (non-refundable) to be paid when an appeal of the Planning Board's decision is filed. Note: Upon being notified of an appeal from a decision of the Planning Board, city planning staff shall have prepared and transmitted to the Board of Appeals a written certified transcript of the Planning Board proceedings from which an appeal is being taken. Applicant will be charged for cost of transcript.

Date Fee Collected: _____ Code: (CSZONE) 10356531 531010

Applicant's Signature: _____

Effective: May 21, 2007

Council Order 109

Revised date: February 4, 2016