

TOWN OF MOREAU
NEW YORK

351 REYNOLDS ROAD • MOREAU, NY

Zoning Board of Appeals
Application Use Variance or Area Variance

APPLICATION PROCEDURES

The **purpose** of the variance procedure is to provide an applicant the opportunity to argue that the strict application of Chapter 149 on a proposed use or project would result in **practical difficulty** or **unnecessary hardships** inconsistent with the general purpose and objectives of the Zoning Chapter of the Town Code. There are two types of variances:

1. **Area Variance:** A variance to provide relief from the dimensional standards of Zoning District as listed in the Schedule of Regulations in Chapter 149 (Zoning).
2. **Use Variance:** A variance to allow a use that is prohibited (not listed) in the Zoning District Schedule of Regulations in Chapter 149 (Zoning).

The **general procedures** for both an area variance and a use variance are as follows:

1. Submit **eight (8) paper copies** and an **electronic** copy of the appropriate variance application form and related documents to the Town Building Department. on behalf of the Zoning Board of Appeals. The electronic copy may be submitted on a flash drive or emailed to biclerk@townofmoreau.org. NOTE: The application will not be scheduled on the Zoning Board of Appeals agenda until all paper and electronic copies have been received by the Town Building Department.
2. The applicant must be attend a public hearing held by the Zoning Board of Appeals within **thirty-five (35) days** of the receipt of the completed application.
3. The applicant shall receive a **Notice of Decision** on the requested variance within **thirty-five (35) days** of the public hearing. The Zoning Board of Appeals may **approve, approve with conditions,** or **deny** the variance. Under §149-57, the Zoning Board of Appeals may impose conditions to protect the best interest of the surrounding properties, the neighborhood and the Town as a whole.
4. Upon receipt of the Notice of Decision, the applicant shall undertake the proposed action or project for which the variance was approved within **six (6) months** of receiving a decision from the Zoning Board of Appeals. The Zoning Board of Appeals may increase this period from six months to **one (1) year** at its discretion.

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GUIDE FOR COMPLETION OF AN AREA VARIANCE

This guide is intended to provide a brief instruction for preparing and filing an **area variance** application to the Town of Moreau Zoning Board of Appeals. The authorization, applicability, requirements, and procedure for an area variance by the Town of Moreau Zoning Board of Appeals are dictated under Article X, Chapter 149, Zoning of the Town Code.

No guarantee of approval is implied if the guide is followed, nor is the denial implied by not following the guide. In all cases, the applicant should review the regulations listed in Chapter 149, Zoning of the Town Code which is available at the Town Clerk's office or online through a link at the bottom of the Town webpage at townofmoreau.org.

APPLICATION INSTRUCTIONS

Submit **eight (8) paper copies** (original and 7 copies) of this application and any related or supporting information to the Zoning Board of Appeals to the Building Department of the Town of Moreau at:

351 Reynolds Road
Moreau, NY 12828

The Building Department hours of operation are Monday through Friday, 8:30am to 4:00pm.

An **electronic** copy of the application is also required and may be emailed to the Building Department Clerk at biclerk@townofmoreau.org or submitted on a flash drive. NOTE: The application will not be scheduled on the Zoning Board of Appeals agenda until all paper and electronic copies have been received by the Town Building Department.

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APPLICATION FOR AREA VARIANCE

FOR INTERNAL USE ONLY

APPLICANT:

APPEAL #: _____
ZONING DISTRICT: _____
DATE SUBMITTED: _____
DATE ACCEPTED: _____
HEARING DATE: _____

SEQR Type 1 SEQR Type 2 Unlisted

APPLICANT INFORMATION:

1. **Applicant(s):** Pam & Carl DeLucia
Street Address: 538 Gansevoort Rd
City, State, Zip: Fort Edward, NY 12828
Telephone #: 518-588-7811 Fax #: _____
E-mail Address: pamdelucia@gmail.com
2. **Agent:** _____
Street Address: _____
City, State, Zip: _____
Telephone #: _____ Fax #: _____
E-mail Address: _____
3. **Owner:** _____
Street Address: _____
City, State, Zip: _____
Telephone #: _____ Fax #: _____
E-mail Address: _____

RELATIONSHIP TO THE PROPERTY:

OWNER: Yes No

LESSEE: Yes No

AGENT: Yes No

If an agent, please attach an Agent Authorization Form.

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GENERAL PROJECT INFORMATION:

ADDRESS: 538 Gansevoort Rd TAX MAP #: 64.1-1-2
CURRENT USE: residential ZONING DISTRICT: R-2
LENGTH OF TIME OF USE: owned by applicant since November 2025 PROPOSED USE: _____
RELIEF SOUGHT: fence height variance to allow a 6 ft solid cedar fence

AREA VARIANCE REQUEST:

	Required Dimension	Proposed Dimension	Difference	%
Front Yard Setback	_____	_____	_____	_____
Side Yard Setback	_____	_____	_____	_____
Rear Yard Setback	_____	_____	_____	_____
Lot Area	_____	_____	_____	_____

GENERAL DESCRIPTION OF THE ACTION FOR WHICH AN AREA VARIANCE IS SOUGHT:

Area variance from Town Code Chapter 70, §70-4, to allow a 6-foot solid cedar fence to extend beyond the front building line of the house in the location shown on the submitted plan. The variance is requested for safety reasons, including safe containment of large dogs and protection for an approved swimming pool.

CRITERIA: An area variance may be granted only in the event that **ALL five (5)** of the circumstances listed in § 179-59A are specifically found to exist by the Zoning Board of Appeals and are each so stated in the findings.

- (1) That the strict application of said dimensional requirements would result in a specified practical difficulty to the applicant.
- (2) How substantial the requested variance is in relation to the requirements.
- (3) That the difficulty cannot be alleviated by some practical method feasible for the applicant to pursue.
- (4) That there will be no substantial change in the character of the neighborhood or a detriment to the adjoining properties.

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- (5) That the variance would not be materially detrimental to the purpose of this chapter or to property in the district in which the property is located or otherwise conflict with the description or purpose of the district or the objectives of any plan or policy of the town and that the variance requested is the minimum variance which would alleviate the specific practical difficulty found by the Zoning Board of Appeals to affect the applicant.

Please describe how your circumstance meets ALL five (5) criteria (please attach additional pages as necessary):

General Statement

I am requesting an area variance from Town Code §70-4 to allow a 6-foot solid cedar fence in the proposed location shown on my submitted site plan. The proposed fence would be approximately 25–30 feet from the edge of pavement on Lennox Boulevard, approximately 180 feet from Route 32/Gansevoort Road, and approximately 180 feet from the nearest intersection.

Although the requested variance is from Town Code §70-4, Town Code §70-1 is also relevant because “Front Yard” Section 70-1 defines “Front Yard” broadly and includes corner properties adjacent to a public street. However, the same definition states that “this definition shall specifically not apply for purposes of swimming pool protection.” Since the pool permit has already been approved and the pool is expected to be installed before the Zoning Board hearing, this language is relevant to my request. One purpose of the proposed 6-foot solid cedar fence is to provide safer protection for the pool area as a 4-foot fence or 50% open fence would not provide the same level of safety, security, or practical protection as a 6-foot solid fence. The lot is approximately 100 feet wide based on the tax map. If the fence is required to remain aligned with the plane of the house, the approved fenced area would be limited to approximately 60 linear feet of yard width. With the requested variance, the enclosed area would gain approximately 24 additional feet, for a total of approximately 84 linear feet. This still would not enclose the entire width of the lot, but it would create a more functional and safe yard area for large dogs and safety for the approved pool.

Although the parcel is approximately 0.72 acres, much of the functional yard area is limited by the long, narrow lot shape and is already occupied by the house, detached garage, driveway, patio, and pool. The area proposed to be enclosed is the primary remaining open space for safe dog exercise and practical outdoor use.

I understand that Chapter 70 may still require a variance for the proposed fence location and height. However, the pool-safety language in §70-1 supports this request because the code appears to recognize that swimming pool protection may require different treatment than ordinary front-yard fencing. The requested variance would allow for a safer pool barrier while still maintaining substantial setbacks from Lennox Boulevard, Route 32/Gansevoort Road, and the nearest intersection.

In addition to pool safety, the fence is needed for safe containment of large, athletic dogs, including a Redbone Coonhound. A 4-foot fence would not safely or reliably contain them, especially given that the property is located on a busy road. Lennox Boulevard has a posted 20 mph speed limit that is not consistently followed. A Planned Unit Development with approximately 180 residences has also been approved in the area, which is expected to increase local traffic. A 6-foot solid fence would provide a safer and more practical enclosure than a 4-foot fence while still remaining well set back from the roadway.

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CHECKLIST OF VARIANCE APPLICATION COMPLETENESS:

As per §149-57 of the Zoning Chapter of the Town Code, the following information shall be supplied by the applicant with any variance application:

Please complete the checklist of required application elements:

- 1. Map of the property with a scaled site plan and/or elevations necessary to show the proposed project for which the variance is sought.
- 2. Complete narrative response addressing each of the criteria as specified in this application.
- 3. Financial documentation demonstrating the reasonableness of financial return on the property.
- 4. Completed and signed Part 1 of the appropriate Environmental Assessment Form. Paper copies are available at the Building Department in Town Hall or electronically at <https://www.dec.ny.gov/permits/6191.html>.
- 5. Additional information requested by the Zoning Board of Appeals.

Please return the original application, with all four pages intact, along with ten (10) paper copies and an electronic copy, including required information and documentation. The electronic copy may be submitted on a flash drive or emailed to biclerk@townofmoreau.org.

NOTE: The application will not be scheduled on the Zoning Board of Appeals agenda until all paper and electronic copies have been received by the Town Building Department.

Also note that the information to be provided is not limited to the space on this form. If additional space is needed, please use separate sheets and indicate the enclosure number or page number for the attached sheets in the related space provided on this application.

Signature

Applicant (print)

Applicant (sign)

Date

1. Strict application of the dimensional requirements would result in practical difficulty.

Strict application of §70-4 creates a practical difficulty because of the unusual layout of this property. The lot is long and narrow, located on a corner, and has two front-yard conditions. The existing house is positioned toward one side of the lot rather than centered. As a result, applying the front building line rule requires the 6-foot fence to be placed farther back than would be necessary if the house were more centrally located on the lot.

The lot is approximately 100 feet wide based on the tax map. If the fence is required to remain aligned with the plane of the house, the approved fenced area would be limited to approximately 60 linear feet of yard width. With the requested variance, the enclosed area would gain approximately 24 additional feet, for a total of approximately 84 linear feet. This would still not enclose the entire width of the lot, but it would create a more functional and safe yard area.

The practical difficulty is not simply a preference for a larger yard. It is caused by the combination of the corner lot, the long and narrow shape of the property, the location of the existing house, the existing structures and approved pool area, pool safety, and the need for safe enclosure for large dogs on a busy road.

2. How substantial the requested variance is in relation to the requirements.

The requested variance is limited to allowing a 6-foot solid cedar fence in the specific portion of the yard that extends beyond the front building line of the house. The fence code would otherwise limit that portion of the fence to 48 inches. I am requesting approval for a 72-inch fence, which is an additional 24 inches in height.

I am not requesting to place the fence on the property line, near the intersection, or directly along the public right-of-way. The proposed fence would be approximately 30 feet from Lennox Boulevard, approximately 180 feet from Route 32/Gansevoort Road, and approximately 180 feet from the nearest intersection.

Because of these setbacks, the requested variance would not create the type of roadside obstruction, intersection hazard, or visibility concern that the code appears intended to prevent. The request is limited to the height needed to create a safe and practical enclosure for large dogs and the approved pool area.

3. The difficulty cannot be alleviated by another practical method feasible for the applicant.

There is no practical alternative that would provide the same safety and function. Keeping the 6-foot fence in line with the house would cut off a substantial portion of the only practical open yard area available for dog exercise and normal residential use.

A 4-foot fence is not a practical alternative because I have large, athletic dogs, and a 4-foot fence would not safely or reliably contain them. This is especially concerning because the property is located on a busy road, and Lennox Boulevard's posted 20 mph speed limit is not consistently followed.

A 4-foot fence would also not provide the same level of pool safety. The pool permit has already been approved, and the pool is expected to be installed before this hearing takes place. A 6-foot solid cedar fence would provide a safer and more secure barrier than a 4-foot fence. A 50% open fence would also provide less security and less effective containment.

The requested 6-foot cedar fence is the most practical way to create a safe, functional enclosed yard while still maintaining a substantial setback from the road.

4. There will be no substantial change in the character of the neighborhood or detriment to adjoining properties.

The proposed fence would not create a substantial change in the character of the neighborhood or a detriment to adjoining properties. A 6-foot cedar fence is a typical residential fence. It would be located within the existing yard area and would be well set back from the roadway.

The fence would be approximately 30 feet from Lennox Boulevard, approximately 180 feet from Route 32/Gansevoort Road, and approximately 180 feet from the nearest intersection. It would not obstruct traffic visibility, block a sidewalk, interfere with sight lines, or create a hazard.

The fence would improve the function, safety, and appearance of the property by creating a finished residential enclosure for the usable yard area. The proposed fence would be consistent with normal residential use and would not negatively affect neighboring properties.

5. The variance would not be materially detrimental to the purpose of the chapter, district, or Town plan/policy, and it is the minimum variance necessary.

The requested variance would not be materially detrimental to the purpose of the fence code, the zoning district, or the Town's planning objectives. The apparent purpose of the front-yard fence restriction is to prevent tall solid fences from creating visibility problems, traffic hazards, or undesirable roadside barriers. This proposal would not create those issues because the fence would be substantially set back from Lennox Boulevard, far from Route 32/Gansevoort Road, and approximately 180 feet from the nearest intersection.

The requested variance is the minimum relief necessary to address the practical difficulty. I am requesting permission to place a 6-foot cedar fence approximately 30 feet from Lennox Boulevard, rather than being required to keep the fence approximately 60 feet back at the plane of the house. This would allow a functional enclosed yard without placing the fence near the road, intersection, or public right-of-way.

The proposed fence would allow reasonable residential use of the property, safe containment for large dogs, and safer protection for an approved pool, while still maintaining a significant setback from the roadway and avoiding any impact on public safety or neighborhood character.