

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 **10 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.

GUIDE FOR COMPLETION OF A USE VARIANCE

This guide is intended to provide a brief instruction for preparing and filing a **use variance** application to the Town of Moreau Zoning Board of Appeals. The authorization, applicability, requirements, and procedure for a use 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 **10 paper copies** (original and 9 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.

APPLICATION FOR USE VARIANCE

FOR INTERNAL USE ONLY	
APPLICANT: _____ _____	APPEAL #: _____ ZONING DISTRICT: _____ DATE SUBMITTED: _____ DATE ACCEPTED: _____ HEARING DATE: _____
☐ SEQR Type 1 ☐ SEQR Type 2 ☐ Unlisted	

APPLICANT INFORMATION:

- Applicant(s):** _____ Jim Aiken _____
Street Address: _____ 91 Hatchery Rd _____
City, State, Zip: _____ Gansevoort, NY 12831 _____
Telephone #: _____ 518-321-5039 _____ Fax #: _____
E-mail Address: _____ jaiken@travelers.com _____
- Agent:** _____
Street Address: _____
City, State, Zip: _____
Telephone #: _____ Fax #: _____
E-mail Address: _____
- 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.

GENERAL PROJECT INFORMATION:

ADDRESS: __81 Hatchery Rd Gansevoort, NY 12831_ TAX _____ MAP _____ #:
 CURRENT USE: ____Vacant____ 77.2.7.112_____
 LENGTH OF TIME OF USE: _____ ZONING DISTRICT: ____R-5_____
 PROPOSED USE: _____
 RELIEF SOUGHT: ____Barn without Principal Residence_____

GENERAL DESCRIPTION OF THE ACTION FOR WHICH A USE VARIANCE IS SOUGHT:

Looking to install a barn for storing tools, materials and equipment used to service my principal residence and business (91 Hatchery Rd) as well as to service the shared right of way between the 2 properties as shown in the attached map. I am unable to join this property to my principal property as there is a 40' right of way/extension of a separate parcel (89 Hatchery Rd) that is between my principal parcel (91 Hatchery Rd) and the parcel in question (81 Hatchery Rd). This is a 6+ acre parcel that we purchased to be sure that we did not have any closer neighbors as well as to use to recreate, run our dogs, etc. The Parcel currently does not have any buildings, and we feel it is not cost effective to build another home just to build a barn on the property that is part of our overall footprint. The Barn would be approximately 30'x 80', brown in color and placed on a stone pad with a buffer of trees to minimally impact the aesthetics of the neighborhood.

CRITERIA FOR DECISION:

A use variance may be granted only if **ALL four (4)** of the circumstances listed in § 179-59(B) are specifically found to exist by the Zoning Board of Appeals and are each so stated in the findings. The four circumstances that must be demonstrated are as follows:

- (1) That the strict application of said use provisions of this chapter would result in a specified unnecessary hardship to the applicant which arises because of exceptional or extraordinary circumstances applying to the property and not applying generally to other properties in the same district or which results form a lot size or shape legally existing prior to the date of this chapter or topography or other circumstances over which the applicant has had no control.
- (2) That the property in question cannot yield a reasonable financial return if used for any permissible use, special permit use or site plan review use applicable to the zoning district in which the property is located. NOTE: Supporting financial documentation demonstrating investments in the property and property valuation are required to properly address this finding.

- (3) That the variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same district posses without such a variance.
- (4) 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 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 unnecessary hardship found by the Zoning Board of Appeals to affect the applicant.

Please describe how your circumstance meets ALL four (4) criteria (please attach additional pages as necessary):

1. We purchased this property to avoid another home being built immediately and to give us more space to recreate and use as part of our principal property. We are looking to use this barn to house tools and equipment used to service the principal parcel (91 Hatchery Rd). Erecting such a building on our primary property would not be practical as it would either be in the way of our personal or business use or interfering with the right of way of several neighbors as well as being visible to them all.
2. It does not make financial sense for us to build another home just to be able to erect this proposed Barn as we already have a principal residence in the adjoining footprint and there currently is no need for another home.
3. Erecting the barn would allow us to utilize the property in such a way that it is part of our overall footprint (considering both 91 Hatchery Rd and 81 Hatchery Rd) as if it were 1 connected parcel. Allowing the barn will not affect the future value of the property as a principal residence could still be built on the property at a later time.
4. Erecting a barn on this property in lieu of on our primary property helps to keep the barn out of sight from the neighbors and will not interfere with their use of right of ways. Barns fit in the category of agriculture and farming as typical types and character of buildings allowed in this R-5 district.

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 James Aiken

Applicant (print)

Applicant (sign)

Date