

**MARILLA ZONING BOARD OF APPEALS**  
Information on Applying for a Variance

**GENERAL**

There are two common types of variances – **Use** and **Area**. **Use** is for a prohibited activity; **Area** is for rear, front, or side lots of sizes smaller than required.

The ZBA meets on the 4<sup>th</sup> Wednesday of the month.

Meetings are in the Marilla Town Hall at 7:30 p.m.

Application to be approved by CEO by first Tuesday to be on agenda for that month.

Notices are published in the Alden Advertiser and the Elma Review at least five (5) days before the hearing.

**YOU MUST PROVE CONCLUSIVELY THAT THERE IS AN UNNECESSARY HARDSHIP** (for a use variance), **OR A PRACTICAL DIFFICULTY** (for an area variance).

**BEFORE YOU APPLY FOR A VARIANCE**

1. Discuss the problem with the CEO and the ZBA Chairman. Solutions may be found other than a variance.
2. If in doubt, study Town Ordinance Chapter 4-4-6. You will have to prove that you meet all these criteria at the public hearing.
3. If you believe you need a variance, you may apply for one. You will be asking the ZBA members to set aside an established regulation so make sure you present all required information.

**THE APPLICATION AND SUPPORTING INFORMATION**

1. Study the form and complete it in detail. If there is not enough information, it will be returned to you.
2. Specify clearly the variance you are requesting, for example; a side lot less than that required.
3. State your present address and a telephone number where you can be contacted.

4. Provide details of the lot; surveyor sketch, description of wetlands, streams, trees, buildings. Accurate distances must be included.
5. Give three (3) copies of all your documents to the Marilla Town Clerk, 1740 Two Rod Road, Marilla, NY 14102.
6. The CEO will review your application and if acceptable, will give a copy to the Town Clerk who will assign a case number upon receipt of the \$450 fee plus cost of sending or publishing any notices relating to such appeal.
7. Copies of the application will be given to the various town agencies, especially the Assessors who will compile a list of all owners with 500 feet of the variance site.

### **NOTIFICATIONS**

All public notices must be made at least five (5) days before the hearing date.

Notices will be in The Alden Advertiser and The Elma Review.

The following are to be notified:

- \*Town Clerk and other town agencies
- \*All owners of property within 500 feet of site in question
- \*Applicant/Representative
- \*ZBA members so that they will have time to make site visits and inquiries.

### **THE PUBLIC HEARING**

1. Anyone present may express an opinion.
2. A quorum of three (3) ZBA members must be present.
3. The Chairman will make introductions and briefly outline the variance requested.
4. Applicant will present reasons for requesting the variance. Board Members will make suggestions to preclude a variance. **AT THIS TIME, THE APPLICANT MUST PROVE TO THE BOARD THAT THERE IS A PRACTICAL DIFFICULTY or an UNNECESSARY HARDSHIP AND A VARIANCE IS THE ONLY SOLUTION. ALL CRITERIA IN SECTIONS CHAPTER 4-4-6-B MUST BE ADDRESSED!!**
5. After all presentations have been made, the Chairman will summarize statements made.

6. The ZBA members will deliberate the case then publicly vote their decisions to grant or deny the variance or, if warranted, to postpone their final decision.

### **THE DECISION**

1. Granted – with or without conditions or restrictions. The applicant has six months to apply for permit from the CEO and construction commenced within one month to implement the year of such date of approval.
2. Denied – The Board will specify the areas where the applicant failed to justify a variance. The applicant may request, with 21 days, another hearing if new evidence is found.
3. The Board will list it's reasoning for the decision. These reasons usually follow the criteria in Chapter 4-4-6.
4. Postponed – If more information is needed before the Board can make it's decision, a postponement will be agreed upon. A new date will be mutually set.

Marilla Zoning Board of Appeals  
Chairman