

# City of Rome



## Zoning Code and Zoning Board of Appeals Guidelines

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## Overview

A zoning law is a community's guide to its future development. It is not meant to be just another governmental intrusion, another bit of red tape ahead of development plans. A landowner can look at the zoning map and regulations and know that if he follows them, he has a right to use his land in a certain way, and that neighboring property is subject to the same restrictions. But, because all land in the district is subject to the same rules, and because no two parcels of land are precisely the same, problems can arise.

When the first zoning ordinance in this country was passed in New York City in 1916, there was doubt that the courts would uphold its constitutionality, since it was a new and, at that time, radical system of land use control. Various "safety valves" were included in that first ordinance; therefore, in an attempt to relieve the pressure of too rigid enforcement of the zoning ordinance and any attendant hardship, and also to attempt to ensure judicial approval of the new concept. Foremost among these devices was the concept of an administrative body that would stand as a buffer between the property owner and the court. That administrative body is the Zoning Board of Appeals, sometimes referred to as a board of adjustment.

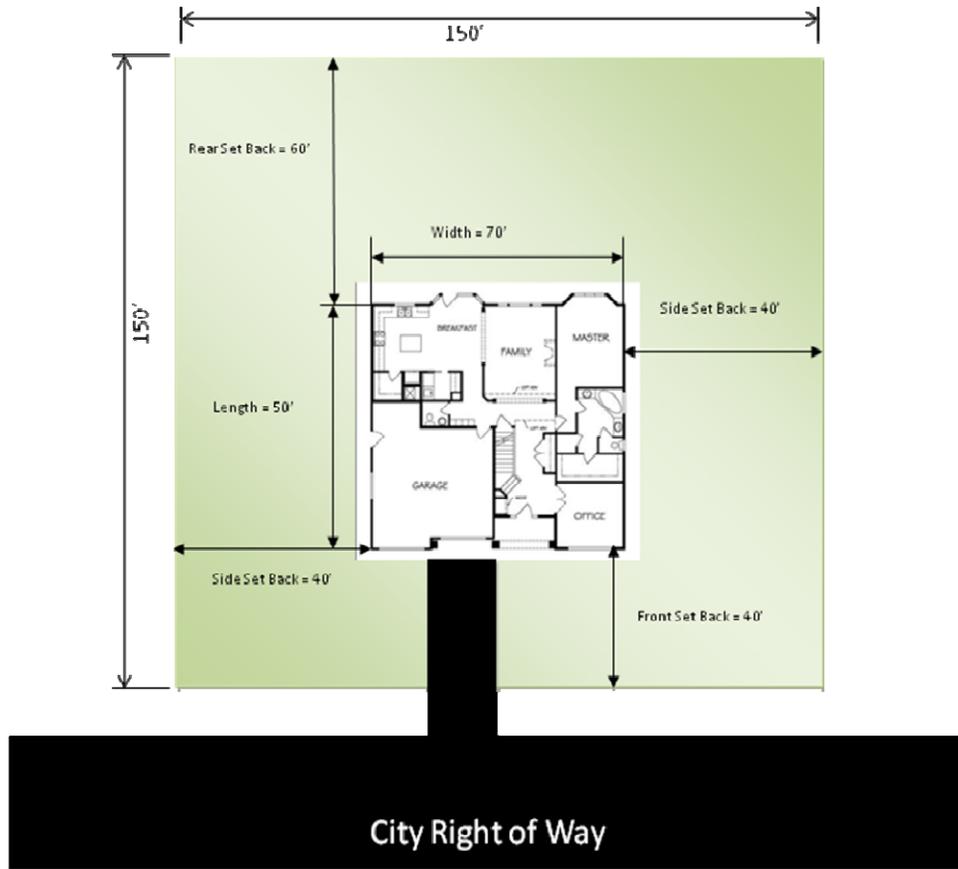
The City of Rome Zoning Ordinance, developed in conjunction with the Comprehensive Plan, was adopted April 28, 2004. The new ordinance is a complete revision of the former ordinance adopted in the early 1960's. Because of the age of the previous ordinance, many components of the document were outdated and incomplete. The new ordinance focuses on correcting these issues, improving development standards, focusing development in appropriate areas and making the City of Rome a friendly place to do business.

## Zoning Districts

The City of Rome is divided into a number of zoning districts. Each district has prescribed ways in which the property can be used and development standards which govern how the property is built upon. For example, let's assume a person owns a parcel in an R-1 (single family zone district) that is 150' x 150' and is considering development of the property. The zoning code permits the following principal uses in an R-1 Zone District:

- Detached single-family dwellings
- State Certified modular dwelling (factory built home)
- Attached single-family dwellings (two unit town houses) subject to site plan review
- Schools, publicly owned
- Agricultural uses, provided the lot is a least 5 acres
- Government structures or use
- Churches and religious institutions

If the person wished to build a restaurant on this parcel, this would not be an allowed use under the zone district uses. However, they could build a single family home on the lot subject to the development standards. A site plan would be prepared and compared to the development standards for the R-1 district. Below is an example site plan and comparison to actual development standards in a City of Rome R-1 zone district.



**Example Site Plan for Single Family Dwelling**

Once a site plan is prepared, an evaluation of the development standards is made. A comparison of development standards for an R-1 zone is made to the actual from the site plan below:

	Development Standard	Actual	Compliance
Minimum Lot Size	10,000 square feet	$150 \times 150 = 22,500$	Yes
Maximum Building Height	35 feet	Assumed 28 feet	Yes
Minimum Front Set Back	25 feet	40 feet	Yes
Minimum Back Set Back	30 feet	60 feet	Yes
Minimum Side Set Back	10 feet	40 feet	Yes
Minimum Lot Width	70 feet	150 feet	Yes
Maximum Lot Coverage	35%	$(50 \times 70)/(150 \times 150) = 15.5 \%$	Yes

This illustrates how both the proposed use and development are consistent with permitted uses and development standards in a particular zoning district. Zoning district compliance is the first step in any development process, therefore, it is essential to check with the City of Rome Code Enforcement Office prior to starting any development process. For a complete description of permitted uses and development standards for each zoning district, visit <http://www.romenewyork.com/> under code of ordinances.

The City of Rome is divided into nineteen (19) Zone Districts. Each district has a specific purpose and associated permitted uses and development standards. Below is a table that summarizes the various City of Rome Zone Districts and their intended purpose.

<b>Residential Districts</b>	
Single family (R-1)	To provide for single family development
Small lot single family (R-2)	To provide for small lot single-family residential uses including attached single family and duplexes
Multi-family (R-3)	To provide for multi-family housing development with three(3) or more units
Residential Professional (R-P)	To provide for a mix of residential and small professional office uses
<b>Commercial Land Use Districts</b>	
Neighborhood commercial (C-1)	To provide for small-scale commercial development integrated into and compatible with residential neighborhoods
Mixed commercial/residential (C-2).	Mixed commercial/residential (C-2). To provide for mixed use development that combines commercial, office, entertainment, public and residential uses on a single site or corridor.
General commercial (C-3).	To provide for a broad range of commercial development including a full range of retail, office and service uses with a local or regional market.
Central commercial (C-4).	To provide for commercial and some residential development within Rome's central business district that allows a broad range of uses to reflect the central business district's role as a cultural, office and governmental center.
<b>Employment Districts</b>	
Business and industrial park (E-1).	To provide an environment exclusively for and conducive to the development and protection of modern, large-scale specialized manufacturing, office development, research facilities and related uses.
Light industrial (E-2).	To provide areas of the city that are suitable for industrial uses and compatible with adjacent commercial and residential uses. The district also serves to buffer heavy manufacturing uses from commercial and residential areas.
General industrial (E-3).	To provide areas of the city that are suitable for light industrial uses and also for a wide range of heavier manufacturing and processing activities.

<b>Agricultural And Open Space Districts</b>	
Preservation zone (P-Z):	This district is designed to protect land from current development where soil, water and access conditions make beneficial development possible only under special conditions. The characteristics of the topography, drainage, floodplains and other natural characteristics of land in this zone may cause damage to buildings or structures and possible danger to health due to the processes of nature. All development of the land within this district shall be reviewed on an individual basis in order to ensure that the land is capable of supporting the proposed development and to further ensure that the environment is protected before such proposed development commences.
Agricultural Zone (F-1):	This district is designed to fill the need for land with agricultural uses encouraged and residential uses are permitted. The purpose of the district is to provide a compatible environment for the raising of crops and dairy products and for limited residential development upon large lots.
Rural Residential (R-R):	This district is intended to provide for low density rural residential development with some agricultural uses permitted in order to provide for rural residential living and preserve open space and rural character in the outer district.
Airport Approach (A-A):	The purpose of this district is to protect airspace in the potential aircraft approach routes to the Griffiss Airport, Oneida County Airport and private airports
<b>Scrap And Salvage District</b>	The purpose of the scrap and salvage district is to provide a location for the processing and storage of scrap, wastes and recycling materials.
<b>Natural Products And Hazards District</b>	The natural products and hazards district is intended to provide a tool to rezone appropriate sites for potentially disruptive or hazardous uses, such as natural resource extraction and waste disposal, while protecting residential uses and the natural resources of the city.
<b>Planned Development Districts</b>	The primary purpose of creating planned development districts (PDD) is to encourage new development not limited by the strict application of this code. The common council may approve, disapprove or modify the proposal submitted by an applicant.
<b>Hospitality/Medical Use District</b>	The hospitality district is intended to support the continued development of high-quality hospitality services including health care, lodging, conference and tourism facilities, while preserving residential quality of life.





## **Zoning Board of Appeals**

Quite often a property owner wishing to develop property finds that either the proposed use and/or the development plan are not consistent with the zoning ordinance for the particular zone district for which the property is located in. The decision on whether a proposed land use or development method is compliant is given by the zoning officer. The zoning officer is responsible to preserve the intentions of the City of Rome Zoning Code without regard to particular nuances that may be related to a specific property or situation. General City Law provides that the City of Rome, and all other cities within New York State, must appoint a five member zoning board of appeals in order to provide an avenue to appeal the decision of the zoning officer. In the city of Rome, the Mayor appoints volunteer members to a five year term. The board of appeals is an appellate body unless specifically granted original jurisdiction by the City of Rome Common Council. **The City of Rome Zoning Board of Appeals convenes on the first Wednesday of each month. Meetings are at 7:00 PM in the Common Council Chambers of Rome City Hall. Special meeting may be held under extenuating circumstances only.**

### **Types of Applications to the Zoning Board of Appeals**

Applications to the Zoning Board of Appeals are made for three basic reasons.

- A person may disagree with the decision that the zoning officer has made or taken. This would follow with an interpretation request.
- A person believes that an exception to the zoning laws should be made. This would follow with a use or area variance request.
- A person seeks approval of a special permit. This would follow with a special use permit request.

### **Duties of the Zoning Board of Appeals**

The City of Rome Zoning Board of Appeals is established and authorized for the following specific purposes.

1. **Interpretations-** On appeal from a determination of the zoning officer, or on request by any official, department or board of the city, the board shall decide any question involving the interpretation of any provision of the zoning code of ordinances.
2. **Use Variances-** The board, on appeal from the decision or determination of zoning officer, shall have the power to grant use variances. No such use variance shall be granted by the board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located that hardship criteria are met.
3. **Area Variances-** The board shall have the power, upon an appeal from a decision or determination of the zoning officer to grant area variances as defined herein. In making its determination, the board 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.

4. **Special use permits-** Uses designated in this zoning code as special uses permitted shall be permitted or enlarged or altered upon approval of the zoning board of appeals in accordance with the standards and procedures specified. In permitting a special use, the board may impose, in addition to the regulations and standards expressly specified by this zoning code, other conditions found necessary to protect the health and welfare of the surrounding property or neighborhood or the city as a whole.

### **Interpretations**

If requesting a reversal on an interpretative basis, the applicant must prove that the zoning officer's decision was incorrect, according to a proper reading of the municipality's zoning regulations. If the ZBA has heard a case in the past which involved an interpretation of the same provision, the ZBA's decision will be consistent with its prior ruling. If the ZBA has never interpreted the particular provision at issue, it will use its best judgment as to the municipal governing board's original intent in enacting the provision. Secondly, the ZBA will try to arrive at the best practical solution for future application by the zoning officer. Careful and thorough reference will be given to all definitions and other provisions of the regulations. If necessary, the ZBA will refer to authoritative publications on planning and zoning law. The applicant may, of course, use those resources in presenting his own case as well.

### **Use Variance**

When requesting a use variance, that is, permission to establish a use of property not otherwise permitted in the zoning district, the applicant must prove "unnecessary hardship." To prove this, State law requires the applicant to show **all** of the following:

1. that the property is incapable of earning a reasonable return on initial investment if used for **any** of the allowed uses in the district (actual "dollars and cents" proof must be submitted)
2. that the property is being affected by unique, or at least highly uncommon circumstances
3. that the variance, if granted, will not alter the essential character of the neighborhood
4. that the hardship is not self-created.

If **any one or more** of the above factors is not proven, State law requires that the ZBA must deny the variance.

### **Area Variance**

If requesting an area variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage regulations), then State law requires the applicant to show that the benefit the

applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

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 which will be feasible for the applicant to pursue but would not require a 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 an alleged difficulty is self-created.

Unlike the use variance test, the ZBA need not find in favor of the applicant on every one of the above questions. Rather, the ZBA must merely take each one of the factors into account. The ZBA may also decide that a lesser variance than the one requested would be appropriate, or may decide that there are alternatives available to the applicant which would not require a variance.

### **Special Use Permit**

Under these regulations, special uses are considered to be uses which may be appropriate in the district in which they are located, but which possess special characteristics which may pose land use or nuisance concerns or difficulties if controlled only by the district regulation applicable to permitted uses. Accordingly, such uses are further controlled by a procedure which requires special consideration and additional regulations for each such use in order to mitigate any such problems or difficulties and minimize the impact upon the district. Each use warrants consideration as an individual case in the district and on the specific lot on which it is proposed to be located. Granting of a special permit for a special use in a zoning district shall be based on its own unique facts and circumstances and shall not establish any precedent for granting of a special permit for the use or any other special permit use on any other lot in the district or in other districts.

The board shall review all special use requests on the basis of both architectural review and site plan review criteria and findings identified above, and shall also review and determine that the use as proposed on the specific lot location will generally satisfy the following criteria:

1. The physical characteristics, topography and other features of the lot and the scale and physical design and other features of any new or existing buildings to be occupied by the use are suitable and adaptable for the proposed use without any modifications which would change the established character of the street or neighborhood setting.
2. The nature and intensity of operations of the use will not be more objectionable to surrounding properties than those of a permitted use. Examples of measures of potential impacts due to the

nature and intensity of development include, but are not limited to, traffic generation, hours of operation, size and scale, noise, odor, dust, vibration, glare, smoke and environmental hazards.

3. The use is not in such proximity to a religious facility, school, community center, recreation place, or other prominent place of community activity and public assembly so as to regularly conflict with such other activity and thereby constitute a danger to health, safety or general welfare.
4. The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns which are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes.
5. The use makes adequate provision for off-street parking in accordance with the Rome Zoning chapter.
6. The use and the proposed design of the building and other structures and site facilities for the use are appropriate in the proposed location and have incorporated reasonable efforts to harmonize with surrounding uses and mitigate any adverse impacts on surrounding uses, including but not limited to, traffic congestion and hazards, untimely scheduling of activities, removal of trees and other established natural features, and excessive storm water runoff, noise, nuisance, odors, glare or vibration.
7. The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community. In evaluating cumulative impacts the board will consider the proximity of other special permit uses, particularly those similar to the use proposed.
8. The use will not conflict in any way with the Rome Comprehensive Plan and other adopted city plans.

Applications to the Zoning Board of Appeals (ZBA) will follow a specific process outlined below. An Application to the ZBA does not guarantee that the decision of the zoning officer will be overturned. Strict criteria will need to be presented and evaluated by the board to render a decision. The type of action requested by the applicant will drive the evaluation criteria.

### **Zoning Appeal Fee Schedule**

There are costs associated with having an appeal heard by the Zoning Board of Appeals. Although the Zoning Board Members are volunteers, mailings to nearby property owners and legal advertisement are expenses which are dependent on the appeals themselves. For this reason the following fee schedule is in place and must be paid at time of application.

Interpretations –	No Charge
Area Variance -	\$50.00
Use Variance -	\$100.00
Special Use Permit -	\$100.00

## **Zoning Board of Appeals Process**

The following steps must be adhered to in order to make application to the ZBA.

1. **Applicant** - Receive a denial of development or use for a specific property in question
2. **Applicant** - Provide proof that you have an ownership interest in the property or written consent from the property owner of your intentions that the zoning officer has denied approval for.
3. **Applicant** - Submit application package appropriate for the type of appeal you are requesting at least 30 days prior to the schedule ZBA meeting. For example, the ZBA is scheduled to meet on the first Wednesday in June 2009 which would be June 3<sup>rd</sup> 2009. The application must be received by May 3<sup>rd</sup>, 2009 for the appeal to be heard at the June 2009 meeting.
4. **Applicant** – Pay applicable fee associated with appeal type at time of application submittal
5. **City** – Notify all neighbors within 200 feet of property in question of intention of applicant to appeal the ZBA and invite recipients to attend and present rational for or against.
6. **City**- Post a legal notice in the Rome Daily Sentinel concerning the request and public meeting date.
7. **City** – Coordinate with County and State agencies if necessary regarding the appeal.
8. **Applicant** - Attend meeting held in Common Council Chambers on second floor of Rome City Hall at 6:30 PM
9. **ZBA** – Hear appeal and request more information relating to the appeal or render a decision based on the testimony and information presented.
10. **Applicant** – obtain building permit or receive certificate of occupancy with 120 days of written approval decision by the board.

## **Responsibilities of the Applicant at the Zoning Board Meeting**

At the hearing, the applicant may submit written evidence and/or argument to support his or her case. Obviously, the sooner that written testimony or material is received, the more time ZBA members will have to consider the case and reach a proper decision. Therefore, it is a good idea to submit written material with the application, or as soon thereafter as possible, so that it can be sent to ZBA members prior to the hearing. (Please note that the applicant can present written evidence at any time up to the close of the hearing, or even after the hearing if the ZBA allows the record to remain open.)

At the hearing, the ZBA will offer the applicant and/or the applicant's representative the opportunity to present a case for relief. The applicant may personally testify, call witnesses, or submit written evidence, including drawings and graphics. Because an appeal is an adversarial proceeding, the ZBA will offer the municipality an equal opportunity to present its side of the case (the side which supports the zoning officer's decision). Each side will be given an opportunity to question the other, or the other's witnesses. In addition, ZBA members may ask questions.

After the applicant and the municipality have presented their cases, any other interested persons will be given the opportunity to speak and/or submit written material. If necessary, the hearing may be adjourned and continued at a later date. When all parties and interested persons have been granted the opportunity to be heard, the hearing will be closed.

Any order or decision of the board granting a special permit, or variance, shall expire if a building or occupancy permit is not obtained by the applicant within 120 calendar days from the date the decision becomes final. The 120 days begins when the written decision is signed by the ZBA chairperson.

### **Responsibilities of the Zoning Board**

The ZBA is required to schedule a hearing on the applicant's appeal within a reasonable time, and give notice of the hearing to the applicant. Applications are due 30 days prior to the monthly meeting and are generally heard at the first opportunity. If a variance is requested, the ZBA may be required to take some preliminary steps before it may hear the case.

First, the ZBA may have to make a determination of significance under the State's environmental Quality Review Act (SEQRA). Based on this determination, an Environmental Impact Statement (EIS) may or may not be required. If an EIS is required, the case cannot be heard until the EIS has been completed and accepted by the ZBA. Environmental review is not necessary for interpretations of the zoning regulations or for area variances relating to setbacks and plot lines, or for area variances relating to one-, two-, or three-family residences. Second, depending on the location of the property, the ZBA may be required by State law to refer requests for variances to the county planning agency for a preliminary recommendation. If such a referral is required, the ZBA must give the county 30 days to respond. It is also possible that the county's recommendation could result in an increase in the number of votes needed for the ZBA to approve the variance. Appeals for interpretations need not be referred to the county.

Once the hearing is closed, the ZBA may begin discussing the case and reach a decision, or may postpone discussion and/or its decision until a later meeting. If the ZBA deems it necessary, the hearing may be reopened at any time. Once the hearing has been finally closed, the ZBA must make its decision within 62 days, but will usually render a decision the night of the meeting if the board has all information necessary to render a decision.

All matters shall be decided by roll call vote. Decisions on matters requiring public hearings and which reverse any order, requirement, decision or determination made by an the zoning officer or to decide in favor of the applicant any matter upon which he is required to determine under any such an ordinance, or to grant any variance from the requirements of such an ordinance shall require the affirmative vote of three voting members of the board present at such hearing. No member of the board shall sit in hearing or vote on any matter in which he shall be personally or financially interested, nor shall he vote on the determination of any appeal unless he shall have attended the public hearing thereon. In order for an action to be made in the applicants favor a majority of the five member board must vote in

favor of the applicant. In the event only three or four members are available for the board meeting, three votes in favor are still required to approve any ZBA applications.

## **Appendix A - Zoning Board of Appeals Application Forms**

The following application forms represent the applicable form for each type of ZBA request. In addition to the appropriate application form, Part I of the Short Environmental Assessment Form must be completed for each application other than an interpretation. In addition to the completed application, it is in the applicant's best interest to submit the following as appropriate. Failure to provide these items will result in the application being tabled.

- Site Plan drawn to scale detailing all current and planned development on the plot plan.
- Plan and elevation drawings of proposed construction with dimensions to property boundaries.
- Pictures that bring hard to describe circumstances to light.
- Survey of parcel

# CITY OF ROME ZONING BOARD OF APPEALS

## ZBA Form - Interpretation

IN THE MATTER OF THE APPEAL, OF \_\_\_\_\_, Appellant (s):  
for an interpretation pursuant to Article VIII, Section 56 (a) of the Code of Ordinances of the  
City of Rome, Appendix A - Zoning.

TO THE ZONING BOARD OF APPEALS:

(SECTION 1. TO BE COMPLETED BY ZONING OFFICER):

1. The appellant (s) hereby appeals to the Zoning Board of Appeals, of the City of Rome, New York, from a determination of the Zoning Officer who, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, did deny my application for a(n) \_\_\_\_\_, said application affecting property at \_\_\_\_\_ in a \_\_\_\_\_ Zoning District, in the City of Rome, and having been submitted to the Zoning Officer for the purpose of

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

that such application was denied by the Zoning Officer insofar as it contained a use or other proposed action not permitted or authorized and constituting a violation of Section \_\_\_\_\_ of the Code of Ordinances, Appendix A - Zoning; that this appeal is made to the Zoning Board of Appeals for an interpretation of the proper implementation of such section of the Code of Ordinances.

2. The code section to be interpreted reads as follows: (applicable portion only)  
Section \_\_\_\_\_.

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

3. Having fully reviewed the language of such code section, appellant affirmatively states objection with the interpretation of such section by the Zoning Officer; appellant respectfully requests that such section be interpreted as follows: \_\_\_\_\_

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

Sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Appellant

# CITY OF ROME ZONING BOARD OF APPEALS

## Area Variance Application

IN THE MATTER OF THE APPEAL, OF \_\_\_\_\_, Appellant (s):  
for an Area Variance pursuant to Article VIII, Section 56 (b) of the Code of Ordinances of the City of Rome, Chapter 80 and Article 5-A, Section 81-b of the New York State General City Law

TO THE CITY OF ROME ZONING BOARD OF APPEALS:

**SECTION I** (SECTION I TO BE COMPLETED BY ZONING OFFICER AND REVIEWED BY APPLICANT):

A. The appellant (s) hereby appeals to the Zoning Board of Appeals of the City of Rome, New York from a determination of the Zoning Officer who, on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, did deny the application of the Appellant, said application affecting property at \_\_\_\_\_ in a \_\_\_\_ zoning district, in the City of Rome, and having been submitted to the Zoning Officer for the purpose of \_\_\_\_\_

that such application was denied by the Zoning Officer insofar as it contained a proposed use not permitted or authorized and constituting a violation of Section \_\_\_\_\_, Schedule \_\_\_\_\_ of the Rome Code of Ordinances, Chapter 80.

B. Area Variance Standard: Appellant recognizes that, pursuant to Article 5-A of the General City Law, §81-b(4), the Zoning Board of Appeals shall take into consideration the benefit to the appellant if the Area 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 Zoning Board of Appeals **shall** also consider:

(i) 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;

(ii) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

(iii) whether the requested area variance is substantial;

(iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

(v) 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.

The Appellant recognizes that the Zoning Board of Appeals, in the granting of Area Variances, shall grant the **minimum variance** that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community by such conditions as it may deem reasonable under the circumstances.

**SECTION II** (SECTION II TO BE COMPLETED BY APPELLANT (S)---attach additional sheets and/or addendums as necessary)

\* It may be in your best interest to seek the assistance of an attorney in filling out this Section.

\*\*Explanatory Note(s) are for the sole purpose of helping you, as Appellant, understand the requirements necessary to obtain the Variance and shall not have any significance to your application or any denial thereof. These Notes are not intended as legal advice, nor are they to be relied on as the current state of the law.

A. Having fully reviewed the above requirements for the granting of an Area Variance, I hereby request such Area Variance in order to supersede the determination of the Zoning Officer denying my application for the following reasons (complete each paragraph below):

Note: In making application to the Zoning Board of Appeals for an Area Variance, the Zoning Board of Appeals must take into consideration the benefit of the Area Variance to the Appellant and weigh it against the detriment to the community. In weighing said factors, the Zoning Board of Appeals **must** consider the five factors enumerated above. The Appellant requests the variance and presents information to substantiate the variance; however, it is the job of the Zoning Board to implement the test.

**(i) 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;**

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**(ii) whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;**

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**(iii) whether the requested area variance is substantial;**

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**(iv) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and**

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**(v) 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.**

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B. I hereby attest that no previous appeal has been made for the Area Variance requested herein.

Sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Appellant

# CITY OF ROME ZONING BOARD OF APPEALS

## Use Variance Application

IN THE MATTER OF THE APPEAL, OF \_\_\_\_\_, Appellant (s):  
for an Area Variance pursuant to Article VIII, Section 56 (b) of the Code of Ordinances of the City of Rome, Chapter 80 and Article 5-A, Section 81-b of the New York State General City Law

TO THE CITY OF ROME ZONING BOARD OF APPEALS:

**SECTION I** (SECTION I TO BE COMPLETED BY ZONING OFFICER AND REVIEWED BY APPLICANT):

A. The appellant (s) hereby appeals to the Zoning Board of Appeals of the City of Rome, New York from a determination of the Zoning Officer who, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, did deny the application of the Appellant, said application affecting property at \_\_\_\_\_ in a \_\_\_\_\_ zoning district, in the City of Rome, and having been submitted to the Zoning Officer for the purpose of

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

that such application was denied by the Zoning Officer insofar as it contained a proposed use not permitted or authorized and constituting a violation of Section \_\_\_\_\_, Schedule \_\_\_\_\_ of the Rome Code of Ordinances, Chapter 80.

B. Use Variance Standard: Appellant recognizes that, pursuant to Article 5-A of the General City Law, §81-b(3), no Use Variance shall be granted by the Zoning Board of Appeals without a showing by the Appellant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the Appellant shall demonstrate to the Zoning Board of Appeals that for **each and every** permitted use under the zoning regulations for the particular district where the property is located all of the following are applicable:

(i) the Appellant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(ii) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(iii) the requested use variance, if granted, will not alter the essential character of the neighborhood; **and**

(iv) the alleged hardship has not been self-created.

The Appellant recognizes that the Zoning Board of Appeals, in the granting of Use Variances, shall grant the **minimum variance** that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community by such conditions as it may deem reasonable under the circumstances.

**SECTION II** (SECTION II TO BE COMPLETED BY APPELLANT (S)---attach additional sheets and/or addendums as necessary)

\* It may be in your best interest to seek the assistance of an attorney in filling out this Section.

\*\*Explanatory Note(s) are for the sole purpose of helping you, as Appellant, understand the requirements necessary to obtain the Variance contemplated and shall not have any significance to your application or any denial thereof. These Notes are not intended as legal advice, nor are they to be relied on as the current state of the law.

A. Having fully reviewed the above requirements for the granting of a use variance I hereby request such Use Variance in order to supersede the determination of the Zoning Officer denying my application for the following reasons: (complete each paragraph below)

(i) **The Appellant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.** Note: to meet this prong of the Use Variance standard, you must show that the property in question cannot be sold or leased for any permitted use. This showing should be done by demonstrating that an active effort was made to sell or rent the property for each and every permitted use under the zoning regulations. Evidence demonstrating an active effort includes evidence that a realtor was contacted and the property was shown to potential buyers or lessees without success. Additionally, lack of reasonable return may be proven by, among other things: amount paid for the property, the present value of the property, expenses for maintenance, amount of taxes paid, mortgages, income from the land and other relevant factors.

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(ii) **The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.** Note: to meet this prong of the Use Variance standard, you must show that the alleged hardship is unique to the parcel in question, not the neighborhood or City in general.

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(iii) **The requested use variance, if granted, will not alter the essential character of the neighborhood.**

Note: under this prong of the Use Variance standard, the Zoning Board of Appeals must determine whether or not the requested Use Variance will disrupt or alter the character of a neighborhood or inhibit/diminish uses that conform to the zoning regulations. In making said determination, the Board will consider, among other things: change in parking patterns, change in traffic patterns, noise levels, lighting and such other factors it deems necessary. You may meet this prong of the Use Variance standard, by demonstrating the proposed use is substantially similar to existing uses in the particular area.

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(iv) **The alleged hardship has not been self-created.** Note: this is, perhaps, the most difficult prong of the Use Variance standard to meet, and requires a showing by you that you have not done anything which created the unnecessary hardship for which you are seeking the Use Variance. Purchasing the property knowing the proposed use is not allowed, buying the property without checking the zoning regulations and investing in the proposed use without complying with the zoning regulations are all self-created hardships.

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B. I hereby attest that no previous appeal has been made for the Area Variance requested herein.

Sworn to before me this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_\_.

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Notary Public

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Appellant

# CITY OF ROME ZONING BOARD OF APPEALS

## Special Permit Application

IN THE MATTER OF THE APPEAL, OF \_\_\_\_\_ APPEAL # \_\_\_\_\_

for a special exception/special permit pursuant to Article VIII, Section 56 (c) of the Code of Ordinances of the City of Rome, Appendix A - Zoning.

TO THE ZONING BOARD OF APPEALS:

(SECTION I TO BE COMPLETED BY CODE ENFORCEMENT OFFICER):

1. The appellant (s) hereby appeals to the Zoning Board of Appeals of the City of Rome, New York from a determination of the Codes Enforcement Officer who, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, did deny the application for a zoning permit or certificate of occupancy, said application affecting property at \_\_\_\_\_ in a \_\_\_\_\_ Zoning District, in the City of Rome, and having been submitted to the Codes Enforcement Officer for the purpose of \_

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

that such application is herein made to the Zoning Board of Appeals insofar as the above use requires Zoning Board of Appeals approval of an appropriate special exception/special permit in accordance with Section \_\_\_\_\_ of the Code of Ordinances, Appendix A - Zoning.

2. Appellant recognizes that the Zoning Board of Appeals may grant a special exception/special permit for any use for which the approval of the Zoning Board of Appeals is required under the Code of Ordinances, Appendix A - Zoning. In granting such special exception/special permit, the Zoning Board of Appeals may specify appropriate conditions and safeguards in harmony with the following rules and standards:

- (a) The physical characteristics, topography and other features of the lot and the scale and physical design and other features of any new or existing buildings to be occupied by the use are suitable and adaptable for the proposed use without any modifications which would change the established character of the street or neighborhood setting.
- (b) The nature and intensity of operations of the use will not be more objectionable to surrounding properties than those of a permitted use. Examples of measures of potential

impacts due to the nature and intensity of development include, but are not limited to, traffic generation, hours of operation, size and scale, noise, odor, dust, vibration, glare, smoke and environmental hazards.

- (c) The use is not in such proximity to a religious facility, school, community center, recreation place, or other prominent place of community activity and public assembly so as to regularly conflict with such other activity and thereby constitute a danger to health, safety or general welfare.
- (d) The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns which are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes.
- (e) The use makes adequate provision for off-street parking in accordance with the Rome Zoning chapter.
- (f) The use and the proposed design of the building and other structures and site facilities for the use are appropriate in the proposed location and have incorporated reasonable efforts to harmonize with surrounding uses and mitigate any adverse impacts on surrounding uses, including but not limited to, traffic congestion and hazards, untimely scheduling of activities, removal of trees and other established natural features, and excessive stormwater runoff, noise, nuisance, odors, glare or vibration.
- (g) The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community. In evaluating cumulative impacts the board will consider the proximity of other special permit uses, particularly those similar to the use proposed.
- (h) The use will not conflict in any way with the Rome Comprehensive Plan and other adopted city plans.

Furthermore, the appellant (s) recognizes that the Zoning Board of Appeals may deny any application for such special exception/special permit if the proposed use fails to meet the above specified conditions.

(SECTION 3 TO BE COMPLETED BY APPELLANT(S)):

3. Having fully reviewed the above rules and standards for the granting of a special exception/special permit, appellant affirmatively asserts compliance with such rules and standards for the following reasons:

**(please complete each paragraph below)**

The physical characteristics, topography and other features of the lot and the scale and physical design and other features of any new or existing buildings to be occupied by the use are suitable and adaptable for the proposed use without any modifications which would change the established character of the street or neighborhood setting because:

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The nature and intensity of operations of the use will not be more objectionable to surrounding properties than those of a permitted use. Examples of measures of potential impacts due to the nature and intensity of development include, but are not limited to, traffic generation, hours of operation, size and scale, noise, odor, dust, vibration, glare, smoke and environmental hazards because:

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The use is not in such proximity to a religious facility, school, community center, recreation place, or other prominent place of community activity and public assembly so as to regularly conflict with such other activity and thereby constitute a danger to health, safety or general welfare because:

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The use will not unreasonably increase or introduce traffic congestion or safety hazards or impose traffic volumes on streets and street patterns which are deficient in width, design, sight distance, intersection configuration, or other typical standards necessary to accommodate such traffic changes because:

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The use makes adequate provision for off-street parking in accordance with the Rome Zoning chapter. Describe parking plan.

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The use and the proposed design of the building and other structures and site facilities for the use are appropriate in the proposed location and have incorporated reasonable efforts to harmonize with surrounding uses and mitigate any adverse impacts on surrounding uses, including but not limited to, traffic congestion and hazards, untimely scheduling of activities, removal of trees and other established natural features, and excessive stormwater runoff, noise, nuisance, odors, glare or vibration because:

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The cumulative impacts of the use in the proposed location will not unreasonably interfere with or diminish the continued use, preservation, stability, value, enjoyment, prosperity or growth of the neighborhood or community. In evaluating cumulative impacts the board will consider the proximity of other special permit uses, particularly those similar to the use proposed because:

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The use will not conflict in any way with the Rome Comprehensive Plan and other adopted city plans because:

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4. That the previous appeal for the variance requested herein has (not) been made.

Sworn to before me this \_\_\_\_\_

Day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

\_\_\_\_\_

Appellant

# Short Environmental Assessment Form

## State Environmental Quality Review SHORT ENVIRONMENTAL ASSESSMENT FORM For UNLISTED ACTIONS Only

### PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR	2. PROJECT NAME
3. PROJECT LOCATION: Municipality _____ County _____	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map)	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY:	
7. AMOUNT OF LAND AFFECTED: Initially _____ acres    Ultimately _____ acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input type="checkbox"/> No    If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open Space <input type="checkbox"/> Other Describe: _____	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals:	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____	

**If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment**

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**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4?      If yes, coordinate the review process and use the FULL EAF.  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6?    If No, a negative declaration may be superseded by another involved agency.  <input type="checkbox"/> Yes    <input type="checkbox"/> No</p>
<p>C. COULD ACTION RESULT IN <b>ANY</b> ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:</p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p>
<p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?  <input type="checkbox"/> Yes    <input type="checkbox"/> No    If Yes, explain briefly:</p>
<p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?  <input type="checkbox"/> Yes    <input type="checkbox"/> No    If Yes, explain briefly:</p>

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.	
<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide, on attachments as necessary, the reasons supporting this determination.	
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Name of Lead Agency	Date
<hr style="width: 100%;"/>	<hr style="width: 100%;"/>
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
<hr style="width: 100%;"/>	<hr style="width: 100%;"/>
Signature of Responsible Officer in Lead Agency	Signature of Preparer (If different from responsible officer)

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