

PROCEDURE FOR COMPLETING GARDINER ZONING BOARD OF APPEALS APPLICATION

1. Complete all 4 pages of the application. Be sure to include what variance(s) are being applied for. This information is provided by the Town of Gardiner Building Inspector (Type or print legibly).
2. Complete Short Environmental Assessment Form. (Side 1 only). Return with the application to the Town Hall.
3. Obtain plot map (from Assessor's office) and draw in appropriate changes, additions, etc., with detailed measurements being applied for. Attach plot map to packet. Have application notarized and return packet to the Town Hall along with a CHECK (made payable to the Town of Gardiner) in the amount \$200.00.
4. Address a plain #10 envelope to each neighbor within 500 feet of the of the neighboring property owners. List of neighboring land owners can be compiled with assistance from the Assessor's Office. The return address on each envelope should be just your name. The remainder of the return address will be the Town of Gardiner address and will be completed by the Town. The envelopes must have a stamped postage of \$.39. Return envelopes to Clerk of the Zoning Board of Appeals at the Town Hall.
5. For an application to be placed on the ZBA monthly agenda all of the above must be completed no later than the first of the month for the month's ZBA meeting. (Example if you want to be on the August agenda, the application must be turned in by the first business day of August). There are no exceptions.
6. If there are any further questions concerning these procedures, please refer to the Code of the Town of Gardiner § 220-61 B & § 220-61 C. Or call ZBA Secretary, Margarete Wagner at (845) 255-9675 ext. 108.

2. Describe the uses surrounding property owners make of their properties.

3. Will the proposed use increase traffic congestion?

If not, why?

4. Will off-street parking be provided for customers? _____

If so, how many spaces? _____ Size of each space: _____ ft. by
_____ ft.

Submit a diagram of the parking available on the site, indicated entry and exit from the public streets.

5. List any churches, public buildings, playgrounds and recreation facilities which are located within 500 ft. of the exterior property lines of the property on which the proposed use is to be located.

6. How many persons will be employed by the use?

Full-time _____ Part-time _____

7. State the maximum number of customers, clients, patients or patrons expected to be on the premises at any one time. _____

8. State the size of the lot on which the use is to be located both in square footage and dimensions of front, side and rear lot lines.

Square footage: _____

Lot Lines: Front _____ ft. Side _____ ft. Rear _____ ft.

9. State the dimensions of the building or structures to be used. If more than one

Building No. _____ Building No. _____ Building No. _____

Size: _____ ft. x _____ ft. Size: _____ ft. x _____ ft. Size: _____ ft. x _____ ft.

10. How many square feet of usable space is in each building?

Building No. _____ Building No. _____ Building No. _____

Usable Sq. ft. _____ Usable Sq. ft. _____ Usable Sq. ft. _____

Sq. ft. to be devoted to proposed use: _____ Sq. ft. to be devoted to proposed use: _____ Sq. ft. to be devoted to proposed use: _____

11. State the distance of the building in which the use will be located from all front, rear and side property lines. If more than one building or structure is to be used, list each individually.

Submit a drawing diagramming this information.

Building No. _____

Distance from property lines:

Front: _____ ft. Rear, _____ ft. Side _____ ft. Side _____ ft.

Building No. _____

Distance from property lines:

Front: _____ ft. Rear, _____ ft. Side _____ ft. Side _____ ft.

Building No. _____

Distance from property lines:

Front: _____ ft. Rear, _____ ft. Side _____ ft. Side _____ ft.

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

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, describe briefly			
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? Describe: <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			
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: _____			

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

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

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

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.
 Yes No

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.
 Yes No

C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

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:

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

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:

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?
 Yes No If Yes, explain briefly:

E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?
 Yes No If Yes, explain briefly:

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.

- Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action **WILL NOT** result in any significant adverse environmental impacts **AND** provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

ARTICLE VIII
Zoning Board of Appeals

§ 220-58. Creation; appointment.

The Zoning Board of Appeals is hereby continued. The Zoning Board of Appeals shall consist of five members appointed by the Town Board. The officers of the Board shall consist of a Chairperson, Acting Chairperson and Secretary. The Chairperson shall be designated by the Town Board. The Zoning Board of Appeals shall elect an Acting Chairperson from its membership and shall appoint a Secretary. A member of the Zoning Board of Appeals shall not at the same time be a member of the Town Board or Planning Board. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause and after public hearing.

§ 220-59. Rules; minutes.

- A. The Zoning Board of Appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. The Chairperson or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public except for deliberation. All decisions shall be announced at a public meeting.
- B. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.
- C. Except as provided in Article IX and accessory use special permits, the jurisdiction of the Zoning Board of Appeals shall be appellate, and is limited to hearing and deciding appeals from, and reviewing any order, requirement, decision, interpretation, or determination made by the Town of Gardiner Building Inspector, as provided in § 267-b of the Town Law, including application for variances as set forth herein. The concurring vote of the majority of the membership shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or grant an area variance.

§ 220-60. Procedure for appeals to the Zoning Board of Appeals.

- A. Parties. An appeal may be taken by: an aggrieved person, including the owner and any parties at law; contract vendees; owners of real property within 200 feet of the property that is the subject of appeal; or by an officer, department, board or bureau of the Town. A petition to enforce provisions of this chapter shall be subject to § 220-62 and § 268 of Town Law.
- B. Time of appeal. Such appeal shall be taken within 60 days after the filing of any order, decision, requirement, interpretation or determination of the Building Inspector, by filing with the Building Inspector and the Zoning Board of Appeals a notice of appeal on forms

provided, together with the fee in accordance with the Standard Schedule of Fees of the Town of Gardiner, specifying the grounds thereof and the relief sought. The Building Inspector will forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The cost of sending or publishing notices related to the appeal shall be in addition to the schedule fees and shall be borne by the appealing party and shall be paid to the Board prior to the hearing. [Amended 8-12-2003 by L.L. No. 3-2003]

- C. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector shall certify to the Board that, by reason of facts stated in the certificate, it would cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the Building Inspector and due cause shown. The Board may also require a financial responsibility bond of any appellant where significant economic hardships may accompany delay of the action appealed from.
- D. Hearing on appeal. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof by the publication in the official Town newspaper at least five days prior to the date thereof. Additionally, notice will made to owners of property within 200 feet of the bounds of the property subject to application by certified mail, in prepaid preaddressed envelopes provided by the applicant; provided however, that failure to obtain mail notice shall not preclude hearing or decision of the Board.
- E. Decision of the Board. The Zoning Board of Appeals shall decide upon the appeal within 62 days after the conduct of the hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Board shall be filed in the Office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.
- F. Notice to agencies. At least five days prior to such hearing the Board shall mail notices thereof to the parties, to the regional park commission having jurisdiction over New York State park or parkway within 500 feet of the property affected by such appeal, and to the Ulster County Planning Board.
- G. Action by the Zoning Board of Appeals. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to have been made in the matter by the Building Inspector, and to that end shall have all the powers of the Building Inspector as enumerated under the Zoning Chapter. The Board shall not have jurisdiction over the administration of the New York State Uniform Fire Prevention and Building Code, and shall be restricted to those powers specified in §§ 267-a, 267-b, and 267-c of the Town Law, in addition to the powers enumerated in this chapter.

§ 220-61. Powers and duties of the Zoning Board of Appeals.

The Zoning Board of Appeals shall have the following powers and duties:

- A. Administrative review. To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of this chapter.
- B. Special permits. To hear and decide only such special permits as the Zoning Board of Appeals is specifically authorized to pass on by the terms of this chapter; to decide such questions as are involved in determining whether special permits should be granted; and to grant special permits with such conditions and safeguards as are appropriate under this chapter, or to deny special permits when not in harmony with the purpose and intent of this chapter. A special permit shall not be granted by the Zoning Board of Appeals unless and until:
- (1) A written application for a special permit is submitted indicating the section of this chapter under which the special permit is sought and stating the grounds on which it is requested.
 - (2) Notice shall be given at least 10 days in advance of public hearing. The owner of the property for which a special permit is sought, or his or her agent and all property owners within 200 feet therefrom or of that directly opposite thereto, extending 200 feet from the street frontage of such opposite land shall be notified of the public hearing by certified mail. In addition, notice of such hearing shall be given in a paper of general circulation in the Town; and be posted in the Town Clerk's office at least 10 days prior to the public hearing.
 - (3) The public hearing shall be held. Any party may appear in person or by agent or attorney.
 - (4) The Zoning Board of Appeals shall make a finding that it is empowered under the section of this chapter described in the application to grant the special permit, and that the granting of the special permit will not adversely affect the public interest.
 - (5) The Board shall make written findings certifying compliance with the general considerations and specific standards for individual uses as set forth in Articles III and IV of this chapter, before any special permit shall be issued.
- C. Variances.
- (1) Use variances.
 - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the Building Inspector or Planning Board, shall have the power to grant use variances, authorizing use of the land which otherwise would not be allowed or would be prohibited by the terms of this chapter.
 - (b) No such use variance shall be granted by the Board without a showing, documented in the record, that the applicable regulations and restrictions have caused unnecessary hardship, to wit:
 - [1] Under the applicable regulations the applicant is deprived of all economic use or benefit from the property in question, which