

FOR OFFICE USE ONLY

Fees received by: \_\_\_\_\_ Date of submittal: \_\_\_\_\_

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The fee for all Variance/Appeals Authority applications is: \$500.00

Newspaper Public Notice Fee: \$75 per advertisement: \_\_\_\_\_

Initial review, all of the required supporting materials have been provided:



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## VARIANCE/APPEALS AUTHORITY APPLICATION UPDATED SEPTEMBER 14, 2011

### **Applicant & Property Information**

Project name: \_\_\_\_\_

Property owner: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Authorized agent: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell: \_\_\_\_\_

E-mail address: \_\_\_\_\_

General location of the property: \_\_\_\_\_

Size of the subject property: \_\_\_\_\_ Number of lots: \_\_\_\_\_

Surrounding zoning: \_\_\_\_\_

Current Use: \_\_\_\_\_

Current General Plan Designation: \_\_\_\_\_

## Supporting Materials

### Variance Checklist

*Incomplete applications will not be accepted*

1. Application fees.
2. Application form completed.
3. Summary statement (include following items).
  - The specific feature or features of the proposed use, construction or development that require a variance.
  - The specific provision of the ordinance from which the variance is sought and the precise variance being sought.
  - A statement of the characteristics of the subject property that prevent compliance with the provision of the ordinance and result in unnecessary hardship.
  - A statement of the minimum variation needed to permit the proposed use, construction or development.
4. Five (5) Copies of the Site plan drawn to scale (include following items).
  - Minimum paper size of 8.5" X 11"
  - North arrow
  - Scale and Date of drawing
  - Property boundaries and dimensions
  - Layout of existing and proposed buildings, parking, landscaping and utilities.
  - Adjoining property lines and uses within one hundred (100) feet of the subject property.
5. Building elevations, floor plans and any other pertinent information, if applicable
6. Plat maps (with aerial underlay if available) showing the subject property outlined in red. Plat maps may be obtained from the applicable County Recorder's office.
7. A print out from the County Recorder of all property owners within 300 feet, showing the owners property I.D. number, name and mailing address.
8. One (1) set of stamped and addressed business size envelopes (please do not include return addresses on the envelopes) to all owners of property located within 300' of the boundary and a list of those property owners with their addresses as listed in the current county records shall be submitted.
9. On a separate sheet of paper, responses to the following questions:
  - Does literal enforcement of the Zoning Ordinance cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance? If yes, why?
  - Are there special circumstances attached to the property that do not generally apply to other properties in the same district? If yes, what are they?
  - Is granting this variance essential to the enjoyment of a substantial property right possessed by other property in the same district? If yes, why?
  - Will the variance substantially affect the General Plan and will it be contrary to the public interest? If no, why?
  - Will the spirit of the Zoning Ordinance be observed and substantial justice be done if the variance is granted? If yes, why?

### Application Requirements

Please be as detailed as possible when filling out this application. Incomplete or inadequate information may result in your case being delayed or denied. The Appeals Authority cannot grant a variance simply because an applicant has requested it. The burden of proof rests upon you as the applicant to show that all of the conditions justifying a variance have been met. Whenever the Hearing Examiner acts under his or her power to hear and rule on variances, it shall grant approval only if it finds that all of following standards have been met:

1. The appellant has filed a properly completed application that states the normal or standard amount of area, distance, size or volume required by the land use ordinance, the specific amount of variance being requested, and all other information required by the application form.
2. The appellant must be the owner, lessee, or holder of some other beneficial interest in the property to which the variance will apply.

3. The substance of the variance must be a request to vary the requirements for height, bulk, width, setback, or other numerical or quantitative, as distinguished from approval to have a land use that is not listed as permitted in a zone (e.g. no "use variance" shall be granted).
4. Prior to filing an application for a variance with the Hearing Examiner, the applicant must have applied for a permit, or other land use approval, and have been denied such by the City or land use administrative officer or agency of the City of Saratoga Springs, based on the specific requirement that is the subject of the variance. (If there were multiple reasons for denial, the approval of a variance of one requirement shall not relieve the appellant of the need to meet the remaining standards of the ordinance).
5. The literal enforcement of the provisions of the land use ordinance must cause an unreasonable hardship to qualify:
  - a. The hardship shall be located on or associated with the property itself (as opposed to a personal or financial problem of the appellant);
  - b. The hardship shall arise from circumstances unique to the property, not a condition general to the neighborhood;
  - c. The hardship shall not be a self-imposed hardship (such as building without permits or actions contrary to the terms of the ordinance after its enactment);
  - d. The hardship shall not be economic in nature; and
  - e. The hardship need not be borne to carry out the general purpose of the land use ordinance.
6. There must be special circumstances attached to the property which do not generally apply to other properties in the same district; to qualify:
  - a. The circumstances must relate to the hardship complained of; and
  - b. The circumstances must deprive the property of privileges granted to other property in the same zone, and shall not constitute a grant of special privilege.
7. The variance must qualify for the following:
  - a. It does not substantially affect the Land Use Element of the General Plan and is not to the public interest.
  - b. The spirit of the land use ordinance is observed and substantial justice is done.
  - c. It is essential to the enjoyment of a substantial property right possessed by other property in the same zone, and shall not constitute a grant of special privilege.
8. Any variance granted shall be no greater than the minimum amount necessary to afford relief.
9. The appellant has the burden of proving that all of the conditions for granting a variance have been met and must clearly meet that burden based on the facts presented for the record; expressions of support or protest alone shall not constitute the basis of approval or denial.
10. In granting the variance, the Hearing Examiner may attach additional requirements that will:
  - a. Mitigate any harmful effects of the variance; or
  - b. Serve the purpose of the standard or requirement that is to be varied.

**The information you provide will be the basis for the review done by the Appeals Authority. Please be as complete as possible. The Appeals Authority may not find an unreasonable hardship if the hardship is self-imposed or economic. The important point is whether you are deprived of property rights, not desires. If you feel that additional information is needed (such as photographs, affidavits, or further written responses), please attach them to the application form.**

### **Applicant Certification**

I certify under penalty of perjury that this application and all information submitted as a part of this application are true, complete and accurate to the best of my knowledge. I also certify that I am the owner of the subject property and that the authorized agent noted in this application has my consent to represent me with respect to this application. Should any of the information or representations submitted in connection with this application be incorrect or untrue, I understand that The City of Saratoga Springs may rescind any approval, or take any other legal or appropriate action. I also acknowledge that I have reviewed the applicable sections of the Saratoga Springs Land Development Code and that items and checklists contained in this application are basic and minimum requirements only and that other requirements may be imposed that are unique to individual projects or uses. Additionally, I agree to reimburse the City of Saratoga Springs all amounts incurred by the City in excess of the base fee required by the Consolidated Fee Schedule to review and process this submitted application and agree to comply with Resolution No. 99-01218-01. I also agree to allow the Staff, Planning Commission, or City Council or appointed agent(s) of the City to enter the subject property to make any necessary inspections thereof.

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Property Owner's Signature: \_\_\_\_\_ Date: \_\_\_\_\_