

# **REQUIREMENTS AND INSTRUCTIONS**

## **ZONING BOARD OF APPEALS APPLICATION**

These requirements shall be strictly enforced. Failure to comply will result in a denial or delay in the hearing of your appeal. Read all the requirements carefully and if you have any questions contact the Building and Planning Department. See the attached meeting schedule for application deadlines.

- This form **MUST** be:
- Complete
  - Legible (printed or typed)
  - Signed by the property owner\*

*\*If the applicant is not the property owner, a notarized statement signed by the owner permitting the applicant to act on the owner's behalf must be submitted with the application.*

### **INFORMATION TO BE SUBMITTED WITH THIS APPLICATION FORM:**

- A current Survey Map (within 2 (two) years) showing all setbacks of the existing and proposed structures for all area, and use variances.

*All surveys shall bear the signature and stamp of a surveyor licensed to do business in the State of New York. Any alterations made to a survey map must be done by a NYS licensed Surveyor.*

*We will not accept surveys that have been drawn on by an applicant.*

The survey map **MUST** show:

- Lot size (acreage and Sf); all property lines, road frontage measurements, tax map number, street address of property.
  - Location and total square footage of each of all building and the distance existing and proposed structures from their edge to the property lines.
  - Building setbacks according to zoning district (building envelope) and the zoning district bulk requirement table.
- Site photographs of the proposed project
- A narrative that explains what is being proposed, why the approval should be considered, hardships involved and why this change will not be detrimental to the neighborhood and the Town.
- Proof of ownership of the property (a copy of the **DEED**)
- Neighbor Notification: A list of names and addresses (obtainable in the Assessor's office) of all abutting property owners including those across the street/road. (The Building and Planning Department is not responsible for the accuracy of this list. Any errors can delay the hearing of the appeal). The Building Department is responsible for notifying the neighbors abutting this appeal as to the nature of the appeal and the date of the hearing.
- Letter of authorization from the property owner to the representative granting them permission to act on the property owner's behalf. The property owner must sign the application
- Complete a Short Environmental Assessment Form.
- Submit an original plus copies of all materials. **A total of twelve (12) collated copies and one electronic copy in PDF format is required.**
- The **application fee** for an **area variance** is **\$500.00**; and any necessary engineering or legal fees incurred.
- The **application fee** for a **use variance** is **\$500.00** plus an escrow deposit for legal costs to be determined by the Town Land Use Attorney.
- The **application fee** for an **interpretation** is **\$350.00**

All additional amounts owed for engineering or legal shall be paid by the applicant to the Town of Malta within thirty days of the applicant being billed by the Town Building and Planning Department.

### **PLEASE NOTE:**

The ZBA or Building Department requires surveys for many types of requests, such as setback variances signs, flood plain variances, and 280A variances and some interpretations.

**If a property sale is contingent upon the granting of the requested action, a copy of sales document should be presented at the meeting.**

**Additional information related to archaeological sensitivity, floodplains, historic sites and wetlands may be needed, see attachment.**



**Town of Malta**  
 Building & Planning Department  
 2540 Route 9  
 Malta, NY 12020  
 (518) 899-2685

<b>Application Deadline</b>	<b>Meeting Date</b>
Friday, November 18, 2022	Wednesday, January 4, 2023
Friday, December 16, 2022	Tuesday, February 7, 2023
Friday, January 27, 2023	Tuesday, March 7, 2023
Friday, February 24, 2023	Tuesday, April 4, 2023
Friday, March 24, 2023	Tuesday, May 2, 2023
Friday, April 28, 2023	Tuesday, June 6, 2023
Friday, May 26, 2023	Wednesday, July 5, 2023
Friday, June 23, 2023	Tuesday, August 1, 2023
Friday, July 28, 2023	Wednesday, September 6, 2023
Friday, August 25, 2023	Tuesday, October 3, 2023
Friday, September 22, 2023	Wednesday, November 8, 2023
Friday, October 27, 2023	Tuesday, December 5, 2023
Friday, November 17, 2023	Wednesday, January 3, 2024
Friday, December 15, 2023	Tuesday, February 6, 2024
Friday, January 26, 2024	Tuesday, March 5, 2024

**NOTE: Dates may change due to holidays or other conflicts.**  
**Check with the Building/Planning Department**



# TOWN OF MALTA

## Zoning Board of Appeals Application

Tax Map No. \_\_\_\_\_

Appeal No. \_\_\_\_\_

### 1 APPLICANT:

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Email: \_\_\_\_\_

### 2. PROPERTY OWNER:

Name: \_\_\_\_\_

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

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

### 3. LOCATION:

Number & Street Name: \_\_\_\_\_

### 4. ACTION DENIED:

Building permit \_\_\_ Use \_\_\_ Sign Permit \_\_\_ Renewal \_\_\_

Other \_\_\_\_\_

Project/site plan \_\_\_\_\_ Subdivision \_\_\_\_\_

### 5. DENIAL MADE PURSUANT TO CHAPTER & SECTION \_\_\_\_\_

### 6. TYPE OF ACTION REQUESTED:

Use variance \_\_\_ Area Variance \_\_\_ Sign Variance \_\_\_ Permit Renewal \_\_\_

Interpretation \_\_\_ Flood Variance \_\_\_ Form Based Code \_\_\_ Other \_\_\_\_\_

### 7. ZONING DISTRICT:

R1 \_\_\_ R3 \_\_\_ R4 \_\_\_ R5 \_\_\_ R6 \_\_\_ R8 \_\_\_

C2 \_\_\_ C3 \_\_\_ C4 \_\_\_ C5 \_\_\_ C6 \_\_\_ C7 \_\_\_ C8 \_\_\_

DN-4 \_\_\_ DC-4 \_\_\_ DX-3 \_\_\_ GC-3 \_\_\_ RA-3 \_\_\_ DA-2 \_\_\_ DP-2 \_\_\_ RA-2 \_\_\_ RD-2 \_\_\_

OS \_\_\_

### 8. LOT INFORMATION:

Acres: \_\_\_\_\_ SQ.FT. \_\_\_\_\_ Frontage \_\_\_\_\_ Wetlands \_\_\_\_\_ Flood Plain \_\_\_\_\_

Within 500ft of State/County Highway \_\_\_\_\_

### 9. SIGNATURE OF PROPERTY OWNER

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print name: \_\_\_\_\_

**STAFF USE ONLY:**

Date of Board Meeting: \_\_\_\_\_ Action Taken: \_\_\_\_\_ Fees Paid: \_\_\_\_\_

**Archaeological Sensitivity** - Much of the Town of Malta is considered to be archaeologically sensitive. Disturbance of undeveloped land may require review by the State Historic Preservation Office (SHPO).

**Floodplains** - Presence of floodplains can be determined using FEMA floodplain maps and the County GIS mapping tool. NYS Building Code has specific requirements for building in a floodplain, please check with Town Code Enforcement to ensure you are designing for the right criteria.

**Historic structures** - Changes to structures and features listed as historic on State or Federal registers require State Historic Preservation Office (SHPO) review. Those listed as local landmarks require Malta Historic Preservation Review Commission (HPRC) review. Those listed as local landmarks as well as on State or Federal registers require separate approvals by SHPO and HPRC.

**Wetlands** - Wetlands may be regulated by NYS Department of Conservation (DEC) or Army Corps of Engineers or both. If wetlands are present or within 100 feet of proposed soil disturbing activities, tree cutting or herbicide use, verification by the regulating agency must be obtained. A written determination is required as to which regulations apply and whether permits for the disturbance are required. Permits must be obtained prior to commencing work. To determine if wetlands are present, you may use the County GIS on-line tool. Wetland verification may require a site visit by trained wetland delineators.

SHPO: 518-237-8643 and at: [www.nysparks.com/shpo/contact](http://www.nysparks.com/shpo/contact)

FEMA Map Service Center: <https://msc.fema.gov/portal>

County GIS mapping tool: <http://www.maphost.com/saratoga/>

**\*\*\* An application for a variance on lands with any of the above issues may require correspondence from the appropriate agency as part of the ZBA application. Mapped locations of these features on the survey may be required at the discretion of Town Staff and the ZBA.**



**Town of Malta**  
Building & Planning Department  
2540 Route 9  
Malta, NY 12020

Phone (518) 899-2685  
Fax (518) 899-4719

**Criteria for Issuing  
Use Variance and Area Variances**

The following has been prepared to assist property owners seeking a variance from the Malta Zoning Ordinance.

Article 16 of the Town Law states that the Zoning Board of Appeals may grant a variance where an applicant can show that “unnecessary hardships” or “practical difficulties” result from carrying out the strict letter of the zoning ordinance. Over the years, the courts have divided variances into two discrete parts – use variances and area variances. The “unnecessary hardships” test applies to use variances and the “practical difficulty” test applies to area variances. The test criteria for each type of variance are specifically listed in Town Law as discussed below.

Use Variance (Article 16, Section 267-b.2)

No use variance maybe granted by the Zoning Board of Appeals (ZBA) without a showing by the applicant that the zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant must demonstrate for each and every permitted use under the zoning regulations for the particular district where the property is located that;

- 1) The applicant cannot realize a reasonable return. The lack of return must be substantial as demonstrated by competent financial evidence;
- 2) The alleged hardship relating to the property in question is unique and does not apply to substantial portion of the district or neighborhood;
- 3) The requested used variance will not alter the essential character of the neighborhood, and
- 4) The alleged hardship has not been self-created.

Area Variance (Article 16, Section 267-b.3)

For an area variance, the applicant must demonstrate that:

- 1) No undesirable change in the character of the neighborhood or detriment to nearby properties will result;
- 2) Benefit sought by the applicant cannot be achieved by a feasible alternate method;
- 3) The requested area variance is not substantial;
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 5) The alleged difficulty was not self-created.

These five (5) factors shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the variance.