



Town of Mamakating Zoning Board of Appeals

2948 US Route 209, Wurtsboro, NY 12790

Tel.: (845) 888-3000 # 3 // F.: (845) 888-2707 // building@mamakating.org

ZBA Application

The Zoning Board of Appeals (ZBA) has the authority to hear and decide appeals where it is alleged that error or misinterpretation in any order, requirement, decision, grant, or refusal was made by the Building Inspector or other administrative official of the Town. The ZBA may also grant Use and Area Variances, interpret sections of the Town Code, allow Special Uses, and grant requests for Temporary Uses.

The Town of Mamakating Zoning Laws have been adopted for the protection and promotion of the public health, safety, convenience, comfort and general welfare. The ZBA must consider these purposes when deciding on your appeal or request.

PLEASE READ THE APPLICATION PACKAGE VERY CAREFULLY

The information and application package was written to make the process as accessible as possible to the average person. The information contained in this package is procedural in nature and is used to guide you through the process. The ZBA, the ZBA Secretary, and the Building Department can answer questions about the process and you are encouraged to use the contact information above to call or email with any questions you may have.

IT IS ALSO HELPFUL FOR YOU TO REVIEW THE SECTIONS OF THE TOWN ZONING LAW APPLICABLE TO YOUR CASE. CHAPTER 199 ZONING IS LINKED BELOW:

<https://ecode360.com/11041185?highlight=199&searchId=35599014396176500#11041185>

The ZBA, the ZBA Secretary, and the Building Department cannot and will not give you legal advice. Consider consulting legal counsel if there is anything you do not understand. The ZBA Meetings are scheduled for the fourth Thursday of every month (unless otherwise noted), and if you do not follow procedures or fail to provide the necessary information, then you may have to wait until the next available meeting to have your appeal heard.

Attached is the information required to initiate the ZBA review process. It is necessary that one (1) original and nine (9) copies of the application and all information included in this packet be submitted to the Town Zoning Department no later than the date set by the Board, noted in the Office at the address above, as well as on the calendar on the Town Website (www.mamakating.org). Failure to make a complete submission by the deadline will result in not being placed on that month's Agenda.

Applicants must provide the following (if applicable):

- Completed ZBA Application (One (1) original and nine (9) copies, **ten (10) packets total**) and Application Fee of \$250 (Public Hearing fee, if set, of \$100- not required upon initial submission)
- One (1) CD/ Electronic Submission of the submission documents in PDF format for each **submission** and **resubmission**.
- Copy of your denial/referral to the ZBA
- Deed and Property Record Card (Obtained from Assessor's Office)
- Site Plan / Survey (All maps must be signed, sealed, and folded with a title box showing)
- A written narrative must be submitted at each **submission** and **resubmission** describing the project or changes to the project
- Owner Affidavit, Site Authorization, Entity Disclosure Form, & Fee Acknowledgement
- Any photos of the existing or proposed location that is affected by this request

- The applicant is advised that the project will **not** appear on an agenda unless all Application, Town, and Application Fees are paid in full. (See Fee Schedule) **NO EXCEPTIONS WILL BE MADE.**

Important Application Submission/Resubmission Dates and Notes:

- ZBA Meetings are scheduled for the fourth Thursday of every month (unless otherwise noted)
- Deadlines for new submissions and resubmissions are noted on the Town website calendar as well as in the Office. Failure to make submission by that month's required deadline will push the application to the next available meeting.
- Submissions are to be delivered to the Building, Planning, and Zoning Department at the above referenced address.
- The project will be placed on the next available agenda.

FREQUENTLY ASKED QUESTIONS FOR ZBA APPLICATIONS

(Please read before you put together your application)

1. Why do I have to make an application to the ZBA?

The following are the most common reasons (but not the only reasons) for needing to come before the ZBA:

- a. The Building Inspector denied a building permit request, denied a Certificate of Occupancy, or denied some other request.

State and Local Laws do not allow Building Inspectors to issue building permits for projects that do not meet the Zoning Requirements. Only the ZBA has the authority to grant exceptions to the established zoning laws.

So, if the Building Inspector has determined that your project does not meet the zoning laws, you may apply to the ZBA to ask for a Variance from the rules or argue for a different interpretation of the rules.

- b. Referral or Denial by the Planning Board:

Again, State and Local Laws allow the Planning Board to implement the zoning laws, but not to make exceptions. If your project does not conform to existing zoning laws, you may apply to the ZBA to ask for a Variance from or an interpretation of the laws.

2. When and where does the ZBA meet?

- a. The ZBA generally meets at the Mamakating Town Hall, 2948 US 209, Wurtsboro NY 12790 on the fourth Thursday of each month at 7 PM, unless otherwise noted. The ZBA meetings are also held via Zoom, and the link is generally posted at the bottom of the Agenda, which is posted on the Town Website before the day of the meeting. You can also call the phone number at the top of this application with any questions.

- b. If no applications are received in any given month, the ZBA may cancel that month's meeting. Due to Thanksgiving falling on the fourth Thursday of November, the ZBA may either cancel or reschedule the November meeting.

- c. Additional meetings may be scheduled at the ZBA's discretion, as the need arises.

3. How many meetings will I have to attend and how long does the process take?

At a minimum, expect a two (2) or three (3) month timeframe encompassing two (2) or three (3) meetings to obtain a decision; however, it may take longer. The ZBA has the right to consider a decision for sixty-two (62) days after the close of a Public Hearing; however, they often make a decision immediately after closing the Public Hearing.

- a. Information Meeting(s): The first meeting is an information meeting. This meeting is for you to present your project to the ZBA, you should bring to this meeting all of the evidence and arguments you need to appeal to the Board to grant your request. The Board will ask you about your application, consider if additional information is needed, and then decide, along with you, whether to set your application for a Public Hearing.
 - b. Public Haring Meeting(s): At this meeting you will present your project to the Board and to the public to allow for public comment to the Board. Based on the materials presented and the public comment, the ZBA may ask for additional information to assist in their decision making. Requests for additional information may necessitate you returning at an additional meeting(s) and delay any Board decisions.
4. **What should I do before making an application to the ZBA?**
 - a. You should read the Town of Mamakating Zoning Law, as it is important for you to understand the laws by which the ZBA is governed and upon which their decisions are based. Consider consulting legal counsel if there is anything you do not understand.
 - b. Obtain a copy of your denial from the Building Inspector, Planning board, or other Administrative Official of the Town.
5. **How do I make an application to the ZBA?**

Fill out an application and return it with any required documentation and fees to the Building, Planning, and Zoning Department.
6. **What are the deadlines for an application submission?**
 - a. All applications must be returned to the Building, Planning, and Zoning Department by the submission deadline, which is available on the Town Website calendar and in the Office.
 - b. Applicant's are strongly encouraged to not wait until the day of the submission deadline to turn in their application. If your application is incomplete, there may not be sufficient time for you to supply the missing items before the deadline. Additionally, agenda time is limited, so the earlier an application is submitted, the more likely you are to be placed on the agenda.
7. **What happens if an application is incomplete or received after the deadline?**

Incomplete applications will not be put on the agenda for consideration by the ZBA. Submissions received after the deadline will be held until the next available month's meeting, assuming the number of already scheduled hearings and applications permits this.
8. **Do I need to attend the meeting?**

The applicant, or someone authorized to act on the behalf of the applicant, must be present at the meeting. You will be expected to make a brief presentation summarizing your application and answer any questions the ZBA may have.
9. **What information should be included in my application?**
 - a. Usually a site sketch is required, which does not need to be professionally prepared. In some cases, the ZBA may have to ask for a Site Plan or Survey, which must be professionally prepare by a design professional licensed in New York State. Design professionals could include architects, engineers, or other building professionals licensed in New York State.
 - i. **There may be situations where the submitted plans will be reviewed by the Town's Engineer at your expense. These costs vary greatly depending on the amount of review required.**

- b. In the case of applications going to both the ZBA and the Planning Board, copies of the same Site Plan must be provided to both Boards.
- c. You should also include any information, photos (strongly encouraged), documents, or other items you think may help the ZBA make a decision. The ZBA may also request additional information before setting your application for a Public Hearing.
- d. Although ZBA members may come out to visit your site in person, photos are suggested to assist the Board members in finding the location and informing the decision-making.

10. Where should I turn in my completed application?

- a. Please return the attached application and all supporting documents to the Building, Planning, and Zoning Department at 2948 US 209, Wurtsboro NY 12790.
- b. The applicant must supply 10 packets of all documentation no later than the date of the submission deadline. Plans should be folded, not rolled, please.

11. What if I have other questions?

If you have any questions regarding the application requirements or what the zoning requirements mean, you should contact your legal counsel or the Building, Planning, and Zoning Department at the email or number at the top of this application. Even a brief discussion of your project in advance of making the application and the presentation before the ZBA may save you substantial time and expense.

12. What happens after the ZBA makes a decision?

After the ZBA makes a decision, you should contact the ZBA Secretary to obtain a copy of the ruling.

If your request was granted by the ZBA, then you will need to present the ruling to the appropriate department and continue the process of your original project.

If your request was denied by the ZBA, you have the right to appeal through the NYS Court System or you can modify your original project to be more conforming to the laws for re-review by the appropriate department.

PROCEDURE AND MATERIALS REQUIRED FOR APPLICATION TO THE ZBA

Information Meeting Requirements

- i. **ZBA Application** One (1) original and nine (9) copies (ten (10) packets total)
- ii. **Application Fee** \$250
- iii. **One (1) CD/ Electronic Submission** The submission documents must be in PDF format for each submission and resubmission. This can be emailed
- iv. **Copy of your denial/referral to the ZBA** ten (10) copies
- v. **Deed and Property Record Card** (Obtained from Assessor's Office) ten (10) copies
- vi. **Site Plan / Survey** (All maps must be signed, sealed, and folded with a title box showing) ten (10) copies
- vii. **A written narrative** This must be submitted at each submission and resubmission describing the project or changes to the project, ten (10) copies
- viii. **Owner Affidavit, Site Authorization, Entity Disclosure Form, & Fee Acknowledgement** (part of this application)
- ix. **Photos** Any photos of the existing or proposed location that is affected by this request, ten (10) copies

Public Hearing Requirements

- 1) **Public Hearing Fee** \$100
- 2) **Public Notice Mailing:**
 - a. Ten (10) days prior to the Public Hearing each property owner within 500 feet of the perimeter of the applicant's property **must be forwarded, by Registered Mail with Return receipt requested**, a copy of the public Hearing Notice. The ZBA Secretary will provide the applicant with the list of properties that must receive notification and with the notification letter that must be sent out.
- 3) **Registered Mail receipts and Return Receipts** must be presented to the ZBA Secretary prior to the start of the public Hearing
- 4) **Public Notice in Newspaper**
 - a. Ten (10) days prior to the Public Hearing the ZBA Secretary will place the notice of Public Hearing in a newspaper of the Municipalities choice as notification to the general public.

USE AND AREA VARIANCE INFORMATION SHEET

If requesting a Use Variance be prepared to answer the following questions required by law:

- a. Is the granting of the variance necessary in order to realize a reasonable return, and the lack of a variance causing a substantial hardship, as demonstrated by competent financial evidence as set forth herein and in attached documentation? *(For example, actual "dollars and cents" proof in the form of documentation must be submitted; must show cannot be sold or leased for any permitted use; a show of efforts to sell or rent for each use as permitted; a show of effort to market.)*
- b. Is the alleged hardship relating to the property in question unique and not applicable to a substantial portion of the district or neighborhood?
- c. Will the requested variance(s) alter the essential character of the neighborhood? If it will not alter the character, please be prepared to explain why. *(For example, will use change parking or traffic patterns, noise levels, lighting? Will it create commercial character in residential district? Is the use like other uses un the neighborhood? Are you proposing a change in outward appearances of the building?)*
- d. Is your need for a variance(s) the result of a self-created hardship on your part? If not, be prepared to explain how the hardship is not self-created. *(For example, did you purchase the property before or after a zoning change that requires you to get the use variance.)*

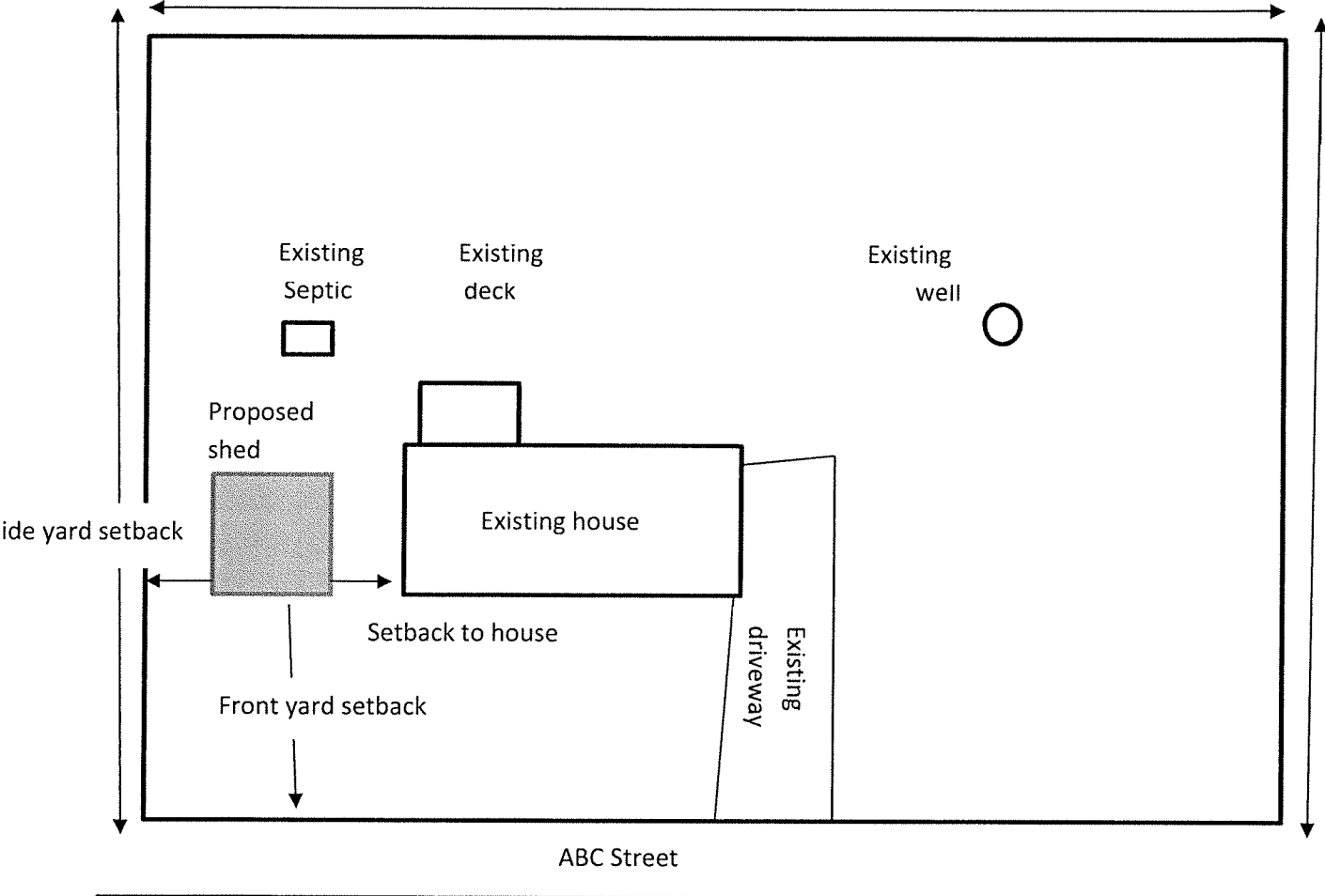
If requesting an Area Variance be prepared to answer the following questions required by law:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to adjoining properties will be created.
- b. Whether the problem could be alleviated by a solution other than a variance.
- c. Whether the requested variance is substantial.
- d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- e. Whether the alleged difficulty was self-created.

Attach a site sketch which is a drawing showing the outlines of the property, where the streets are relative to the property, the location and dimensions of any existing buildings on the property, the location and dimensions of any new construction, and the distances of any new or existing construction from all property lines. Show any street names and whether the property is an interior or corner lot.

SAMPLE SITE SKETCH / SITE PLAN / PLOT PLAN (EXAMPLE ONLY)

Attach a drawing or drawings of your project location- drawing(s) should include the boundaries of your site, any and all structures (including but not limited to existing house, accessory structures, wells, septic, driveway, and proposed structures), and setbacks. Photos are required for some applications and strongly suggested for others. The ZBA may request a certified site plan or survey in order to make a determination.



APPLICATION TO THE TOWN OF MAMAKATING ZONING BOARD OF APPEALS

Property Owner Name: _____

Company Name: _____

Address: _____

Telephone: _____ Email: _____

Applicant Name: (if not same as above): _____

Address: _____

Telephone: _____ Email: _____

(If the applicant is not the owner, notarized proof the owner consents to the application must be submitted with this application)

PROPERTY DESCRIPTION

Tax Map Section: _____ Block: _____ Lot: _____ Current Zoning District: _____

Location of Property: _____

REASON FOR APPEARANCE BEFORE ZBA

This application, relative to the above referenced property, is being made to request: (check all that apply)

- { } Use Variance – Request to use land for a purpose not permitted by Zoning
- { } Area Variance – Request to locate a structure in a manner not permitted by Zoning
- { } Interpretation
- { } Special Use
- { } Temporary Use
- { } Building in bed of mapped street(s)
- { } Other (please explain) _____

RELIEF REQUESTED

Please explain what you are asking the ZBA to grant you. Give a brief explanation of your project, how the project does not conform to the Zoning laws, and what variances you are requesting. (EXAMPLE: "I am building a deck on the side of my home- it will need a variance of 5' because it will only be 20' from the side property line, where 25' is required."- attach additional sheets if required.)

LEGAL CRITERIA FOR GRANTING USE OR AREA VARIANCE

In order to grant a Use or Area Variance the following questions must be considered nu the Board. Please respond to the applicable questions below. If you are not sure which variance you are requesting, please contact the ZBA Secretary for guidance. Attach additional sheets if required.

If requesting a Use Variance, please answer the following questions required by law:

- a. Is the granting of the variance necessary in order to realize a reasonable return, and the lack of a variance causing a substantial hardship, as demonstrated by competent financial evidence set forth herein and in attached documentation?

- b. Is the alleged hardship relating to the property in question unique and not applicable to a substantial portion of the district or neighborhood (is your property the only property affected in the zone)?

- c. Will the requested use variance(s) alter the essential character of the neighborhood? If it will not alter the character, please be prepared to explain why.

- d. Is your need for a variance(s) the result of a self-created hardship on your part? If not, be prepared to explain how the hardship is not self-created.

If requesting an Area Variance, please answer the following questions required by law:

- a. Whether an undesirable change will be produced in the character of the neighborhood or detriment to adjoining properties will be created.

- b. Whether the problem could be alleviated by a solution other than a variance.

- c. Whether the requested area variance is substantial.

- d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

- e. Whether the alleged difficulty was self-created.

RECEIPT OF APPLICATION AND INFORMATION (check each)

The ZBA Secretary has made available to me a packet for application to the ZBA and has asked me to read all of the information. The packet contains the following:

FAQs Procedure for Application Application for Appearance Use/Area Variance Info

The Use and Area criteria included in this packet are **very important and must be adhered to**. It has been explained to me that no variance will be granted by the ZBA without a showing by myself that the applicable criteria have been met.

INTERCOMMUNITY IMPACTS (circle one)

I certify that the above referenced property **IS IS NOT** within 500 feet of a Federal, State, or County highway or other Municipality boundary line, waterway, recreation area, or property.

PROFESSIONAL REVIEW FEE REIMBURSEMENT

The ZBA, in the review of any application, may refer the application to such engineering, planning, environmental, or other technical consultants deemed reasonably necessary to enable it to review the application as required by law.

The charges made by such consultants shall be the responsibility of the applicant and shall be in accordance with charged usually made for such services in the Hudson Valley Region or pursuant to an existing contractual agreement with the Town of Mamakating.

APPLICATIONS NOT ACTED UPON DEEMED ABANDONDED

It is the policy of this Department to abandon and destroy, without notification, any application that has been left dormant (inactive) after 6 (six) months of inactivity, and such application shall no longer be considered by the ZBA.

OWNER AFFIDAVIT, SITE AUTHORIZATION, & FEE ACKNOWLEDGEMENT

I, _____, being duly sworn/affirm, here-by depose and say that all of the following statements and statements contained in the papers submitted here within are true and that: the nature and extent of any interests set forth are disclosed to the extent that they are known to the owner and applicant.

1. Print or type full name and correct mailing address for owner and applicant:

Certifies that they are the owner or agent of all that certain lot, piece, or parcel of land and/or building described in this application, and if not the owner that they have been duly and properly authorized to make this application and to assume responsibility for the owner in connection with.

2. I hereby give permission for the Town of Mamakating municipal agencies and their agents to come upon and inspect these premises with respect to this application.
3. Pursuant to the Code of the Town of Mamakating, the Planning Board and the Zoning Board are required to charge application fees intended to cover general expenses of each respective Board for review of any land use application.

This includes but is not limited to ZBA consultant fees, engineering review fees, ZBA attorney's review fees, and any other professional consultant whose expertise the ZBA may deem necessary to adequately review any application before it.

Your signature below indicates that you have read and understand this notice, and agree to pay the application and consultant fees, as required.

Property Owner's Signature: _____

Address: _____

Sworn to before me this _____

Day of _____, 20_____

Notary Public

OWNER AUTHORIZATION OF THIRD-PARTY REPRESENTATION

I understand that I must be represented at the meetings and be available to answer any questions or comments that may arise in regards to my project. I give _____ permission to appear before the Zoning Board of Appeals and handle this project on my behalf.

Property Owner's Signature: _____

Sworn to before me this _____

Day of _____, 20_____

Notary Public

Zoning Board of Appeals Disclaimer Statement

The applicant is advised that the Town of Mamakating Municipal Code which contains the Town's Zoning Law is subject to amendment. Submission of an application to this Board does not grant the applicant any right to continued review under the code's current standards and requirements. It is possible that the applicant will be required to meet changed standards or new code requirements made while the application is pending.

An approval by this Board does not constitute permission, nor grant the right to connect or use municipal services such as sewer, water, or roads. It is the applicant's responsibility to apply for and obtain the Town of Mamakating and other agency approvals not within this Board's authority to grant.

The applicant hereby acknowledges, consents, and agrees to the above.

Owner's Signature

Date

Applicant's Signature

Date

Notary Public
State of New York
County of Sullivan

I hereby depose and say that all the above statements and information, and all statements and information contained in the supporting documents and drawings attached hereto are true, and that the application rules have been read and the requirements therein set forth are fully met. Further, I understand that compliance with the Town of Mamakating Zoning Ordinance and the Subdivision Regulations shall be the sole responsibility of the applicant, the owner, or the representative, and that compliance with the subject matter contained therein shall be deemed part of this application.

Property Owner's Signature

Applicant's Signature

Sworn to before me this _____

Day of _____, 20 _____

Notary Public

Entity Disclosure Statement/Affidavit

Definition of Applicant – The legal, beneficial, and equitable owner(s) of land proposed for development in a land use application, including but not limited to, the holder of an option or contract to purchase, or a person or entity having a propriety interest in such land, or a person or entity authorized to make and process a land use application.

Definition of an Entity – A limited liability company, limited liability partnership, general or limited partnership, joint adventure, doing business name or venture, corporation, association, or other non-person.

Every application, petition, or request submitted for approval of a building permit, subdivision plat, site plan, special use permit, conditional use permit, variance, zoning amendment, certificate of occupancy, or any other permit, approval, or certificate required, necessary or requested for development of land or a structure shall be accompanied by this form, which shall be completed by the Applicant(s) to the satisfaction of the reviewing Officer or Board.

1. If the applicant(s) is (are) an individual or individuals, the name, address, and contact information for each individual.

- a. Names, addresses, and contact information (add additional sheets if necessary)

Name of Individual

Address of Individual

Email Contact

Telephone

2. If the Applicant(s) is (are) an entity, the name, address, and contact information for each owner, member, shareholder, officer, director, beneficial owner, general partner, limited partner, and authorized person of the entity shall be disclosed. If any owner, member, shareholder, officer, director, beneficial owner, general partner, limited partner, and authorized person is itself an entity, then the name, address, and contact information of any member, shareholder, officer, director, beneficial owner, general partner, limited partner, and authorized person of that entity shall be disclosed.

- a. Names, addresses, and contact information of each entity required (add additional sheets if necessary)

Name of Entity

Address of Entity

Email Contact

Telephone

- b. Names, addresses, and contact information of each individual required (add additional sheets if necessary)

Name of Individual

Address of Individual

Email Contact

Telephone

3. Each Applicant shall state the name, address, and the nature and extent of the interest of every state officer and every officer or employee of the Town of Mamakating, Village of Wurtsboro, Village of Bloomingburg, or County of Sullivan, in any individual or entity listed in paragraphs 1 or 2 above.

For the purposes of this affidavit, the term "interest" means "a direct or indirect financial or material benefit that might accrue to an officer or employee as the result of the approval of land use application, petition, or

request". For the purposes of this affidavit, an officer or employee shall be deemed to have an interest in the Applicant when they or their spouse, brother, sister, parents, children, or grandchildren, or of the spouse of any of them

- a. Is the Applicant
- b. Is an officer, director, partner, or employee of the Applicant
- c. Legally or beneficially owns or controls stock of a corporate Applicant or is a member of a partnership or association Applicant
- d. Is a party to an agreement with an Applicant, express or implied, whereby they may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition, or request.

The undersigned hereby states the name, address, and nature and extent of the interest of every state officer and every officer or employee of the Town of Mamakating, Village of Wurtsboro, Village of Bloomingburg, or County of Sullivan, in such individual identity.

None

Names: Address: Relationship or Interest (financial or otherwise)

4. This Disclosure Statement/Affidavit is annexed to and made a part of the application, petition, or request made by the undersigned to the following Board or officer of the Town.

Town Board

Planning board

Zoning Board of Appeals

Zoning Enforcement Officer

Building Inspector

Other: _____

5. A person who violates the disclosure requirements of §199-62.1 of the Town Zoning Code (paragraphs 1 and 2 above) shall be subject to the penalties set forth in that §199-62.1. A person who knowingly and intentionally violates the disclosure requirements of §809 of the General Municipal Law (paragraph 3 above) shall be guilty of a misdemeanor. In addition, all review of any application, petition, or request shall immediately cease and, if applicable, a stop work order may be issued.
6. The undersigned hereby acknowledge(s) that if the property for which this land use application is pending is sold or transferred and/or ownership or control of an entity is changed, an updated Disclosure Statement/Affidavit shall be submitted. The reviewing board, officer, or employee shall suspend review of the land use application until the updated Disclosure Statement/Affidavit is submitted. There shall be no development of any land, building, or structure until a current and complete Disclosure Statement/Affidavit is submitted.

Dated:

Entity Name _____
(if applicable)

Applicant Signature

Title (if applicable)

(Individual Applicant's Acknowledgment)

State of New York)
County of _____) ss.:

_____, being duly sworn, deposes and says that they are an Applicant in this land use application: that they have read and completed the foregoing affidavit and knows the contents thereof; that the same is true to the knowledge of deponent, except as to matters therein stated to be alleged on information and belief, and that as to those matters they believe them to be true.

Signature

Subscribed and sworn to before me this

_____ day of _____, 20__

Notary Public

(Entity Applicant's Acknowledgement)

State of New York)
County of _____) ss.:

_____, being duly sworn, deposes and says that they are the _____ of _____, an Applicant in this land use application; that they are duly authorized to execute this affidavit; that they have read and completed the foregoing affidavit and knows the contents thereof; that the same is true to the knowledge of deponent, except as to matters therein stated to be alleged in information and belief, and that as to those matters they believe them to be true.

Signature

Subscribed and sworn to before me this

_____ day of _____, 20__

Notary Public