

REQUIREMENTS NEEDED FOR VARIANCE APPLICATIONS

Application must be made within sixty (60) days of the Building Inspector's letter of determination

Applications to the Zoning Board of Appeals are required to be submitted electronically in PDF format to the Zoning Board Secretary at kreid@townofbethlehem.org along with one "hard copy" for the Building Inspector's file.

***An additional copy will be required if it is determined that the file needs to be reviewed by the Albany County Planning Board.**

1. Completed application form including the Affidavit signed and notarized and Part A (for an area variance) or Part B (for a use variance), If the variance location is within 500' from an Agricultural District an Agricultural Data Form will be required.
2. Part 1 of the Short Environmental Assessment Form completed and signed
3. Photographs
 - a. Showing the specific location of the needed variance; the immediate area surrounding the location to the left, right, in front and in back including elevations of existing structure.
4. Plot Plan –
 - a. Showing the exact location of the variance with complete dimensions of addition, side yards, front yards, back yards and dimensional property lines. Show all existing structures on the site as they exist today.
5. Drawings –

These must be complete sets of descriptive plans for the variance showing only the applicable items labeled existing and new.

 - a. Plans must include views of all sides of structure, which do not have to be architectural plans, if plans submitted are suitable in the opinion of the Code Enforcement Officer to determine what is being done.
 - b. Plans also to show but not be limited to
 - 1) Structure – to be added and/or removed
 - 2) Siding – type and color
 - 3) Roof – style and color
 - 4) Floor Plan – existing and proposed showing relationship of both and labeling each specific room or area showing all dimensions
 - 5) Landscaping – to be removed and/or added (trees, shrubs, retaining walls, fences, etc.)

TOWN OF BETHLEHEM
ZONING BOARD OF APPEALS
Area or Use Variance
VARIANCE APPLICATION

Address of Variance: 309 River Road, Glenmont, New York 12077

Presently Zoned: Heavy Industrial (I) Tax map #: 98.00-2-10.23

Name, Address and Telephone # of Applicant: _____

Albany Port District Commission c/o Richard Hendrick

106 Smith Boulevard, Albany, NY 12202, (518) 463-8763

If other than owner, state interest in property and attach proof: _____

Name, Address and Telephone # of Representative: _____

McFarland Johnson, Inc. c/o Steve Boisvert, P.E.

60 Railroad Place, Suite 402, Saratoga Springs, NY 12866, (518) 560-9380

For a variance under Article(s) Article V 128-38(A)(1) & Article VI 128-53(A)(1)

Article XIII 128-100, Article VI 128-56(K)

Requested for the purpose of industrial development of the property to provide a manufacturing
facility of off-shore wind tower sections to be fabricated on-site
and shipped via the Hudson River to the east coast of the United States. This requires
maximum building heights of 100', development within the Normans Kill 100-year Floodplain,
8.2% landscaping in the employee parking lot and a "front" building setback to the west of 25'.

Was an application made for a Building Permit? Yes ___ No When _____

Estimated time required to complete the project 18 months

BOARD OF APPEALS AFFIDAVIT

TO BE COMPLETED BY OWNER OF THE FOLLOWING PROPERTY:

(ADDRESS) 309 River Road, Glenmont, NY 12077

State of New York }
County of Albany } ss:

Richard J Hendrick being duly sworn, deposes and says:

1. That he/she resides at 14 BARBER St in the County of Russelton and the State of NY. That he/she is the Owner of the within property as described in the foregoing application for a Variance under Article (s) and that the statements contained therein are true to the best of his/her knowledge and belief.

2. That he/she hereby authorizes McFarland Johnson of _____, to act as our representative in all matters regarding the application that may come before the Town of Bethlehem Board of Appeals.

3. That he/she has the legal right to make or authorize the making of said application.

4. That he/ she understands that the Town of Bethlehem Board of Appeals intends to rely on the foregoing representation in making a determination on the application and to issue the requested approval(s). That under penalty of perjury he/ she declares that he/she has examined this affidavit and application and that it is true and correct.

5. That he/ she swears that the proposed variance will be constructed and operated in accordance with the standards and qualification hereinafter set forth in the Zoning Code of the Town of Bethlehem.

Richard J Hendrick
Property Owner

CHERYL L. STOCK
NOTARY PUBLIC-STATE OF NEW YORK
No. 01ST6193482
Qualified in Albany County
My Commission Expires 09-15-2024

Property Owner
Cheryl L. Stock
Notary Public

2-3-2022
Date

Part A

For an Area Variance:

Before an area variance can be granted, State Law requires that the ZBA 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.

To grant an area variance, the ZBA must balance the benefits to the applicant and the health, safety, and welfare of the neighborhood and community, taking into consideration the following factors. The ZBA must consider each of these factors, but no one factor is determinative and the weight to be given to each of them will vary with the facts of each particular case.

1. Whether the granting of the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

The overall project is consistent with the character of the heavy industrial district. The proposed development includign the buildings heights
_____ is consistent with the adjacent existing developments along Hudson River with the immediate adjacent neighbors of PSEG New York natural
_____ gas power plant to the south, National Grid Transmission Lines (Electric and Gas) to the West, and the Agway Industrial
_____ Park to the north that currently includes Port Welding Services, Dawson's Towing and Scarano Boats immediately north
_____ of the proposed site. The proposed 4-building manufacturing facility shares similar character and land
_____ uses to the existing adjacent neighbors with similar building heights, landscaping and proximities to the waterways.

2. Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible.

The proposed building heights are required due to the size of the proposed tower sections to be
_____ manufactured at the proposed off-shore wind facility. The sections will be fabricated and painted
_____ within the facility and the building heights are designed to allow the 10 meter diameter tower
_____ section to be fabricated. The proximity of the auxiliary sewer treatment building to the Normans Kill is
_____ unavoidable because the building will discharge into the Normans Kill and the remainder of the
_____ property will be utilized for tower fabrication/storage, requiring the building to be positioned in the proposed location.

3. Whether the variance is substantial. The requested variance is not substantial for the following reasons:

The building height variance requested is for a maximum height of 100' which is 40' higher than the Heavy Industrial District height of 60'; however, the adjacent PSEG Power plant has stacks extending approximately 265' high. The proposed package treatment plans is roughly 40' away from the MHHW limits of the Normans Kill but will be elevated at roughly 21.0' elevation which is 3 feet above the 100-year floodplain elevation of 18.0'. The variances are not believed to be substantial as the proposed building, landscaping and stack heights are comparable to the adjacent buildings and the proposed auxiliary package treatment plant will be raised above the floodplain elevation.

4. Whether the variance will have adverse physical or environmental effects on the neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons:

The surrounding existing developments within the district have similar physical characteristics and a full Environmental Impact Statement is in review with all involved agencies to assess any potential impacts from the project. Approval of a negative declaration for the project would confirm that there are no adverse impacts from the entire project, including the increased building/stack heights, proposed landscaping and the auxiliary package treatment plant building adjacent to the Normans Kill.

5. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance). Explain whether the alleged difficulty was or was not self-created.

The variances are not self-created as this site was specifically selected by the state for development of off-shore wind manufacturing and in order to fabricate offshore wind tower sections the buildings need to be the heights proposed and the yard area needs to be large enough to store the Towers without any auxiliary buildings impacting product movements and have adequate parking capacity for the manufacturing operations. These variances are necessary to accommodate the facilities necessary to meet the state's needs for off-shore wind production.

Part B

For a Use Variance:

Before the ZBA can grant a use variance, State Law requires that, the applicant must demonstrate "unnecessary hardship". Mere inconvenience and the fact that the land in question could be put to a more profitable use are insufficient reasons for granting a use variance. Applicant must prove EACH of the following standards in order to be granted a use variance.

To prove unnecessary hardship, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return demonstrated is substantial as demonstrated by competent financial evidence.

2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

3. The requested use variance, if granted, will not alter the essential character of the neighborhood.

4. The alleged hardship has not been self-created.

Fee Schedule Z Zoning Board of Appeals Fees

DISTRICTS	AREA VARIANCE or INTERPRETATION APPEAL		USE VARIANCE	
	Residential Use	Non-Residential Use	Residential Use	Non-Residential Use
Residential	\$75.00	\$100.00	\$125.00	\$150.00
Mixed Use¹	\$100.00	\$125.00	\$150.00	\$175.00
Commercial¹	\$175.00	\$200.00	\$200.00	\$300.00
Special Districts	\$175.00	\$200.00	\$200.00	\$300.00

Districts are Set Forth in the Zoning Code, Section 128-12

Residential and Non-Residential Uses are Set Forth in the Zoning Code, Section 128-100

¹ If the primary use of the parcel is a single family home and will remain as such with the granting of the variance; those applicants shall follow the fee schedule for residential districts.