



## VILLAGE OF WARWICK

INCORPORATED 1867

# Zoning Board of Appeals

## Application Instructions

This document provides general information and instructions for completing an application to the Village of Warwick Zoning Board of Appeals (“ZBA”).

Before applying to the ZBA an applicant generally starts at the Planning Board with a proposed site plan or subdivision and is referred to the ZBA because certain elements thereof do not comply with the zoning regulations and there is a need for one or more area variances. Alternatively, an applicant can apply directly to the ZBA based on a Denial or Determination from the Building Inspector. For example, if an applicant applies for a building permit for something that does not require Planning Board approval and it is denied because the applicant needs a variance, the applicant can apply to the ZBA from the Building Inspector’s Denial. A Denial or Determination from the Building Inspector is always required in order to apply for a use variance. In addition to area variances and use variances, the ZBA also has jurisdiction to hear appeals from certain actions or interpretations made by the Building Inspector.

In order for the ZBA to adequately review your application, the following items must be received by the ZBA Secretary no later than 4:00 pm three weeks prior to the regularly scheduled meeting:

- ☐ Completed Application (choose type)
  - ☐ Area Variance
  - ☐ Use Variance
  - ☐ Appeal of an Action or Interpretation by the Building Inspector
- ☐ A copy of the Denial or Determination from the Building Inspector or a copy of the Referral from the Village of Warwick Planning Board
- ☐ A Short Environmental Assessment Form Part 1 completed utilizing the NYSDEC EAF Mapper available at <https://gisservices.dec.ny.gov/eafmapper/>
- ☐ Interest Disclosure Affidavit Pursuant to Section 809 of the General Municipal Law
- ☐ Survey or plot plan, showing street(s), setbacks, buildings and dimensions, and any other details or exhibits applicable to your application
- ☐ Application Fee(s)
- ☐ Escrow Deposit for Consultant Review & Complete Escrow Account for Review Form

Applicants must submit eight (8) sets of the application materials to the ZBA Secretary together with checks for the Application fee(s) and Escrow deposit made payable to the Village of Warwick. A digital copy of the entire submission must be emailed to [Planning@Villageofwarwick.org](mailto:Planning@Villageofwarwick.org). Checks for. ***If all items are not received three weeks prior to the regularly scheduled meeting, the application will be considered incomplete and will not be reviewed until a complete submission is made.***

After receipt of a complete application, it will be forwarded to the ZBA attorney and it may also be required to be reviewed by the Orange County Department of Planning if your property is located within 500 feet of certain features, such as a municipal boundary or a County or State Road. The ZBA attorney will prepare a public hearing notice for publication in the official Village newspaper. The applicant is required to pay the cost of publishing the public hearing notice prior to the public hearing.

A copy of the public hearing notice will be supplied to you and/or your attorney/representative designated to act on your behalf, along with a list of names and mailing addresses of property owners within three hundred feet (300') of the property lines of your property. It is the responsibility of the applicant to mail the public hearing notice to all property owners within three-hundred feet (300') of the applicant's property by certified mail, return receipt requested, at least ten days before the date of such hearing and submit the mailing receipts at the meeting.

ZBA meetings are held on the fourth Tuesday of the month at 7:00 pm (subject to change). You should expect to attend at least two (2) ZBA meetings in connection with your application.

### **Consultant Review & Fees**

All fees for consultant review that the ZBA incurs during the review of an application will be the responsibility of the applicant. An advanced deposit for these fees will be required to be placed in an escrow account with the Village of Warwick. ***No review of the application will commence until the escrow deposit is received.*** In addition, if the escrow balance falls below 80% of the initial deposit, the applicant will be required to make an additional deposit to bring the balance back to the original amount, prior to any further review of the application by the ZBA. ***Decisions of the ZBA will not be signed unless the escrow account is current.***



**VILLAGE OF WARWICK**  
INCORPORATED 1867

**Zoning Board of Appeals**

**Area Variance Application**

**Administrative Section only**

Date Received: \_\_\_\_\_ Escrow Fee: Residential \$1,500.00

Digital Copy Provided: \_\_\_\_\_ Escrow Fee: Commercial \$ \_\_\_\_\_

8 Hard Copies Provided: \_\_\_\_\_

Fee: Residential \$ 200.00 ☐ Paid

Fee: Commercial \$ \_\_\_\_\_ ☐ Paid

Date of Public Hearing: \_\_\_\_\_

Date of Final Action: \_\_\_\_\_

**Applicant – Please complete the following:**

**Applicant's Name:** \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Day/Evening Phone: \_\_\_\_\_

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

**Owner of Property (if different from Applicant):** \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Location of Property: \_\_\_\_\_

Section, Block and Lot (SBL) Number: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Present use of Property: \_\_\_\_\_

Proposed use of Property: \_\_\_\_\_

This form is to be completed by persons applying for an **Area Variance**.

(If unsure, contact the Building Inspector.)

Submit the below information for each section of Village Code for which you are requesting an **Area Variance**.

**Please answer all questions and give a detailed explanation. *Attach additional sheets if necessary.***

1. Variance Description (include Village Code Section(s) from which variance(s) are requested):

---

---

2. Statement of Need:

Please explain why the requested **Area Variance(s)** is/are necessary.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

### 3. New York State Review Criteria for an Area Variance:

When requesting an **Area Variance** (permission to use property in a manner that is not allowed by the dimensional or physical requirements of the zoning regulations), NYS law requires the Applicant to show that the benefit of the Variance to the Applicant will outweigh any detriment to the health, safety and welfare of the neighborhood or community. Please comment on the following criteria that the ZBA must consider in making its determination:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the Area Variance(s).

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on its right side, suggesting it's resting on a surface.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

---

---

---

---

---

**(If the Applicant is not the Property Owner, then attach the notarized Owner Endorsement form which gives authorization to the Applicant.)**

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

## OWNER'S ENDORSEMENT

STATE OF \_\_\_\_\_: SS:  
COUNTY OF \_\_\_\_\_:

\_\_\_\_\_ being duly sworn, deposes and says that he/she  
(name)  
resides at \_\_\_\_\_ in the County of \_\_\_\_\_,  
(owner's street address)

State of \_\_\_\_\_ and that he/she is the owner in fee (or the \_\_\_\_\_  
(*official title*)  
of \_\_\_\_\_ which is the owner in fee) of the premises described in the  
(*corporate entity*)

forgoing application and that he/she/it has authorized \_\_\_\_\_ to make the  
(*applicant*)

Foregoing area variance application to the Village of Warwick Zoning Board of Appeals as described therein and agrees to be bound by all statements, conditions and representations contained therein as if he/she/it had so petitioned.

---

Signature \_\_\_\_\_

Dated: \_\_\_\_\_

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

Notary Public





**VILLAGE OF WARWICK**  
INCORPORATED 1867

**Zoning Board of Appeals**

**Use Variance Application**

**Administrative Section only**

Date Received:	_____	Escrow Fee: Residential <u>\$2,500.00</u>
Digital Copy Provided:	_____	Escrow Fee: Commercial \$_____
8 Hard Copies Provided:	_____	
Fee: Residential	<u>\$200.00</u>	<input type="checkbox"/> Paid
Fee: Commercial	\$_____	<input type="checkbox"/> Paid
Date of Public Hearing:	_____	
Date of Final Action:	_____	

**Applicant – Please complete the following:**

**Applicant's Name:** \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Day/Evening Phone: \_\_\_\_\_

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

**Owner's Name (if different from Applicant):** \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Location of Property: \_\_\_\_\_

Section, Block and Lot (SBL) Number: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Present use of Property: \_\_\_\_\_

Proposed use of Property: \_\_\_\_\_

This form is to be completed by persons applying for a **Use Variance**.  
(If unsure, contact the Building Inspector.)

Submit the below information for each section of Village Code for which you are requesting the **Use Variance**.

**Please answer all questions and give a detailed explanation.** *Attach additional sheets if necessary.*

1. Variance Description (include Village Code Section(s) from which variance(s) are requested):

---

---

2. Statement of Need:

Please explain why the requested **Use Variance(s)** is/are necessary.

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

### 3. New York State Review Criteria for a Use Variance:

When requesting a **Use Variance** (permission to use land for a purpose that is not allowed or is prohibited by the zoning regulations) NYS law requires the Applicant to demonstrate that the applicable zoning regulations and restrictions have caused unnecessary hardship. The ZBA must deny the Use Variance if any one (1) (or more) of the four (4) criteria below is not proven.

- a. Explain how, based on the current applicable zoning regulations, the Applicant is incapable of earning a “reasonable” financial return on his/her initial investment if the property is used for any of the uses allowed by the zoning code. This must be shown for each and every permitted use under the applicable zoning regulations, and the Applicant must submit competent financial evidence (“dollars and cents proof”) to demonstrate the lack of return:

This image shows a full page of blank white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing or drawing. There are no margins, text, or other markings present.

- [illegible]

- 
- This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[illegible]

**(If the Applicant is not the Property Owner, then attach the notarized Owner Endorsement form which gives authorization to the Applicant.)**

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

STATE OF \_\_\_\_\_: SS:  
COUNTY OF \_\_\_\_\_:

\_\_\_\_\_ being duly sworn, deposes and says that he/she  
(name)  
resides at \_\_\_\_\_ in the County of \_\_\_\_\_,  
(owner's street address)

State of \_\_\_\_\_ and that he/she is the owner in fee (or the \_\_\_\_\_  
(*official title*)  
of \_\_\_\_\_ which is the owner in fee) of the premises described in the  
(*corporate entity*)

forgoing application and that he/she/it has authorized \_\_\_\_\_ to make the  
(applicant)

foregoing use variance application to the Village of Warwick Zoning Board of Appeals as described therein and agrees to be bound by all statements, conditions and representations contained therein as if he/she/it had so petitioned.

Signature \_\_\_\_\_

Dated: \_\_\_\_\_

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

Notary Public



**VILLAGE OF WARWICK**  
INCORPORATED 1867

**Zoning Board of Appeals**

**Appeal of an Action or Interpretation by the  
Building Inspector**

<b>Administrative Section only</b>	
Date Received:	_____ Escrow: \$ _____
Digital Copy Provided:	_____
8 Hard Copies Provided:	_____
Fee: Residential	\$ _____ <input type="checkbox"/> Paid
Fee: Commercial	\$ _____ <input type="checkbox"/> Paid
Date of Public Hearing:	_____
Date of Final Action:	_____

**Applicant – Please complete the following:**

**Applicant's Name:** \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Day/Evening Phone: \_\_\_\_\_

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

**Owner's Name (if different from Applicant):** \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Location of Property: \_\_\_\_\_

Section, Block and Lot (SBL) Number: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Present use of Property: \_\_\_\_\_

Proposed use of Property: \_\_\_\_\_

This form is to be completed by applicants seeking an ***Appeal of an Action or Interpretation by the Building Inspector*** made under the Village Zoning Code. An application for an Appeal or Interpretation requests that the ZBA review the underlying decision, order, or determination and determine the meaning of a particular section of the Zoning Code with respect to a specific set of facts. On an application for an Appeal or Interpretation, the ZBA may affirm or reverse, in whole or in part, or modify the action or interpretation appealed from and make such other decision as in its opinion should have been made by the Building Inspector.

The applicant is responsible for complying with established ZBA rules, procedures and the law in accordance with §145-150 through §145-153 of the Code of the Village of Warwick.

Submit the below information for each action/interpretation being appealed.

**Please answer all questions, give a detailed explanation, and attach a copy of the Order or Decision being appealed. Attach additional sheets if necessary.**

1. State the zoning law(s) cited in or relevant to the Building Inspector's Action which you contend is (are) being misinterpreted:

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---



This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

[illegible]

- 
- This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

I, the undersigned, am the Owner, or their Authorized Agent.

**(If the Applicant is not the Property Owner, then attach the notarized Owner Endorsement form which gives authorization to the Applicant.)**

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

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

---

## OWNER'S ENDORSEMENT

STATE OF \_\_\_\_\_: SS:  
COUNTY OF \_\_\_\_\_:

\_\_\_\_\_ being duly sworn, deposes and says that he/she  
(name)  
resides at \_\_\_\_\_ in the County of \_\_\_\_\_,  
(owner's street address)  
State of \_\_\_\_\_ and that he/she is the owner in fee (or the \_\_\_\_\_  
(official title)  
of \_\_\_\_\_ which is the owner in fee) of the premises described in the  
(corporate entity)  
forgoing application and that he/she/it has authorized \_\_\_\_\_ to make the  
(applicant)  
foregoing appeal/interpretation application to the Village of Warwick Zoning Board of Appeals as  
described therein and agrees to be bound by all statements, conditions and representations  
contained therein as if he/she/it had so petitioned.

---

Signature \_\_\_\_\_

Dated: \_\_\_\_\_

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_

---

Notary Public



## VILLAGE OF WARWICK

INCORPORATED 1867

### Interest Disclosure

Affidavit Pursuant to Section 809 of  
the General Municipal Law

ZONING BOARD OF APPEALS: VILLAGE OF WARWICK

In the matter of the Application of \_\_\_\_\_

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

I, \_\_\_\_\_, being duly sworn, hereby deposes and says:

That I am the owner or the agent for the owner of the property described in the within application to the Zoning Board of Appeals of the Village of Warwick, Orange County, New York, and if not the owner I have been duly and properly authorized to make this application and to assume the responsibility for the owner in connection with the application.

That there is no State officer, Orange County Officer or employee, Town of Warwick officer or employee or Village of Warwick officer or employee nor his or her spouse, brother, sister, parent, child or grandchild, or a spouse of any of these relatives who is the applicant or who has an interest in the person, partnership or association making this application, petition or request; or is an officer, director, partner or employee of the applicant; or, if this applicant is a corporation, legally or beneficially owns or controls any stock of the applicant (excluding ownership of less than 5% of the stock of a corporation whose stock is listed on the New York or American Stock Exchanges); or, if the applicant is an association or a partnership, is a member or partner of the applicant; or is a party to an agreement with the applicant, express or implied, whereby such officer or employee may receive any payment or other benefit, whether or not for service rendered, which is dependent or contingent upon the favorable approval of this application, petition or request.

That to the extent that the same is known to your applicant, and to the owner of the subject premises, there is disclosed herewith the interest of the following officer or employee of the State of New York or of the County of Orange or of the Town of Warwick or of the Village of Warwick in the petition, request, or application or in the property of subject matter to which it relates: **(If none, so state)**

1. Name and address of officer or employee:

---

---

---

---

2. Nature of interest:

---

---

---

---

3. If stockholder, number of shares:

---

---

---

---

4. If Officer or partner, nature of office and name of partnership:

---

---

---

---

5. If a spouse or brother, sister, parent, child, grandchild or the spouse of any of these blood relatives of such State, County, Town or Village officer or employee, state name and address of such relative and nature of relationship to officer and employee and nature and extent of office, interest or participation or association having an interest in such ownership or in any business entity sharing in such ownership.

---

---

- 
- 
6. In the event of corporate ownership: A list of all directors, officers and stockholders of each corporation owning more than five (5%) percent of any class of stock, must be attached if any of these are officers or employees of the State of New York, or of the County of Orange, or of the Town of Warwick, or of the Village of Warwick.
  7. In the event there is any change in the information set forth herein between the date hereof and the final determination of this application, a supplement affidavit will be filed to provide that further information

I, \_\_\_\_\_, do hereby depose and say that all the above statements and statements contained in the papers submitted herewith are true, knowing that a person who knowingly and intentionally violates this section is guilty of a misdemeanor.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's Mailing Address

State of \_\_\_\_\_

County of \_\_\_\_\_

Sworn to before me this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public



VILLAGE OF WARWICK  
INCORPORATED 1867

Zoning Board of Appeals

Escrow Deposit  
Affidavit of Owner's Obligation to  
Comply with Village Code Section  
Reimbursement of costs and expenses.  
[Amended 3-5-2012 by L.L. No. 5-2012]  
Requiring Escrow Deposit to  
Pay Professional Review Fees

Re: \_\_\_\_\_  
Escrow Amt: Area V. \$1,500.00 Use V. \$2,500.00

State of New York                    )  
County of Orange                    )ss:  
Village of Warwick                    )

I, \_\_\_\_\_, being duly sworn,  
hereby depose and say:

**1. That I have been advised of the requirement of Village Code 64-3, which states:**

**§ 64-3 Reimbursement of costs and expenses.**

[Amended 3-5-2012 by L.L. No. 5-2012]

**A.** The applicant for approval of any land use or land development proposal shall reimburse the Village for all of the Village's reasonable and necessary consulting costs, as described herein, incurred by the Village in connection with the review and/or approval of the application. Said fees and expenses are deemed application fees. Reimbursement shall be made in accordance with this chapter. For the purposes of this chapter, the term "land use or development" shall include, but not be limited to, a subdivision, lot line change, site plan, conditional use permit, a change of use application, special permit, wetlands permit, variance, interpretation, appeal to the Zoning Board of Appeals, or any modification or amendment of any of the foregoing.

**B.** Initial Planning and Zoning review escrow deposits pursuant to the fee schedule established by this chapter shall be delivered to the Village Clerk as part of the original application.

**C.** No review shall be undertaken by the consultants, nor shall the matter be scheduled before the Planning Board, Zoning Board, or Village Board, until the initial fee and escrow deposit, as



set forth in this chapter or the incorporated fee schedule, is paid. A fee schedule shall be established, and changed as needed, by resolution of the Village of Warwick Board of Trustees. A copy of the fee schedule is on file with the Village Clerk's office and the Village of Warwick Planning Department. In addition to the above-referenced fee schedule, the Planning Board may require an applicant to pay an added amount, to be held in escrow and ultimately disbursed, to pay the costs incurred by the Village for all consulting services it may reasonably seek to engage, including, but not limited to, archaeological, engineering, planning, legal and clerical costs incurred in processing and review of a subdivision or other application. Such amount deemed necessary for escrow shall be reasonably related to costs attendant to the Village's review, and such amount shall be computed by the reviewing Board in consultation with the applicant. Further, if such escrow payment is deemed necessary, this fee shall be in addition to and exclusive of any fee(s) properly assessed to the applicant in connection with the SEQRA process.

**D.** In addition to the application fees required to be paid by an applicant, the applicant shall also reimburse the Village for any and all fees paid by the Village in connection with the review of such application by the Planning Board, Zoning Board of Appeals, or Board of Trustees. With regard to applications to the Zoning Board of Appeals for variances, the Village Board for zone change applications and the Planning Board for subdivisions, conditional use permits, change of use applications, lot line changes and site plan, the respective Board, as the case may be, shall set an amount, in consultation with the Village Engineer, Planner and Attorney, to be placed in an escrow account to be maintained by the Village for the purpose of paying the fee statements of the Village professionals in connection with the review of the application. Applicants before the respective Boards for other relief shall pay the fee statements for Village professionals within 30 days of presentation. All applicants shall be presented with a fee statement or statements for such review and/or payment on a periodic basis or upon request.

**E.** If the escrow account falls below 80% of the initial deposit, the applicant shall, unless waived by resolution of the applicable Board, pay additional funds into the escrow account to maintain that account at 80% of the initial deposit.

**F.** In the event that an applicant shall withdraw his application at any stage of the proceedings or when the application review and approval process has been completed, the balance of funds in the applicant's account after all current outstanding fees are paid shall be either remitted to the applicant within 60 days of final action by the board or, if so directed by the applicant, remain on deposit as the applicant's initial payment toward post-approval inspection requirements (if required).

**G.** The applicant shall remain responsible for reimbursing the Village its invoiced costs and expenses in reviewing the applicant's land use application, notwithstanding that the escrow account may be insufficient to cover such costs and expenses.

**H.** In the event that the applicable board, in the course of reviewing an application, determines that the proposed action requires a positive declaration under SEQRA, all costs incurred by the board for review of any environmental impact statements, whether of a professional or clerical nature, shall be borne by the applicant pursuant to 6 NYCRR 617.8(a). Such costs shall be covered by an escrow account to be established pursuant to this section within 15 days of issuance of said positive declaration in an amount to be set by the applicable board pursuant to the fee schedule set forth as part of this chapter.

**I.** All applicants with matters described herein pending before the Village Board, Planning Board or Zoning Board of Appeals as of the effective date of this chapter shall be required to comply with the new fees and escrow account maintenance provisions contained herein.

**J.** In cases where the complexity of an application (or lack thereof) or unusual circumstances surrounding the matter require that the initial fee or the percentage of that initial fee to be maintained in escrow be modified, the reviewing board is authorized to grant such modification within the following guidelines:

**(1)** The amount of any initial fee modification shall be reasonably related to the costs attendant to the Village's review of the application.

**(2)** The amount of any escrow maintenance percentage shall be reasonably related to the complexity of the project as well as the stage to which the project has progressed as of the time of modification.

**K.** Each of the Village's engineering, legal and/or planning consultants who render services pertaining to a land use or development application shall submit monthly itemized vouchers to the Village Board (through the Clerk to the Planning Board and/or Zoning Board), reasonably setting forth the services performed and amounts charged for such services.

**L.** Copies of said itemized vouchers shall be transmitted to the applicant simultaneously with their delivery to the Village Board, together with a notice notifying the applicant that the failure to object to payment of the amount of the charges contained in said itemized voucher out of escrow funds within 15 days of the sending of said notice shall constitute an agreement by the applicant as to the reasonableness of the charges. Presentation of such statements shall be deemed complete when mailed by the Village to the applicant's designated representative.

**M.** The Planning Board and/or the Zoning Board (as appropriate) shall review vouchers for services rendered to each and shall communicate its approval of same to the Village Board. The Village Board shall review and audit all such vouchers and shall determine, in its discretion, the engineering, legal and planning fees which are reasonable in amount and necessarily incurred by the Village in connection with the review and/or approval of the land use or development application. A fee or expense of part thereof is reasonable in amount if it bears a reasonable relationship to the customary fee charged by engineers, attorneys or planners within the region for services performed on behalf of applicants or reviewing boards in connection with

applications for land use or development. The Village Board may also take into account any special conditions for considerations as the Village Board may deem relevant. A fee and expense or part thereof is necessarily incurred if it was charged by the engineer, attorney or planner for a service which was rendered in order to:

- (1) Assist in the protection or promotion of the health, safety or welfare of the Village or its residents;
- (2) Assist in the protection of public or private property or the environment from potential damage that otherwise may be caused by the proposed land use or development;
- (3) Assure or assist in compliance with laws, regulations, standards or codes which govern land use and development;
- (4) Assure or assist in the orderly development and sound planning of a land use or development;
- (5) Assure the proper and timely construction of public improvements, park and other facilities which affect the public welfare;
- (6) Protect the legal interest of the Village;
- (7) Avoid claims against and liability of the Village; or
- (8) Promote such other interests that the Village Board may specify as relevant.

N. After review and audit of such voucher by the Village Board, the Board shall authorize payment of same and shall provide to the applicant a copy of the voucher as audited.

O. The Planning Board and Zoning Board are hereby authorized, at the time of action on any project, to require that payment of any amount overdue be a condition of approval. No plat or plans will be signed, and no building permit or other permit or certificate of occupancy shall be issued, until such time as all reimbursement of costs and expenses has been fully paid. The Village Board, Planning Board, and Zoning Board of Appeals reserve the right, at their discretion, to deny action to any applicant with an overdue balance, until the account is brought into compliance with this section.

P. Amounts paid pursuant to this chapter shall be placed in a trust and agency liability account to fund expenses incurred by the Village in processing the application as provided for in Subsection A above. The Village shall keep a record of the name of the applicant and project and of all such monies deposited and withdrawn. Monthly vouchers submitted by the Village's engineers, attorneys and/or planners shall be reviewed and audited by the Village Board and provided to the applicant, and the applicant may appeal said audit amount as provided herein. The Village reserves the right to redact any voucher as deemed necessary.

Q. All fee and expense reimbursement payments are due and payable within 15 days after delivery of a copy of an itemized voucher to the applicant as provided for in Subsection L above. Interest shall accrue on any unpaid itemized voucher at the rate of 9% per annum. The

pursuance of an appeal under this section or § ~~64-4~~ shall not affect the obligation to pay interest on any unpaid balance ultimately determined to be due.

**R.** Any applicant who disputes any fee statement presented to him pursuant to this chapter may bring a proceeding in the Supreme Court of the State of New York, in and for the County of Orange, pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York, within 30 days after presentation of such disputed fee statement. The commencement of such a proceeding shall not stay the obligation of the applicant to pay any fee statement presented to him pursuant to this chapter.

**S.** Failure to reimburse fees. Any fee statement imposed by this chapter which remains unpaid at the time the Village certifies its annual tax roll shall become a lien upon the premises for which the application was made. Such unreimbursed fees shall thereupon be levied against the said premises, as if a tax on real property, and in addition to all other taxes, fees, rents or charges which would otherwise be so levied. In the event the affected premises comprises more than one tax lot, then the Village Treasurer shall distribute such levy equally among each such tax lot without regard to assessed value or any other factor.

**T.** The provisions of this chapter are severable. If any clause, sentence, paragraph, section, word or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, word or part thereof directly involved in the controversy in which such judgment shall have been rendered. If any portion of this article is found to be in conflict with any other provision of any other local law or ordinance of the Code of the Village of Warwick, the provision which establishes the higher standard shall prevail.

#### § 64-4**Appeals.**

**A.** An applicant may appeal, in writing, to the Village Board for a reduction in the required reimbursement amount. An appeal must be filed with the Village Board no later than 15 days after mailing or other delivery to the applicant of the contested voucher.

**B.** Failure to file an appeal within 15 days of the mailing of the voucher shall constitute waiver of any objection to the charge.

**C.** Upon such appeal, the Village Board, in its discretion, may determine that an applicant is not required to reimburse the Village for that part of an engineering, legal or planning fee incurred by the Village for services performed in connection with an application matter for which the Village Board determines the applicant bears no responsibility and which was beyond the reasonable control of the applicant.

**D.** The Village Board's determination shall be in writing and shall be made no later than 45 days after receipt of the applicant's appeal.

§ 64-5 **Payment of fees.**

All fees shall be payable to the Village of Warwick by certified funds or bank check.

§ 64-6 **Supersedence.**

This chapter is enacted pursuant to the authority of Subparagraphs a(11), a(12) and d(3) of § 10(1)(ii) of the Municipal Home Rule Law and § 22 of the Municipal Home Rule Law. To the extent that Village Law or any other provision of law does not specifically authorize the Village Board, Planning Board or Zoning Board of Appeals to require the reimbursement to the Village and the advance deposit of funds for engineering, legal and planning fees and expenses incurred by the Village in connection with land use, variance and development applications, it is the express intent of the Village Board to supersede such statutes. Further, to the extent such statutory provisions do not specifically authorize the deferral or withholding of decisions or other conduct by the Village's boards in the event such fees and expenses are not reimbursed to the Village, such statutory provisions are expressly superseded.

§ 64-7 **Severability.**

The invalidity or unenforceability of any particular provision of this chapter shall not affect the validity or enforceability of other provisions of this chapter, which provisions shall continue to be both enforceable and valid.

§ 64-8 **When effective.**

This chapter shall take effect upon the filing of certified copies thereof with the Office of the Secretary of State in accordance with the Municipal Home Rule Law.

**2. I agree to comply with the requirements of Village Code Section §64-3**

---

**Applicant's Signature**

---

**Applicant's Mailing Address**

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_

---

Notary Public



VILLAGE OF WARWICK  
INCORPORATED 1867

Zoning Board of Appeals  
Proxy Statement

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

I, \_\_\_\_\_, owner of the property located at:  
\_\_\_\_\_ in Warwick, NY 10990, give my permission  
to: \_\_\_\_\_ to obtain the following:

- ☐ Zoning Board of Appeals – Use Variance  
☐ Zoning Board of Appeals – Area Variance  
☐ Zoning Board of Appeals – Appeal of an Action or Interpretation by the Building Inspector

Signature of Owner \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public