

Village of Wellsville
Zoning Department
Phone: (585) 596-1755
www.wellsvillenyny.com

156 North Main Street
Wellsville NY 14895 Fax:
(585) 593-7260

Zoning Board of Appeals Application

To the Zoning Board of Appeals:

Statement of Ownership and Interest

I (we) _____
of _____

hereby makes application to the ZBA for:

- ☐ Special Exception Use
- ☐ Area Variance
- ☐ Use Variance
- ☐ Zoning Interpretation
- ☐ Zoning Change
- ☐ Other: _____

Location of Property

1. The property in question is situated at the following address:

2. Current zoning classification _____ (Available from Zoning Officer)

3. Tax map # _____ (Available from Zoning or Assessor's Office)

4. Is the property in question located within five hundred (500) feet from the boundary of any city, village, or town, or from any county or state parkway, expressway, thruway, or other limited access highway, or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines, or from any county or state lands on which a public building or institution is situated?

☐ Yes ☐ No

General Data

1. Current Use: _____
Proposed Use: _____
2. Number of dwelling units proposed: _____
3. Number of employees proposed: _____
4. Parking spaces required: _____
 - A. Proposed
 - B. Handicapped : _____
 - C. Loading Zone Required: ___Yes ___No
 - D. Curb Cut Permit Required: ___Yes ___No
5. Type of Non-Residential Use (if any)

- 6 Lot Size A. Length: _____ Ft.

(A and B available from Assessor's Office)

- B Depth _____ Ft.
- C. Area: _____ Square Ft.
7. Building Information
 - A. Number of Stories: _____
 - B. Floor area per story in square feet: (Available from the Assessor's Office)
Basement: _____ 1st: _____ 2nd: _____ 3rd: _____
8. Applicant's relationship to the property:
 - ___ A. Owner
 - ___ B. Purchaser (must provide valid purchase offer)
 - ___ C. Tenant (present)
 - ___ D. Tenant (new) Lease Commitment: ___Yes ___ No
 - ___ E. Attorney for: ___ A ___ B ___ C ___ D
 - ___ F. Other (explain) _____

-
9. Name and Address of Owner of Record:

10. Name and Address of Attorney:

Request

The complete zoning ordinance is available online at www.wellsvilleny.com

Provisions of the Zoning Ordinance:

Section: _____

Concerning: _____

From: _____ To: _____

Has there been a previous appeal concerning this property?

____ Yes (date) _____
____ No _____

Result of that appeal:

Reason for Request to Zoning Board

Interpretation of the Zoning Ordinance above is requested to determine whether:

A special exception use would be in harmony with the intent and purpose of the Zoning Ordinance because:

A Variance of the Zoning Ordinance is requested for these reasons:

*Please see the attachment entitled "Criteria Used in Examining Use and Area Variance Requests".
You must address each concern listed on the attachment. Please attach a separate sheet.*

If you wish to receive correspondence related to this ZBA application electronically, please provide your email address: _____

NOTE: Zoning Appeals are approved on a provisional basis, subject to the applicant obtaining all required permits and meeting all New York State Fire Prevention and Building Codes as well as complying with any applicable local laws.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 - Project and Sponsor Information			
Name of Action or Project:			
Project Location (describe, and attach a location map):			
Brief Description of Proposed Action:			
Name of Applicant or Sponsor:		Telephone:	
		E-Mail:	
Address:			
City/PO:		State:	Zip Code:
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?			NO
If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			YES
			<input type="checkbox"/>
			<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency?			NO
If Yes, list agency(s) name and permit or approval:			YES
			<input type="checkbox"/>
			<input type="checkbox"/>
3.a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned _____ acres			
or controlled by the applicant or project sponsor?			
4. Check all land uses that occur on, adjoining and near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places? b. Is the proposed action located in an archeological sensitive area?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input type="checkbox"/> YES b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: _____ Date: _____ Signature: _____		

Project:

Date:

Short Environmental Assessment Form
Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:	<input type="checkbox"/>	<input type="checkbox"/>
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

Project: Date:

Short Environmental Assessment Form

Part 3 Determination of Significance

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
- ☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

 Name of Lead Agency

 Date

 Print or Type Name of Responsible Officer in Lead Agency

 Title of Responsible Officer

 Signature of Responsible Officer in Lead Agency

 Signature of Preparer (if different from Responsible Officer)

Notice of Hearing Information

1. Publication of legal notice will be placed in the Wellsville Daily reporter by the Village of Wellsville.
2. The applicant must mail the Notice of Hearing letter attached hereto so that it arrives to residents within 500' of the property in question five (5) days prior to the Zoning Board of Appeals meeting. A list of the property owners within 500' will be provided to the applicant by the Zoning Officer.

AFFIDAVIT REQUIRED

The Appellant shall file with Zoning Officer one copy of the letter of notification to property owners together with a NOTARIZED affidavit setting forth a certification that the letter of notification to property owners was mailed to the individuals listed in affidavit, and a further certification that they are all owners of real property within five hundred (500) feet from the boundaries of the lot or lots for which the consideration and/or action of the Zoning Board of Appeals is requested.

NOTE: The Notice of Hearing mail should be done no later than one (1) week prior to the Zoning Board of Appeals meeting (required to be received five (5) days prior). In addition to the mailing, the applicant must return the "Affidavit of Mailing" prior to the Zoning Board of Appeals meeting. The Affidavit may be returned to:

Village of Wellsville
Zoning Officer
156 North Main Street
Wellsville, NY 14895

If you have any questions, please contact the Zoning Officer at (585) 596-1755.

AFFIDAVIT OF MAILING

I, _____ certify that a true copy of the attached letter was mailed to the persons whose names appear below, and I further certify that they are all the owners of real property within five hundred (500) feet from the boundaries of the lot or lots known as:

STATE OF NEW YORK
COUNTY OF ALLEGANY

Sworn to before me this

____ day of _____, _____
(month) (year)

Applicant's Signature

Applicant's Address

Applicant's Phone Number

(Notary Public)

 THIS FORM MUST BE NOTARIZED

Village of Wellsville
ZONING BOARD OF APPEALS
www.wellsvilleny.com

A public hearing before the Zoning Board of Appeals of the Village of Wellsville New York, will be held in the Municipal Building, 156 North Main Street, Wellsville, New York, on the _____ day of _____ at _____.

The purpose of this hearing will be to consider comments from the public concerning the application of

_____ regarding property at _____ Wellsville, New York.

This applicant is requesting a _____ from the Zoning Ordinance* to allow the following changes concerning the above mentioned property:

The above application and supporting papers are open to inspection in the Zoning Office, 156 North Main Street, Wellsville, New York. Persons wishing to appear at such hearing may do so in person or by attorney or other representative duly designated. Communications in writing which relate thereto may be filed with the Zoning Officer at this same address.

The full text of the Zoning Ordinance is available online at www.wellsvilleny.com

GENERAL INFORMATION ON THE ZONING BOARD OF APPEALS

THE JOB OF THE ZONING BOARD OF APPEALS

Authority to vary the provisions of the zoning law is granted to zoning boards of appeals by Town Law, Village Law, and General City Law. These laws require that a municipality with zoning must have a zoning board of appeals. The board acts as a "safety valve" to keep the zoning restrictions from being overly rigid.

The zoning board of appeals exists primarily for its appellate functions, in which it acts as a buffer for aggrieved applicants between decisions of the zoning enforcement officer and the State Supreme Court.

ZBAs are granted two appellate functions: the review of applications for use and area variances, and the power to render interpretations of the zoning regulations.

The zoning board of appeals can also be given "original" jurisdiction by the local governing board. Examples of original jurisdiction are the review of special use permits, site plans, and historic preservation certificates.

POTENTIAL APPLICANTS

There are three types of people who have legal standing to bring an appeal to the zoning board of appeals.

The first is an applicant for a land use approval or permit, or a person cited with a zoning violation. He or she may file an appeal of an enforcement officer's determination within 60 days after the ZEO files the decision in his or her office.

The second type of person who has standing to appeal is a neighbor or other third party who stands to be harmed by the decision of the zoning enforcement officer. This category of appellants has 60 days from the date they obtain or should have obtained knowledge of the ZEO's decision to file their appeal.

The third category is a group of people specifically mentioned in the statutes. They include any officer, department, board or bureau of the municipality. For example, a planning board member, even one who doesn't live anywhere near the subject property, would fall into this category.

INTERPRETATIONS OF LAND USE LAWS

An applicant may apply to the zoning board of appeals for an interpretation when he or she believes the ZEO has wrongly interpreted the local zoning regulations. Applicants for interpretations most often believe their proposals are permitted by zoning, although the zoning enforcement officer has ruled otherwise. Neighboring property owners may also appeal for interpretations when they disagree with the ZEO's determination that a proposal does comply with zoning and qualifies for a zoning permit.

Often interpretations are sought about what the correct method is of measuring required distances.

REQUEST FOR A VARIANCE

The other type of appellate jurisdiction is the granting of variances. A variance can be granted *only* by the zoning board of appeals in response to successful arguments by an applicant that the zoning regulations should not be strictly applied to a particular property. Variances are granted to the property not the property owner, thus they are said to “run with the land.”

There are two types of variances. We'll begin with area variances, which are requested by applicants wishing to use their property in a manner that does not comply with the *dimensional or physical requirements* of the zoning regulations.

Zoning restrictions from which area variances are often requested include:

- setback requirements
- height restrictions
- lot coverage maximums
- frontage requirements

AREA VARIANCE CONSIDERATIONS

The statutes contain five items which ***must be considered*** by the ZBA when deciding whether to grant an area variance. These five considerations are used to balance the benefit to the applicant of receiving the variance against the burden to the health, safety, and welfare of the community if the variance is granted.

Area variance standards are applied to the physical characteristics of the property, not the use. Applicants do not have to “pass” the five factors of the area variance balancing test, but each factor should be carefully considered by the zoning board of appeals.

The five factors include:

- 1) effect on neighborhood character
- 2) whether there is an alternative solution that wouldn't require a variance
- 3) how substantial the request is
- 4) what the effect granting the variance may have on the environment.
- 5) whether the difficulty necessitating the area variance is self-created

USE VARIANCES

A use variance provides relief from the use restrictions on a parcel of land.

Applicants who request *use variances* would like to utilize their property for a use not on the list of permitted uses in the zoning regulations for that zoning district. There is no argument as to whether the regulations were properly applied.

Since the governing board has already established a vision for the zoning district through their comprehensive plan and zoning regulations, the test is strict and few use variances should be granted. However, property owners who can meet the test and demonstrate that the zoning provisions are too harsh as applied to their entire parcel of land – not just a part of it – can receive limited relief while protecting the zoning plan.

USE VARIANCE STANDARDS

In order for the zoning board of appeals to grant a use variance, the applicant ***must meet all four criteria***. Each standard will be explained.

- 1) The applicant must prove that the property is unable to achieve a *reasonable return* for any use allowed in that zoning district.

The argument that the property cannot yield a reasonable return for any allowed use must be supported by competent financial evidence. Only by actual "dollars and cents" proof can a lack of reasonable return be shown.

There is no hard number or formula for determining reasonable return. Each application should be treated separately, based on the factual situation of the parcel. The zoning board of appeals does not need to agree with the applicant on what is or is not a reasonable rate of return.

Please note, the opportunity for the owner to make more money from a property's sale or rental if the zoning is changed or a use variance is granted is NOT the same as being unable to make a reasonable return on the property in its current zoning status.

- 2) The applicant must prove that *unique circumstances* apply to the property for which the variance is requested.

The plight of the subject parcel, through the operation of the zoning restrictions, must be due to unique circumstances and not general neighborhood conditions. To be unique, the problem with the zoning must not be shared by a substantial portion of other properties in the zoning district. A shared problem might indicate a larger concern about the appropriateness of the uses listed in that zoning district.

For example, the owners of a single-family home in a densely developed area, zoned for one- and two-family homes on a busy road in a tight real estate market, might have trouble selling their house and hope their chances might be better if they were to obtain a use variance to add commercial space to the house.

- 3) The applicant must prove that the hardship is *not self-created*.

An applicant for a use variance must prove the hardship the property suffers was not created by the owner. A common hardship that is claimed is that the applicant did not know that what they want to do with the property is not allowed by zoning. However, this is a case where the old saying, "Ignorance of the Law Is No Excuse" applies. Property owners are bound by zoning restrictions, even if they are unaware of those zoning restrictions.

An applicant who buys a property is presumed to know whether his or her intended use of it is not allowed by the zoning regulations. If it is not allowed, the applicant is essentially creating his or her own hardship when the property is acquired. The ZBA must deny that applicant's requested relief. The potential purchaser of the property, acting as a "contract vendee" would be wise to apply for a variance before the property changes hands. The information on which the ZBA would base its decision would be that of the existing owner, not of the potential purchaser.

Sometimes hardship is created by an action of the property owner after they purchase the property. For example: A couple purchases residential property with a large room above the detached garage, spends large sums of money converting the room into a

dance studio, and then finds out they cannot operate legally when the zoning enforcement officer finds out about the studio and issues them a citation. If they apply for a use variance, they cannot use the costs of renovation in their hardship argument because the costs would be considered "self created."

- 4) The applicant must prove that the *essential character of the neighborhood* will not be altered if the use variance is granted.

If statutory standards are properly applied, "passing" the first three parts of the use variance test is quite difficult. But applicants who pass those first three parts of the test must also demonstrate that the use for which the variance is requested, if granted, will fit into its surroundings and not have a detrimental effect on the neighborhood around it.

GRANT MINIMUM VARIANCE NECESSARY

New York State statutes direct local zoning boards of appeals to grant the *minimum* variance they "shall deem necessary and adequate, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community." In other words, the zoning board of appeals does not necessarily have to grant or reject a variance application exactly as submitted. The ZBA need not grant a permit for a superstore when a variance for a neighborhood store would relieve the hardship.

PUBLIC HEARING

A public hearing is required before the zoning board of appeals may grant a variance or rule on an appeal or decide any other matter.

Public hearings, which must be held within a *reasonable time* after receipt of the appeal, give the public the opportunity to be heard. Every matter that comes before a zoning board of appeals requires a public hearing.

CONDITIONS OF APPROVAL

The statutes empower the board of appeals, when granting a use or area variance, to impose reasonable conditions and restrictions directly related to and incidental to the proposed use of the property. Conditions are meant to mitigate the impacts of the approved project on both the neighborhood and on the integrity of the zoning law.

Sometimes attaching a condition to the approval, such as the specification of materials or design changes to a higher fence or larger sign, will eliminate or reduce the undesirable changes to the neighborhood from granting the area variance.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

Agencies with land use review authority, including zoning boards of appeals, must consider the New York State Environmental Quality Review Act when reviewing some appeals and applications.

The State Environmental Quality Review (SEQR) process encourages review agencies to consider the environmental implications of proposed projects before making decisions. Applicants should be aware that SEQRA reviews can take time and need to allow time for this process to take place.

Interpretations and all area variances involving one-, two-, and three-family residences are "Type II" actions under SEQR. Also, area variance applications seeking relief from the setback and lot-line requirements of the zoning regulations are Type II actions. Type II actions are presumed as having no adverse environmental impact and therefore not subject to review. Zoning boards of appeals should note in the record that they are Type II actions for SEQR purposes.

If a variance request is not on the Type II list, the SEQR process must continue. The lead agency must either issue:

- a negative declaration, which finds that the project will not result in a significant adverse environmental impact; or
- a positive declaration, which finds it may have one or more significant adverse effects on the environment. If an agency issues a positive declaration, an environmental impact statement must be prepared prior to the zoning board's ruling on the application.

TAKING ACTION ON APPLICATIONS

A resolution for any action by a zoning board of appeals can only pass if it is approved by a majority of the entire board within 62 days following the close of the public hearing.

CHALLENGING A DECISION OF THE ZBA

If a party with standing is unhappy with the decision of the zoning board of appeals they have two options. They may appeal the matter to the State Supreme Court in what's referred to as an Article 78, or they may request a rehearing before the ZBA.

A zoning board of appeals may, at any time, vote to reconsider a matter on which it already has rendered a determination, even in the absence of new facts or circumstances. This allows an applicant the opportunity to convince the ZBA that its original decision was erroneous.

- The matter must **not** have already been **reheard**.
- A motion must be made to rehear the matter and that motion must pass by a unanimous vote of all members present.
- The hearing must be noticed in accordance with state and local law, as was the original one.
- Following the new hearing, a unanimous vote of all present is required in order to change the original determination.

It's possible an applicant could have been granted a variance, and on review and rehearing the board can reverse the original determination and rescind the variance. The zoning board of appeals may not do so, however, in cases in which the applicant acted in good faith on the original decision and either completed the project or invested sufficient resources to gain vested rights to complete it.

This material has been prepared as a general education material and is comprised of excerpts from a variety of sources including:

New York Conference of Mayors
NYS - James Coons Publications