



**Town of Fishkill  
Zoning Board of Appeals  
807 Route 52  
Fishkill, NY 12524  
Phone: (845) 831-7800 ext. 3328  
Fax: (845) 831-3256**

## **PROCEDURES FOR FILING A VARIANCE APPEAL**

For many, appearing before the Town of Fishkill Zoning Board of Appeals (ZBA) is a new and unique experience. The purpose of this handout is to provide the information necessary for proceeding with the Variance Appeal process. It is recommended that you read this handout and contact the Town of Fishkill ZBA Secretary at (845) 831-7800 ext. 3328 should have any questions.

An individual has the right to file an appeal with the ZBA if a particular proposal fails to conform to the requirements of the Town of Fishkill Zoning Law. This process is available if a proposal does not conform to the dimensional or density requirements of the Town Zoning Law due to unusual circumstances affecting the subject property. The appeal mechanism for seeking such relief is referred to as an "area variance." The ZBA is also empowered to authorize a use of a parcel, which would otherwise not be allowed under the Town's Zoning Law, such a request is referred to as a "use variance."

### **New York State General Municipal Law Section 239 Planning/Zoning Referral - Dutchess County Department of Planning and Development**

In accordance with New York State General Municipal Law Section 239, local municipalities are to refer applications planning and zoning actions to the Dutchess County Department of Planning & Development for review. New York State General Municipal Law Section 239 further requires the County to assess all applications as to whether the requested action would have a "county-wide" or "inter-community" impact and comment on same. New York State General Municipal Law authorizes the County to enter into Agreements with local municipalities in order to determine which, if any, of the local municipal actions subject to referral may be deemed strictly matters of local determination, and therefore, not subject to the referral process. Such Agreement was made between the Town of Fishkill and the County of Dutchess; said Agreement is effective January 1, 2016 and shall terminate on December 31, 2016. Unless otherwise terminated as set forth thereon, the term of the Agreement shall be extended automatically for a successive year for a total of five (5) years.

ZBA Application Referrals that are eliminated from the County Referral and Review process as a result of said Agreement are as follows:

- Use variances and area variances for residential uses.

ZBA Application Referrals that are **NOT** eliminated from the County Referral and Review process as a result of said Agreement are as follows:

- Use variances and area variances for all non-residential uses.



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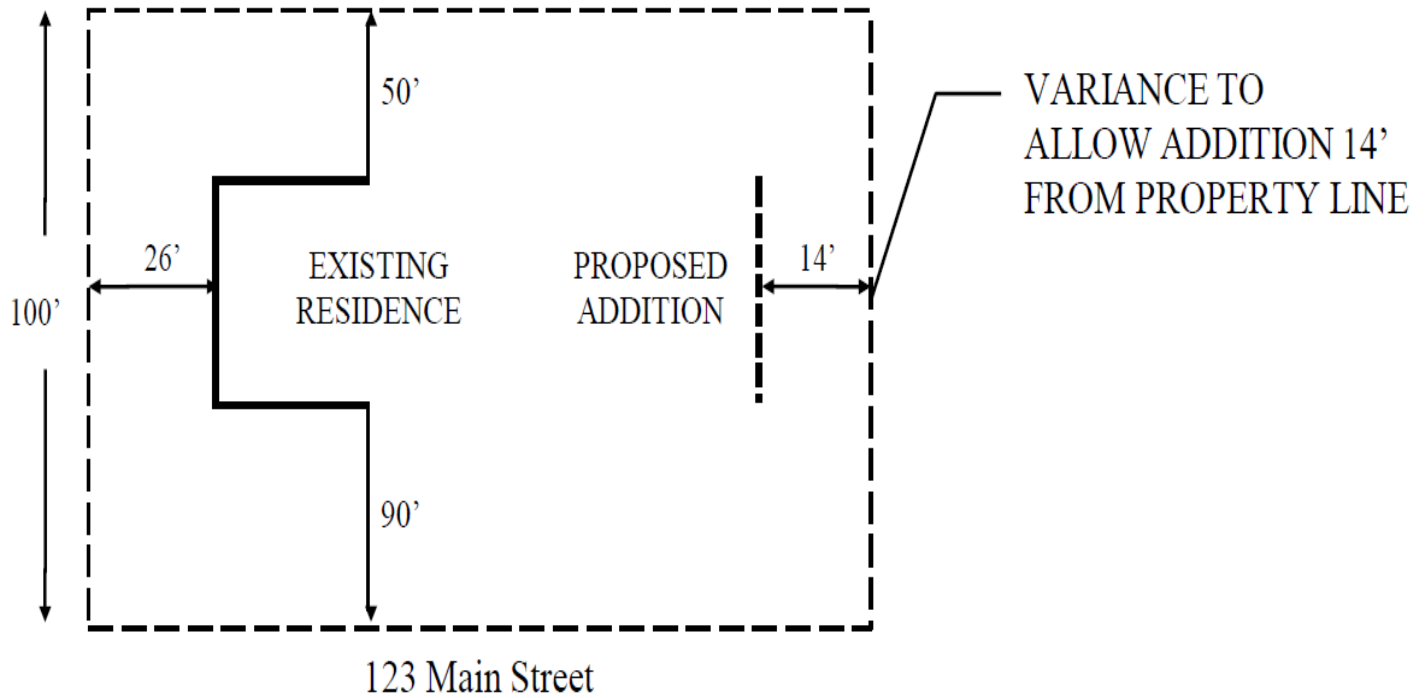
### **How to complete the ZBA Application**

- a) Obtain a Town of Fishkill ZBA Application which is available for download on the Town's website at <http://www.fishkill-ny.gov/downloadable-forms.html> - be sure to scroll down to the Building Department title and then to the Zoning Board of Appeals title. You may also pick up a Town of Fishkill ZBA Application from the ZBA Secretary at the Town of Fishkill Town Hall, 807 Route 52, Fishkill, NY 12524. For an application to be considered complete you must submit a completed Application Form along with all the items that are described on the ZBA Application Forms under the title "Application Checklist."
- b) **All applications must be** accompanied with a plot plan drawn in ink on an 8 ½" x 11" sheet of paper (see page 2 of 2 of this handout for an Example Plot Plan.) **Drawings must be prepared by a licensed professional for all construction - new or renovations to existing structures or addition.**

The plot plan must denote the following:

- All existing and proposed buildings and structures in relation to the property lines;
- All paved or parking surfaces and appropriate measurements;
- Location of all water source or well, septic systems, streets, roads, driveway and any rights-of-way;
- Adjacent properties;
- The measurement to the nearest building in all directions and what the building is identified as;

Example of Plot Plan:



- c) You must determine if the property is within 500' of any of the following (additional copies of the Application may be required):
- I. City of Beacon, Town of Wappinger, Village of Fishkill, Town of East Fishkill, Interstate 84, State Road (Route 9, Route 9D, Route 52 or Route 82)
  - II. County Road (DC-34 (Baxtertown Road), DC-35 (Osborne Hill Road) DC-36 (Red Schoolhouse Road)
  - III. State Park or other recreation area
  - IV. Existing or proposed right-of-way of any stream, creek or river, wetlands or wetlands buffer zones.

Note:

- If a property is within 500' of any state road the ZBA Application shall be referred by the ZBA to the New York State Department of Transportation (NYSDOT) for their review and comment.
- If a property is within 500' of Interstate 84 the ZBA Application shall be referred by the ZBA to the New York State Thruway Authority for their review and comment.
- If a property is within 500' of a county road the ZBA Application shall be referred by the ZBA to Dutchess County Department of Public Works (DCDPW) by the ZBA for their review and comment.