

# Village Of South Blooming Grove

Incorporated in July 14, 2006

P.O. Box 295

Blooming Grove, New York 10914

[www.villageofsouthbloominggrove.com](http://www.villageofsouthbloominggrove.com)

## ZONING BOARD OF APPEALS

### APPLICATION

Zoning Board of Appeals meetings are held on the Fourth (4th) Thursday of every month at 7:30 p.m. Depending on the number of applications before the board, a workshop may be held prior to a regularly scheduled meeting depending on the board's availability. If you would like to schedule a work session with the Zoning Board of Appeals please contact the Village Clerk. Please check with the Clerk's office on the up coming agenda.

To appear on the agenda for any given month, applications, applicable fees, and all required documentation must be submitted to the Village Clerk's office no later than the 20<sup>th</sup> of the previous month.

Any questions please contact the Village Clerk's office via:  
Telephone (845)782-2600  
Or  
Fax (845)782-2601

**INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED.**

<b>OFFICE USE ONLY</b>	
Application No.	_____
Application Received	____/____/____
Date of Public Hearing	____/____/____
Date of Final Action	____/____/____
Date of Filing Decision	____/____/____

### INSTRUCTIONS

# Village Of South Blooming Grove

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## ZONING BOARD OF APPEALS

### APPLICATION

1. Applications for the Village Zoning Board of Appeals are due on the 20<sup>th</sup> of the each month; a complete application contains 12 sets of plans, a completed application form and the required fees. All fees will be paid by check or money order made payable to the Village of South Blooming Grove.
2. A workshop for technical review may be scheduled with the Zoning Board of Appeals and its Engineer. You must contact the Village Clerk at (845)782-2600 to schedule a date and time for all technical reviews if desired. (Note: the cost for a technical review with the Board's Engineer will be at the expense of the applicant)
3. FEES SCHEDULE:

- See attached fee schedule.
- All escrow accounts will be replenished when balance is reduced to ½ the original amount.

Note: The applicant will not be placed on the Village Board / Planning Board / Zoning Board agenda unless all escrow accounts are at least ½ (50%) the original set amount.

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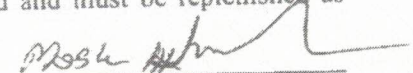
## ZONING BOARD OF APPEALS

## APPLICATION

## INSTRUCTIONS


### NOTE: As per Village Code 240.03 (Tax Payers Protection Act):

Any and all such specific and non-general costs or expenses incurred by the Village in reviewing any application or petition for any zone change, special permit, license, franchise agreement, site plan, subdivision, variance, amendments to any approved map or tax map or text of the Village Code, as well as any other submissions to the Village Board of Trustees, the Village Zoning Board of Appeals or Village Planning Board or CDRC or otherwise enforcing the rights of the Village regarding a specific applicant or property owner which require the use or employment of Village Counsel, Special Legal Counsel, Bond Counsel, Transactional Counsel or other legal advice or representation, planning consultants, zoning consultants, engineers, experts, accountants, appraisers or other professionals or persons that may be deemed reasonably necessary by the Village to review, act upon or otherwise provide advice on any such matter shall be charged to and paid solely by the applicant or petitioner as well as property owner involved or other person seeking relief or otherwise responsible to the Village that makes such specific and non-general action or review by the Village appropriate or necessary. Any such costs paid or incurred by the Village that are reasonable and customary in the County of Orange regarding the foregoing shall be charged to and paid by the applicant as well as property owner involved provided the applicant as well as property owner involved is seeking a benefit or other relief or approval from the Village and said costs are necessary expenditures, and not expenditures for the convenience of a Board in fulfillment of its own decision-making responsibilities. Said legal cost shall be reasonable in amount and shall not exceed five (5%) percent of the cost of the fair market value of the estimated cost of construction or the infrastructure and other site improvements involved in said application. The payment of such costs shall be deducted from an escrow account to be established for such application in amount determined by the Village in accordance with the Village's fee schedule or as determined by Village Board of Trustees Resolution. Such escrow account must be maintained in an amount sufficient to pay such fees or costs at the time they are incurred and must be replenished as directed by the Village.

  
OWNER'S SIGNATURE

Mosh Harper  
PRINT NAME

Sworn before me this 30  
day of May, 2023

  
Notary Public

Lazar Schvimmer  
Notary Public - State of New York  
No. 01SC6413719  
Qualified in Orange County  
My Commission Expires: 02-01-25

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## ZONING BOARD OF APPEALS

### APPLICATION

#### INSTRUCTIONS

The following must be completed and submitted by the 20th of the month *before* the application is reviewed and scheduled for the Zoning Board of Appeals regularly scheduled meeting:

1. Twelve (12) copies of the application, twelve (12) plot plans drawn to scale (showing setbacks and other dimensions) or twelve (12) surveys that has been sworn or attested to as being true by a licensed Architect or Engineer.
2. Twelve (12) copies of a narrative describing why the applicant is appearing before the board.
3. Twelve (12) copies of reference to the Zoning Board of Appeals (Building Inspector's determination, Code Inspector's determination, referral from the Planning Board or for an interpretation of the Zoning Code). No application can come for a variance without first being denied by the Building Inspector or Code Enforcement Officer or referred from the Planning Board.
4. List of names and addresses, of all property owners within a **500 feet radius** of the property covered in the application.
5. Twelve (12) copies of the completed Environment Assessment Form (Short form or Long Form will be provided to applicant)
6. Twelve (12) copies of a vicinity map.
7. Affidavit – General Municipal Law Section 809
8. Tax Map Designation
9. Affidavit of Ownership / Owner's Consent
10. Affidavit of property owner (s)
11. Copy of the deed (s)
12. Applicable escrow fees.

The application must be received at least four weeks or by the 20<sup>th</sup> of the month prior to being scheduled for a Zoning Board of Appeals meeting and is subject to the review by the Zoning Board of Appeals attorney. You will be notified as to the date of the meeting. You will be provided with posters giving notice of any scheduled public hearing(s) which shall be posted in a conspicuous place visible from every street along the frontage of the property referred to in the application. These notices must be posted 10 days prior to the scheduled meeting.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### INSTRUCTIONS

##### *Zoning Board of Appeals Procedures*

1. The Village Clerk will publish a notice of public hearing in the Times Herald Record and the Orange County Post at least 5 days prior to any public hearing(s) that may be held concerning this application.
2. A copy of the legal notice of public hearing must be sent by certified mail return receipt requested not more than ten (10) or less than five (5) days prior to the public hearing to all property owners within 500 feet of the outer boundaries of the subject parcel. The names and addresses of the affected property owners will be provided to the applicant by the Village Clerk's office. The affidavit of mailing must be submitted to the Board at the public hearing.
3. The Orange County Planning Department must review all projects that meet the requirements of Section 239 of the NYS General Municipal Law prior to a decision by the Board if the real property is within five hundred (500) feet of any of the following:
  - a. The boundary of any city, village or town;
  - b. The boundary of any existing or proposed county or state park or any other recreational area;
  - c. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
  - d. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
  - e. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
  - f. The boundary of a farm operation located in an agricultural district; as defined by article 25 (AA) of the NYS Agriculture and Markets Law.
4. The Village Clerk's office will provide a form affidavit of mailing for completion by the applicant.
5. All Application fees must be paid upon submission of the application. All notice mailing expenses must be paid prior to the Public Hearing, at the time the labels are provided to the applicant. All engineering and/or legal fees incurred by the Board with respect to this application (except for yard setback variances or an existing single family dwelling) must be paid by the applicant and shall be charged back accordingly to the applicant.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### PART I

Name of Municipality: Village of South Blooming Grove Date Received \_\_\_\_\_

*Please check all that apply:*

**X** Zoning Board of Appeals

<u>      </u> BULK VARIANCE (sect 235-89-C)	Interpretation of the Zoning Code
<u>      </u> USE VARIANCE	<u>      </u> Referred by the Planning Board
<u>      </u> NUMBER OF LOTS	<u>      </u> Referred by the Village Board
<u>      </u> Referred by the Code Enforcement Officer for Violation (Copy of notice must be attached) *****	<u>      </u> This application arises from a disapproval from the Building Inspector of a building permit application (copy of notice attached) *****
<u>      </u> ZONING CODE AMENDMENT	<u>      </u> ZONE CHANGE
<u>      </u> Permit concerning Village Code 176 Trees (Harvesting of Trees) * (Must Fill Out Part II of this form.)	<b>NOTE:</b> All Applications, petitions or requests for any type of variance must fill out <b>PART II</b> of this form.

**Project Name:** Site Plan Prepared for Moche Halpern

**Applicant:** Moche Halpern Phone # \_\_\_\_\_

**Address:** 8 Kingsville Drive, Monroe NY 10950  
Street Name & Number (Post Office) State Zip code

**Applicant- Contact Person:** Moche Halpern Phone # 718-930-1877

**Address:** 8 Kingsville Drive, Monroe, NY 10950  
Street Name & Number (Post Office) State Zip code

**Property Owner:** Same as applicant Phone # \_\_\_\_\_

**Address:** \_\_\_\_\_  
Street Name & Number (Post Office) State Zip code

**Engineer/Architect/Surveyor:** Arden Consulting Engineers, PLLC Phone # \_\_\_\_\_

**Address:** POB 340, Monroe, NY 10949  
Street Name & Number (Post Office) State Zip code

**Attorney:** N/A Phone # \_\_\_\_\_

**Address:** \_\_\_\_\_  
Street Name & Number (Post Office) State Zip code

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## ZONING BOARD OF APPEALS

### APPLICATION

#### Tax Map Designation:

Section 221 Block 8 Lot(s): 19

Section \_\_\_\_\_ Block \_\_\_\_\_ Lot(s): \_\_\_\_\_

Location: On the West side of Kingsville Drive,

\_\_\_\_\_ feet \_\_\_\_\_ of \_\_\_\_\_.

Acreage of Parcel 170 x 163 Zoning District RR Zone & Section 235-14C

School District Washingtonville CSD Postal District Monroe

#### Project Description: (If additional space required, please attach a narrative summary.)

Construction of a Shul

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#### If subdivision:

1) Is any variance from the subdivision regulations required? Yes

2) Is any open space being offered? No. If so, what amount? \_\_\_\_\_

Project History: Has this project ever been reviewed before? No

If so, list case number, name, date, and the board you appeared before. \_\_\_\_\_

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List tax map section, block & lot numbers for all other abutting properties in the same ownership as this project. None that are known

*"Permission is hereby granted to the Village of South Blooming Grove, its agents, servants and employees to enter upon the above described property solely for the purposes incidental to the within application at reasonable times upon 24 hours notice to the owner or tenant in possession."*

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## ZONING BOARD OF APPEALS

### APPLICATION

This property is within 500 feet of:

(Check all that apply)

IF ANY ITEM IS CHECKED, A REVIEW MUST BE DONE BY THE ORANGE COUNTY COMMISSIONER OF PLANNING UNDER THE STATE GENERAL MUNICIPAL LAW, SECTIONS 239 K, L, M, AND N.

State Road / Highway	County Road
State or County Park	County Stream
Municipal Boundary	County Facility
Municipal Facility	State Facility

List name(s) of facility checked above. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Applicant's Signature and Certification

State of New York )  
County of Orange ) SS.:  
Town/Village of \_\_\_\_\_ )

I, Moshe Wapner, hereby depose and say that all the above statements contained in the papers submitted herewith are true.

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SWORN to before this

30 day of May, 2023

Lazar Schwimmer  
Notary Public  
Notary Public - State of New York  
No. 01SC6413719  
Qualified in Orange County  
My Commission Expires: 02-01-25



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## ZONING BOARD OF APPEALS

### APPLICATION

### Affidavit of Ownership/Owner's Consent

State of New York )  
County of Orange ) SS.:  
Town/Village of S. Blooming Grove )

I, Moche Waldert, being duly sworn, hereby

depose and say that I reside at: 7 Kingsville

in the county of Orange in the state of N.Y.

I am the \* \_\_\_\_\_ owner in fee simple of premises located at:

described in a certain deed of said premises recorded in the Orange County Clerk's Office in  
Liber \_\_\_\_\_ of conveyances, page \_\_\_\_\_.

Said premises have been in my/its possession since \_\_\_\_\_. Said premises are also known and  
designated on the Town / Village of \_\_\_\_\_ Tax Map as:

Section 221 block 7 lot(s) 19.

I hereby authorize the within application on my behalf, and that the statements of fact contained  
in said application are true, and agree to be bound by the determination of the board.

Owner: [Signature]

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

SWORN to before this

30 day of May, 2023

[Signature]  
Notary Public

Lazar Schwimmer  
Notary Public - State of New York  
No. 01SC6-113719  
Qualified in Orange County  
My Commission Expires: 02-01-25

\* If owner is a corporation, fill in the office held by deponent and name of corporation, and provide  
a list of all directors, officers and stockholders owning more than 5% of any class of stock.

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ZONING BOARD OF APPEALS

APPLICATION

Affidavit Pursuant to Section 809 of the General Municipal Law

State of New York )
County of Orange ) SS.:
Town/Village of )

I, Moche Halpern, being duly sworn, hereby depose and say that all the following statements and the statements contained in the papers submitted herewith are true and that the nature and extent of any interests set forth are disclosed to the extent that they are known to the applicant.

1. Print or type full name and post office address: Moche Halpern
8 Kingsville Dr. Monroe, NY 10950

certifies that he is 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 he has been duly and properly authorized to make this application and to assume responsibility for the owner in connection with this application for the relief below set forth:

2. To the Zoning Board of Appeals of the Town Village of
(Board, Commission or Agency)
South Blooming Grove, Orange County, New York:

- Zoning Section 235-14C in RR Zone
1. FY Reduction from 45' to 12.5'
2. RY reduction from 50' to 0.40'
3. Building height increase from 35' to 41'
4. Coverage increase from 35% to 72.2%

Application, petition or request is hereby submitted for:

- (X) Variance or modification from the requirement of Section
() Special permit per the requirements of Section
() Review and approval of proposed subdivision plat
() Exemption from a plat or official map
() An order to issue a certificate, permit or License
() An amendment to the Zoning Ordinance or Official Map or change thereof
() Other (explain)

To permit construction, maintenance and use of House of Worship Small

3. Premises affected are in a RR zone and from the town village of
South Blooming Grove tax map, the property is know as Section
221, Block, 8, Lot(s) 19

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## ZONING BOARD OF APPEALS

### APPLICATION

#### Affidavit Pursuant to Section 809 of the General Municipal Law

4. There is no state officer, Orange County Officer or employee or town/village 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 that such officer or employee, if this applicant is a corporation, legally or beneficially owns or controls any stock of the applicant in excess of 5% of the total of the corporation if its stock is listed on the New York or American Stock Exchanges; or is a member or partner of the applicant, if the applicant is an association or a partnership; nor that such town/village officer or employee nor any member of his family in any of the foregoing classes 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.

5. 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 the County of Orange or of the Town/Village of \_\_\_\_\_ in the petition, request or application or in the property or subject matter to which it relates:

(If none, so state)

a. Name and address of officer or employee \_\_\_\_\_

b. Nature of interest \_\_\_\_\_

c. If stockholder, number of shares \_\_\_\_\_

d. If officer or partner, nature of office and name of partnership \_\_\_\_\_

e. If a spouse or brother, sister, parent, child, grandchild or the spouse of any of these blood relatives of such state, county or town/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. \_\_\_\_\_

f. 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/Village of \_\_\_\_\_.

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ZONING BOARD OF APPEALS

APPLICATION

Affidavit Pursuant to Section 809 of the General Municipal Law

I, Moshe Vokorin, 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.

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

SWORN to before this

30 day of May, 2023

[Signature]

Notary Public  
Lazar Schwimmer  
Notary Public - State of New York  
No. 01SC6413719  
Qualified in Orange County  
My Commission Expires: 02-01-25

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**ZONING BOARD OF APPEALS**

**APPLICATION**

**AFFIDAVIT OF OWNERSHIP**

STATE OF NEW YORK }  
COUNTY OF ORANGE } SS:  
VILLAGE OF SOUTH BLOOMING GROVE }

MOCHÉ HAIPERIN being duly sworn, deposes and says that  
he/she resides at 8 Kingsville in the County  
of Orange, State of New York; that he/she is the owner in fee of all that certain lot, piece  
or parcel of land situated, lying and being in the Village of South Blooming Grove, and  
designated on the Town of Blooming Grove  
Map as Section No. \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_ and that he/she  
hereby authorizes the attached application to be submitted in his/her behalf and that the  
statements of fact contained in said application are true.  
The applicant is the (owner) (contract vendee) of the said property.

Owner: 

Address: \_\_\_\_\_

\_\_\_\_\_

Sworn to before me this

30 day of May 2023

  
Notary Public

Lazar Schwimmer  
Notary Public - State of New York  
No. 01SC6-113719  
Qualified in Orange County  
My Commission Expires: 02-01-25

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**ZONING BOARD OF APPEALS**

## APPLICATION

### AFFIDAVIT OF PROPERTY OWNERS

State of New York  
County of Orange  
Town/Village of \_\_\_\_\_

)  
) SS.:


I,  being duly sworn deposes and says that he is the applicant, agent or attorney for applicant, in the matter of the petition before the \_\_\_\_\_ (board) in the village of \_\_\_\_\_ affecting property located at \_\_\_\_\_, Orange County, New York.

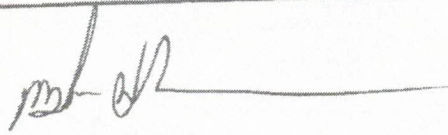
That the following are all of the owners of property \_\_\_\_\_ feet (distance) from the premises as to which this application is being taken.

SECTION/BLOCK/LOT	NAME	ADDRESS:

Sworn to before me this  
30 day of May 2023

  
Notary Public

 **Ezra Schwimmer**  
Notary Public - State of New York  
No. 01SC6413719  
Qualified in Orange County  
My Commission Expires: 02-01-25



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**ZONING BOARD OF APPEALS**

**APPLICATION**

Telephone: (845) 782-2600

Fax: (845) 782-2601

## DISCLAIMER

APPLICANT TAKES FULL RESPONSIBILITY FOR RESEARCHING THE TAX MAP FOR THE LIST OF NAMES OF PROPERTY OWNERS ON THE ENCLOSED *AFFIDAVIT OF MAILING LIST*. THE APPLICANT'S ENVELOPES MUST COINCIDE WITH THE LIST. THE CLERK'S RESPONSIBILITY PROVIDING NAMES APPEARING ON THE ORANGE COUNTY REAL PROPERTY DATABASE.

RECEIPT OF THIS DISCLAIMER IS ACKNOWLEDGED

Michelle Halperin  
APPLICANT

05/30/23  
DATED

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**ZONING BOARD OF APPEALS**

## **APPLICATION**

**AS APPLICABLE, COMPLETE THE FOLLOWING:**

- 1) SHORT ENVIRONMENTAL ASSESSMENT FORM**
- 2) FULL ENVIRONMENTAL ASSESSMENT FORM**

*For access to the above State Environmental Quality Review forms:*

**<http://www.dec.ny.gov>**

[http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/seafpartone.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seafpartone.pdf)

[http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/feafpart1.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/feafpart1.pdf)



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## ZONING BOARD OF APPEALS

### APPLICATION

#### PART II

### Application before the Zoning Board of Appeals

Zoning Section 235-14C in RR Zone

1. FY Reduction from 45' to 12.5'

2. RY reduction from 50' to 0.40'

3. Building height increase from 35' to 41'

4. Coverage increase from 35% to 72.2%

Application, petition or request is hereby submitted for:

- Variance from the requirement of Section \_\_\_\_\_;
- Special permit per the requirements of Section \_\_\_\_\_;
- Review of an administrative decision of the Building Inspector \_\_\_\_\_;
- An order to issue a Certificate of Occupancy \_\_\_\_\_;
- An order to issue a Building Permit \_\_\_\_\_;
- An interpretation of the Zoning Ordinance or Map \_\_\_\_\_;
- Certification of an existing non-conforming structure or use \_\_\_\_\_;
- Special permit as per the requirements of Section **176 Trees Law** (Tree Harvesting);
- Other (*explain*) \_\_\_\_\_;

To permit construction, maintenance and use of House of Worship Small

#### Bulk Variance – Applicants must complete the following:

1. Explain why the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties:

The house of worship is not an excessively large structure and will fit on a small residential lot.

It is an addition to an existing dwelling and will look similar to a dwelling.

It is also at the end of a dead end street which will limit visibility in the community.

2. Explain why the benefit sought by the variance cannot be achieved by some other method, feasible for the applicant to pursue, other than a bulk variance:

The house of worship must be located within this residential neighborhood for members to be able to walk to during days of worship. The structure is modest in size and can accommodate up to 49 members

in order to minimize the footprint and associated variances.

There are no other properties available for sale nearby at a reasonable cost.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### PART II

### Application before the Zoning Board of Appeals

**Bulk Variance** – Applicants must complete the following: (CONTINUED)

3. Explain why granting of the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

It will continue to look like a dwelling and the structure is modest in size.

Congregants walk to services so traffic will be minimal.

4. Explain briefly how the difficulty imposed upon the applicant by the zoning regulations arose, specifically stating whether or not the situation was self created:

There are no other properties available for sale nearby at a reasonable cost.

The parcel is small in size and has a pre-existing lot area of 14,948 SF. The pre-existing dimensions of the lot make it difficult to design a modest size house of worship without any variances.

There is a need for a House of Worship in this neighborhood which is not self created.

**Use Variance** – Applicants must complete the following: NOT applicable

5. State why applicable zoning regulations deprive the applicant of all or substantially all economic use or benefit from the property and submit to the Board supporting financial evidence establishing such deprivation.

6. State why the hardship imposed by the zoning regulations is unique to the property and does not apply to a substantial portion of the zoning district or neighborhood.

7. State why a grant of the variance would not later the essential character of the neighborhood.

**Village Of South Blooming Grove**

Incorporated in July 14, 2006

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Blooming Grove, New York 10914

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**ZONING BOARD OF APPEALS**

**APPLICATION**

**PART II**

**Application before the Zoning Board of Appeals**

**Use Variance** – Applicants must complete the following: (CONTINUED)

- 8. Explain briefly how the hardship imposed by the applicable zoning regulations arose, stating specifically whether or not the situation was self created.

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**Interpretation of the Ordinance & Other Relief** – Briefly describe the contentions and evidence which you plan to present to the Board and what ordinance, including chapter and section, which you plan to discuss with the Board. Include any decision(s) or determination (s) was made by the Building Inspector, Code Enforcement Officer, and / or any other Village representative.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### *Zoning Code - Village of South Blooming Grove, NY*

#### *Zoning Board of Appeals*

#### § 235-89. Powers and duties.

The **Zoning Board of Appeals** (hereinafter called "Board of Appeals") shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

**A. Appeals.** The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination of the Building Inspector, when acting in his/her capacity as Zoning Enforcement Officer, or such other official charged with enforcement of this chapter. The Board of Appeals may not waive the requirements for site development plan application as required in any part of this chapter.

**B. Interpretation.** On an appeal from an order, requirement, decision or determination made by an administrative official or by the Building Inspector, the Board of Appeals may decide any of the following questions:

(1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.

(2) Determination of the exact location of any district boundary shown on the Zoning Map.

**C. Variances.** On appeal from an order, requirement, decision, interpretation or determination made by the Building Inspector, acting in his/her capacity as Zoning Enforcement Officer, or on referral of an applicant to the Board of Appeals by an approving agency acting pursuant to this chapter, the Board of Appeals is authorized, after public notice and hearing, to vary or modify the strict letter of this chapter, where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this section, in such manner as to observe the spirit of this chapter, secure public safety and welfare and to do substantial justice. Variances, once granted, shall be construed to run with the particular site or lot and not with the applicant. Any such appeal shall be taken within 60 days after the date of the filing of the order, requirement, decision, interpretation or determination of the Building Inspector by filing an application in the office of the Zoning Board of Appeals and with the Building Inspector.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### *Zoning Code - Village of South Blooming Grove, NY*

#### *Zoning Board of Appeals*

(1) **Bulk variances.** Where, because of practical difficulty, an applicant requests a variance of the bulk requirements of this chapter, the Board of Appeals may grant a variance in the application of the provisions of this chapter in the specific case, provided that, as a condition to the grant of any such variance, the Board of Appeals shall make a specific finding that the application of the requirements of this chapter to the land in question creates such practical difficulty. In making this determination, the Board of Appeals shall make the following findings:

(a) That the variance is not substantial in relation to the requirement and to other factors set forth below.

(b) That the effect of any increased population density which may thus be produced upon available services and facilities are not significant.

(c) That a substantial change in the character of the neighborhood or a substantial detriment to adjoining properties will not be created.

(d) That the difficulty cannot be alleviated by some method feasible for the applicant to pursue other than a variance or that a lesser variance cannot alleviate the difficulty.

(e) That, in view of the manner in which the difficulty arose and considering all of the above factors, the interests of justice will be served by allowing the variance.

(f) That the variance would not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas and would not harm the general health, safety or welfare.

(g) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the bulk variance.

(2) **Use variances.** To alleviate unnecessary hardship as hereafter described, the Board of Appeals may grant a variance of the application of the provisions of this chapter in a specific case to allow a use otherwise prohibited in the zoning district in which the property is located, provided that, as a condition to the grant of any such variance, the Board of Appeals shall make the following findings:

(a) After considering all permitted uses, specially permitted uses and conditional uses allowed in the zoning district and based on documented dollars-and-cents evidence submitted in the record by the applicant that the property in question cannot reasonably be used or yield a reasonable return if used only for a purpose allowed in that district.

(b) That the plight of the owner is due to unique circumstances affecting the property which is the subject of the application and not to general conditions in the neighborhood or to personal hardship, plight or desires of the property owners.

(c) That the use to be authorized by the variance will not alter the essential character of the locality.

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## ZONING BOARD OF APPEALS

### APPLICATION

#### *Zoning Code - Village of South Blooming Grove, NY*

#### *Zoning Board of Appeals*

(d) That the use to be authorized by the variance is in reasonable harmony with the intent of this chapter.

(e) That the unnecessary hardship claimed as a ground for the variance has not been created by the owner or by a predecessor in title; purchase of the lands subject to the restriction sought to be varied may constitute a self-created hardship.

(f) That within the intent and purpose of this chapter, the variance, if granted, is the minimum variance necessary to afford relief. To this end, the Board of Appeals may permit a lesser variance than that applied for.

(3) **Burden of proof.** The applicant shall prove that strict application of the zoning law creates practical difficulty or unnecessary hardship. In the event that said practical difficulty or unnecessary hardship is proven, the Board of Appeals shall show that the subject zoning provision serves a legitimate public purpose. The burden shall then shift to the applicant to demonstrate that granting the variance will not adversely affect the public health, safety or welfare.

**D. Extensions across district boundaries.** In appropriate cases where a lot lies within two districts, the Board of Appeals may permit the extension of existing or proposed permitted accessory off-street parking spaces across a district boundary, under such conditions as will safeguard the character of the district into which such use is extended. However, no such extension shall exceed 75 feet, measured at right angles to such district boundary. The power under this subsection shall not permit the moving of the zoning district line but only the extension of the accessory off-street parking space.