



# TOWN OF MALTA

## Zoning Board of Appeals Application

Tax Map No. \_\_\_\_\_

Appeal No. \_\_\_\_\_

### 1. APPLICANT:

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ email: \_\_\_\_\_

### 2. PROPERTY OWNER:

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ email: \_\_\_\_\_

### 3. LOCATION:

Number & Street name \_\_\_\_\_

### 4. ACTION DENIED:

Building permit \_\_\_ Use \_\_\_ Sign Permit \_\_\_ Renewal \_\_\_ Other \_\_\_\_\_

Project/site plan \_\_\_ Subdivision \_\_\_

### 5. DENIAL MADE PURSUANT TO CHAPTER & SECTION \_\_\_\_\_

### 6. TYPE OF ACTION REQUESTED:

Use variance \_\_\_ Area Variance \_\_\_ Sign Variance \_\_\_ Permit Renewal \_\_\_

Interpretation \_\_\_ Flood Variance \_\_\_ Form Based Code \_\_\_ Other \_\_\_\_\_

### 7. ZONING DISTRICT:

R1 \_\_\_ R3 \_\_\_ R4 \_\_\_ R5 \_\_\_ R6 \_\_\_ R8 \_\_\_

C2 \_\_\_ C3 \_\_\_ C4 \_\_\_ C5 \_\_\_ C6 \_\_\_ C7 \_\_\_ C8 \_\_\_

DN-4 \_\_\_ DC-4 \_\_\_ DX-3 \_\_\_ GC-3 \_\_\_ RA-3 \_\_\_ DA-2 \_\_\_ DP-2 \_\_\_ RA-2 \_\_\_ RD-2 \_\_\_ OS \_\_\_

### 8. LOT INFORMATION:

Acres: \_\_\_\_\_ SQ.FT. \_\_\_\_\_ Frontage \_\_\_\_\_ Wetlands \_\_\_ Flood Plain \_\_\_

Within 500ft of State/County Highway \_\_\_\_\_

### 9. SIGNATURE OF PROPERTY OWNER: \_\_\_\_\_

Print name: \_\_\_\_\_

DATE: \_\_\_\_\_

### STAFF USE ONLY:

10. Date of Board Meeting \_\_\_\_\_ Action Taken \_\_\_\_\_

Fees Paid \_\_\_\_\_

# **REQUIREMENTS AND INSTRUCTIONS** **ZONING BOARD OF APPEALS APPLICATION**

These requirements shall be strictly enforced. Failure to comply will result in a denial or delay in the hearing of your appeal. Read all the requirements carefully and if you have any questions contact the Building and Planning Department

- Application is due according to the schedule attached.  
The form must be:        Complete  
                                     Legible (printed or typed)  
                                     Signed by the property owner  
(Application must be signed by the property owner. If the applicant is not the property owner, a written statement signed by the owner and notarized permitting the applicant to act on the owner's behalf)

## **Information to be submitted with the application form:**

- A current Survey Map (within 2 (two) years) showing all setbacks of the existing and proposed structures for all area, and use variances.  
All surveys shall bear the signature and stamp of a surveyor licensed to do business in the State of New York.  
Any alterations made to a survey map must be done by a NYS licensed Surveyor.  
We will not accept surveys that have been drawn on by an applicant.  
Survey map must show :
  - lot size; identify property lines, frontage length
  - location and total square feet of each of the buildings and all setbacks of existing and proposed structures
- Site photographs of the proposed project
- A narrative that explains what is being proposed, why the approval should be considered, hardships involved and why this change will not be detrimental to the neighborhood and the Town.
- Proof of ownership of the property(Need to submit a copy of the DEED)
- Neighbor Notification: A list of names and addresses (obtainable in the Assessor's office) of all abutting property owners including those across the street/road. (The Building and Planning Department is not responsible for the accuracy of this list. Any errors can delay the hearing of the appeal). The Building Department is responsible for notifying the abutting neighbors to this appeal as to the nature of the appeal and the date of the hearing.
- Letter of authorization from the property owner to the representative granting them permission to act on the property owner's behalf. The property owner must sign the application
- Complete a Short Environmental Assessment Form.
- Submit an original plus copies of all materials. Total of fourteen copies(14)
- Submit one electronic copy in PDF format
- Fees: The application fee is \$141.00; and any necessary engineering or legal fees incurred. All additional amounts owed for engineering or legal shall be paid by the applicant to the Town of Malta within thirty days of the applicant being billed by the Town Building and Planning Department.

**\*\*\*Please Note\*\*\*** The ZBA or Building Department requires surveys for other types of requests, such as set back variances for signs, flood plain variances, and 280A variances and some interpretations. If a property sale is contingent upon the granting of the requested action, a copy of sales document should be presented at the meeting.

Additional information related to archaeological sensitivity, floodplains, historic sites and wetlands may be needed, see attachment.

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## **2016 Schedule of Zoning Board of Appeals Meetings**

<b>Month – meeting date</b> 1 <sup>st</sup> Tuesday of the month	<b>Cutoff Date</b> (must be into the office by 4pm)
<b>January 5, 2016</b>	<b>December 2, 2015</b>
<b>February 2</b>	<b>January 6</b>
<b>March 1</b>	<b>February 4</b>
<b>April 5</b>	<b>March 4</b>
<b>May 3</b>	<b>April 6</b>
<b>June 7</b>	<b>May 6</b>
<b>July 5</b>	<b>June 6</b>
<b>August 2</b>	<b>July 7</b>
<b>September 6</b>	<b>August 5</b>
<b>October 4</b>	<b>September 2</b>
<b>November 1 (Election Day)</b>	<b>October 7</b>
<b>December 6</b>	<b>November 4</b>

**\*\*\*PLEASE NOTE\*\*\***

**Dates may change due to holidays or other conflicts. Check with the Building/Planning Department to confirm all dates.**

**Archaeological Sensitivity** - Much of the Town of Malta is considered to be archaeologically sensitive. Disturbance of undeveloped land may require review by the State Historic Preservation Office (SHPO).

**Floodplains** - Presence of floodplains can be determined using FEMA floodplain maps and the County GIS mapping tool. NYS Building Code has specific requirements for building in a floodplain, please check with Town Code Enforcement to ensure you are designing for the right criteria.

**Historic structures** - Changes to structures and features listed as historic on State or Federal registers require State Historic Preservation Office (SHPO) review. Those listed as local landmarks require Malta Historic Preservation Review Commission (HPRC) review. Those listed as local landmarks as well as on State or Federal registers require separate approvals by SHPO and HPRC.

**Wetlands** - Wetlands may be regulated by NYS Department of Conservation (DEC) or Army Corps of Engineers or both. If wetlands are present or within 100 feet of proposed soil disturbing activities, tree cutting or herbicide use, verification by the regulating agency must be obtained. A written determination is required as to which regulations apply and whether permits for the disturbance are required. Permits must be obtained prior to commencing work. To determine if wetlands are present, you may use the County GIS on-line tool. Wetland verification may require a site visit by trained wetland delineators.

SHPO: 518-237-8643 and at: [www.nysparks.com/shpo/contact](http://www.nysparks.com/shpo/contact)

FEMA Map Service Center: <https://msc.fema.gov/portal>

County GIS mapping tool: <http://www.maphost.com/saratoga/>

**\*\*\* An application for a variance on lands with any of the above issues may require correspondence from the appropriate agency as part of the ZBA application. Mapped locations of these features on the survey may be required at the discretion of Town Staff and the ZBA.**



## Town of Malta

Building/Planning/Zoning Department  
2540 Route 9  
Malta, NY 12020

(518) 899-2685  
Fax (518) 899-4719

### Criteria for Issuing Use Variance and Area Variances

The following has been prepared to assist property owners seeking a variance from the Malta Zoning Ordinance.

Article 16 of the Town Law states that the Zoning Board of Appeals may grant a variance where an applicant can show that “unnecessary hardships” or “practical difficulties” result from carrying out the strict letter of the zoning ordinance. Over the years, the courts have divided variances into two discrete parts – use variances and area variances. The “unnecessary hardships” test applies to use variances and the “practical difficulty” test applies to area variances. The test criteria for each type of variance are specifically listed in Town Law as discussed below.

#### Use Variance (Article 16, Section 267-b.2)

No use variance may be granted by the Zoning Board of Appeals (ZBA) without a showing by the applicant that the zoning regulations have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant must demonstrate for each and every permitted use under the zoning regulations for the particular district where the property is located that:

- 1) The applicant cannot realize a reasonable return. The lack of return must be substantial as demonstrated by competent financial evidence;
- 2) The alleged hardship relating to the property in question is unique and does not apply to substantial portion of the district or neighborhood;
- 3) The requested used variance will not alter the essential character of the neighborhood, and
- 4) The alleged hardship has not been self-created.

#### Area Variance (Article 16, Section 267-b.3)

For an area variance, the applicant must demonstrate that:

- 1) No undesirable change in the character of the neighborhood or detriment to nearby properties will result;
- 2) Benefit sought by the applicant cannot be achieved by a feasible alternate method;
- 3) The requested area variance is not substantial;
- 4) The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 5) The alleged difficulty was not self-created.

These five (5) factors shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the variance.

**617.20**  
**Appendix B**  
**Short Environmental Assessment Form**

**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.

<b>Part 1 - Project and Sponsor Information</b>				
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? 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.			<b>NO</b>	<b>YES</b>
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval:			<b>NO</b>	<b>YES</b>
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 or controlled by the applicant or project sponsor?		_____ acres		
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?	<b>NO</b>	<b>YES</b>	<b>N/A</b>
b. Consistent with the adopted comprehensive plan?			
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	<b>NO</b>	<b>YES</b>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____ _____	<b>NO</b>	<b>YES</b>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	<b>NO</b>	<b>YES</b>	
b. Are public transportation service(s) available at or near the site of the proposed action?			
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?			
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: _____ _____	<b>NO</b>	<b>YES</b>	
10. Will the proposed action connect to an existing public/private water supply? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing potable water: _____ _____	<b>NO</b>	<b>YES</b>	
11. Will the proposed action connect to existing wastewater utilities? [If Yes, does the existing system have capacity to provide service? <input type="checkbox"/> NO <input type="checkbox"/> YES] If No, describe method for providing wastewater treatment: _____ _____	<b>NO</b>	<b>YES</b>	
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?	<b>NO</b>	<b>YES</b>	
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: _____ _____ _____	<b>NO</b>	<b>YES</b>	
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?	<b>NO</b>	<b>YES</b>	
16. Is the project site located in the 100 year flood plain?	<b>NO</b>	<b>YES</b>	
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: <input type="checkbox"/> NO <input type="checkbox"/> YES _____ _____	<b>NO</b>	<b>YES</b>	

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: _____ _____ _____	<b>NO</b>	<b>YES</b>
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: _____ _____ _____	<b>NO</b>	<b>YES</b>
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: _____ _____ _____	<b>NO</b>	<b>YES</b>
<b>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b> Applicant/sponsor name: _____ Date: _____ Signature: _____		

**Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2.** 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?”

	<b>No, or small impact may occur</b>	<b>Moderate to large impact may occur</b>
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?		
2. Will the proposed action result in a change in the use or intensity of use of land?		
3. Will the proposed action impair the character or quality of the existing community?		
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?		
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?		
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?		
7. Will the proposed action impact existing: a. public / private water supplies? b. public / private wastewater treatment utilities?		
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?		
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?		

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?		
11. Will the proposed action create a hazard to environmental resources or human health?		

**Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3.** 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)