

6750  
Application for a Hearing before  
The Zoning Board of Appeals for the Town of Mamakating

THE ZONING BOARD MEETS THE FOURTH THURSDAY OF EVERY MONTH AS  
NEEDED

The Zoning Board of Appeals has the authority to hear and decide appeals where it is alleged that error or misinterpretation in any order, requirement, decision, grant, or refusal was made by the Building Inspector or other administrative official of the town. The ZBA may also grant Use and Area variances, interpret sections of the code, allow special uses, and grant requests for temporary uses.

The Town of Mamakating Zoning Laws have been adopted for the protection and promotion of the public health, safety, convenience, comfort, and general welfare. The ZBA must consider these purposes when deciding your appeal or request.

PLEASE READ THE APPLICATION PACKAGE VERY CAREFULLY.

This information and application package was written to make the process as accessible as possible to the average person. The information contained in this package is procedural in nature and is used to guide you in the process. The ZBA, the ZBA Secretary, and the Building Department can answer questions about the process and you are encouraged to call with any questions you might have.

IT IS ALSO HELPFUL FOR YOU TO REVIEW THE SECTIONS OF ZONING LAW  
APPLICABLE TO YOUR CASE.

[HTTP://WWW.ECODE360.COM/?CUSTID=MA1270](http://www.ecode360.com/?CUSTID=MA1270)

OR LINK TO THE CODE FROM: [HTTP://WWW.MAMAKATING.ORG](http://www.mamakating.org)

The ZBA, the ZBA Secretary, and the Building Department cannot and will not give you legal advice. Consider consulting legal counsel if there is anything you do not understand. The ZBA meets once a month and if you do not follow procedures or provide the necessary information, then you may have to wait until the next available meeting to have your appeal heard.

FREQUENTLY ASKED QUESTIONS FOR ZONING BOARD APPLICATIONS  
(Please read before you put together your application)

**1. Why do I have to make an application to the Zoning Board of Appeals (ZBA)?**

The following are the most common reasons (but not the only reasons) for needing to come before the ZBA.

- a. The Building Inspector denied a building permit, denied a Certificate of Occupancy, or denied some other request.

State and local laws do not allow building inspectors to issue building permits for projects that do not meet the zoning requirements. Only the ZBA has the authority to grant exceptions to the established zoning laws.

So, if the building inspector has determined your project does not meet the zoning laws, then you must apply to the ZBA to ask for a variance from the rules or argue for a different interpretation of the rules.

- b. Referral or Denial by the Planning Board.

Again, State and Local Laws allow the planning board to implement the zoning laws, but not to make exceptions. If your project does not conform to existing zoning laws, you must apply to the ZBA to ask for a variance from or an interpretation of the laws.

**2. When and Where does the Zoning Board of Appeals meet?**

- a. The Zoning Board generally meets at the Mamakating Town Hall, 2948 Route 209, Wurtsboro, New York 12790 on the ~~second~~<sup>fourth</sup> Thursday of each month at 7:00 P.M., unless otherwise notified. Please call (845) 888-3031 to confirm or if you have any questions.

- b. If no applications are received in any given month, the ZBA may cancel that month's meeting.

- c. Additional meetings may be scheduled, at the ZBA's discretion, as the need arises.

**3. How many meetings will I have to attend and how long does the process take?**

At a minimum, expect a two (2) or three (3) month timeframe encompassing two (2) or three (3) meetings to obtain a decision; however, it may take longer. The ZBA has the right to consider a decision for sixty-two (62) days after the close of the public hearing; however, they often make decisions immediately after closing the public hearing.

- a. Information Meeting(s): The first meeting is an information meeting. This meeting is for you to present your project to the ZBA. You should bring to this meeting all the evidence and arguments you need to convince the board to grant your request. The board will ask you about your application, consider if additional information is needed, and then decide, along with you, whether to set your application for a public hearing.
- b. Public Hearing Meeting(s): At this meeting you will present your project to the public and allow for public comment to the board. Based on the materials presented and public comment, the ZBA may ask for additional information to assist in their

decision making. Requests for additional information may necessitate you returning at additional meetings and delay any decision.

**4. What should I do before making an application to the Zoning Board?**

- a. You should read the Town of Mamakating Zoning Law, it is important for you to understand the laws by which the ZBA is governed and upon which their decisions are based. Consider consulting legal counsel if there is anything you do not understand.
- b. Obtain a copy of your denial from the Building Inspector, Planning Board, or other Administrative Official of the town.

**5. How do I make an application to the Zoning Board of Appeals?**

Fill out an application and return it along with any required documentation and fees to the building department.

**6. What are the deadlines for applications?**

- a. All applications must be returned to the building department at least 10 days prior to the meeting for which you wish to be placed on the agenda.
- b. Applicants are strongly encouraged not to wait until the day of the deadline to turn in their application. If your application is incomplete, there may not be sufficient time for you to supply needed items before the deadline. Additionally, agenda time is limited; so the earlier the application is returned, the more likely you are to get onto the agenda.

**7. What happens if an application is incomplete or received after the deadline?**

Incomplete applications will not be put on the agenda for consideration by the ZBA. Submissions received after the deadline will be held until the following month's meeting, assuming the number of already scheduled hearings and applications permits.

**8. Do I need to attend the meeting?**

The applicant, or someone authorized to act on behalf of the applicant, must be present at the meeting. You will be expected to make a brief presentation summarizing your application and answer any questions the ZBA may have.

**9. What information should be included in my application?**

- a. Usually a site sketch is required, which does not need to be professionally prepared. In some cases, the ZBA may have to ask for a site plan or survey, which must be professionally prepared by a design professional licensed in New York. Design professionals could include architects, engineers, or other building professionals licensed in New York.
  - i. **There may be situations where the submitted plans will be reviewed by the Town's engineer at your expense. These costs vary greatly depending on the amount of review required.**
- b. In the case of applications going to both the Planning Board and the Zoning Board, copies of the same site plan must be provided to both Boards.

- c. You should also include any information, photos (strongly suggested), documents, or other items you think may help the board make a decision. The ZBA may also request additional information before setting your application for a public hearing.
- d. Although ZBA members may come out to visit the site in person, photos are suggested to assist board members in finding the location and informing the decision-making.

**10. Where should I turn in my completed application?**

- a. Please return the attached application and all supporting documents to the Planning and Zoning Office at the Mamakating Town Hall, 2948 Route 209, Wurtsboro, New York 12790.
- b. The applicant must supply 8 copies of each drawing, document, etc., no later than the date of the application deadline. Plans should be submitted folded, not rolled, please.

**11. What if I have other questions?**

If you have any questions regarding application requirements or what the zoning requirements mean, you should contact your legal counsel or the Planning and Zoning Office at (845) 888-3031. Even a brief discussion of your project in advance of making the application and the presentation to the Zoning Board may save you substantial time and expense.

**12. What happens after the ZBA makes a decision?**

After the ZBA makes a decision, you should contact the Secretary of the ZBA to obtain a copy of the ruling.

If your request was granted, then you will need to present the ruling to the appropriate department and continue your original project/process.

If your request was denied, you have the right to appeal through the NYS Court System or you can modify your original plan to become more conforming to the law.

**PROCEDURE AND MATERIALS REQUIRED FOR APPLICATION TO  
THE ZONING BOARD OF APPEALS**

**Information Meeting Requirements:**

- 1) **ZBA Hearing Application.** (8 copies - Required for all applications)
- 2) **Property Record Card.** (Obtain from the Assessor's Office) (8 copies - Required for all applications)
- 3) **Application Fee** \$ 250.00 (Required for all applications)
- 4) **A letter briefly explaining the request.** (8 copies - Required for all applications)
- 5) **Short EAF (Environmental Assessment Form)** (8 copies - Required for all applications)
- 6) **Proof applicant owns the property** or written permission from the owner authorizing you to represent the owner. (8 copies - Required for all applications)
- 7) **Site Sketch, Survey Map, or Site Plan; including Elevation Drawings as appropriate.** (8 copies folded - Required for all applications)
- 8) **Denial or Referral letter** (8 copies - Required when appealing the decision of a Board or Official of the town)
- 9) **Photos of the property** (Required when requesting an Area Variance and strongly suggested for other situations where visual inspection will be necessary)

**Public Hearing Requirements:**

- 1) **Public Hearing Fee** \$ 100.00
- 2) **Public Notice Mailing.**

Ten (10) days prior to the public hearing each property owner within 500 feet of the perimeter of the applicant's property **must be forwarded, by Registered Mail with Return Receipt requested,** a copy of the Public Notice. The Secretary of the ZBA will provide the applicant with the list of properties that must receive notice and will assist with the required language of the notice.

- 3) **Registered Mail receipts and Return Receipts** must be presented at the Public Hearing.
- 4) **Public Notice in Newspaper.**

Ten (10) days prior to the public hearing the Secretary of the ZBA will place the Public Notice in the Legal Section of the Times Herald Record as notification to the general public.

## USE AND AREA VARIANCE INFORMATION SHEET

If requesting a Use Variance be prepared to answer the following questions required by law:

- a. Is the granting of the variance necessary in order to realize a reasonable return, and the lack of a variance causing a substantial hardship, as demonstrated by competent financial evidence set forth herein and in attached documentation? *(For example, actual "dollars and cents" proof in the form of documentation must be submitted; must show cannot be sold or leased for any permitted use; a show of efforts to sell or rent for each use permitted; a show of effort to market.)*
- b. Is the alleged hardship relating to the property in question unique and not applicable to a substantial portion of the district or neighborhood?
- c. Will the requested use variance(s) alter the essential character of the neighborhood? If it will not alter the character, please be prepared to explain why: *(For example, will use change parking or traffic patterns, noise levels, lighting? Will it create commercial character in residential district? Is the use like other uses in the neighborhood? Are you proposing a change in outward appearance of building?)*
- d. Is your need for a variance(s) the result of a self-created hardship on your part? If not be prepared to explain how the hardship is not self-created. *(For example, did you purchase the property before or after a zoning change that requires you to get the use variance.)*

If requesting an Area Variance be prepared to answer the following questions required by law:

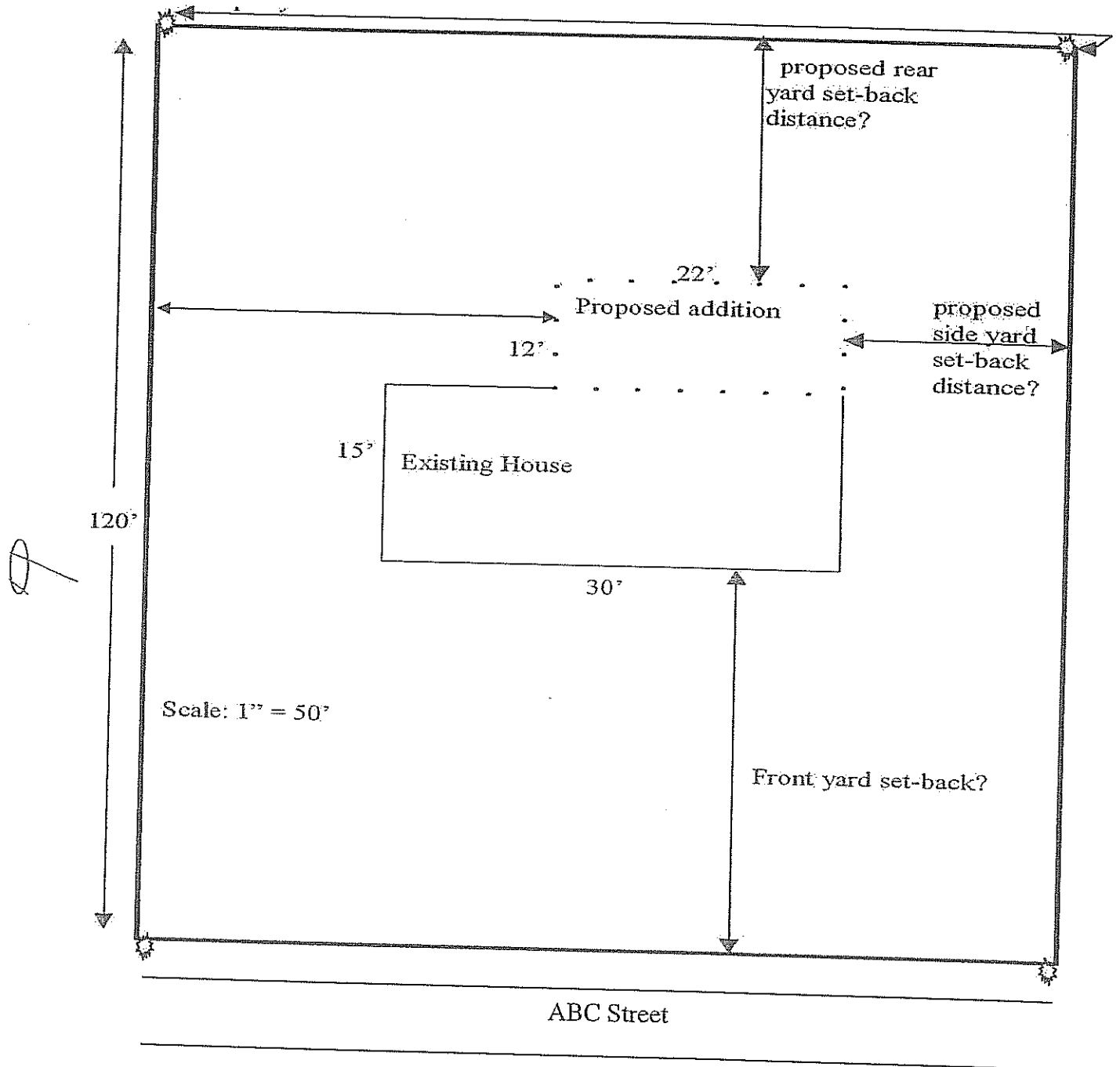
- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to adjoining properties will be created.
- b. Whether the problem could be alleviated by a solution other than a variance.
- c. Whether the requested area variance is substantial.
- d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- e. Whether the alleged difficulty was self-created.

Attach a site sketch which is a drawing showing the outlines of the property, where the streets are relative to the property, the location and dimensions of any existing buildings on the property, the location and dimensions of any new construction, and the distance of any new or existing construction from all property lines. Show any street names and whether the property is an interior or corner lot.

# SAMPLE SITE SKETCH FOR AREA VARIANCE REQUEST (EXAMPLE ONLY)

Description of project: attach a drawing or drawings of what you are building. The drawings should be to scale, or at least should include enough details and measurements that we can verify that the various code requirements are met.

Photos are required for some applications and strongly suggested for others.



**APPLICATION TO THE TOWN OF MAMAKATING ZONING BOARD OF APPEALS  
(TYPE OR PRINT IN DARK INK)**

I. PROPERTY ADDRESS:

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

Tax map designation: \_\_\_\_\_ Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_

Zoning District: \_\_\_\_\_

II. PROPERTY OWNERSHIP:

Name of Owner: \_\_\_\_\_

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

III. APPLICANT INFORMATION:

Applicant Name: \_\_\_\_\_

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

Phone #: \_\_\_\_\_

(If the applicant is not the owner, notarized proof the owner consents to the application must be submitted with this application.)

IV. REASON APPLICANT IS BEFORE THE ZBA:

This application, relative to the above referenced property, is being made to request:

Check all that apply:

Use Variance – Request to use land for a purpose not permitted by Zoning

Area Variance – Request to locate structures in a manner not permitted by Zoning

Interpretation

Special use

Temporary Use

Building in bed of mapped streets

Other (please explain) \_\_\_\_\_

\_\_\_\_\_



V. RELIEF REQUESTED:

Please explain what you are asking the ZBA to grant you. Give a brief explanation of your project, how the project does not conform to the zoning laws, and what variances you are requesting. eg: "I am building a deck on the side of my home. The deck will need a variance of 5ft because it will be only 20ft from the side property line. The Zoning Code requires 25ft." (Attach additional sheets if needed to explain in greater detail).

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VI. LEGAL CRITERIA FOR GRANTING USE OR AREA VARIANCES

In order to grant Use or Area Variances the following questions must be considered by the Board. Please respond to the applicable questions below. If you are not sure which variance you are requesting, please contact the ZBA office for guidance.

Attach additional sheets if needed.

If requesting a Use Variance, please answer the following questions required by law:

a. Is the granting of the variance necessary in order to realize a reasonable return, and the lack of a variance causing a substantial hardship, as demonstrated by competent financial evidence set forth herein and in attached documentation?

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b. Is the alleged hardship relating to the property in question unique and not applicable to a substantial portion of the district or neighborhood (Is your property the only property affected in the zone)?

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c. Will the requested use variance(s) alter the essential character of the neighborhood? If it will not alter the character, please be prepared to explain why:

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d. Is your need for a variance(s) the result of a self-created hardship on your part? If not be prepared to explain how the hardship is not self-created.

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\_\_\_\_\_

\_\_\_\_\_

If requesting an Area Variance, please answer all the following questions required by law:

- a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to adjoining properties will be created.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- b. Whether the problem could be alleviated by a solution other than a variance.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- c. Whether the requested area variance is substantial.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- e. Whether the alleged difficulty was self-created.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

VII. RECEIPT OF APPLICATION AND INFORMATION

The ZBA Secretary has made available to me a packet for application to the ZBA and has asked me to read all the information. The packet contains the following:

- Frequently Asked Questions       Procedure for Application  
 Application for Appearance       Use/Area Variance Information  
 Short Form Environmental Assessment

The Use and Area criteria included in this packet are very important and must be adhered to. It has been explained to me that no variance will be granted by the ZBA without a showing by the applicant that the applicable criteria have been met.

VIII. INTERCOMMUNITY IMPACTS

I certify that the above referenced property [is], [is not] within 500 feet of a Federal, State or County highway or other Municipality boundary line, waterway, recreation area, or property.

IX. PROFESSIONAL REVIEW FEE REIMBURSEMENT

The ZBA, in the review of any application, may refer the application to such engineering, planning, environmental, or other technical consultants deemed reasonably necessary to enable it to review the application as required by law.

The charges made by such consultants shall be the responsibility of the applicant and shall be in accord with charges usually made for such services in the Hudson Valley Region or pursuant to an existing contractual agreement with the town.

X. APPLICATIONS NOT ACTED UPON DEEMED ABANDONED

Applications inactive, without new or substantial input from the applicant, and without prearranged agreement of the ZBA, for a period of 6 months, shall be deemed abandoned and withdrawn from consideration.

X. SIGNATURE AND ATTESTATION OF OWNER

I attest that I am the property owner and that all information included herein is true and correct to the best of my knowledge and belief. I understand and agree that all work will conform to all applicable local and state code requirements.

Signature of applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Sworn to this \_\_\_\_\_ day of \_\_\_\_\_.

Notary Public

XI. OWNER'S AUTHORIZATION OF THIRD PARTY REPRESENTATIVE

I understand that I must be represented at the meetings and if unable to appear personally, I give \_\_\_\_\_ permission to appear on my behalf.

Signature of Property Owner: \_\_\_\_\_ Date: \_\_\_\_\_

Sworn to this \_\_\_\_\_ day of \_\_\_\_\_.

Notary Public

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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:		
Address:		E-Mail:		
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.			NO <input type="checkbox"/>	YES <input type="checkbox"/>
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:			NO <input type="checkbox"/>	YES <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 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				



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"/>
<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?"

	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:		
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"/>

	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?	<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"/>

**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.

<input type="checkbox"/>	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.
<input type="checkbox"/>	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)

**PRINT**

**RESET**