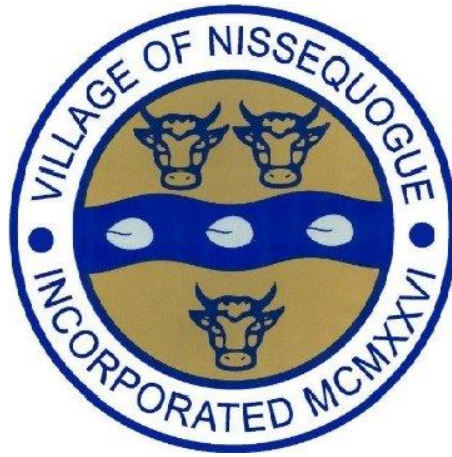




**INCORPORATED
VILLAGE OF NISSEQUOGUE
631 MORICHES ROAD
ST. JAMES, N.Y. 11780**

Zoning Board of Appeals

Application

A Public Hearing will be scheduled only after a completed application is accepted by the ZBA *Incorporated Village of Nissequogue*

Zoning Board of Appeals

INSTRUCTIONS FOR APPLICATION TO THE BOARD OF APPEALS

Please carefully read the entire application. All sections must be answered (or if not applicable, so indicate). Incomplete applications or missing items will delay the matter being placed on the hearing calendar.

1. The application must be signed by the Property Owner (the “Owner”) or the Owner’s duly designated representative. If the Owner is an entity, a corporate officer or other person authorized to sign on the entity’s behalf must sign the application and set forth his/her title. If the Owner has designated a representative to complete and submit this application, the “Designation of Representative” form must be properly filled in and submitted with the application. If there is more than one Owner, all Owners must sign.
2. The name of the Owner(s) must follow the words, “In the Matter of the Application of.” If the property is owned by an entity, the name of the entity must be used.
3. There must be six (6) copies of the application (including six (6) copies of all attachments) submitted, signed and notarized.
4. The applicant is required to establish a Trust and Agency account with the Village Clerk at The Incorporated Village of Nissequogue prior to submitting the completed ZBA application.
5. Each copy of the six applications must have a current certified survey and site plan within 12 months of application submission containing a seal and must show the following:

- a. Compass Direction**
- b. Scale**
- c. Location and length of property lines**
- d. Locations of all existing and proposed structures (to scale)**
- e. Front, rear and side yard setbacks**
- f. Building Envelope**

The distances from all existing structures and proposed structures to streets, right of ways, property lines and, if applicable, the mean high water line.

- g. Location of all existing structures situated on neighboring properties that are within 100’ of the property line**
- h. If no existing structures are situated within 100’ of the property line, the survey must note that there are no structures on the neighboring parcel**
- i. Must include current (within 12 months of submitting this ZBA application) topographical survey and site plan signed and sealed**

ZBA Survey Requirements (see also No. 5 above):

- Appropriate scale, not smaller than 1"= 30' (plans required to be submitted on standard plan size of 24" x 36")
- All (6) copies must be stamped and signed and guaranteed to Owner

- Key map and/or distance to the nearest cross street
- Name of the subdivision or filed map. If appropriate, include file number and date
- SCTM, district, section, block and lot
- Surveyor's name, address, phone number and date of survey.
- Owner(s)' names and adjacent property owners' names.
- North arrow
- Bearing and distance of all property lines
- Road names abutting the property with width of ROW and pavement edges
- Topo, contour elevations at 2' intervals, and percentage of slope if greater than 25% pursuant to the Local Waterfront Revitalization Program, and 30% pursuant to the Code of the Village of Nissequogue ("Village Code")
- Area of lot
- All existing structures and their use, *i.e.*: residence, deck, pool, patio, fences, walls, gates, entry piers, *etc.*
- Elevations of all principal and accessory structures
- Driveway location, curbing, surface material, and percentage of slope.
- Drainage structures and calculations based on a 3" rainfall
- Septic system, well or water supply line with offsets as required by Suffolk County Department of Health Services
- Underground utilities
- Building envelope, in accordance with the Village's Zoning requirements (Chapter 128 of the Village Code) or filed map
- Building line width 250' as required by the Village Code
- Buffer zone, 25'- 0" no clearing or disturbance of flora and fauna
- All recorded easements and ROW
- Indicate clearing as required by Village Code § 111-6(A)
- Bluffs, ponds, wetlands, mean high water line, DEC and LWRP setbacks
- Test hole data
- United States coast and geodetic survey datum
- If in a flood zone, indicate such, and refer all grades to mean high tides and all elective and mechanical above elevation 12' above M.H.T.

ZBA Site Plan Requirements (*see also* No. 5 above):

All of the above requirements as outlined for the survey, plus:

- Complete set of Floor Plans. All six (6) copies must be stamped and signed, and guaranteed to Owner.
- Proposed structures and improvements and their offset to the property line
- Total square footage of house and garage, based on lot size
- Number of stories of improvement and total height of structure
- Existing & proposed contour lines at 2'0" intervals, and spot elevations at each corner of proposed structure
- Verification that all existing, and proposed, driveway water run-off is directed to a storm drain
- All trees 8" and larger in diameter within the proposed variance and building envelope. Any trees or flora that are proposed to be removed on the Property must be indicated pursuant to Village Code § 111-6(A)(1).
- FIRM map data, and elevations in the flood zone areas
- Landscaping plans
- List of names of all owners of property within 200 foot radius of Owner(s)' property lines
- Elevations of all proposed structures

- Proposed utilities and location
- Lot width at setback line from street
- Anything to be removed must be indicated with dotted lines
- F.A.R. to be included pursuant to Village Code § 128-24(B)(10)
- All structures within 100 foot radius of property lines

-
6. The applicant must submit with the application a certified copy of any and all Deeds (including all Declaration of Covenants and Restrictions), contracts, court orders, wills or other papers and documents having a date of April 23, 1927 or later, bearing on the ownership of the property for which the variance is requested and all neighboring properties.
 7. The applicant must submit copies of the Certificates of Occupancy for all structures on the property requiring same.
 8. The applicant must inform the neighbors within 200 feet of the applicant's property, including any Road Association (R.A.) or Homeowners Association (H.O.A.) of the public hearing by sending a copy of the Public Notice to those neighbors by United States Postal Service First Class Mail and also U.S.P.S. CERTIFIED MAIL, RETURN RECEIPT REQUESTED. The mailing must be completed 21 days prior to the public hearing. Proof of U.S.P.S. First Class and U.S.P.S. Certified Mail mailings and each Returned Receipt Requested (green postcard) receipt must be presented to the ZBA secretary two (2) business days prior to the ZBA Public hearing. The applicant must submit a fully executed Affidavit Regarding Review of Tax Rolls. The applicant must include proof of completed F.O.I.L. with their application as per required.
 9. The applicant must submit a completed Statement of Disclosure of Interest (in the ZBA application).
 10. A check in the amount of \$ 500.00* made payable to the Village of Nissequogue must accompany the application which is to be submitted to:

Susan Cimino McGarrigal
ZBA Secretary
Zoning Board of Appeals
c/o Village of Nissequogue
631 Moriches Road
Nissequogue, NY 11780

Telephone: 631-862-7400
Fax: 631-862-7401

Email: ZBAsecretary@nissequogueny.gov

***If work was commenced without ZBA approval, the fee is doubled and a check in the amount of \$1000.00 made payable to the Village of Nissequogue must accompany the application.**

11. Notice of hearing will be prepared by the ZBA and will be published in a local newspaper, be posted on Village notice boards and appear on Village website.
12. Your property will most likely be visited by members of the ZBA prior to the date of the hearing.
13. Your presentation should be guided by § 128-58 of the Village Code (the text of § 128-58 is set forth below).

Village of Nissequogue

Where the strict application of any of the requirements of this chapter to the case of an exceptionally irregular, narrow, shallow or steep lot or other exceptional physical condition would result in practical difficulty or unnecessary hardship which would deprive the owner of the reasonable use of the land or the building involved, the Board of Appeals shall have the power, upon appeal, to vary or adjust the strict application of the regulations or provisions of this chapter.

A. Use variances.

(1) The Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such local law, shall have the power to grant use variances, as defined herein.

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

(a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

(c) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d) That the alleged hardship has not been self-created.

B. Area variances.

(1) The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such local law, to grant area variances as defined herein.

(2) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area 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; and e) whether the alleged difficulty was self created, which consideration shall be relevant to the decision of the Board of Appeals but shall not necessarily preclude the granting of the area variance.

(3) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it 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.

C. Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning local law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

Village of Nissequogue

Application to the Zoning Board of Appeals

In the MATTER of the Application of (name all of the property owner(s) below)

Address of the property seeking variance in the Incorporated Village of Nissequogue

SCTM# OF PROPERTY

Date Trust and Agency Account established _____

Name of Contact Person (Applicant(s) and/or Representative(s)) _____

Phone # AM _____

Phone # PM _____

E-Mail _____

1. Location of property (indicate distance to nearest intersection)

a. Dimension of property _____

b. Acreage of property _____

2. Zoning District as shown on Zoning Map (SCTM)

3. Is property located on a Village road? YES NO

a. If not a Village road, who is the owner: _____

b. Is the road governed by a R.A. or H.O.A.: YES NO

If yes, state name of R.A. or H.O.A. including any and all Declaration of Covenants and Restrictions of R.A. or H.O.A.

c. Width of the road: _____

d. Is access to the property by Right of Way? YES NO

e. If yes, attach a copy of the easement.

4. Is the property in separate ownership from all adjoining properties?

YES NO

a. If yes, list exact date property separated *? _____

b. If no, what adjoining property is held by the same owner?

Village of Nissequogue

***NOTE:** Single and separate ownership is not the date that you acquired title to the property. It is the date that your parcel was separated from a larger parcel, such as a filing of a sub-division map or the forming of three two-acre parcels from an original six-acre parcel. It is the date that your parcel was no longer a part of a larger parcel.

5. Type of Application

- ☐ Interpretation of the Zoning Ordinance or Zoning Map
- ☐ Special Exception under the Zoning Ordinance
- ☐ Variance of Zoning Ordinance

6. Reason for Application: (complete relevant sections)

- a. INTERPRETATION OF THE ZONING ORDINANCE is requested to determine whether _____

A SPECIAL EXCEPTION UNDER THE ZONING ORDINANCE is requested pursuant to _____ Section _____ Subsection _____ of the Zoning Ordinance for the purpose of _____

- c. A VARIANCE of Section _____ Subsection _____ (Area or Use) of the Zoning Ordinance is requested in order to _____

Set forth the reasons for request of the VARIANCE on a separate page entitled "Reasons for request of the variance." Please reference Village Code § 128-58 To ensure you address the necessary considerations.

7. Would the granting of this application be in conformity to neighboring properties? Explain: _____

8. Is this property **presently** the subject of an application to the Village Planning Board, Joint Village Coastal Management Commission, NY State Department of Environmental Conservation or any other Village, State or federal agency? If so, please list board/agency and status of application. YES NO

9. Pursuant to Chapter 91 of the Village Code, in addition to the application filing fees, if a Trust & Agency account has not already been established and funded, applicant is responsible to pay the sums deemed necessary by the ZBA to fund a Trust & Agency account established to reimburse the Village for the cost of Professional Consultant review services (including, but not limited to services of the Village Attorney and Village Engineer).

Village of Nissequogue

10. Have you been denied a Building Permit? YES NO
11. Has any previous owner(s) applied for any variances on this property?
YES NO
12. Name(s) of previous owner(s) and date(s) of any and all previous ZBA applications and or ZBA Public Hearings for the property seeking variance.
Date(s) and List the Variance(s) sought along with Decisions (Granted or Denied)

13. Have you previously applied for a similar variance before filling out this application?
YES NO
Date of previous application _____
14. The applicant is responsible for the entire stenographer's fee, which includes the current rate per page, the stenographer's appearance fee, and digital copy of transcripts. This fee must be paid in full prior to receiving the ZBA decision.
15. Applicant is responsible for payment to the Incorporated Village Nissequogue for all fees for the Public Notice to be published.
16. Applicant must inform all neighbors within a 200' radius of the applicant's property. This must be done by sending the Public Notice provided to said neighbors and Road Association (R.A.)/ H.O.A. (if applicable) by U.S.P.S First Class mail and U.S.P.S. **Certified Mail, Return Receipt Requested**. Mailing must be completed a minimum of 21 days prior to scheduled hearing. Proof of U.S.P.S. First Class and U.S.P.S. Certified Mail mailings and each Returned Receipt Requested (green postcard) receipt must be presented to the ZBA secretary two (2) business days prior to the ZBA Public hearing. Be sure to allow ample time to finish the process. The secretary will provide the Public Notice to the applicant.

All neighboring property owners within 200' radius of applicant's property are as follows:

Please include all the names and addresses of neighboring property owners (if applicable include R.A. and/or H.O.A.). Applicant will obtain the names and addresses by reviewing the Tax Rolls at The Incorporated Village of Nissequogue, by completing the Affidavit, and by requesting and completing a F.O.I.L. form. The applicant must include proof of completed F.O.I.L. with their application as per required. If more space is needed, please indicate and provide on a separate page.

17. Applicant must submit the Application for a Building Permit showing "DENIAL" by the Village Building Inspector, along with the denial letter from the Village Building Inspector. If a denial is not required by applicable law, provide the applicable information with the citation to applicable law.

Village of Nissequogue

SUPPLEMENTAL QUESTIONNAIRE

Is the subject property within a distance of 500 feet of:

	YES	NO
A. The boundary of any village or town;	_____	_____
B. The boundary of any existing or proposed County, state or federal park or other recreation areas;	_____	_____
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 other County, state or federally owned land held or to be held for governmental use; or	_____	_____
F. The Atlantic Ocean, Long Island Sound, any bay in Suffolk County or estuary of any of the foregoing bodies of water; or	_____	_____
G. The boundary of a farm operation located in an Agricultural district, as defined by Article 25-AA of the New York Agriculture and Markets Law	_____	_____

Dated: _____, 20 _____

STATE OF NEW YORK)

: SS.:

COUNTY OF SUFFOLK)

....., being duly sworn, deposes and says that all statements made in this Application are true to the best of his/her/our knowledge and belief, except as to the matter therein stated to be alleged on information and belief and as the matters he/she/we believes the same to be true.

X _____
Signature of Property Owner(s) or Designated Representative(s)

X _____
Signature of Property Owner(s) or Designated Representative(s)

X _____
Title of Signatory if Owner is an Entity or Organization

Sworn to before me this _____ day of _____, 20 _____

NOTARY PUBLIC

Village of Nissequogue

AFFIDAVIT REGARDING REVIEW OF TAX ROLLS

Pursuant to Paragraph 7 of the Instructions THIS AFFIDAVIT **MUST ACCOMPANY**
APPLICATION TO THE BOARD OF APPEALS.

STATE OF NEW YORK }
 : SS.:
COUNTY OF SUFFOLK }

I, _____, being duly sworn, depose
and say:

That I examined the tax rolls of the Village of Nissequogue, located at the Village
Hall, and represent that the neighboring property owners listed in the application are all the
property owners within 200 feet of the subject parcel as indicated on said tax rolls.

X _____
Signature of Property Owner

X _____
Signature of Property Owner or
Designated Representative

X _____
Title of Signatory if Owner is an Entity or
Organization

Sworn to before me this

_____ day of _____, 20 ____

NOTARY PUBLIC

Village of Nissequogue

Note: If the land is vacant, still indicate ownership. If the direction is a street, give neighbor across the street.

DESIGNATION OF REPRESENTATIVE

STATE OF NEW YORK }
 : SS.:
COUNTY OF SUFFOLK }

I, _____, being duly sworn, deposes and says that he/she/they/it is the Owner of _____ (“the Property”) and hereby authorizes _____ to take all actions on the Owners behalf that are necessary to make the attached application dated _____ to the Village of Nissequogue Zoning Board of Appeals and to represent the Owner at the Board of Appeals hearing.

X _____
Signature of Property Owner

X _____
Signature of Property Owner

X _____
Title of Signatory if Owner is an Entity or Organization

Sworn to before me this

_____ day of _____, 20 ____

NOTARY PUBLIC

Village of Nissequogue
STATEMENT OF DISCLOSURE OF INTEREST

_____ states as follow:

1. I (we) reside at _____
2. Do any of the following individuals have an interest as defined below, in the Owner or Applicant:
 - A. Any New York officer; or
 - B. Any officer or employee of the Village; or
 - C. Any officer or employee of the Town of Smithtown; or
 - D. Any officer or employee of Suffolk County.

*For the purpose of this disclosure, an officer or employee is deemed to have an interest in the Owner or Applicant when the officer or employee, his/her spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them: (a) is the applicant or owner; or (b) is an officer, director, partner, or employee of the applicant or owner; or (c) legally or beneficially owns or controls stock of a corporate applicant or owner; or (d) is a party to an agreement with such an applicant or owner, expressed or implied, whereby he may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application.

A person who knowingly and intentionally fails to make such disclosure shall be guilty of misdemeanor as provided in General Municipal Law § 809.

☐ **Yes**

☐ **No**

If “YES” state the name and nature and extent of the interest of such individual.

_____ (name) _____ (residence)

_____ (extent of interest)

X _____
Signature of Property Owner

X _____
Signature of Property Owner

Title of signatory if Owner is an Entity or Organization

Sworn to before me this

_____ day of _____, 20 ____

_____ NOTARY PUBLIC

Village of Nissequogue
RE M I N D E R

NOTICE TO ALL BOARD OF APPEALS APPLICANTS

**AS EXPLAINED TO YOU WHEN YOU FILED YOUR APPLICATION
AT THE OFFICE OF THE ZONING BOARD OF APPEALS, YOU
MUST BE PREPARED TO PROVE YOUR APPLICATION AT THE
PUBLIC HEARING USING APPLICABLE CRITERIA SET FORTH IN
VILLAGE CODE § 128-58.**

**ANY EXHIBITS PRESENTED TO THE BOARD (PICTURES,
LETTERS AND / OR PETITIONS) MUST BE IDENTIFIED WITH
NAME OF THE APPLICATION AND DATE OF HEARING.**

**DECISIONS PERTAINING TO YOUR APPLICATION WILL NOT
BE RENDERED AT THE PUBLIC HEARING. YOU WILL BE
NOTIFIED BY MAIL OF THE DECISION AFTER THE ZBA
BOARD IS IN RECEIPT OF THE TRANSCRIPT PAYMENT IN
FULL FROM THE APPLICANT.**

**Susan Cimino McGarrigal
ZBA Secretary
Village of Nissequogue**