



VILLAGE OF WARWICK
INCORPORATED 1867

Zoning Board of Appeals
Application Instructions

*Rcvd
May 1, 2026*

This document provides general information and instructions for completing an application to the Village of Warwick Zoning Board of Appeals (“ZBA”).

Before applying to the ZBA an applicant generally starts at the Planning Board with a proposed site plan or subdivision and is referred to the ZBA because certain elements thereof do not comply with the zoning regulations and there is a need for one or more area variances. Alternatively, an applicant can apply directly to the ZBA based on a Denial or Determination from the Building Inspector. For example, if an applicant applies for a building permit for something that does not require Planning Board approval and it is denied because the applicant needs a variance, the applicant can apply to the ZBA from the Building Inspector’s Denial. A Denial or Determination from the Building Inspector is always required in order to apply for a use variance. In addition to area variances and use variances, the ZBA also has jurisdiction to hear appeals from certain actions or interpretations made by the Building Inspector.

In order for the ZBA to adequately review your application, the following items must be received by the ZBA Secretary no later than 4:00 pm three weeks prior to the regularly scheduled meeting:

- Completed Application (choose type)
 - Area Variance
 - Use Variance
 - Appeal of an Action or Interpretation by the Building Inspector
- A copy of the Denial or Determination from the Building Inspector or a copy of the Referral from the Village of Warwick Planning Board
- A Short Environmental Assessment Form Part 1 completed utilizing the NYSDEC EAF Mapper available at <https://gisservices.dec.ny.gov/eafmapper/>
- Interest Disclosure Affidavit Pursuant to Section 809 of the General Municipal Law
- Survey or plot plan, showing street(s), setbacks, buildings and dimensions, and any other details or exhibits applicable to your application
- Application Fee(s)
- Escrow Deposit for Consultant Review & Complete Escrow Account for Review Form

Applicants must submit eight (8) sets of the application materials to the ZBA Secretary together with checks for the Application fee(s) and Escrow deposit made payable to the Village of Warwick. A digital copy of the entire submission must be emailed to Planning@Villageofwarwick.org. Checks for. ***If all items are not received three weeks prior to the regularly scheduled meeting, the application will be considered incomplete and will not be reviewed until a complete submission is made.***

After receipt of a complete application, it will be forwarded to the ZBA attorney and it may also be required to be reviewed by the Orange County Department of Planning if your property is located within 500 feet of certain features, such as a municipal boundary or a County or State Road. The ZBA attorney will prepare a public hearing notice for publication in the official Village newspaper. The applicant is required to pay the cost of publishing the public hearing notice prior to the public hearing.

A copy of the public hearing notice will be supplied to you and/or your attorney/representative designated to act on your behalf, along with a list of names and mailing addresses of property owners within three hundred feet (300') of the property lines of your property. It is the responsibility of the applicant to mail the public hearing notice to all property owners within three-hundred feet (300') of the applicant's property by certified mail, return receipt requested, at least ten days before the date of such hearing and submit the mailing receipts at the meeting.

ZBA meetings are held on the fourth Tuesday of the month at 7:00 pm (subject to change). You should expect to attend at least two (2) ZBA meetings in connection with your application.

Consultant Review & Fees

All fees for consultant review that the ZBA incurs during the review of an application will be the responsibility of the applicant. An advanced deposit for these fees will be required to be placed in an escrow account with the Village of Warwick. ***No review of the application will commence until the escrow deposit is received.*** In addition, if the escrow balance falls below 80% of the initial deposit, the applicant will be required to make an additional deposit to bring the balance back to the original amount, prior to any further review of the application by the ZBA. ***Decisions of the ZBA will not be signed unless the escrow account is current.***



VILLAGE OF WARWICK

INCORPORATED 1867

Zoning Board of Appeals

Appeal of an Action or Interpretation by the Building Inspector

Administrative Section only	
Date Received:	_____ Escrow: \$ <u>1500</u>
Digital Copy Provided:	_____
8 Hard Copies Provided:	_____
Fee: Residential	\$ <u>300.00</u> <input type="checkbox"/> Paid
Fee: Commercial	\$ _____ <input type="checkbox"/> Paid
Date of Public Hearing:	_____
Date of Final Action:	_____

Applicant – Please complete the following:

Applicant's Name: Overlook Drive Warwick LLC
Applicant's Address: ~~150 State Road 1A Warwick, NY 10990~~
Day/Evening Phone: ~~914-273-5962~~
Email: ~~Bsing016@gmail.com~~
Owner's Name (if different from Applicant): Brian Singer
Owner's Address: ~~150 State Road 1A Warwick, NY 10990~~
Location of Property: ~~67 South Street~~
Section, Block and Lot (SBL) Number: 211-10-9 Zoning District: R
Present use of Property: 3 Family Building
Proposed use of Property: 3 Family Building

This form is to be completed by applicants seeking an *Appeal of an Action or Interpretation by the Building Inspector* made under the Village Zoning Code. An application for an Appeal or Interpretation requests that the ZBA review the underlying decision, order, or determination and determine the meaning of a particular section of the Zoning Code with respect to a specific set of facts. On an application for an Appeal or Interpretation, the ZBA may affirm or reverse, in whole or in part, or modify the action or interpretation appealed from and make such other decision as in its opinion should have been made by the Building Inspector.

The applicant is responsible for complying with established ZBA rules, procedures and the law in accordance with §145-150 through §145-153 of the Code of the Village of Warwick.

Submit the below information for each action/interpretation being appealed.

Please answer all questions, give a detailed explanation, and attach a copy of the Order or Decision being appealed. Attach additional sheets if necessary.

1. State the zoning law(s) cited in or relevant to the Building Inspector's Action which you contend is (are) being misinterpreted:

- Chapter 145 of the Village of Warwick Code, specifically the provisions governing nonconforming buildings, structures, and uses, Section 145-130.
- Provisions on issuance of CoFO and building permits - Chapter 49 Building Construction
- Use regulations in the applicable zoning district
- General authority under NY Village Law § 2-712-a for ZBA review of Building Inspector interpretations and determinations

The Building Inspector appears to interpret the lack of specific "conversion" records as evidence that the 3-family use is not legally established, thereby limiting the CoFO to 2-family. This misapplies the nonconforming use/structure protections. Pre-existing lawful nonconforming uses and structures are protected and may continue. The Village's own prior approvals during the renovation process further support recognition of this status. Denying the 3-family CoFO is inconsistent with the issued permits and protected pre-existing configuration.

2. Describe how the Building Inspector's current decision/interpretation affects your property:

Loss of lawful use of one entire dwelling unit. The third unit has existed and occupied as part of a 3 family dwelling. I am now unable to legally rent or occupy that unit, resulting in the immediate loss of rental income and economic value of approximately one-third the building.

Reverting it to 2-family significantly reduces its market value, rental potential, and overall utility. This directly harms my investment and ability to use the property as intended and historically established.

Cont

3. No physical changes to the building are required - it simply formalizes the long standing, Village-approved status.

Other properties:

No undesirable change in the neighborhood character. The 3 family use has operated at this location for over 50 years. Recognizing it as pre-existing nonconforming maintains the existing built environment rather than forcing reduction in units.

Consistency and fairness in administration: It upholds the Village's own prior actions (permit issuance and inspections for a 3-family) and prevents arbitrary results, whereas a property owner who follows the permit process in good faith is later penalized at the CAO stage.

3. Describe how your interpretation of the law would affect your property and other properties within the Village:

If the ZDA accepts my interpretation that the property qualifies as a pre-existing nonconforming 3-family dwelling under Chapter 45 the effect would be as follows.

On my property (67 South Street)

It would allow issuance of a CAO for the 3-family configuration that has existed since at least 1972, that the Village Inspector personally observed pre-renovation, and for which all building permits, architectural stamped plans, and construction inspections were specifically approved and passed.

This restores the lawful use of the 3rd dwelling unit, preserves the economic value and rental income reasonably expected when I renovated the property in reliance on the Village's permits and avoids unnecessary hardship or potential enforcement issues.

4. Describe the relief you seek and your alternative interpretation of the relevant law(s). Justify your interpretation by citing supporting sections of the Village Code. Describe how each of those Code Sections support your interpretation:

I respectfully appeal the Building Inspector's decision to issue a Certificate of Occupancy limited to a 2 Family dwelling and request a determination that the property qualifies as a pre-existing nonconforming 3-Family dwelling (or grant a use variance/special use permit to legalize continued 3-family use) I further request issuance of a C/O for 3-Family use consistent with the approved Building permits, architect-stamped plans and all construction inspections.

1. The structure has been used as a 3-Family dwelling since at least 1972 (well before current zoning restrictions)
2. No formal "conversion" records exist because the 3-Family configuration predates modern zoning requirements - no conversion was needed at the time.
3. Prior to renovation, the Building Inspector personally inspected/walked through the property and observing all 4 floors being used as a 3-Family layout.
4. I applied for and received a building permit for renovation of the 3-Family dwelling. Chris Collins, architect for Base 10 submitted plans for a 3-Family renovation. No other plans were ever submitted but for a 3-Family renovation. The permit states based on plans submitted by Chris Collins Base 10 architecture.
5. All inspections during construction were performed and passed for a 3-Family dwelling.
6. Only at final C/O issuance was the approval limited to a 2-Family, despite full compliance with approved 3-Family plans and no violations noted.

The property constitutes a pre-existing nonconforming use/structure under Village of Waukegan Zoning law (Chapter) 45, provisions on nonconforming buildings/uses. It was lawfully established as a 3-Family long before any prohibitory zoning.

I, the undersigned, am the Owner, or their Authorized Agent.

(If the Applicant is not the Property Owner, then attach the notarized Owner Endorsement form which gives authorization to the Applicant.)

Applicant's Signature *Brian Singer* Date: *5/1/20*

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

 Brian Singer 100 %



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Zoning Board of Appeals

Escrow Deposit
Affidavit of Owner's Obligation to
Comply with Village Code Section
Reimbursement of costs and expenses.
[Amended 3-5-2012 by L.L. No. 5-2012]
Requiring Escrow Deposit to
Pay Professional Review Fees

Re: 67 South St
Escrow Amt: Area V. \$1,500.00 Use V. \$2,500.00

State of New York)
County of Orange)ss:
Village of Warwick)

I, [Signature], being duly sworn,
hereby depose and say:

1. That I have been advised of the requirement of Village Code 64-3, which states:

§ 64-3 Reimbursement of costs and expenses.

[Amended 3-5-2012 by L.L. No. 5-2012]

A. The applicant for approval of any land use or land development proposal shall reimburse the Village for all of the Village's reasonable and necessary consulting costs, as described herein, incurred by the Village in connection with the review and/or approval of the application. Said fees and expenses are deemed application fees. Reimbursement shall be made in accordance with this chapter. For the purposes of this chapter, the term "land use or development" shall include, but not be limited to, a subdivision, lot line change, site plan, conditional use permit, a change of use application, special permit, wetlands permit, variance, interpretation, appeal to the Zoning Board of Appeals, or any modification or amendment of any of the foregoing.

B. Initial Planning and Zoning review escrow deposits pursuant to the fee schedule established by this chapter shall be delivered to the Village Clerk as part of the original application.

C. No review shall be undertaken by the consultants, nor shall the matter be scheduled before the Planning Board, Zoning Board, or Village Board, until the initial fee and escrow deposit, as

set forth in this chapter or the incorporated fee schedule, is paid. A fee schedule shall be established, and changed as needed, by resolution of the Village of Warwick Board of Trustees. A copy of the fee schedule is on file with the Village Clerk's office and the Village of Warwick Planning Department. In addition to the above-referenced fee schedule, the Planning Board may require an applicant to pay an added amount, to be held in escrow and ultimately disbursed, to pay the costs incurred by the Village for all consulting services it may reasonably seek to engage, including, but not limited to, archaeological, engineering, planning, legal and clerical costs incurred in processing and review of a subdivision or other application. Such amount deemed necessary for escrow shall be reasonably related to costs attendant to the Village's review, and such amount shall be computed by the reviewing Board in consultation with the applicant. Further, if such escrow payment is deemed necessary, this fee shall be in addition to and exclusive of any fee(s) properly assessed to the applicant in connection with the SEQRA process.

D. In addition to the application fees required to be paid by an applicant, the applicant shall also reimburse the Village for any and all fees paid by the Village in connection with the review of such application by the Planning Board, Zoning Board of Appeals, or Board of Trustees. With regard to applications to the Zoning Board of Appeals for variances, the Village Board for zone change applications and the Planning Board for subdivisions, conditional use permits, change of use applications, lot line changes and site plan, the respective Board, as the case may be, shall set an amount, in consultation with the Village Engineer, Planner and Attorney, to be placed in an escrow account to be maintained by the Village for the purpose of paying the fee statements of the Village professionals in connection with the review of the application. Applicants before the respective Boards for other relief shall pay the fee statements for Village professionals within 30 days of presentation. All applicants shall be presented with a fee statement or statements for such review and/or payment on a periodic basis or upon request.

E. If the escrow account falls below 80% of the initial deposit, the applicant shall, unless waived by resolution of the applicable Board, pay additional funds into the escrow account to maintain that account at 80% of the initial deposit.

F. In the event that an applicant shall withdraw his application at any stage of the proceedings or when the application review and approval process has been completed, the balance of funds in the applicant's account after all current outstanding fees are paid shall be either remitted to the applicant within 60 days of final action by the board or, if so directed by the applicant, remain on deposit as the applicant's initial payment toward post-approval inspection requirements (if required).

G. The applicant shall remain responsible for reimbursing the Village its invoiced costs and expenses in reviewing the applicant's land use application, notwithstanding that the escrow account may be insufficient to cover such costs and expenses.

H. In the event that the applicable board, in the course of reviewing an application, determines that the proposed action requires a positive declaration under SEQRA, all costs incurred by the board for review of any environmental impact statements, whether of a professional or clerical nature, shall be borne by the applicant pursuant to 6 NYCRR 617.8(a). Such costs shall be covered by an escrow account to be established pursuant to this section within 15 days of issuance of said positive declaration in an amount to be set by the applicable board pursuant to the fee schedule set forth as part of this chapter.

I. All applicants with matters described herein pending before the Village Board, Planning Board or Zoning Board of Appeals as of the effective date of this chapter shall be required to comply with the new fees and escrow account maintenance provisions contained herein.

J. In cases where the complexity of an application (or lack thereof) or unusual circumstances surrounding the matter require that the initial fee or the percentage of that initial fee to be maintained in escrow be modified, the reviewing board is authorized to grant such modification within the following guidelines:

(1) The amount of any initial fee modification shall be reasonably related to the costs attendant to the Village's review of the application.

(2) The amount of any escrow maintenance percentage shall be reasonably related to the complexity of the project as well as the stage to which the project has progressed as of the time of modification.

K. Each of the Village's engineering, legal and/or planning consultants who render services pertaining to a land use or development application shall submit monthly itemized vouchers to the Village Board (through the Clerk to the Planning Board and/or Zoning Board), reasonably setting forth the services performed and amounts charged for such services.

L. Copies of said itemized vouchers shall be transmitted to the applicant simultaneously with their delivery to the Village Board, together with a notice notifying the applicant that the failure to object to payment of the amount of the charges contained in said itemized voucher out of escrow funds within 15 days of the sending of said notice shall constitute an agreement by the applicant as to the reasonableness of the charges. Presentation of such statements shall be deemed complete when mailed by the Village to the applicant's designated representative.

M. The Planning Board and/or the Zoning Board (as appropriate) shall review vouchers for services rendered to each and shall communicate its approval of same to the Village Board. The Village Board shall review and audit all such vouchers and shall determine, in its discretion, the engineering, legal and planning fees which are reasonable in amount and necessarily incurred by the Village in connection with the review and/or approval of the land use or development application. A fee or expense of part thereof is reasonable in amount if it bears a reasonable relationship to the customary fee charged by engineers, attorneys or planners within the region for services performed on behalf of applicants or reviewing boards in connection with

applications for land use or development. The Village Board may also take into account any special conditions for considerations as the Village Board may deem relevant. A fee and expense or part thereof is necessarily incurred if it was charged by the engineer, attorney or planner for a service which was rendered in order to:

- (1) Assist in the protection or promotion of the health, safety or welfare of the Village or its residents;
- (2) Assist in the protection of public or private property or the environment from potential damage that otherwise may be caused by the proposed land use or development;
- (3) Assure or assist in compliance with laws, regulations, standards or codes which govern land use and development;
- (4) Assure or assist in the orderly development and sound planning of a land use or development;
- (5) Assure the proper and timely construction of public improvements, park and other facilities which affect the public welfare;
- (6) Protect the legal interest of the Village;
- (7) Avoid claims against and liability of the Village; or
- (8) Promote such other interests that the Village Board may specify as relevant.

N. After review and audit of such voucher by the Village Board, the Board shall authorize payment of same and shall provide to the applicant a copy of the voucher as audited.

O. The Planning Board and Zoning Board are hereby authorized, at the time of action on any project, to require that payment of any amount overdue be a condition of approval. No plat or plans will be signed, and no building permit or other permit or certificate of occupancy shall be issued, until such time as all reimbursement of costs and expenses has been fully paid. The Village Board, Planning Board, and Zoning Board of Appeals reserve the right, at their discretion, to deny action to any applicant with an overdue balance, until the account is brought into compliance with this section.

P. Amounts paid pursuant to this chapter shall be placed in a trust and agency liability account to fund expenses incurred by the Village in processing the application as provided for in Subsection A above. The Village shall keep a record of the name of the applicant and project and of all such monies deposited and withdrawn. Monthly vouchers submitted by the Village's engineers, attorneys and/or planners shall be reviewed and audited by the Village Board and provided to the applicant, and the applicant may appeal said audit amount as provided herein. The Village reserves the right to redact any voucher as deemed necessary.

Q. All fee and expense reimbursement payments are due and payable within 15 days after delivery of a copy of an itemized voucher to the applicant as provided for in Subsection L above. Interest shall accrue on any unpaid itemized voucher at the rate of 9% per annum. The

pursuance of an appeal under this section or § **64-4** shall not affect the obligation to pay interest on any unpaid balance ultimately determined to be due.

R. Any applicant who disputes any fee statement presented to him pursuant to this chapter may bring a proceeding in the Supreme Court of the State of New York, in and for the County of Orange, pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York, within 30 days after presentation of such disputed fee statement. The commencement of such a proceeding shall not stay the obligation of the applicant to pay any fee statement presented to him pursuant to this chapter.

S. Failure to reimburse fees. Any fee statement imposed by this chapter which remains unpaid at the time the Village certifies its annual tax roll shall become a lien upon the premises for which the application was made. Such unreimbursed fees shall thereupon be levied against the said premises, as if a tax on real property, and in addition to all other taxes, fees, rents or charges which would otherwise be so levied. In the event the affected premises comprises more than one tax lot, then the Village Treasurer shall distribute such levy equally among each such tax lot without regard to assessed value or any other factor.

T. The provisions of this chapter are severable. If any clause, sentence, paragraph, section, word or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, word or part thereof directly involved in the controversy in which such judgment shall have been rendered. If any portion of this article is found to be in conflict with any other provision of any other local law or ordinance of the Code of the Village of Warwick, the provision which establishes the higher standard shall prevail.

§ 64-4 Appeals.

A. An applicant may appeal, in writing, to the Village Board for a reduction in the required reimbursement amount. An appeal must be filed with the Village Board no later than 15 days after mailing or other delivery to the applicant of the contested voucher.

B. Failure to file an appeal within 15 days of the mailing of the voucher shall constitute waiver of any objection to the charge.

C. Upon such appeal, the Village Board, in its discretion, may determine that an applicant is not required to reimburse the Village for that part of an engineering, legal or planning fee incurred by the Village for services performed in connection with an application matter for which the Village Board determines the applicant bears no responsibility and which was beyond the reasonable control of the applicant.

D. The Village Board's determination shall be in writing and shall be made no later than 45 days after receipt of the applicant's appeal.

§ 64-5 **Payment of fees.**

All fees shall be payable to the Village of Warwick by certified funds or bank check.

§ 64-6 **Supersedence.**

This chapter is enacted pursuant to the authority of Subparagraphs a(11), a(12) and d(3) of § 10(1)(ii) of the Municipal Home Rule Law and § 22 of the Municipal Home Rule Law. To the extent that Village Law or any other provision of law does not specifically authorize the Village Board, Planning Board or Zoning Board of Appeals to require the reimbursement to the Village and the advance deposit of funds for engineering, legal and planning fees and expenses incurred by the Village in connection with land use, variance and development applications, it is the express intent of the Village Board to supersede such statutes. Further, to the extent such statutory provisions do not specifically authorize the deferral or withholding of decisions or other conduct by the Village's boards in the event such fees and expenses are not reimbursed to the Village, such statutory provisions are expressly superseded.

§ 64-7 **Severability.**

The invalidity or unenforceability of any particular provision of this chapter shall not affect the validity or enforceability of other provisions of this chapter, which provisions shall continue to be both enforceable and valid.

§ 64-8 **When effective.**

This chapter shall take effect upon the filing of certified copies thereof with the Office of the Secretary of State in accordance with the Municipal Home Rule Law.

2. I agree to comply with the requirements of Village Code Section §64-3



Applicant's Signature

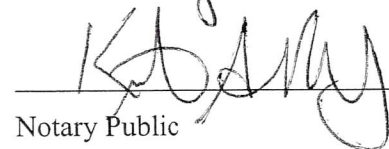
~~50 State Route 17A Warwick, NY 10990~~

Applicant's Mailing Address

State of NY

County of Orange

Subscribed and sworn before me this 15th
day of May, 2026



Notary Public

KRISTIN A. BIALOSKY
A Notary Public of New Jersey
ID# 50208896
My Commission Expires April 10, 2028