

Town Of Chester Zoning Board of Appeals  
1786 Kings Highway, Chester, New York 10918  
Phone: (845) 469-7000, ext. 308 Fax: (845) 469-9242

**APPLICATION TO THE ZONING BOARD OF APPEALS**

**PART I: OWNER INFORMATION**-Please type or print below

**DATE:** 04/13/2016

Property Location: 1046 Lakes Road, Monroe, NY 10950

Owner(s) of Record: Full name(s) Darin Hecht

Home Phone#: (845) 782 - 2955 Work #: ( ) - Cell #: (914) 450 - 6774

Email address: dhecht@khindustrialsales.com

Mailing Address of Owner(s): 1046 Lakes Road

City, State, Zip Code: Monroe, NY, 10950

**PART II: AGENT INFORMATION**- If applicable (Please attach Owner Authorization letter)

Agent Name: \_\_\_\_\_

Work #: ( ) - Cell #: ( ) -

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

Mailing Address of Agent: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

**PART III: ATTORNEY INFORMATION**

Attorney for Applicant: Burke, Miele, Golden & Naughton, LLP

Mailing Address of Attorney: P.O. Box 216, 40 Matthews St., Suite 209

City, State, Zip Code: Goshen, NY, 10924 Phone # (845) 294 - 4080

**PART IV: APPLICATION DETAILS**

**Note: If this application is being made by someone other than the owner, the owner must sign the owner's authorization attached to this document.**

Orange County Tax Map Number: 18-1-52 Section/Block/Lot 18 / 1 / 52

Zoning District: SR-2 Lot Size: .95 acres

**Type of Variance Sought:** (check one or more)

☐ Area Variance

☒ Use Variance (only in the alternative)

☒ Interpretation

**Referred by:**

☐ Planning Board

☒ Code Enforcement Officer

State in factual terms the exact manner in which applicant seeks from the Zoning Board of Appeals:

Applicant respectfully seeks an interpretation that his limited business use of his property for many years is a customary home occupation as defined under the Code and is thus permitted within the SR-2 District. Alternatively, if applicant's use is determined not to be a permissible home occupation, a use variance is respectfully requested.

A summary statement of the practical difficulty because of the existing zoning regulations for the subject premises as follows:

When Town Law § 267 was revised in 1992 the "practical difficulties" test for area variances was abrogated, in favor of the present statutory balancing test for area variances, weighing the benefit to the applicant against the detriment to the health, safety and welfare of the neighborhood or community. See Sasso v. Osgood, 86 N.Y.2d 374 (1995). In any event, Applicant is not seeking an area variance. A use variance is being requested only as an alternate to the requested interpretation allowing the present limited business use to continue. As to the alternate use variance, the Applicant believes he can provide information to satisfy the statutory 4-part test. The Applicant respectfully requests the opportunity to submit the necessary proof for a use variance if the primary request for an interpretation is not granted.

Describe any circumstances supporting this application:

Applicant has been operating his home business without incident since April 2006 and the complaint to the Code Enforcement Officer which lead to the Cease and Desist, and Orders to Remedy, are the result of a personal dispute between the applicant and a neighbor. The requested interpretation of a home occupation will allow the present long-standing limited business use of the property to continue.

Has a variance or special exception use ever been applied for on this property?

☐ Yes ☒ No

If yes, indicate the Zoning Board of Appeals date of decision: \_\_\_\_\_

Is the subject property located within 500 feet of any of the following?

☐ Town or Village boundary line (if yes, indicate which Town or Village: \_\_\_\_\_)

☐ State road, park, or other recreational facility

☒ County Road or right of way

☐ Federal owned property

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## OWNER AUTHORIZATION

STATE OF NEW YORK

COUNTY OF ORANGE

I, \_\_\_\_\_

residing at \_\_\_\_\_

being the owner of premises \_\_\_\_\_

also known as Orange County Tax Map #: \_\_\_\_\_

hereby authorize \_\_\_\_\_

whose mailing address is \_\_\_\_\_

to appear on my behalf before the \_\_\_\_\_

of the Town of Chester, and to file any documents required with reference to my

application for \_\_\_\_\_

I hereby agree to allow my agent, whose name appears above, to act on my behalf and I further agree to abide by any requirements imposed by this Board as a condition of their approval.

\_\_\_\_\_  
OWNER SIGNATURE

Sworn to before me this \_\_\_\_\_

Day of \_\_\_\_\_, 20\_\_\_\_

Notary Public

ZONING BOARD OF APPEALS

**OWNERS AUTHORIZATION FOR A SITE VISIT**

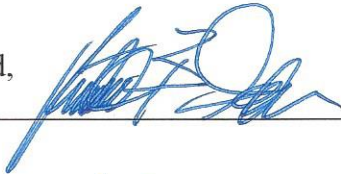
I (Please print) Richard B. Golden, of the law firm of Burke, Miele, Golden & Naughton, LLP, represent the owner Mr. Darin Hecht and have the authorization to, and hereby

grant permission for members of the Zoning Board of Appeals and/or representatives of same Board to make a site visit on my [client's] property should they deem it necessary to review [the] application. The property location is:

1046 Lakes Road, Monroe, New York 10950

Signed, \_\_\_\_\_

Date: \_\_\_\_\_



4.13.17



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**Interpretation Only**

**A request for an interpretation is made for the following reason:**

Applicant operates a beauty supply home business and the applicant's property is located in the SR-2 District which allows customary home occupations as an accessory use. Home occupation is defined under the Town of Chester Code as "[a]ny gainful occupation customarily conducted within a dwelling by the residents thereof . . . ." The definition also provides examples of what permissible home occupations may be, and what it shall not be construed to include. Applicant has been operating his home business and using his barn for storage without incident for the past eleven years. The property is not used as a retail store, nor is it open to the public. Applicant's use of his property is the antithesis of the uses the definition provides as being impermissible. Applicant's business is unlike a restaurant, clinic or hospital, animal hospital, dog kennel, barbershop, beauty parlor or antique shop, because, as mentioned above, it is not a retail store and is not open to the public; it is a basic beauty supply wholesale business with boxes being picked up and dropped off by UPS. Therefore, and in light of the home businesses non-intrusive nature, applicant requests an interpretation that his long-standing home business is a permissible home occupation in the SR-2 District.

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**Area Variance Only**

**Please answer the following:**

Will there be an undesirable change in the character of the neighborhood, or a detriment to nearby properties if this variance is granted?

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Can you achieve your goals via a reasonable alternative which does not involve the necessity of an area variance?

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Is the variance is substantial?

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Will the variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

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Is this a self-created difficulty?

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**Use Variance Only**

**Please answer the following:**

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

A reasonable return cannot be realized, and if the requested interpretation is not granted by this Board, the Applicant respectfully requests an opportunity to present competent financial evidence.

The alleged hardship unique relating to the property in question, and does not apply to a substantial portion of the district or neighborhood.

Yes, the hardship is unique and does not apply to a substantial portion of the district or neighborhood, and if the requested interpretation is not granted by this Board, the Applicant respectfully requests an opportunity to present evidence of the unique nature of the property in question.

Will the use variance, if granted, alter the essential character of the neighborhood?

No. Applicant has been operating the home business for the past 11 years without any objection or complaints, until the complaint of a neighbor which was not based on the incompatibility of the use in the neighborhood, but based upon an unrelated personal grievance. If the requested interpretation is not granted by this Board, the Applicant respectfully requests an opportunity to present evidence of the character of the neighborhood, and the compatibility of Applicant's use with it.

Has the alleged hardship been self-created?

No. If the requested interpretation is not granted by this Board, the Applicant respectfully an opportunity to present evidence of how the Applicant's hardship is not self-created.

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