



TOWN OF AVON

23 GENESEE STREET
AVON, NY 14414

585-226-2425
www.avon-ny.org

ZONING BOARD OF APPEALS

AREA VARIANCE APPLICATION

NOTICE TO ALL APPLICANTS:

The Town of Avon Zoning Board of Appeals pursuant to Article XI: Appeals of the Town Code reviews submitted applications on a first-come-first-served basis. The number of applications scheduled for review will vary depending upon the number and difficulty of the applications received. The objective of the ZBA is to process all applications in a timely and efficient manner.

It is the responsibility of the applicant that all forms are filled out completely and accurately prior to the application being processed. All completed applications are subject to the rules and standards set forth by the Town of Avon and State statutes. The Building & Zoning Department does not guarantee any board approvals for completed applications.

TOWN OF AVON
OPERA BLOCK BUILDING
23 GENESEE STREET
AVON, NEW YORK 14414
PHONE: (585) 226-2425 • FAX: (585) 226-9299
http://www.avon-ny.org/index_town.html



2024 BOARD CALENDAR

Meetings dates & times are subject to change

APPLICATION DEADLINE ¹ (PRC) ² 12:00pm	JOINT BOARD (ZBA & PB) Meeting: 6:00pm	LIVINGSTON COUNTY DEADLINE ³	LIVINGSTON COUNTY Meeting: 7:00pm
January 8 th	January 22 nd	January 25 th	February 8 th
February 12 th	February 26 th	February 29 th	March 14 th
March 4 th	March 18 th	March 28 th	April 11 th
April 1 st	April 15 th	April 25 th	May 9 th
May 6 th	May 20 th	May 30 th	June 13 th
June 3 rd	June 17 th	June 27 th	July 11 th
July 1 st	July 15 th	July 25 th	August 8 th
August 5 th	August 19 th	August 29 th	September 12 th
September 2 nd	September 16 th	September 26 th	October 10 th
October 7 th	October 21 st	October 31 st	November 14 th
November 4 th	November 18 th	November 28 th	December 12 th
December 2 nd	December 16 th	December 26 th	January 9, 2025
January 6 th , 2025	January 20 th , 2025	January 30, 2025	February 13, 2025

1. The Applicant will be notified of their scheduled meeting. If your application is considered incomplete, the applicant will be notified and will not be placed on an agenda until requested information has been submitted to the Town Building & Zoning Department.
2. PRC Meetings may be held to review applications and are scheduled by the Town Building & Zoning Department if needed.
3. All completed applications are to be submitted to the Town Building & Zoning Department by 12:00pm on the deadline day.



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GUIDE FOR APPLICANTS APPLYING FOR AN AREA VARIANCE

This publication has been written to aid potential applicants in understanding and appreciating the variance process, and to provide an explanation of the rules and standards under which variance decisions of this Town's Zoning Board of Appeals (ZBA) must be made.

What must be proven in order to be granted an Area Variance?

If requesting an Area Variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage regulations), then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

1. 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.
2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
3. Whether the requested area variance is substantial.
4. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

The ZBA must take each one of the factors into account. The ZBA may also decide that a lesser variance than the one requested would be appropriate, or may decide that there are alternatives available to the applicant which would not require a variance.

Must the Variance, if granted, be exactly what was applied for by the applicant?

Whether the ZBA decides to grant an Area Variance, State law requires the ZBA to grant the minimum variance necessary to provide relief, while at the same time taking care to protect the character of the neighborhood and the health, safety and welfare of the community. For these same reasons, the ZBA may also impose reasonable conditions on the granting of any variance.

Will the ZBA make a decision the night of the hearing?

Once the hearing is closed, the ZBA may begin discussing the case and reach a decision, or may postpone discussion and/or its decision until a later meeting. If the ZBA deems it necessary, the hearing may be reopened at any time. Once the hearing has been finally closed, the ZBA must make its decision within 62 days.

Application Checklist: The following is required for a hearing and appeal to take place.

1. \$45.00 check payable to: **Town of Avon**
2. Denied Zoning Permit giving the right to appeal



PROCEDURE TO PETITION FOR VARIANCE

1. Apply for a Zoning Permit. If denied, a written Petition for a Variance must be submitted to the Code Enforcement Clerk within 45 days with a filing fee of \$45.00; payable to Town of Avon.
2. Petition for a Variance should contain the following:
 - a) Name and address of the applicant.
 - b) Name and address of the owner of the loss to be affected by such proposed appeal.
 - c) Description and location of the loss to be affected by such proposed appeal. Also, copy of Tax map which can be obtained from the Town Assessor.
 - d) Statement of the present zoning classification of the lot in question, the improvements thereof, and the present use of thereof.
 - e) A reasonably accurate description of the present improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof.
 - f) A sketch plan (plot plan) of the real property to be affected, indicating the location and size of the lot and the size of any improvements thereon or proposed to be erected.
 - g) Petition must contain sufficient allegations to comply with the relief requested depending upon the type of relief sought, i.e. use or area variance. This information should be sufficiently complete to meet the burden upon the Petitioner to convince the appropriate Board that the relief requested may legally be granted pursuant to the process.
 - h) Petition must have proper verification and must be signed and notarized.
 - i) Short Environmental Assessment Form- Part 1, must be completed and submitted with the Variance Application.
3. The Code Enforcement Clerk will submit the Petition for a Variance to the Livingston County Planning Board for their review and recommendation. Use Variances will also be submitted to the Town Planning Board for review. After review by the Livingston County Planning Board, the Zoning Board of Appeals will hold a Public Hearing within 45 days. Notice of this Public Hearing will be advertised in local newspaper at least 5 days prior to the Hearing, and all property owners within 500 feet of the property will be notified by mail.
4. If a Variance is granted, one must apply for a new Zoning permit.

If you have any questions, contact the Code Enforcement Clerk at 585-226-2425 Ext. 19 or email kmcdowell@avon-ny.org



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AREA VARIANCE APPLICATION FORM

Submit the completed application package with payment to the Code Enforcement Clerk. Please make checks payable to the Town of Avon.

Application Fee: \$60.00

Check#: _____ Rec'd Date: _____ Cash

- Zoning Permit for denial purposes giving the right to appeal
- Ten (10) digital collated copies of each document below sent electronically

APPLICANT INFORMATION:

Applicant: _____ Corporation Name: _____
 Street Address: _____ City _____ Zip _____
 Phone: _____ Fax: _____ Email: _____

PROJECT INFORMATION:

Project Name: _____ Date: _____
 Project Address: _____
 Tax Map ID: _____ Zoning District: _____

Is the subject property within 500' of a State or County Road or Town Boundary? Yes No
(If yes, the Town may be required to refer your application to the Livingston County Planning Board.)

Brief Summary of Area Variance Request: _____ Historic District: Yes No

REQUIRED DOCUMENTS: Applicant must provide ten (10) copies of each document, except the application fee.

- | | |
|--|---|
| <input type="checkbox"/> Application Fee | <input type="checkbox"/> Construction Renderings for Proposed Project |
| <input type="checkbox"/> Project Site Plans | <input type="checkbox"/> Parcel Survey Map |
| <input type="checkbox"/> Application Form | <input type="checkbox"/> Zoning Permit |
| <input type="checkbox"/> Statement of Hardship | <input type="checkbox"/> Consultant Fees Agreement |
| <input type="checkbox"/> Disclosure Affidavit Form | <input type="checkbox"/> Authorized Representative Form |
| <input type="checkbox"/> Completed Application Checklist | <input type="checkbox"/> Agricultural Data Statement (if within 500' of an agricultural district) |
| <input type="checkbox"/> SEQR – Short Environmental Assessment Form (EAF) Part 1 | |

I have examined this application and declare that it is true, correct, and complete. I understand that my application and all supporting documentation will be examined by the Zoning Board of Appeals as an integral component of deliberations.

Signature of Property Owner

Date

Signature of Applicant

Date



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STATEMENT OF HARDSHIP

PURPOSE: The term "Area Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner, which is not permitted by the dimensional or physical requirements of the applicable zoning regulations.

In deciding whether to grant an Area Variance, the Zoning Board of Appeals takes 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 (**NYS Town Law § 267-B.3(b)(1-5)**).

In an effort to allow the Zoning Board of Appeals to grant an area variance, the applicant must present substantial evidence concerning the following statements by providing supporting evidence for each. You may attach additional sheets if necessary.

Project Name/Number: _____ **Date:** _____

Subject Property Address: _____

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 area 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, which consideration shall be relevant to the decision of the ZBA, but shall not necessarily preclude the granting of the area variance.

I have examined this application and declare that is true, correct and complete upon submission. I understand that my application and all supporting documentation will be examined by the Zoning Board of Appeals as an integral component of deliberations.

Signature of Property Owner/Applicant

Date



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AGREEMENT TO PAY FEES FOR CONSULTANT SERVICES INCURRED BY THE TOWN OF AVON

When reviewing an application for, or when conducting inspections in relation to an application, the Town of Avon, New York may determine that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the work related to the application. Whenever possible, the Town of Avon, New York shall work cooperatively with the applicant to identify what scope of work shall require the employment of consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Town of Avon, New York may require additional deposits.

Let it be understood and the property owner agrees that:

1. In hiring outside consultants, the Town of Avon, New York may engage registered design professionals, financial analysts, planners, lawyers or other appropriate professionals who can assist the Town in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Town's decision or regulations, or inspecting a project during construction or implementation.
2. Funds received by the Town of Avon, New York pursuant to this section shall be deposited with the Code Enforcement Clerk who shall establish a line item for this purpose. Expenditures from this line item may be made at the direction of the Code Enforcement Clerk without further appropriation. Expenditures from this line item shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the property owner. Additionally, the failure of a property owner to pay any fee shall be grounds for denial of an application. Lastly, any outstanding fees incurred by the Town of Avon, New York shall be charged against the property, and shall constitute a lien thereon in favor of the municipality, and the amount of such costs shall be entered on the tax rolls as being due and payable. Such fees may also be recovered in any other lawful manner.
3. At the completion of the Town's review of a project, any excess amount in the line item attributable to a specific project shall be repaid to the property owner. A final report of said line item shall be made available to the property owner if requested.
4. Any property owner may take an administrative appeal from the selection of the outside consultant to the Town Board. Such appeal must be made in writing and may be taken only within twenty (20) days after the Town has mailed or hand-delivered notice to the property owner of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualification. The required time limit for action upon an application by the Town Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Board within one month following the filing of the appeal, the selection made by the Town of Avon, New York shall stand.

I have examined this application and declare that is true, correct and complete upon submission. I understand that my application and all supporting documentation will be examined by the Town of Avon as an integral component of deliberations.

Signature of Property Owner

Date

Signature of Applicant

Date



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DISCLOSURE AFFIDAVIT (GML § 809)

The Applicant has read and is familiar with the provisions of the General Municipal Law, Section 809, which states:

- A. Every application, petition or request submitted for a variance, amendment, change of zoning approval of plat, exemption of plat or official map, license or permit, pursuant to the provisions of any ordinance, local law, rule or regulation constituting the zoning and planning regulations of a municipality shall state the name, residence and the nature and extent of the interest of any state officer or any officer or employee of such municipality or of a municipality or a part, in the person, partnership or association making such application, petition or request (hereinafter called the applicant) to the extent known to such applicant.
- B. For the purpose of this section of State law, an officer or employee shall be deemed to have an interest in the applicant when he, his spouse, or their brothers, sisters, parents, children, grandchildren, or the spouse of any of them:
 - 1. Is the applicant;
 - 2. Is an officer, director, partner or employee of the applicant;
 - 3. Legally or beneficially owns or controls stock of a corporate applicant or is a member of a partnership or association applicant; or
 - 4. Is a party to an agreement with such an applicant, express 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, petition or request.
- C. Ownership of less than five per cent of the Stock of a corporation whose stock is listed on the New York or American Stock Exchanges shall not constitute an interest for the purposes of this section.
- D. A person who knowingly and intentionally violates this section shall be guilty of a misdemeanor.

If a Town of Avon officer, employee or relative of either as defined in the General Municipal Law, Section 809, has any interest in this application, the full particulars are provided on an attached sheet.

OWNER'S AGREEMENT TO CONTENTS OF APPLICATION

It is hereby understood that the contents of this entire application is hereby subscribed by the property owner, all matters understood and agreed to, and is hereby affirmed by the owner as true under the penalties for perjury.

Print Name of Property Owner

Signature of Property Owner

Date



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AUTHORIZED REPRESENTATIVE FORM

WHEN TO USE THIS FORM: This Authorized Representative form is enclosed if the owner would like someone to represent him/her/they at the public meeting and hearing. Please complete this form and submit it to the Code Enforcement Clerk. The owner is responsible to notify his/her/their representative of the time and place of the public meeting and hearing.

OWNER INFORMATION

Property Owner Name: _____

Address: _____

Telephone: _____

Email: _____

REPRESENTATIVE INFORMATION

Representative's Name: _____

Address: _____

Telephone: _____

Email: _____

The Owner hereby permits the Authorized Representative to act on his/her/their behalf regarding an application submitted to the Town of Avon, New York. Such Owner authorizes this Town to release any or all information relating to this application to this Authorized Representative.

Signature of Property Owner

Date

STATE OF NEW YORK
SS:
COUNTY OF: _____
On this _____ day of _____ 20____, before me personally came _____,
to me known and known to me to be the person described in and who executed the foregoing instrument and he/she
acknowledged to me that he/she executed the same.

Notary Public



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AGRICULTURAL DATA STATEMENT

Instructions: This form must be completed for any application for a Special Use Permit, Site Plan approval, Use Variance or a Subdivision approval requiring municipal review that would occur on property within 500 feet of a farm operation located in a NYS Dept. of Ag & Markets certified Agricultural District.

APPLICANT INFORMATION:

Applicant: _____ **Corporation Name:** _____
Street Address: _____ **City:** _____ **Zip:** _____
Phone: _____ **Fax:** _____ **Email:** _____

TYPE OF APPLICATION: Special Use Permit Site Plan Review Subdivision Review Use Variance Area Variance

DESCRIPTION OF PROPOSED PROJECT:

PROJECT INFORMATION:

Project Name: _____ **Date:** _____

Project Address: _____

Tax Map ID: _____ **Zoning District:** _____

Is this parcel within an Agricultural District? Yes No (Check with your local Assessor if you do not know)

If YES, Agricultural District Number _____

Is this parcel actively farmed? Yes No

Type of farm operation: _____ **Acreage:** _____

List all farm operations within 500 feet of your parcel. Attach additional sheets if necessary:

Name/Address (Please list if property is actively farmed):

- a. _____
- b. _____
- c. _____
- d. _____

Signature of Property Owner

Date



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PROJECT INFORMATION:

Applicant name: _____ Date: _____

Project Address: _____

Tax Map ID: _____ Zoning District: _____

Brief Summary of Area Variance Request:

SKETCH SITE PLAN CHECKLIST			
Item	Applicant Confirmation	Initial Town Review	Follow-up Town Review
A. Sketch plan, clearly designated as such, and shall identify all existing and proposed:			
1. Zoning classification, required setbacks, and dimensional requirements, as well as setback measurements for all existing and proposed buildings/structures.			
2. Lot lines, drawn to scale, and setback dimension lines.			
3. Name of owner(s) and Tax Account numbers of subject property(ies) and all adjoining properties.			
4. All existing restrictions on land use including easements, covenants or zoning lines/district.			
5. All existing and proposed utilities and streets.			
6. All existing structures, wooded areas, streams, wetlands and other significant physical features within the site plan and within 200' thereof.			
7. Proposed structures, driveways, roadways, recreation areas, drainage, sewers, and water supply (if applicable).			

I have reviewed my submitted application and drawings against the above noted criteria and hereby certify that the submitted application matches this check list.

Signature of Property Owner/Applicant

Date

Short Environmental Assessment Form

Part 1 - Project Information

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.

Part 1 – Project and Sponsor Information			
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?		NO	YES
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.		<input type="checkbox"/>	<input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency?		NO	YES
If Yes, list agency(s) name and permit or approval:		<input type="checkbox"/>	<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, are adjoining or near the proposed action:			
5. Urban Rural (non-agriculture) Industrial Commercial Residential (suburban)			
<input type="checkbox"/> Forest Agriculture Aquatic Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
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: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
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: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

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 Agricultural/grasslands Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban 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?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
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? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
49. 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"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: _____ Date: _____ Signature: _____ Title: _____		