

## Lake George Park Commission

### 6NYCRR SUBPART 645-8 VARIANCE PROCEDURES

**Section 645-8.1 Applicability.** This Subpart shall apply to all applications to the Commission for a variance from any substantive requirement imposed by Part 646 of this Title. In no event shall a variance be granted where the granting of the variance will relieve an applicant from a standard or duty imposed upon the applicant by statute, or which will substantially vary the purpose and intent of any substantive regulation adopted by the Commission.

#### **Section 645-8.2 Procedure.**

(a) Any person seeking a variance from the Commission shall submit an application for a variance to the Commission on such form as the Commission may prescribe. The application for a variance shall be processed as a permit application in accordance with the procedures specified in Subpart 645-5 of this Part.

(b) At a minimum, any application for a variance must:

(1) identify the specific provisions of the regulations of the Commission from which a variance is sought;

(2) demonstrate that compliance with the identified provisions would, on the basis of conditions unique and peculiar to the applicant's particular situation, impose a substantial technological, financial or safety burden upon the applicant or the public; and

(3) demonstrate that the proposed activity will have no adverse impact on the public health, safety or welfare, the environment or the natural resources of the Park.

#### **Section 645-8.3 Standard.**

(a) No variance shall be granted under this Subpart unless the applicant shall establish by substantial, credible evidence unnecessary hardship.

(b) In order to establish unnecessary hardship, an applicant must demonstrate:

(1) unique and peculiar conditions to the applicant's particular situation which impose a substantial technological, financial or safety burden upon the applicant or the public;

(2) that because of such uniqueness, there is no reasonable possibility that the applicant's property or, if no property is involved, the continuation of the application's business, enterprise, use or activity will bring a reasonable return following conformity with the regulations of the Commission;

(3) that the proposed activity will have no adverse impact on the public health, safety or welfare, the environment or the resources of the Park; and

(4) that the granting of a variance will not alter the essential character of the area in which the proposed use or activity is located, and will not lead to congestion in the Park.

**Section 645-8.4 Conditions.** In granting any variance, the Commission may impose specific conditions upon the proposed use or activity necessary to assure that the use or activity will have no adverse impacts upon the public health, safety or welfare, the environment or the resources of the Park. Such conditions may be imposed without regard to whether the Commission could otherwise impose such conditions pursuant to the substantive authority of the Commission under ECL, Articles 43 and 71, Title 33, or the rules or regulations promulgated by the Commission thereunder.