

**City of Olean**  
**Department of Fire, Buildings, & Emergency Services**  
**Code Enforcement Division**

Olean Municipal Building, Rm. 212  
P.O. Box 668, 101 E. State Street  
Olean, NY 14760  
716-376-5683, 716-376-5707 (fax)  
www.cityofolean.org  
codes@cityofolean.org

**Use Variance Application**

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For Office Use Only  
Application #: \_\_\_\_\_  
Hearing Date/Time: \_\_\_\_\_

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

To: The Zoning Board of Appeals

I \_\_\_\_\_  
(owner/applicant)

I \_\_\_\_\_  
(applicant, if different from owner) (relationship to owner)

hereby make application to the Zoning Board of Appeals for the City of Olean, New York for an Use Variance to permit the premises known as \_\_\_\_\_  
(location)

to vary from the use requirements of the Zoning Law.

Detailed description of request:

**This variance, if granted, will vary from the requirement(s) of:**

Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Law.  
Article \_\_\_\_\_ Section \_\_\_\_\_ of the Zoning Law.

***In making its determination, the Zoning Board of Appeals shall take into consideration 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 and the Zoning Board of Appeals shall find that:***

- (1.) Under the applicable regulations of this Law the applicant is deprived of all reasonable economic use or benefit from the property in question, which deprivation must be established by competent financial evidence; and
- (2.) 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; and
- (3.) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4.) That the alleged hardship has not been self-created.

**It is the responsibility of the applicant to present evidence sufficient to satisfy the Zoning Board of Appeals that the above standards proving unnecessary hardship have been met.**

\_\_\_\_\_  
(owner's signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(applicant's signature)

\_\_\_\_\_  
(date)

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**Use Variance Information**

**14.0.3 Powers and duties.** *The zoning board of appeals shall have all the powers and duties prescribed by law and this law, which are more particularly specified as follows:*

1. Interpretation. It shall be the responsibility of the zoning board of appeals to hear and decide appeals from, and review, any order, requirement, decision, or interpretation made by the code enforcement officer.
  
2. Use variances.
  - a. The zoning board of appeals, on appeal from the decision or determination of the code enforcement officer, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of this law.
  
  - b. No such use variance shall be granted by the zoning 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 and the zoning board of appeals shall find that:
    - (1) The Applicant cannot realize a reasonable return, as shown by competent financial evidence.
  
  - c.
    - (1) The Applicant cannot realize a reasonable return, as shown by competent financial evidence.

**ILLUSTRATIONS OF FINANCIAL EVIDENCE**

- Bill of sale for the property, Present value of property, expenses for maintenance
- Leases, rental agreements
- Tax bills
- Conversion costs (for a permitted use) Realtor’s statement of inability to sell/rent

- (2) 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,

**ILLUSTRATIONS OF UNIQUENESS**

- Topographic or physical features preventing development for a permitted use
- Why would it be possible to construct the applicant’s proposal and not any of the permitted uses?
- Board member observations of the property and surrounding area

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

**ILLUSTRATIVE NEIGHBORHOOD CHARACTER FACTORS**

- Board members' observations of neighborhood.
- Expected effect of proposal on neighborhood, for example, change in parking patterns, noise levels, lighting, traffic

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

**SELF CREATED**

- What were the permitted Uses at the time the property was purchased by the applicant?
- Were substantial sums spent on remodeling for a Use not permitted by Zoning?
- Was the property received through inheritance, court order, divorce?

- d. The zoning board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.