

GUIDELINES AND CRITERIA TO SUPPORT ZONING APPEAL

USE VARIANCE

In order to be entitled to a Use Variance, an Applicant to the Town of Batavia must show by documentation in the record that all four (4) of the requirements set forth on this form have been met. If any one has not been proven, then the request for a variance must be denied by the Zoning Board of Appeals. (See Town Law §267-b(2)).

Applicants for a Use Variance must demonstrate to the Zoning Board of Appeals that the existing zoning has or will cause unnecessary hardship, which shall be defined as hereinafter stated. Responses must contain facts and circumstances and not merely repeat all or part of the questions.

QUESTION 1. Applicant must show by dollars and cents proof that the land in question cannot yield a reasonable return for each and every permitted use in that zone before the variance. It will be necessary to provide documentation of economic deprivation from an expert or authority such as a real estate broker, an appraiser or an economist, etc.

RESPONSE 1. Applicant cannot realize a reasonable return and the lack of return is substantial as demonstrated by competent financial evidence as follows:

QUESTION 2. The requirement that the hardship is unique means that the plight of the Applicant is due to circumstances applying to the Applicant's property only or to an area or number of properties considerably less than the entire district.

RESPONSE 2. The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood as follows:

QUESTION 3. Applicant must discuss how proposed use will not change the essential character of the neighborhood with regard to such physical and environmental elements as parking, traffic, signage, landscaping, architectural and structural features, location and dimensions of buildings, any by-products of proposed use such as noise or smoke, and any other impacts of the proposed use upon adjacent or neighboring lands.

RESPONSE 3. The requested use variance, if granted, will not alter the essential character of the neighborhood as follows:

QUESTION 4. The Applicant must show either that (1) When the property was purchased the zoning restrictions from which a Use Variance is now sought were not in existence, or (2) that some other change has occurred since the Applicant's purchase which makes the use non-conforming; as long as the change was not caused by the Applicant. Otherwise, the hardship is self-created.

RESPONSE 4. The alleged hardship has not been self created as follows:

Applicant's Signature

Date