

**REQUEST FOR USE VARIANCE
TOWN OF DUNKIRK
ZONING BOARD OF APPEALS**

USE VARIANCE DEFINED: A Use Variance is defined as a tool which will allow a land use legally prohibited by the zoning law in order to relieve an unnecessary hardship upon a particular owner caused by strict interpretation of the zoning law.

Applicant Name _____

Address _____

City _____

Phone _____ Cell _____

Property Location: _____

Use for which Variance is requested _____

Before the Zoning Board of Appeal may grant a USE VARIANCE, unnecessary hardship must be established (Article XXIII; Section 183; Item 3b of the Town of Dunkirk Zoning Law) based upon ALL the following criteria:

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

Yes _____ **No** _____

Proof presented _____

Financial evidence may include....Bill of Sale, Present value of property, leases, rental agreements, Tax bills, conversion costs for a permitted use, Realtors statement of inability to rent or sell

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

Yes _____ **No** _____

Proof presented _____

Evidence may include.... Topographical or physical features preventing development for a permitted use, Why this proposal and not the permitted uses? Board member observations of the property surrounding area.

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

Yes _____ No _____

Proof presented _____

Factors of evidence may include.....Board member observations of neighborhood, Expected effect of proposal that would change parking patterns, noise levels, lighting, traffic.

4. The alleged hardship has not been self created.

Yes _____ No _____

Proof presented _____

What were the permitted uses at the time the property was purchased, were substantial sums spent on remodeling for a use not permitted by zoning?, was the property received through inheritance, court order, divorce?

DETERMINATION OF THE ZBA BASED ON THE ABOVE FACTORS

The ZBA, after reviewing the above four proofs find that:

_____ That the applicant has failed to prove unnecessary hardship through the application of the four criteria required by New York State statutes and Town of Dunkirk Zoning Law

_____ That the applicant has proven unnecessary hardships through the application of the four criteria required. In finding such hardship, the ZBA shall grant a variance to allow use of the property in a manner detailed as follows, which is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety, and welfare of the citizens of the Town of Dunkirk.

USE _____
