

**REQUEST TO VILLAGE OF PLOVER  
BOARD OF ZONING APPEALS FOR VARIANCE**

APPELLANT:

AGENT FOR APPELLANT:

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(City, State, Zip Code)

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

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REQUESTED CHANGE: (State briefly what is being requested and why )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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PROPERTY LOCATION & DESCRIPTION:

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

of the \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ N, Range \_\_\_\_\_ East

Legal Description of the Property: \_\_\_\_\_

Address of Property: \_\_\_\_\_

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

(Signature of Appellant)

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Disposition:

**Date of Publishing:** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**Date of Request:** \_\_\_\_\_ **Date of Hearing:** \_\_\_\_\_

**BOZA Action:** \_\_\_\_\_ **Date of Action:** \_\_\_\_\_

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**\$75.00 Non-refundable Fee Required for Variance Requests**      **Paid On:** \_\_\_\_\_

\_\_\_\_\_

PLEASE SEE BACK FOR MORE INFORMATION

APPLICANT: \_\_\_\_\_

SITE ADDRESS: \_\_\_\_\_

PLEASE SUBMIT THE FOLLOWING INFORMATION WITH THE APPLICATION:

1. What is the hardship and why can't you meet the Zoning Code requirements?

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2. How is your hardship or difficulty unique from other properties?

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3. Is there any unique property limitations?

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Also, please see the GENERAL INFORMATION SHEET for explanations.

## BOARD OF ZONING APPEAL APPLICANT GENERAL INFORMATION – VARIANCES

### PURPOSE & NATURE:

Because those who draft a zoning ordinance cannot anticipate every land use question that will arise in a community, there needs to be some mechanism to give the ordinance flexibility. The board's authority to grant variances serves this purpose. A *variance* is **permission granted by the board to build or develop in a way, which is inconsistent with the dimensional standards contained in the ordinance.**

The variance procedure allows the dimensional standards in an ordinance to be varied in response to unusual circumstances, which constitute unnecessary hardship. A property owner who has been denied a building or development permit, and believes that special conditions unique to the property will cause unnecessary hardship if a variance is not granted, may request a variance. The board at a public hearing must hear the petition for a variance.

In deciding variance requests, the board of appeals acts as an **agent of the local government, not the property owner.** It is the board's duty to preserve the zoning ordinance without modification as far as possible, while ensuring substantial justice for the property owner.

A variance is **not** a convenience to the property owner. A variance may **not** be granted for reasons common to other properties. The appropriate remedy would be to amend the ordinance.

### VARIANCE STANDARDS

Variances are not to be granted routinely. The applicant for a variance must clearly show the board that three statutory standards that govern granting a variance will be met. These three standards require the existence of an **unnecessary hardship**, the presence of a **unique property limitation**, and the **protection of the public interest**. Additional court-established principles also apply, as follows:

1. **Unnecessary Hardship.** What constitutes unnecessary hardship is a matter to be determined from the facts and circumstances of each individual appeal. In applying the statutory standards, the board must abide by the following court-established principles:
  - (a) **Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome.** Zoning board members must judge what is a feasible use for a particular parcel as a whole. A variance is not warranted if the physical character of a property allows a landowner to build or develop in compliance with a zoning ordinance.
  - (b) **The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of other parcels, not one, which affects all parcels similarly.** Hardship arises because of some *unique property limitation* (see 2., below) of a parcel, or because the property was created before the passage of the zoning ordinance. If either circumstance renders the parcel unsuitable for any permitted use, or will not accommodate a structure of reasonable design for any use permitted under the existing ordinance – if all area, yard and setback requirements are observed – the parcel may qualify for a hardship.

- (c) **Loss of profit or pecuniary (financial) hardship is not in and of itself grounds for a variance.**
  - (d) **Self-imposed hardship is not grounds for a variance.** Reductions resulting from the sale of portions of a property that reduce the remainder below build able size or cut off existing access to a public highway, deed restrictions imposed by the owner's predecessor in title, and improvements that were made in violation of the ordinance are generally considered to be *self-imposed hardships*.
  - (e) **The hardship cannot be one that would have existed in the absence of a zoning ordinance.** Sometimes, legitimate hardship results from the interaction of the provisions of the zoning ordinance with other actions or regulations adopted by public authorities.
2. **Unique Property Limitation.** Unique physical characteristics of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. These features may be a wetland, soil type, parcel shape or a steep slope that limits the reasonable use of the property.
3. **Protection of the Public Interest.** Granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. The board's actions are to be consistent with the objectives stated in the ordinances, which in the case of a floodplain or shore land ordinance must meet minimum state statutory requirements. The public interest includes the interests of the public at large, not just that of nearby property owners. Lack of local opposition does not in itself mean that a variance will not harm the public interest.
- (a) **In granting variances, the board may impose special conditions to ensure that the public welfare will not be damaged.** The power of the board to attach conditions to a variance, to protect adjoining property and to preserve the essential character of the neighborhood, is well established, but the power is not unlimited. Lack of local opposition does not in itself mean that a variance will not harm the public interest.
  - (b) **A variance should include only the minimum relief necessary to allow reasonable use of a property.**
4. **Additional Court-Established Principles.**
- (a) **Violations by or variances granted to neighboring owners does not justify the granting of a variance.**
  - (b) **Variances attach to the property as a permanent right.** Once a variance is granted, it is permanently attached to the property. A new owner of the property may make use of a variance that was granted to the previous owner if all of the conditions that are attached to the variance are met.