

FEE: \$150.00

**VILLAGE OF ALLOUEZ
BOARD OF APPEALS PETITION
(Form must be returned for publication 15 days prior to meeting date)**

Date Paid _____

Rcpt. No. _____

NAME _____ PHONE _____

ADDRESS _____

1. The petitioner's interest in the property under consideration is as _____

2. The owner of record presently is _____

3. The legal description of the property under consideration is (parcel # & street address)

4. A CSM or copy of the plat on which the property is shown is attached.

5. On the _____ day of _____, 20 _____, the petitioner was denied a permit by the Building Inspector and hereby petitions the Board for the following variance:

6. Statements which would justify the granting of the variance requested (see attached) –

a. Unnecessary Hardship – _____

b. Unique Property Limitation - _____

c. Protection of the Public Interest - _____

Dated this _____ day of _____, 20 _____.

(Signed) _____
Petitioner

(Signed) _____
Owner-other than petitioner

Variance Standards

Variations 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. Board of Appeals 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 the 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 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 or 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, a 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 purpose of the ordinance. The board's actions should be consistent with the objectives stated in their local ordinance, which (in the case of a floodplain or shoreland ordinance) has been adopted to 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, as in granting special exceptions (conditional uses), 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. The conditions must relate reasonably to the purpose and intent established in the zoning ordinance.
 - b. A variance should include 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 do not justify 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.