

**Petition for USE Variance**  
**Albany Zoning Code §155.864**

*A **Use** variance involves the development or conversion of land for a use not permitted in the specific zoning district and must not be contrary to the public interest. The Board of Zoning Appeals must ensure that the spirit of the zoning code is observed.*

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

**Fee:** \$250.00

**1. APPLICANT INFORMATION.**

(A) Applicant Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

Property Address \_\_\_\_\_ **ALBANY, OH 45710**

Parcel ID Number \_\_\_\_\_ Lot Number \_\_\_\_\_ Zoning District \_\_\_\_\_

(B) VARIANCE EXCEPTION BEING REQUESTED. *(attach additional page if necessary)*

Code Section(s)	Description of variance being requested.
_____	_____
_____	_____
_____	_____

(C) DESCRIPTION of PROPOSED USE(S). *(attach additional page if necessary)*

\_\_\_\_\_

\_\_\_\_\_

(D) SUPPORTING INFORMATION.

Attach a separate sheet detailing the plan for the proposed use showing the location of buildings, parking and traffic access, circulation drives, open space, and landscaping. Also attach a narrative statement relative to the above requirements and also explain the noise or other effects on adjoining property and the general compatibility with adjacent and other properties in the district in addition to the following documents;

\_\_\_\_ Legal description of property, Plat Map, and Athens County Auditor Tax Card.

\_\_\_\_ Plot plan of property (show parcel property lines, dimensions, and shape of lot ).

\_\_\_\_ Plans, sketch, letters, photographs, and any other information relevant to the case.

Other: \_\_\_\_\_

\_\_\_\_\_

**2. FINDING OF UNNECESSARY HARDSHIP.**

(A) To grant a **USE** variance, the BZA shall determine that strict compliance with the terms of the Zoning Code will result in an **unnecessary hardship** to the applicant by clear and convincing evidence and that each of the following statements are **TRUE**.

(1) The property **cannot** be put to any economically viable and appropriate use under any of the permitted uses in the zoning district.

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

## Petition for USE Variance

- (2) The variance requested stems from conditions that are particular to the subject property and are **not** applicable, generally, to other properties within the same zoning classification.

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

- (3) The hardship condition is **not** created by actions of the applicant.

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

- (4) Granting of the variance will **not** be of substantial detriment to adjacent properties.

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

- (5) Granting of the variance will **not** adversely affect the delivery of any government services (water, sewer, garbage); or of light or air to adjoining properties. .

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

- (6) Granting of the variance will **not** adversely affect the community character, public health, safety, or general welfare.

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

- (7) The variance will be consistent with the general spirit and intent of the Zoning Code

True \_\_\_\_\_ False \_\_\_\_\_ Notes: \_\_\_\_\_

### 3. ACKNOWLEDGEMENT AND SIGNATURE.

Site visits to the property by Village representatives are essential to process this application. By signing below, the owner/applicant authorizes Village representatives to visit and photograph the property described in this application.

I hereby certify that the information contained in this application and all attachments are true and correct.

Applicant Signature	Date Submitted
<ul style="list-style-type: none"><li>• <i>The Albany Board of Zoning Appeals shall conduct a Public Hearing during which sworn testimony will be heard by the BZA from the applicant, the Zoning Administrator, adjacent property owners and the general public.</i></li><li>• <i>Evidence will be reviewed (including that provided by the applicant) after which a decision by the BZA will be handed down. There are absolutely no assurances implied that any application will be granted or denied prior to a public hearing by the BZA.</i></li><li>• <i>The information requested on this application may be relied upon by the Village in considering the application. Any false statement made knowingly may be grounds for criminal action under state and local law: <b>Ohio Revised Code §2921.13</b></i></li></ul>	

### PROPERTY OWNER AUTHORIZATION. (If the petitioner is **NOT** the property owner, complete this section)

I, \_\_\_\_\_, the owner or authorized owner's representative of the subject property listed on this petition, hereby authorize \_\_\_\_\_ to act as my applicant or representative(s) in all matters pertaining to the processing and approval of this application, including modifying the project. I agree to be bound by all terms and agreements made by the designated representative.

Property Owner Signature	Date Submitted
--------------------------	----------------

## Petition for USE Variance

### VILLAGE ADMINISTRATOR (BZA Pre-Hearing)

#### 4. ZONING ADMINISTRATOR CHECKLIST. (Albany Village Code Chapter 155, Article 8(A))

Date: \_\_\_\_\_ Case Number \_\_\_\_\_ Filing Fee Collected \_\_\_\_\_

Type of Hearing: \_\_\_\_\_ Administrative Appeal \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_ Variance

- (A) Review, **with APPLICANT**, completed application and attachments, for accuracy, supporting documents and payment of fees.

Date petition reviewed: \_\_\_\_\_

- (B) Review, **with BZA CHAIR** within three (3) business days of completing **Section 4(a)** above, and schedule a public hearing as provided in Albany Village Code Chapter 155, Article 8(F).

Date set for Public Hearing: \_\_\_\_\_ Time: \_\_\_\_\_

- (C) Attach a list of the owners of all properties lying within, contiguous to any part of the exterior boundaries, and directly across the street from said property (A.V.C. § 155.892(A)(2).

- (D) Notice of the time and place of hearings shall be mailed, by **first class mail**, to the aforementioned property owners in **Section 4(c)** above *at least* ten (10) days prior to the hearing.

Information to be included in the notice shall include:

- street address or other means of identification of the property considered,
- the nature of the request. (*include relevant code section numbers*)
- when and where the request will be considered,
- where all related documents can be viewed prior to the public hearing,
- when and where written comments will be received.

Date notices mailed: \_\_\_\_\_ (*Attach copy of letter to this form*)

- (E) Notice of the hearing shall be published in a paper of general circulation in the Village **AND** posted at all public posting locations as set forth in A.V.C. § 32.051.01 *at least* seven (7) days prior to the hearing.

Date completed: \_\_\_\_\_ (*Attach copy of notice to this form*)

- (F) Supply to each BZA member a copy of these documents together with all other relevant information available to him/her *at least* ten (10) days prior to the public hearing as scheduled in **Section 4(b)** above.

- Materials **MUST** reach members early enough to allow adequate time to study and prepare.

Date information sent to BZA members: \_\_\_\_\_

\_\_\_\_\_  
Zoning Administrator Signature

\_\_\_\_\_  
Date

## Petition for USE Variance

### BOARD OF ZONING APPEALS

#### 5. BZA HEARING WORKSHEET. (Zoning Code §155.805)

(A) Hearing Date \_\_\_\_\_ Time \_\_\_\_\_ Case Number \_\_\_\_\_

\_\_\_\_\_ Zoning Administrator Checklist (**Section 4**) completed.

\_\_\_\_\_ Reading of the Appellant's Application. (*original must be attached to this document*)

(B) Exhibit Checklist.

\_\_\_\_\_ Completed, appropriate application form.

\_\_\_\_\_ All Required Exhibits attached. (*per Hearing Petition form*)

(C) Testimony.

\_\_\_\_\_ Sworn testimony from Applicant.

\_\_\_\_\_ Sworn testimony from Zoning Administrator.

\_\_\_\_\_ Sworn testimony from others (*first in favor, then opposed, then general*).

\_\_\_\_\_ Close testimony from the floor.

\_\_\_\_\_ Motion brought forward by: \_\_\_\_\_

\_\_\_\_\_ Motion Second made by: \_\_\_\_\_

(D) Findings of Fact.

To approve a **USE Variance** the BZA must determine that the "**unnecessary hardship**" standards, Albany Zoning Code §155.864(B) have been satisfied in their totality of circumstances by answering **TRUE** in the table below to each of the seven Use Variance statements provided in Section 2 of this application.

	TRUE	FALSE		TRUE	FALSE
Statement (1)			Statement (5)		
Statement (2)			Statement (6)		
Statement (3)			Statement (7)		
Statement (4)					

\_\_\_\_\_ **USE VARIANCE:** the existence of an "unnecessary hardship" has been proven. (§155.864(B))

(E) Review Standards. (*A.V.C. § 155.861(C), The Variance requested;*

\_\_\_\_\_ will allow preservation of equal property rights.

\_\_\_\_\_ is not of a General Nature.

\_\_\_\_\_ will not be contrary to the public interest.

\_\_\_\_\_ is consistent and harmonious to the existing uses.

\_\_\_\_\_ is the minimum that will afford relief to the applicant.

\_\_\_\_\_ meets the established standards and conditions for granting variances established in Albany Village Code Chapter 155, Article 8(D).

## Petition for USE Variance

### 6. RESOLUTION OF THE BOARD.

RESOLUTION NUMBER \_\_\_\_\_

**A RESOLUTION OF THE ALBANY BOARD OF ZONING APPEALS ORDERING AN ACTION PURSUANT TO CASE NUMBER \_\_\_\_\_ WHICH SEEKS RELIEF FROM CERTAIN PROVISIONS OF THE ALBANY ZONING CODE AS REQUESTED IN SECTION 1 OF THE APPLICATION AND IN CONJUNCTION WITH ANY SPECIAL CONDITIONS, IF ANY, AS PROVIDED BELOW.**

WHEREAS, The Albany Board of Zoning Appeals was created as provided in Chapter 155, Article 8(A) of Albany Village Code to hear and decide various requests as brought before it, and

WHEREAS, pursuant to the provisions set forth in Albany Village Code, Chapter 155, Article 8(F) evidence was presented during a public hearing, and, The Board of Zoning Appeals voted and made the following findings of fact and conclusions of law,

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS OF THE VILLAGE OF ALBANY, STATE OF OHIO:**

(A) RESULTS of the VOTE.

\_\_\_\_\_ Yea Votes      \_\_\_\_\_ Nay Votes      \_\_\_\_\_ Abstained/Recused

\_\_\_\_\_ VARIANCE APPROVED      \_\_\_\_\_ VARIANCE DENIED

(B) SPECIAL CONDITIONS ORDERED. *(If applicable)*

---

---

---

---

(C) CONCLUSION of the BOARD. *(Findings of Fact)*

---

---

---

---

THIS VARIANCE SHALL REMAIN IN EFFECT SO LONG AS THE OWNER SHALL ERECT AND MAINTAIN THE CONDITIONS AND REQUIREMENTS PROVIDED ABOVE. THE CONTINUING VALIDITY OF THIS VARIANCE IS DEPENDANT UPON THE MAINTAINING OF THE SAID VARIANCE SPECIAL CONDITIONS, IF ANY, AND COMPLIANCE WITH ALL OTHER SECTIONS OF ALBANY VILLAGE CODE.

**THIS RESOLUTION ADOPTED AS TO FORM.**

\_\_\_\_\_  
BZA Chair Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
BZA Secretary Signature

\_\_\_\_\_  
Date

*Those aggrieved by the recommendation of the BZA, and subsequent action may appeal such decision to the Athens County Court of Common Pleas, as provided for in ORC Chapter 2506.01. Such appeal petition shall be presented to the court within 30 days after the day upon which written notification of the BZA decision is mailed to the applicant or appellant.*