

APPLICATION FOR A VARIANCE



Variance & Exception Permits

A *variance* is **permission granted by the Board of Zoning Appeals to build or develop in a way which is inconsistent with the dimensional standards contained in the ordinance.** This is a checklist for the applicant to file and the Board of Zoning Appeals to consider before granting a variance. Variances are not to be granted routinely. The applicant for a variance must clearly show the Board that three statutory standards and additional court-established principals that govern granting a variance will be met.

When needed: If new construction, remodeling, moving, or relocation not specifically listed for the areas district but will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit & purposes of the zoning ordinance shall be observed & the public safety, welfare, & justice secured. Use variance shall not be granted.

Initiated by: Property owner

Submitted: On application form to Village Clerk
Submit to Zoning Board of Appeals
Final decision to Planning Committee (if necessary)
Final decision documented to Village Board

Attachments to application:

1. Name and Address of the appellant or applicant and all abutting and opposite property owners of record within 100 feet.
2. Site Plan or survey prepared by the registered land surveyor showing the location, boundaries, dimensions, elevations, uses, and size of the following: subject site; existing and proposed structures, existing and proposed easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within forty (40) feet of the subject site. In case of simple extensions, alterations, repairs or restorations the Zoning Administrator may waive any and all of the requirements to attach this survey and accept in lieu thereof a simple sketch by the applicant. The Zoning Administrator will make determination as to whether a Plat of Survey is required in each situation.

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3. Additional Information required by the Board of Zoning Appeals or Zoning Administrator.
4. Fee Receipt from the Village Treasurer in the amount set forth in the Official Fee Schedule on file at the Village office.

Time frame: 10-day notice prior to Public Hearing, approximately 60 days from application.

Expiration: Shall expire within 6 months unless substantial work has commenced pursuant to such grant.

Village Ordinances: Section 10.5, Chapter 12 Zoning regulations.

General Information

The purpose of the hearing on a zoning appeal or application for variance from the zoning ordinance is to allow a property owner a forum at the local level in which to obtain relief without the necessity of commencing a court action. By state law, the Zoning Board of Appeals is the body charged with hearing such appeals or applications. Although not subject to formal court rules, the board in hearing appeals or applications acts as a quasi-judicial body and must act impartially on the basis of the facts presented at the hearing and the provisions of the local zoning ordinance.

Because the board must act on the basis of facts and the written ordinance and not on the basis of its own personal preferences or the emotion of the applicant or neighboring property owners, it is essential that order be maintained and the presentations be limited to facts.

In almost every appeal or application for variance, the location of the premises and surrounding uses are critical facts. Therefore, familiarity with site conditions is helpful to the board in making its final decision.

On-site inspections may be conducted individually or by the board as a body. If the board decides to view the site as a body, this will constitute a public meeting and will be subject to all of the requirements of the Wisconsin Open Meeting Law. You will be notified of the time of any site inspection and the hearing date, time and place. You have the right to refuse site inspection, but such refusal will be deemed a withdrawal of your application.

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1. *What is the Unnecessary Hardship?*
 1. Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of the property, or strict conformity is unnecessarily burdensome.
 2. 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.
 3. Loss of profit or financial hardship is not in and of itself grounds for a variance.
 4. Self-imposed hardship is not grounds for a variance. (Splitting a lot to create 2 substandard lots & then claiming hardship.)
 5. The hardship cannot be one that would have existed in the absence of a zoning ordinance.
2. *Is There a 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. (Steep slope, wetlands etc.; not growing family, desire for more living/storage space.)
3. *Is This in the Protection of Public Interest?* Granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. The public interest includes the interests of the public at large, not just the nearby property owners.
 1. In granting variances, the Board may impose special conditions to ensure that the public welfare will not be damaged. The conditions must relate reasonably to the purpose and intent established in the zoning ordinance.
 2. A variance should only include the minimum relief necessary to allow reasonable use of the property.

Additional Court-Established Principles.

**Violations by or variances granted to neighboring owners do not justify a variance.
Variances attach to the property as a permanent right.**

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APPPPLICANT'S PROCEDURE CHECKLIST FOR ZONING VARIANCE

- [] Make an appointment with the Village Clerk for a preapplication conference:
 - To receive additional information on the granting of variances.
 - To discuss your plans for a proposed variance.
- [] Submit a completed application to the village clerk. Such application should be submitted by 4:30 p.m. Monday through Thursday and should include a minimum of 8 complete sets of plans and a completed variance questionnaire.
- [] Verify the site plans. Include maps or descriptions:
 - Showing building location.
 - Showing driveways, parking, outdoor lighting.
 - Showing existing and proposed landscaping.
 - Indicating neighboring property owners and their addresses.
- [] Receive notice of date and time of site inspection by Zoning Board of Appeals.
- [] Receive notice of variance hearing from the Zoning Board of Appeals.
- [] Appear at the variance hearing before the Zoning Board of Appeals. Failing to appear will be considered an automatic dismissal of the variance requested unless a waiver is approved.
- [] Receive notice of Board action on application for variance.
- [] Receive copy of Board written decision approving or denying the variance requested.
- [] Apply for building permit(s) in compliance with the variance.

OR

- [] Commence action in circuit court, within 30 days of filing of written decision, to challenge denial of variance.
- [] Variance requests that have been denied can not be submitted again for a time period of one year.

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Date Filed _____
Fee Paid _____
Fee 300.00

To the Zoning Administrator and Zoning Board of Appeals:

We the undersigned hereby make application for a variance for the work described and location as shown herein. We agree that all work shall be done in accordance with the requirements of the Highland Zoning Ordinance and with all other applicable Village Ordinances and the laws and regulations of the State of Wisconsin. We understand that all work shall be substantially complete within six months or the permit will expire.

Parcel Number _____ Phone Number _____

Applicant (property owner) _____

Physical Address _____

Names of architect, professional engineer, or contractor, if any:

Variance relating to: (check all that apply)

_____ lot area _____ setback _____ lot width _____ other

Description of existing operation or use _____

Description of proposed operation or use _____

Type of structure _____

Lot size _____ (width) _____ (length) _____ (total square feet)

Zone _____ Use _____ No. of apts. _____

No. of employees _____ No. parking spaces _____ Estimated cost _____

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Describe your project, (new house, remodeling, addition, demolition etc.) Attach a copy of the building site plan on a separate sheet of paper (showing streets; lot size; size and location of existing and proposed buildings; front yard, rear yard and side yard setbacks.) Explain why a variance is needed listing the unnecessary hardship, the unique property limitation and the protection of public interest (see page 2) If you need more room attach a separate piece of paper.

Certificate

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

Applicant (property owner) _____

Mailing Address _____

(Signed)

(Date)

Approval or Refusal

Date Variance (Issued, Denied) _____ By: _____

Notes:

Permit May Be Revoked without notice if misrepresentation of any of the above information or attachments is found to exist.

Variance Shall Expire within six (6) months unless substantial work has commenced.

Variance Is Null and Void if issued in error. It is understood that any permit issued on this application will not grant any right or privilege to erect any structure or to use any premises for any purpose that is prohibited by the Zoning Ordinance or any other state or local laws.

Changes in the plans or specifications submitted in the original application shall not be made without prior written approval of the Board of Zoning Appeals.

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