



BOARD OF APPEALS PROCEDURES

A property owner may file for a variance when special conditions, unique to the property, will not allow the property owner to meet the dimensional standards of the Zoning Code. The property owner must demonstrate that "unnecessary hardship" is caused by the terms of the Ordinance. In formulating its decision for variance requests, the Zoning Board of Appeals acts as an agent of the Village. By law, the Board is not permitted to represent the property owner. It is the duty of the Board to preserve the Zoning Code without modification as much as possible, while assuring substantial justice to the Appellant. When a variance is granted, it should be for an alternative with the least impact or least possible modification to the Zoning Ordinance.

As an Appellant for a variance, you must submit a completed application to the Planning Services Division within twenty (20) days of the date the Zoning Administrator decided against your proposal. You are responsible for presenting your own case to the Zoning Board of Appeals. The City's staff and the Board may not legally represent you. You may, however, have legal counsel represent you during your hearing.

By law, variances to the provisions of the Zoning Code may be granted by the Board after a public hearing is held on the matter and finds that all of the following facts and conditions exist, and so indicates in the minutes of its proceedings:

Step 1: Contact Village Planning to Discuss your Proposal

All applicants are strongly encouraged to schedule a pre-application meeting with the Zoning Administrator to review the code requirements and the variance necessary. Meetings should be held one week prior to submittal of the application in order to allow the applicant time to make necessary changes or additions to their application.

Step 2: Submit for the Variance

By law, variances to the provisions of the Zoning Code may be granted by the Board after a public hearing is held on the matter and finds that all of the facts and conditions exist discussed below. A petitioner's submittal package should consist of the application along with any of the below information that is pertinent to the variance being requested. A series of questions that may be answered to meet the intent of the law are provided to aid a petitioner meet the intent of variance laws.

SUBMITTAL NEEDS:

- "BOA Variance Application Packet" and the required submission fees.
- Current Plat of Survey showing exact existing and requested dimensions of the variance.
- A narrative and/or supporting photos, documents, paperwork, etc. that may have a bearing on the variance request and that support the following requirements of WI variance laws:

Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.

Exceptional Circumstance. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be so general or recurrent in nature as to suggest that the zoning ordinance should be changed.



BOARD OF APPEALS VARIANCE PROCEDURES CONTINUED

Economic Hardship and Self-imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.

Preservation of Property Rights. The variance shall be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

Absence of Detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of the zoning ordinance and public interest.

**Additional requirements apply when considering variance requests in floodplain districts.*

- A narrative describing your request may include answering the following questions in order to support an argument meeting the variance laws noted above:
 - What are the specific hardship(s) relating to your variance request?
 - What are the effects on the property if the variance is not granted?
 - What are the alternatives that you considered that comply with existing regulations and reasons for not pursuing the alternatives?
 - Do unique physical characteristics of your property prevent compliance with the ordinance?
 - Would granting of the variance be contrary to the public interest?
 - Why would not getting the variance unreasonably prevent you from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome?

Step 3: Public Hearing and Approval Process

A submittal must be published in the newspaper at least once and the meeting notice will be mailed to all property owners within 100' of the property and across the street. Please see the Board of Appeals meeting schedule for specific meeting dates and submittal requirements. The Plan Commission will hold the public hearing and make their recommendation.

Step 4: Zoning Permits & Other Approvals

After a variance is granted by the Board of Appeals a petitioner may then file for any required permit to complete their desired project. Certain approvals may require conditional use permit and/or building, site, and operation plan approvals in front of other Village Boards as well.

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