

DOUGLAS COUNTY BOARD OF ADJUSTMENT
1313 BELKNAP STREET, ROOM 206, SUPERIOR, WI 54880
PHONE 715-395-1380 / FAX 715-395-7643

APPLICATION FOR VARIANCE

NO. _____

PLEASE NOTE: You should contact your Town Board chairman and attend your local Town Meeting to present your proposed plans to the Planning Commission and/or Town Board prior to the County Board of Adjustment's public hearing. Failure to do so could result in delay or denial of your request. The Board will request input from the Town.

Date of application: _____ **Hearing Date:** _____

Property Owner's Name: _____

Mailing Address: _____ City, State, Zip _____

Telephone: _____ E-mail Address: _____

PROPERTY DESCRIPTION: Information must be complete and accurate. If applicable state lot number, block number, subdivision name, government lot number, quarter sections, etc. (Note: This may be copied from your tax notice or deed.)

Tax Parcel #: _____ Section _____ Town _____ N Range _____ W _____

Town of: _____ Parcel Acreage or Size: _____

Property Address: _____

Legal Description: _____

Water Body: _____ Wetlands: Yes No

Zone District: _____ Floodplain: Yes No

Present improvements on property (describe all existing structures): _____

Proposed Improvements: _____

Lakeshore setback requested _____ feet from the OHWM of _____ (waterbody)

Lot line setback requested _____ feet from _____.

Road setback requested _____ feet from the centerline of _____ (road/highway)

Other request: _____

Decision:					
Date:		<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Conditions	<input type="checkbox"/> Denied	<input type="checkbox"/> Split (see Decision Sheet)
Notes:					

To qualify for a variance, you must meet all three requirements of a three-step test:

Explain in detail how the proposal meets all three approval criteria. (See attached instructions for definition and explanation of what this should describe.)

STEP 1. What unnecessary hardship will result from the strict application of the Counties ordinance requirement?

STEP 2. The hardship described in step 1 above is due to what unique physical limitations of the property?

STEP 3. If a variance were granted would it cause harm to the public's interest? YES / NO Explain below:

Property Owner or Agent Signature

Date Signed

Printed Property Owner or Agent Name

By signing this application, I give my/our permission to allow a site inspection to be made of the site by the Zoning Office, and/or Board of Adjustment members and allow photographs to be taken if necessary. To the best of my knowledge the information provided is true and accurate.

IMPORTANT:

Approval of this variance does not grant permission to commence development until all permits are issued and conditions or requirements are satisfied.

Type	Amount	Vendor #	Date Paid	Receipt #
Variance	\$ 600.00			
After-the-Fact Variance	\$ 1200.00			

SITE PLAN AND LOCATION MAP (on reverse)

On the reverse side you will provide a site sketch. Your site sketch shall include the following:

1. Using the frontage road as a guideline (indicate the name of the road), fill in the lot dimensions.
2. Show the approximate location and size of the new building (NB).
3. Show all existing buildings on your property (EB).
4. Show location of the existing well (EW), new well (NW), privy, septic tank (ST) and drain field (DF) or holding tank (HT).
5. Show the location and name of any lake, river, stream or watercourse on or near property.
6. Show the dimensions, in feet, of the following on the diagram:
 - a. New building to all lot lines.
 - b. New building to centerline of road
 - c. New building to ordinary high water mark of lake, river or stream
 - d. New building to septic tank or privy
 - e. Septic tank or privy to well
 - f. Septic tank or privy to lake, river or stream
 - g. New building to drain field
 - h. Drain field to well
 - i. New building to well

Property Address: _____ Town of _____

Tax Parcel I.D.: _____ Date _____

North

Variance Application Sketch

A large, empty rectangular box with a thin black border, intended for a hand-drawn sketch of the variance application. The box is oriented vertically and occupies most of the page's width and height.

South

ZONING VARIANCE

APPLICATION FORM AND NOTICE OF REQUIREMENTS

I. Variance

A variance is a relaxation of a standard in the zoning regulation (e.g., land use, setbacks, lot area, height, etc.). Variances are decided by a five member Board of Adjustment appointed by the County Board Chair with approval of the County Board of Supervisors. The Board of Adjustment is known as a quasi-judicial body because it functions like a court. Its decisions must comply with specific criteria provided in state statute and case law. The Board of Adjustment must apply the county ordinance provisions as they are written. Its job is not to compromise for a property owner's convenience but to apply appropriate legal standards to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

II. Process

A. Read the County Zoning Ordinance. The ordinance describes the minimum requirement for your project, including citing regulations, e.g. setbacks, height limits, the gross-floor-area restrictions, etc., and the process for requesting a variance to these restrictions. As the applicant, you are responsible for determining and complying with all legal requirements. If you have any questions about these requirements, contact the Zoning Administrator.

B. Fill Out the Application (4 pages)

a. Page 1 – General Information

b. Page 2 – Three Step Test: To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

1) **Unnecessary hardship** *(To be completed by the applicant)*

Area Variance – For an area variance, unnecessary hardship exists when compliance with the ordinance provision(s) would unreasonably prevent the owner from using the property for a permitted use or would render conformity with such restrictions unnecessarily burdensome. The Board of Adjustment must consider the purpose of the zoning restriction, the zoning restrictions affect on the property, and the short-term and cumulative effects of a variance on the neighborhood, the community and on the public interests. This standard reflects the 2004 Ziervogel and Waushara County Court decisions.

Use Variance – For a use variance, unnecessary hardship exists only if the property owner shows that without a variance they would have no reasonable use of the property.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

2) **Unique property limitations** *(To be completed by the applicant)*

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives you considered.

No. A variance cannot be granted.

3) No Harm to Public Interests (To be completed by zoning staff)

A variance may not be granted which results in harm to public interests. In applying this test, the zoning board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for conforming uses, structures and lots
- Any other public interest issues

c. Pages 3-4 – Detailed sketch, pg 3 is instructions for sketch; pg 4 complete with accurate measurements of proposed construction and setbacks.

C. Submit Completed Application and Pay Fee - nonrefundable fee to Douglas County Zoning

D. Stake the Site in preparation for site visit by Board members. You should stake out lot lines, proposed building footprint and all other features of the property related to your request so the Board may inspect the site prior to the hearing.

E. Contact your Town Board Chairman and attend your local Town Meeting to present your proposed plans to the Planning Commission and/or Town Board prior to the County Board of Adjustment's public hearing. Failure to do so could result in delay or denial of your request. The Board will request input from the Town.

F. Publication:

The Zoning Office will notify the Town and adjoining owners and will publish notice of your request for a variance in the County's official newspaper noting the location and time of the required public hearing.

G. Hearing:

The burden is on you, as property owner, to provide verifiable facts upon which the Board may base its decision. The board members will visit the site prior to the hearing. At the hearing, any party may appear in person or be represented by agent or attorney. If any of these requirements are not met or if you or your agent does not appear at the public hearing, the Board may deny your request for a variance and your fee will be forfeited.

H. Outcome

- The Board may grant only the minimum relief which balances property owners desires and the public interest.
- The Board may impose conditions on project design, construction activities or operation of a facility to assure that public interests are protected.
- A Board decision may be appealed to circuit court by any aggrieved party within 30 days of filing of the decision in the office of the Board. For this reason you may choose to delay construction on your project until after the appeal period has expired in order to minimize the risk that the court may overturn the Board decision and void your variance.
- Because a property, rather than its owner, may qualify for a variance (unique property limitations test), a variance "runs with the land" and the decision transfers to subsequent property owners.
- Approval of this variance does not grant the permit until all conditions or requirements are satisfied.