



## Winnebago County Zoning Department

The Wave of the Future

### VARIANCE APPLICATION INSTRUCTIONS

1. ***A site plan must be included with the application.*** Site plan should be drawn to scale showing exact property dimensions, setbacks (existing and proposed), building dimensions, etc.
2. The application should include any and all pertinent information. Use an additional sheet of paper if necessary.
3. Application Requirements:

- Item A:
- A-1:** ALL property owners must sign. Original signature must be submitted.
  - A-2:** If applicable, the agent must complete and sign this section.
- Item B:
- B-1:** This information can be obtained from the tax bill, deed, or the County's GIS Mapping System.
  - B-2:** Identify the property by address, or closest address and directions (such as North of 2222 Address Road).
  - B-3:** Indicate current or proposed zoning.
  - B-4:** Describe the proposed use of the property.
  - B-5:** Check if sanitary service is existing or required and if the property will be served by municipal sewer or a private sanitary system.
- Item C:
- C-1 thru C-4:** To be completed in your own words.

4. Filing:  
File the completed application, site plan, and filing fee with the Zoning Office by the date indicated on the schedule provided. We suggest scheduling an appointment with Zoning Staff when filing the application to confirm that all necessary information is being submitted. **Incomplete applications may be delayed until all necessary information has been submitted.**
5. The applicant must contact the Town in which the property is located in order to be heard. Failure to contact the Town may result in the application being denied. Application fees are non-refundable.

**IMPORTANT:** Any Variance granted shall expire twelve (12) months from the date of approval unless substantial work has commenced.

If you have any questions concerning the application procedure, please contact the Zoning Office Monday through Friday, 8:00 a.m. to 4:30 p.m.

**Winnebago County Zoning Department**

P.O. Box 2808  
112 Otter Ave, 3<sup>rd</sup> Floor  
Oshkosh, WI 54903-2808  
(920) 232-3344  
(920) 232-3347 (fax)

For office use only

Checked FLUP \_\_\_\_\_ Agreed \_\_\_\_\_

Receipt # \_\_\_\_\_

Application #: \_\_\_\_\_

**VARIANCE APPLICATION****Fee: \$765.00**

(Please print or type. Please use black ink for duplicating purposes.)

**Payable to:** Winnebago County**A. PROPERTY OWNER:**

A-1 NAME: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**NOTE: all property owners must sign application (husband & wife; all co-owners). Use the additional page if necessary.**

Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Property Owner #1 Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner #2 Signature \_\_\_\_\_ Date \_\_\_\_\_

**I HEREBY APPOINT THE FOLLOWING AS MY AGENT FOR PURPOSES OF THIS APPLICATION:**

A-2 AGENT (NAME): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Agent's Original Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**B. PROPERTY INFORMATION:**

B-1 Tax Key/Parcel #: \_\_\_\_\_

B-2 Location/address of affected property: \_\_\_\_\_

B-3 Current Zoning: \_\_\_\_\_

Zoning Code Legend			
<b>A-1</b>	Agribusiness district	<b>B-1</b>	Local Service Business district
<b>A-2</b>	General Agriculture district	<b>B-2</b>	Community Business district
<b>R-1</b>	Rural Residential district	<b>B-3</b>	General Business district
<b>R-2</b>	Suburban Residential district	<b>I-1</b>	Light Industrial district
<b>R-3</b>	Two-family Residential district	<b>I-2</b>	Heavy Industrial district
<b>R-4</b>	Multifamily Residential district	<b>M-1</b>	Mixed-Use district
<b>R-8</b>	Manufactured/Mobile Home Community district	<b>PDD</b>	Planned Development district

B-4 **SEWER:** ☐ Existing ☐ Required **TYPE:** ☐ Municipal ☐ Private System

**PROPERTY OWNER SIGNATURES**

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Name (printed): \_\_\_\_\_

Owner #3 Signature: \_\_\_\_\_

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

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Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Name (printed): \_\_\_\_\_

Owner #4 Signature: \_\_\_\_\_

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

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Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Name (printed): \_\_\_\_\_

Owner #5 Signature: \_\_\_\_\_

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

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Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Name (printed): \_\_\_\_\_

Owner #6 Signature: \_\_\_\_\_

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

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Permission is hereby granted for appropriate County Staff to enter upon the property for the placement and removal of hearing notices and conducting inspections prior to hearing. Said permission is to remain in effect until the conclusion of the Public Hearing and is binding upon all heirs and assigns.

Name (printed): \_\_\_\_\_

Owner #7 Signature: \_\_\_\_\_

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

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## **VARIANCE APPLICATION**

Responses may be typed on a separate sheet and attached to this form.

**Applicant, please fill out all of the questions in your own words.**

**C-1 Describe your project, include the dimensions and proposed setbacks:**

**C-2 Describe how compliance with the requirement in question unreasonably prevents or restricts development of a permitted use on the property:**

**C-3 Describe the unique physical characteristics or limitations that prevent the property from being developed in compliance with the requirement in question:**

**C-4 Describe how the granting of the requested variance will not harm public interest or have adverse affects on surrounding properties. :**

## VARIANCE APPLICATION APPENDIX A

The following appendix includes associated excerpts from the *Zoning Board Handbook for Wisconsin Zoning Boards of Adjustment and Appeals 2<sup>nd</sup> Edition 2006* by Lynn Markham and Rebecca Roberts of the Center for Land Use Education. The full document can be viewed through the Center for Land Use Education website: <http://www.uwsp.edu/cnr-ap/clue/Pages/default.aspx>

### Area and Use Variance Decision Process

**Step 1: Consider alternatives to the variance request.**

**Step 2: Determine if all three statutory variance criteria are met.**

**Area Variance** – Provides an increment of relief (normally small) from a dimensional restriction such as building height, area, setback, etc.

**Use Variance** – Permits a landowner to put property to an otherwise prohibited use.

**1. Unnecessary Hardship** exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. Consider these points:

- Purpose of zoning restriction
- Zoning restriction's effect on property
- Short term, long term and cumulative effects of variance on neighborhood and public interest.

**1. Unnecessary Hardship** exists when no reasonable use can be made of the property without a variance.

**2. Unique physical property limitations** such as steep slopes or wetlands must prevent compliance with the ordinance. The circumstances of an applicant, such as a growing family, elderly parents, or a desire for a larger garage, are not legitimate factors in deciding variances.

**3. No harm to public interests** A variance may not be granted which results in harm to public interests. Public interests can be determined from the general purposes of an ordinance as well as the purposes for a specific ordinance provision. Analyze short-term, long-term and cumulative impacts of variance requests on the neighbors, community and statewide public interest.

**Step 3: Grant or deny request for variance recording rationale and findings.**

## **Additional Standards for Granting a Variance**

Few areas of land use law are as extensively litigated as the standards necessary to qualify for a variance. The rich case law concerning variances provides these additional guiding principles that a zoning board should rely on in their decision-making. Published court decisions provide guidance for board members and are cited in the endnotes. Websites for accessing case law are provided in Appendix B.

- **Parcel-as-a-whole.** The entire parcel, not just a portion of the parcel, must be considered when applying the unnecessary hardship test.
- **Self-imposed hardship.** An applicant may not claim hardship because of conditions which are self-imposed. Examples include excavating a pond on a vacant lot and then arguing that there is no suitable location for a home; claiming hardship for a substandard lot after selling off portions that would have allowed building in compliance; and claiming hardship after starting construction without required permits or during a pending appeal.
- **Circumstances of applicant.** Circumstances of an applicant such as a growing family or desire for a larger garage are not a factor in deciding variances.
- **Financial hardship.** Economic loss or financial hardships do not justify a variance. The test is not whether a variance would maximize economic value of a property.
- **Nearby violations.** Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance.
- **Objections from neighbors.** A lack of objections from neighbors does not provide a basis for granting a variance.