

**Other Information Brochures
Available from the Office of
Planning & Zoning**

**Special Exception
Permits**

LandUse Permits

Zoning & Shoreland

**Summary of
Minimum
Provisions**

Petition to Rezone

Certified Survey Map

Approvals

Filling & Grading

Wisconsin Fund

**Inoperable/Unlicensed
Vehicles**

Variance Request



**505 Broadway
Baraboo, WI 53913
608-355-3285 Phone
608-355-4440 Fax**

Variance: A variance is a changing of the law(s) for a person at a specific site, providing the applicant can show hardship, uniqueness of the property and public interest.

In order to file for a hearing before the Board of Adjustment, the "Notice of Appeal" form must be correctly filled out, and are available at the Office of Planning and Zoning. Help in filling out the form is available at the Planning and Zoning Office. Also, a letter from the Town Board and/or Land Use Committee is helpful.

An applicant is legally responsible for providing all information necessary to justify the action being requested. The Board of Adjustment must deny an appeal if insufficient information is available to it at the hearing. While the Planning and Zoning Office will try to help make sure relevant information has been provided at the time of application, the applicant or an agent with full knowledge of the appeal must be personally available at the hearing to answer questions which may arise.

When your existing or proposed structure does not comply with the requirements of the Sauk County Code of Ordinances, due to hardship beyond your control, you may apply for a Variance.

State law sets three standards for granting a zoning variance.

Variance Standards

Applicants must provide evidence to the local board that their situation meets the standards.

- ↪ Unnecessary hardship
- ↪ Unique property feature
- ↪ Not contrary to public interest.

Unnecessary Hardship:

Application of the zoning ordinance to the site must cause unnecessary hardship. When does the unnecessary hardship occur?

Denied All Reasonable Use of Property. The Wisconsin Supreme Court has ruled that unnecessary hardship only exists when the zoning ordinance denies all reasonable use of a property. Generally a variance is not warranted if the physical character of the property would allow a landowner to develop or build in compliance with a zoning ordinance.

↪ *No Self-Imposed Hardships.* The State Supreme Court also ruled that a hardship may not be self imposed. An example of a self-imposed hardship would be someone who builds at a setback and later requests a variance for an addition within the setback area. Such a variance should be denied because the applicant created hardship

Variance Standards Continued...

building at the setback and restricting future building or expansion options.

↪ *Loss of Profit Not Hardship.* Loss of profit is not in itself an unnecessary hardship, nor is additional expense incurred to comply with zoning ordinances. For instance, limiting the number of units which can be built on a parcel, may reduce potential profits but is not an unnecessary hardship.

↪ *Due to Regulations.* The hardship cannot be one that would have existed in the absence of the zoning ordinance. Some properties may not be buildable because of the physical nature of the property. For instance, if an entire parcel consists of land with a steep slope, or is entirely covered with wetlands, the property would not be suitable for development whether or not there was an ordinance regulating such development. In such extreme cases, the only reasonable use may be for open space uses.

Unique Property Limitations

Unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance.

↪ *Physical Features:* Wetlands, soils type, bedrock and steep slopes are some characteristics which may limit use of a property.

↪ *Property limitations - Not Applicant's Circumstances:* The property must qualify for the variance, not the situation of the applicant.

↪ *Violations/Previous Variances not Grounds for Variance:* Existing violations on other properties, or improper variances previously granted, are not grounds for a variance. Applicants must be evaluated individually based on the variance standards.

Amend Zoning Ordinance: Variances should not be granted for property features affecting many parcels in the same way. The property remedy in such a situation is to amend the zoning ordinance.

Public Interest Protected

Granting of a variance must not harm the public interest.

↪ *Look to Ordinance Objectives:* Board members should look to the objectives statement in their local ordinance to determine what constitutes public interest. For example, shoreland zoning protects the public interest in water quality, fish and wildlife resources, shore cover and natural beauty.

↪ *Not Just Lack of Opposition:* The fact that there is no objection to a variance from neighbors or area residents does not necessarily mean a variance would not harm the public interest. A local zoning board must consider the public at large and not just nearby property owners.

↪ *Minimum Relief:* Landowners who do qualify for a variance are to be granted only the minimum relief necessary for them to have reasonable use of their property. Boards also have the authority to impose conditions on a variance to protect the public interest. *Applicants must prove their*

situation meets ALL three of these standards.

After receipt of the completed application form and other required materials, a staff member from Planning and Zoning will begin preparing your case for a public hearing before the Board of Adjustment (BOA). For property owners that commenced work prior to a required Board of Adjustment action, you will have 60 days to submit a completed application and plans. If you fail to do this, enforcement action will be taken and citations will be issued.

Application Process

Approximately 6 weeks will pass between the submission of your application and the date of the BOA's public hearing. The request will be legally noticed in the newspaper, the adjacent property owners will be notified and a staff report will be prepared for the BOA. You and all the adjacent property owners will be notified by mail of the time, date and place of the public hearing.

At the public hearing, the staff member will first present a summary of the request. Other representatives from the Planning and Zoning department also may comment when the request requires them to do so.

You or your agent must appear to present your proposal and answer questions. Other interested parties, adjacent will be allowed to speak if they wish.

The BOA will ask questions of the public, staff or of the applicant during the hearing. Once all input has been received by the BOA, they will then conclude the public testimony and publicly vote to approve or deny your request.

If your request is APPROVED, you will receive in writing a "Decision Letter" outlining the Board's decision and any conditions attached to the approval. You will receive the letter of approval in the mail approximately 10-30 days after the hearing. Once you receive a copy of the decision letter, you may then apply for a building permit.

If your request is DENIED, you may:

1. Appeal the BOA's decision to County Circuit Court within 30 days from the date of the Decision Letter.

