



PETITION FOR VARIANCE

LINCOLN COUNTY BOARD OF ADJUSTMENT

Receipt: _____ Fee: \$450 VAR- _____ - _____

APPLICATION WILL BE RETURNED/DISMISSED IF NOT COMPLETED IN FULL

Property Owner Information

Name : _____ Daytime Phone: (_____) _____

Mailing Address: _____ City, State ZIP _____

Petitioner Information (if other than property owner)

Name : _____ Daytime Phone: (_____) _____

Mailing Address: _____ City, State ZIP _____

Site Address: _____ Zoning District: _____

Legal Description Summary: _____ Acres: _____

Section: _____ Township: _____ North Range: _____ East

Gov Lot: _____ OR Quarter/Quarter: _____

Lot Number: _____ Subdivision/CSM: _____

Current use and improvements: _____

Proposed use and improvements: _____

Ordinance section relating to variance request: _____

Relief is requested to allow: _____

Address each of the following criteria for granting a variance (please be specific).

1) Unnecessary hardship is present because... _____

2) Unique features of this property prevent compliance with the terms of the ordinance; they include... _____

3) A variance will not be contrary to the public interest because... _____

Town

Tax Parcel #

First Name

Last Name

Owner

Names of adjoining property owners: _____

Application must include a Plat of Survey or a Certified Survey Map (CSM) prepared by a registered land surveyor in the State of Wisconsin meeting the requirements of Section 17.8.40(2)(a), and indicating where the variance is requested per 17.8.60(2)(d)

A SCALE DRAWING MUST BE ATTACHED that accurately depicts the following:

Include on the drawing ALL of the information requested below that applies to the property.

1. Shape of parcel, include all lot line dimensions.
2. Indicate NORTH.
3. Show the location and names of all surrounding roads/highways.
4. Show the location and names of all area water bodies (lakes, rivers, creeks, ponds, etc.)
5. Indicate ALL other existing buildings on parcel with "EB".

Complete the following if the request is for NEW Construction

6. Show the location of the proposed construction on the parcel. Include the following measurements:
 - a) Distance from the centerline of any/all roads.
 - b) Distance from the right-of-way of any/all roads.
 - c) Distance to all lot lines.
 - d) Distance to any/all water bodies adjacent to or within the parcel.
7. Indicate distance from septic tank or holding tank to proposed construction.
8. Indicate distance from sewage system drain field to proposed construction.
9. Indicate distance from well to proposed construction.
10. (IF on water) Indicate proposed clearings within the vegetative buffer zone (please refer to Shoreland Ordinance for limitations on different water classifications).

APPLICANTS ARE REQUIRED TO CLEARLY MARK THE LOCATION OF:

1. The proposed change of construction
2. All Property Lines
3. Sanitary System components (Drain fields, tanks, etc.)
4. Well(s)
5. Other physical features pertinent to the decision.

THESE FEATURES SHOULD BE MARKED WITH HIGH VISIBILITY FLAGS, TAPE, OR STAKES

Additional information beyond what has been specifically requested in this application may be required by the Lincoln County Board of Adjustment before rendering a decision. Failure to provide all requested information could result in the dismissal or denial of your application. The Lincoln County Board of Adjustment is governed by Rules of Procedure. A copy of the Rules of Procedure are available to any interested party upon request.

To the Lincoln County Zoning Administrator / Lincoln County Board of Adjustment: The undersigned hereby makes application for a PETITION FOR VARIANCE for work described and located as shown herein. The undersigned agrees that all work shall be done in accordance with the requirements of the Lincoln County Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Note: ALL property owners must sign.

Property Owner Signature: _____ Date: _____

Property Owner Signature: _____ Date: _____

FOR OFFICE USE ONLY

Date Application Received: _____ By (Staff): _____ Date of Hearing: _____



Lincoln County Variances & the Board of Adjustment

The Board of Adjustment

The Board of Adjustment consists of members who reside in the unincorporated areas of Lincoln County. They are appointed by the Zoning Committee for three year terms and act in a similar fashion to a jury. The Board is governed by a set of Rules of Procedure. These rules are available to any interested party upon request.

What is a Variance?

A variance is a relaxation of a dimensional standard in land use regulations (such as setback distance, lot area, water frontage, etc.) Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

PUBLIC HEARING DATES (Thursdays)	APPLICATION DEADLINE (Wednesdays)
April 25, 2024	March 27, 2024
May 23, 2024	April 24, 2024
June 27, 2024	May 29, 2024
July 25, 2024	June 26, 2024
August 22, 2024	July 24, 2024
September 26, 2024	August 28, 2024
October 24, 2024	September 25, 2024

- Schedule subject to change at call of Chairman – Check your Public Hearing Notice
- A Special Meeting may be called by an applicant – (+\$600) (Must still meet legal notice requirements.)
- Applications for variances must be received in the calendar year the meeting will occur (exceptions may be made at the discretion of Zoning Administration for special meetings that would occur shortly after the new calendar year.)

What you should know before you apply for a Variance

Lincoln County, like other counties in Wisconsin, have adopted regulations that meet or exceed state standards to protect water resources, property values, and natural scenic beauty. These regulations include setbacks for structures from property lines and waterways. Appeals to these standards must meet very specific criteria prior to being granted. The Zoning Board of Adjustment (BOA) is the voluntary local governing body appointed by the county board. The BOA is authorized by law to review requests to vary the rules established in the zoning ordinance.

However, the BOA must review your request within specific variance standards established by state law. An applicant must clearly show the board that all of these standards require the existence of an unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest, i.e. water quality, scenic beauty, fish and wildlife habitat, etc. In general, the Board considers the following tests in determining whether a variance should be granted or denied:

- Will an unnecessary hardship result if the zoning standard is strictly enforced?
- Is the hardship caused by the unique physical limitations of the property in question?
- Will the public interest be protected despite relaxing the zoning regulation?

These three standards have been tested by the courts over the years. Understanding the interpretation of variance standards by the courts will help you determine whether or not to proceed with applying for a variance...

What you should know before you apply for a Variance (continued...)

Unnecessary Hardship

The strongest case for granting a variance occurs when the strict enforcement of the ordinance is unduly burdensome and meets the following qualifications:

- The regulation has denied all reasonable use of the property
- The hardship has not been created by the applicant
- The hardship is created by the regulation
- Loss of profit or property value is not the source of the grievance
- Additional expense incurred is not the source of the grievance

Unique Property Feature

The zoning variance is a way that flexibility has been built into zoning, and is only appropriate when appealing from the dimensional requirements of the ordinance. For a property to qualify as having a “unique feature,” it should meet several conditions:

- Features like wetlands or steep slopes make the strongest case
- It should apply to the property, not the applicant’s personal circumstances
- It should not be a situation better addressed by a change in the zoning ordinance
- The limiting features should not be identical to conditions found on neighboring lots

Public Interest Protected

The duty of the Board of Adjustment is to uphold the zoning ordinance. Imposing conditions or compromising on the exact details of the proposed construction may help meet the goal of protecting public interest. In general, the Board must seek to:

- Meet the basic objectives of the ordinance
- Consider the broad public interest, not just the local neighbors
- Make the minimum relaxation of the ordinance necessary to relieve the hardship

Most often applications fail to meet the unnecessary hardship test.

The term “hardship” is misinterpreted by applicants to mean a financial or personal inconvenience. The legal definition is really quite different.

An unnecessary hardship is a situation where;

1. In the absence of a variance, and owner can make no feasible use of the property, or strict conformity is unnecessarily burdensome.
2. The hardship or difficulty must be peculiar to your parcel and not one which affects all parcels similarly.
3. Loss of profit or financial inconvenience is not in and of itself grounds for a variance.
4. A self-imposed problem or inconvenience is not grounds for a variance.

**Prior to applying for a variance please consider the facts of your request.
Will the board be able to determine that your variance request meets the legal requirements for a variance?**



Variance Application & Public Hearing Procedures

Overview of the Process

1. Application materials, scale drawing and fee are submitted to Lincoln County Land Services by the deadline
2. Applicant flags location of proposed construction and other important features on property
3. Hearing date is set and Class II notices are posted on the County website and on the County bulletin board in the Lincoln County Service Center.
4. Surrounding property owners and the Township Chairman & Clerk are notified of the variance application. If the property is located in the Shoreland zone, the Department of Natural Resources (DNR) is notified.
5. Zoning staff visits the site to complete a report and recommendation
6. Board of Adjustment visits the site the morning of the hearing
7. Testimony is taken, evidence is examined, and decision is made in public hearing
8. Appeals of decisions may be filed for the 30 days following the filing of the decision. Appeals are heard through the circuit court system. Note: This entire process takes 4 to 8 weeks and may take longer depending on the complexity of the situation.

The Application

What are the Applicant's Responsibilities?

The burden is on the applicant or property owner to provide verifiable facts upon which the Board of Adjustment can make its decision. A scale drawing of the property must be included with the application. The location of property lines, septic systems, wells and the proposed construction must be clearly marked on the property. It is up to you to make your case! At the hearing, any party may appear in person or be represented by an agent or attorney. A scale drawing of the property is required.

Submitting an Application

The application deadline is set approximately 30 days before the hearing in order to accommodate statutory requirements for publishing and posting legal notices. Please see the current fee schedule for application fee. The specific request and the fee must be submitted to the Zoning Department by the deadline date. Here are some points to remember when submitting your application:

- The application must include a Plat of Survey or a Certified Survey Map (CSM) prepared by a registered land surveyor in the State of Wisconsin meeting the requirements of Section 17.8.40(2)(a), and indicating where the variance is requested per 17.8.60(2)(d)
- A **scale** drawing must be included that indicates the accurate location of: property boundaries, existing structures, wells, sanitary systems, abutting properties and structures, and the proposed construction or change
- Failure to submit the required information is sufficient grounds for dismissal or denial of the application
- The application materials should present your case as clearly as possible

The Public Hearing

Getting Ready for the Hearing

Here are some steps that you can take to ensure that the hearing goes smoothly:

- Do **not** attempt to contact Board of Adjustment members before the hearing – if you do, they may have to abstain from voting on your request
- Clearly mark all property boundaries, sanitary systems, wells, and the location of the proposed construction on your property with flags, stakes, or tape
- Making an accurate **scale** drawing is to your benefit – the Board members only look at the site briefly, and a good drawing can help you make your case in the hearing

The Hearing

The proceedings of a public hearing resemble those of a courtroom. Here are some points to remember:

- It is always in your best interest to be present at the public hearing
- You may be represented by an attorney if you choose to hire one
- All testimony presented by the applicant, the zoning staff, or any other interested party must be taken under oath
- A recorder will be present to record all proceedings.
- Only one party may speak at a time and must be sworn in. Neighbors, the DNR or other interested citizens/entities may speak for or against the variance request
- All evidence that the applicant would like considered in the decision must be presented in the public hearing itself – conversation outside of the hearing does not constitute evidence

The Decision

The Board of Adjustment will hear testimony for all variance requests and then close the public hearing. At this time they will move into deliberations and decisions. No additional testimony may be taken at this time without the permission of the Chairman. Stay at the meeting if you wish to hear the decision right away. A variance may be granted, denied, granted with modifications, or held over in some fashion. If a variance is granted, the Board of Adjustment may impose conditions on their approval. If a variance is held over, the Board may request some additional information or action before they reopen the hearing. All decisions will be transmitted in writing to the applicant with a copy of the “Decision Form” completed during the hearing. An approved variance will expire if not exercised within 2 years of the decision.

Appeal Opportunities

If a decision is reached that the applicant or any interested party does not find favorable, the proper avenue of appeal is to the local circuit court. A decision of the Board may only be appealed during the 30 days following the filing of the Notice of Action. In limited circumstances, a variance request may be returned to the Board for a rehearing instead of going directly to the circuit court.

Can I Get a Refund?

Board of Adjustment Application Fees are non-refundable.

How Long Does a Variance Last?

A variance applies to a property essentially forever.* This is why the Board of Adjustment must consider each decision very carefully and attempt to separate the applicant’s personal circumstances from the physical situation on the land. The results of a variance decision will continue to have an impact even after the individual applicant is no longer the owner of that particular property.

* An approved variance will expire if not exercised within 2 years of the decision.