



# Town of Mukwonago Waukesha County

W320 S8315 Beulah Road • Mukwonago, WI 53149  
Phone: (262) 363-4555 • Fax: (262) 363-8377

## REQUIRED DOCUMENTATION FOR VARIANCE:

1. Eight Plat of Survey's prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, uses, and size of property, existing improvements, easements, streets, and other public ways; off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed front, side and rear yards; all abutting properties, their elevations and use, and improvements thereon within 100 feet of the subject site and the requested change or addition.
2. Evidence of title to or interest in property affected by appeal or application.
3. List of names and addresses of owners of property within 300 feet of premises and of opposite frontage.
4. Filing fee of \$300.00, plus certified mailing costs, publication fees and any professional fees relating to the variance.
5. Approval from the Environmental Health Division in Waukesha. Preliminary Site Evaluation must be completed.

## APPLYING FOR A VARIANCE

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Date Application Submitted

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Meeting Date

ALL applications must include:

1. Application forms, signed and dated, which are available at the Town Hall.
2. A legal description of the property.
3. A \$300.00 filing fee, plus certified mailing costs, publication fees and any professional fees relating to the variance.
4. Eight site sketch, drawn to scale if possible, indicating the location of all existing structures and the proposed construction.

Applicants should be prepared to answer the following questions:

1. What hardship is created by the application of the Zoning Ordinance to this property? Is all reasonable use of the property denied by zoning regulations? In other words, is there an alternative plan that would comply with the ordinance?
2. Is there a unique physical characteristic of the subject property, which prevents development in compliance with the Zoning Ordinance?
3. Would granting of the variance harm the public interest in any way? For example, would public safety be compromised? What aesthetic impact would the project have? Would the proposal interfere with protected shorelands? What other impacts would the project have on the public interest?

A notice of the date and time of the hearing will be mailed to all property owners within 300 feet of the property.

The property owner or representative shall be present at the public hearing to present their request to the Board and answer any questions it may have. Attached hereto please find an outline of the statutory standards that govern granting a variance. Please carefully review the same. A variance cannot be granted unless all three statutory standards are met.

*I have read and understand my responsibilities regarding my appeal to the Board of Adjustment.*

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Signature

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Date

## AREA VARIANCE STANDARDS

Variances are not to be granted routinely. The applicant for a variance must clearly show the board that lawful standards that govern granting a variance will be met before a variance can be granted. The law requires the existence of an unnecessary hardship, the presence of a unique property feature, and the protection of the public interest. These terms have been interpreted by our courts in area variance cases as follows. Related issues are described in section 4, below.

1. **Unnecessary Hardship.** What constitutes unnecessary hardship is a matter to be determined from the facts and circumstances of each individual appeal. In applying the statutory standards, the board must abide by the following court-established principles:
  - a. **Unnecessary hardship is a situation where compliance with the ordinance would unreasonably prevent use of the property for a permitted purpose, or would make conformity unreasonably burdensome, in light of the purpose of the ordinance.** There are two alternative ways to satisfy this standard. The first consideration is whether compliance with the zoning code requirement would unreasonably prevent the owner from using the property for a permitted purpose, in light of the intent of the zoning ordinance provision at issue. The second alternative consideration is whether compliance with the zoning code requirement would be unnecessarily burdensome, in light of the purpose of the zoning ordinance provision at issue.
  - b. **The hardship must be peculiar to the zoning parcel in question and different from that of other parcels, not one which affects all parcels similarly.** Generally, hardship arises because of some unique property limitation or feature (see 2., below) of a parcel, or because the property was created before the passage of the zoning ordinance and is not economically suitable for a permitted use, or will not accommodate a structure of reasonable design for a permitted use, if all area, yard and setback requirements are observed.
  - c. **Loss of profit or pecuniary (financial) hardship and/or additional expense incurred to comply with the zoning ordinance is not in and of itself sufficient grounds for a variance.**
  - d. **Self-imposed hardship is not grounds for a variance.** Reductions resulting from the sale of portions of a property that reduce the remainder below buildable size or cut off existing access to a public highway, or deed restrictions

imposed by the owner's predecessor in title are examples of self-imposed hardships.

- e. **The hardship cannot be one that would have existed in the absence of a zoning ordinance.** Some properties may not be buildable because of the physical nature of the property. For example the entire parcel might consist of steep slopes or wetlands. In such cases, the property would not be suitable for development whether or not there was a zoning ordinance regulating development. In such extreme cases, the only reasonable use may be for open space uses.

2. **Unique Property Feature.** Unique physical characteristics or limitations of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the zoning ordinance. Existing violations on other properties, or proper or improper variances previously granted, are not grounds for a variance.
3. **Protection of the Public Interest.** Granting of a variance must not harm the public interest. The Board's actions must reflect the objectives stated in the local ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Lack of local opposition does not in itself mean that a variance will not harm the public interest.
4. **Additional Considerations and Court-Established Principles.**
  - a. **Reasonable Conditions.** In granting variances the board may impose conditions to protect adjoining property to preserve the essential character of the neighborhood, and to ensure that the public welfare will not be damaged.
  - b. **Limited to Need.** A variance, if granted, should include only the minimum relief necessary to alleviate the hardship.
  - c. **Permanent Rights.** Variances generally attach to the property as a permanent right. (Note, however: In individual cases, where appropriate, the board may limit the duration of a variance by carefully drafted conditions, which would be recorded against the property.)
  - d. **No Use Variances.** Use variances are different from area variances, and are subject to significantly more stringent requirements, or may be prohibited. This outline does not address use variances.

Notice Published \_\_\_\_\_ Filed \_\_\_\_\_

Notice Mailed \_\_\_\_\_ Hearing \_\_\_\_\_

NOTICE OF APPEAL AND APPLICATION FOR REVIEW

TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN

TO: THE ZONING BOARD OF APPEALS  
TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN

Name and address of Applicant \_\_\_\_\_  
\_\_\_\_\_

Address of property \_\_\_\_\_

Tax Key No: \_\_\_\_\_

Present Use of Property \_\_\_\_\_  
\_\_\_\_\_

Proposed Use of Property \_\_\_\_\_  
\_\_\_\_\_

Zoning Classification \_\_\_\_\_

Appeal is hereby made for: Variance \_\_\_\_\_ Exception \_\_\_\_\_ from Section \_\_\_\_\_  
\_\_\_\_\_

of the Waukesha County Shoreland and Floodland Protection Ordinance or the  
Waukesha County Zoning Code to permit the following: (Describe in detail the  
proposed construction and why it does not comply with the Ordinance) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following is submitted for the information of the Board of Adjustment in explanation of the circumstances which are unique to the applicant's property and which justify, in the opinion of the applicant, the favorable action of the Board: (if more space is needed, attach an additional sheet).

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EXISTING: Sanitary Facilities: Sewer \_\_\_\_\_ Leach Bed \_\_\_\_\_  
Holding Tank \_\_\_\_\_ Mound System \_\_\_\_\_

Type of water Supply: Private \_\_\_\_\_ Other \_\_\_\_\_

Structure Size: Width \_\_\_\_\_ Depth \_\_\_\_\_ Height \_\_\_\_\_

Structure Style: 1-Story \_\_\_\_\_ 2-Story \_\_\_\_\_ Split level \_\_\_\_\_

Total Number of Bedrooms: \_\_\_\_\_ Floor Area: 1st Floor \_\_\_\_\_

2nd Floor \_\_\_\_\_ 3rd Floor \_\_\_\_\_ Basement \_\_\_\_\_ Garage \_\_\_\_\_

PROPOSED: Sanitary facilities: Sewer \_\_\_\_\_ Leach Bed \_\_\_\_\_ Dry Well \_\_\_\_\_  
Holding Tank \_\_\_\_\_ Mound System \_\_\_\_\_

Type of Water Supply: Private \_\_\_\_\_ Other \_\_\_\_\_

Structure Size: Width \_\_\_\_\_ Depth \_\_\_\_\_ Height \_\_\_\_\_

Structure Style: 1-Story \_\_\_\_\_ 2-Story \_\_\_\_\_ Split level \_\_\_\_\_

Total Number of Bedrooms: \_\_\_\_\_ Floor Area: 1st Floor \_\_\_\_\_ 2nd Floor \_\_\_\_\_

3rd Floor \_\_\_\_\_ Basement \_\_\_\_\_ Garage \_\_\_\_\_ Other \_\_\_\_\_ Total (all bldg.) \_\_\_\_\_

Size of Lot: Average Width \_\_\_\_\_ Average Depth \_\_\_\_\_ Total Area \_\_\_\_\_

Location of Structure ( including proposed additions) on lots:

Setback \_\_\_\_\_ feet from the building overhang to centerline of road.

Setback \_\_\_\_\_ feet from building overhand to Base Setback Line  
(Established Right-of-Way Line)

Offset \_\_\_\_\_ feet from Building overhang to \_\_\_\_\_ property

Offset \_\_\_\_\_ feet from Building overhang to \_\_\_\_\_ property line.

Offset \_\_\_\_\_ feet from Building overhand to \_\_\_\_\_ property line.

Shore setback \_\_\_\_\_ feet from Building overhang to ordinary high water mark.

Floodplain setback \_\_\_\_\_ feet from Building overhang to 100 year Floodplain.

I hereby certify that the above application and/or appeal and all attachments thereto are true, correct and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date