



## GUIDELINES USED BY THE BOARD OF APPEALS TO DETERMINE WHETHER A VARIANCE SHOULD BE GRANTED

Although the statutes contain a number of qualifying phrases, the main statutory test of whether a variance may be properly granted is whether an “unnecessary hardship exists”.

The leading Wisconsin case on variances is SNYDER v WAUKESHA COUNTY (1976), 74 Wis. (2nd) 468, 247 NW (2nd) 468. In this case, the court set forth the following guidelines for granting variances:

- 1) An unnecessary hardship means that the property cannot yield a reasonable return when used for the permitted purposes or where no feasible use can be made of the land without a variance.
- 2) The changes in the character of the neighborhood that would be caused by the variance are important.
- 3) The hardship must be unique to the property in question and may not apply equally to similar lots.
- 4) The hardship must be unique to the lot, not personal to the owner of the lot.
- 5) A variance cannot be granted in the case of a self-created hardship.

### **IN ADDITION, the courts have made it clear that a variance CANNOT be granted in the following situations:**

- 1) Where there is a self-created hardship, that is, where the application is due to a problem created by the owner/applicant.
- 2) Where there is a personal hardship, and the variance would continue to affect the character of the neighborhood after title to the property has passed.
- 3) Where there is an economic hardship, a purely financial hardship, for example, restriction of the property to a less profitable use.

### **IMPORTANT INFORMATION FOR APPLICANTS**

The City of Oshkosh Board of Appeals meets on the 2nd Wednesday of each month at 3:30 P.M. in Room 404 of City Hall, 215 Church Avenue, Oshkosh, Wisconsin. Application deadline is approximately 20 days prior to a meeting at 12:00 NOON. Please confirm the deadline with staff.

### **The following must be submitted in order for your application to be accepted:**

- Complete the attached application form. Both the owner and applicant must sign the application form.
- Answer all questions on the application form.
- A site plan drawn to scale showing all structures, lot lines, streets and distances from the structures to the lot lines and street.
- Any other supporting documentation you feel is necessary or as may be required by staff.

It is recommended for the applicants and/or a representative for the applicant to attend the meeting to answer questions of the Board and present their variance request. If the applicant and/or representative fail to appear, the Board may choose to act on the item, or to postpone action until the next meeting. **A meeting notice and staff report will be sent to the applicant and/or owner prior to the scheduled meeting.**

If for any reason the owner/applicant withdraws the application, it must be done so in writing. If the owner/applicant wishes to reapply they must file a new application form, site plan, supporting documentation, and filing fee. Filing fees are non-refundable.

If you have any questions about the variance application form, or the process of obtaining a variance, please contact the Planning Services Division at (920) 236-5059.

**YOUR APPLICATION IS DUE BY:** \_\_\_\_\_ **AT 12:00 NOON**

**YOUR VARIANCE HEARING DATE:** \_\_\_\_\_ **AT 3:30 P.M.**

Please Type or Print in BLACK INK



Return to: Department of  
Community Development  
215 Church Ave.  
P.O. Box 1130  
Oshkosh, WI 54903-1130

### CITY OF OSHKOSH APPLICATION FOR VARIANCE

Please submit a complete **reproducible site plan (maximum size 11" x 17")**. (A complete site plan includes, but is not limited to, all structures, lot lines and streets with distances to each.) Please refer to the fee schedule for appropriate fee. FEE IS NON-REFUNDABLE. The fee is payable to the City of Oshkosh and due at the time the application is submitted.

Address of Parcel Affected: \_\_\_\_\_

Petitioner: \_\_\_\_\_ Home Phone: \_\_\_\_\_

Petitioner's Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Petitioner's Email: \_\_\_\_\_

Signature Required: \_\_\_\_\_ Date: \_\_\_\_\_

Owner (if not petitioner): \_\_\_\_\_ Home Phone: \_\_\_\_\_

Owner's Address: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Owner's Email: \_\_\_\_\_

Signature Required: \_\_\_\_\_ Date: \_\_\_\_\_

In order to be granted a variance, each applicant must be able to prove that an unnecessary hardship would be created if the variance is not granted. The burden of proving an unnecessary hardship rests upon the applicant. The attached sheet provides information on what constitutes a hardship. (Attach additional sheets, if necessary, to provide the information requested. Additional information may be requested as needed.)

1. Explain your proposed plans and why you are requesting a variance:

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**2. Describe how the variance would not have an adverse effect on surrounding properties:**

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**3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:**

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**4. Describe the hardship that would result if your variance were not granted:**

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