

VILLAGE/TOWN OF BLOOMFIELD

VILLAGE: PO BOX 609 – TOWN: PO BOX 704, PELL LAKE, WI 53157
Planning and Zoning Office (262) 279-6039 Ext. 3 • Fax (262) 279-0196

PLANNING AND ZONING BOARD OF APPEALS VARIANCE APPLICATION AND NOTICE OF REQUIREMENTS

_____ Town _____ Village

Fee: \$400.00

VARIANCE:

A variance is a relaxation of dimensional standards in land use regulations (e.g. setbacks, lot area, height, etc.). Variances are decided by the Board of Appeals which is appointed by the Village President/Town Chairman with approval of the Village/Town Board members. The Board of Appeal is a quasi-judicial body because it functions almost like a court. Its decisions must comply with specific criteria provided in state laws. The Board of Appeals must apply Village/Town of Bloomfield's Municipal Code provisions as they are written. The Board's job is not to compromise for a property owner's convenience, but to apply appropriate legal standards to a specific fact situation.

Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

Please note: A completed application, along with a plat of survey, construction plans, and fee must be received by the Zoning Administrator no later than the last day of any month in order to be put on the Board of Appeal's next agenda.

PROCESS:

Prior to applying to the Board of Appeals for a variance you will need to have been denied a zoning permit application. The following are required to be submitted with the variance application:

- ___ 1. **Complete an application form and submit a \$400.00 fee** (made payable to Bloomfield Treasurer); (filing fee is non-refundable) including a written statement showing that your project meets the legal criteria for a variance as outlined on the next page (Three Step Test, see page 2);
- ___ 2. **Provide a Plat of Survey.** The Plat must show the location of the building on the lot, proposed buildings, addition, etc. and the distances to the lot lines, body of water and roads;
- ___ 3. **Provide a detailed map and directions** to your property from Bloomfield Village/Town Hall;
- ___ 4. **Stake lot lines,** proposed building footprint and all other features of your property related to your request so that the Board may inspect the site;
- ___ 5. **Provide detailed construction plans and photos;**
- ___ 6. **Present the proposal to the Bloomfield Zoning Administrator** to receive a recommendation prior to appearing before the Board of Appeals.

Following the above steps, the Zoning Administrator will post a notice of your request for a variance throughout the Village/Town noting the location and time of the required Public Hearing. The hearing date is set by the Board of Appeals. **IT IS IMPORTANT YOU CHECK WITH THE ZONING ADMINISTRATOR FOR DATES AND TIMES.** Hearings postponed or tabled by the Board of Appeals will be scheduled at the end of the next agenda.

The burden will be on you, the property owner, to provide verifiable facts upon which the Board may base its decision. It is necessary for the applicant or a representative, to be present at the hearing. At the hearing, any party may appear in person or be represented by agent/attorney. If any of these requirements are not met, or if you or your agent, do not appear at the Public Hearing, the Board shall deny your request for a variance and your fee will be forfeited. The Board will permit a **maximum** of one postponement or cancellation before requiring a completely new application and fee to be heard.

THREE STEP TEST:

To qualify for a variance, the Bloomfield Board of Appeals must determine if your request meets all criteria of the Three Step Test:

1. **Unique Property Limitations:** The variance request is due to unique physical limitations of the property, for example, compliance with the Ordinance(s) is prevented by limitations of the property (steep slopes, drainage, or waterways, soil types, densely wooded areas, utility, and other easements, unusual configuration/dimensions of lot, etc.) which are not general shared by other properties. **Personal circumstances of an applicant (growing family, personal storage issues, etc.) are not a factor in deciding variances.** Nearby ordinance violations and prior variances do not provide a basis for granting a variance. Minor property limitations, which prevent ordinance compliance and are common to a number of properties, may be addressed by amendment of the Ordinance(s).
2. **Unnecessary Hardship:** Strict application of an ordinance requirement (dimensional standard) would unreasonably prevent the owner from using the property for a **permitted** purpose. The hardship must be based on conditions unique to the property rather than considerations personal to the property owner. You will be asked to demonstrate that compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. The Board of Appeals will evaluate the hardship in light of the purpose of the zoning restriction at issue. An applicant may not claim hardship because of conditions, which are self-imposed, for example, splitting a lot to create two substandard lots and then claiming hardship. Courts have also determined that loss of profit or financial hardship does not, by themselves, justify a variance. The property owner bears the burden of proving unnecessary hardship.
3. **No Harm to Public Interests:** A variance will not create substantial detriment to adjacent property, the entire community, and the general public. The variance would not undermine the purpose, intent, and spirit of the Zoning Ordinance(s) or public interest.

VIEWING:

After the Public Hearing the Board of Appeals may view the property. **Please identify the area of the variance(s) by staking the corners of the proposed structure prior to the Public Hearing.** Please have any animals restrained on viewing day as a courtesy to the Board of Appeals. The directions to locate your property from Bloomfield Village/Town Hall are important.

DECISION:

The Thursday after the Public Hearing is when the Board of Appeals makes their decision regarding the variance request. You may call the Zoning Administrator of the Village/Town of Bloomfield on that Thursday after 1:00pm for the results. Variances granted by the Board of Appeals shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant. Since a variance decision may be appealed to the circuit court by anyone aggrieved with the Boards decision within 20 days of the decision, the applicant shall proceed with construction only at his/her own risk within the appeal period.

JUDICIAL REVIEW:

Board of Appeals decisions may be appealed to the Circuit Court, within 30 days of the Boards decision, by a procedure known as certiorari. Following are the general review standards which courts have used to decide appeals of Board of Appeals decisions. You might consider these points to determine whether any decision you have any interest in is likely to be reversed on appeal:

- _____ Did the Board decide a matter which it is empowered by statute or ordinance to act on (subject matter jurisdiction)?
- _____ Did the Board follow proper procedures (i.e. notice, hearing, reviewable record, open meeting law, etc.)?
- _____ Did the Board apply proper standards in making the decision (i.e. Three Step Test for a variance)?
- _____ Was there a rational basis for the decision (could a reasonable person have reached this conclusion)?
- _____ Is there evidence in the record (facts) to support the decision?

OWNER INFORMATION

APPLICANT INFORMATION

(Name)

(Name)

(Mailing Address)

(Mailing Address)

(City, State, Zip)

(City, State, Zip)

(Phone #)

(Phone #)

(Fax #)

(Site Address)

Tax Parcel Number: _____

Zoning District(s): _____

Physical Address: _____

Legal Description of Property: _____

Lot Area & Dimensions: _____

Project Description: _____

Required by Ordinance:

Variance Requested:

NO VARIANCE TO THE PROVISIONS OF THE VILLAGE/TOWN OF BLOOMFIELD'S MUNICIPAL CODE SHALL BE GRANTED BY THE BOARD OF APPEALS UNLESS IT FINDS THAT ALL OF THE FOLLOWING FACTS AND CONDITIONS EXIST. Indicate you "Exceptional Circumstances", "Hardship", and "Absence of Detriment" not created by the owner in spaces provided on the following page (attach additional sheet if necessary).

1. UNIQUE PROPERTY LIMITATIONS: Compliance with the terms of the Code of Ordinance is prevented by unique features of the property:

2. UNNECESSARY HARDSHIP: Unnecessary hardship is present because:

3. NO HARM TO PUBLIC INTERESTS: A variance will not be contrary to the public interest:

Attach a Plat of Survey and a copy of detailed construction plans.

IF YOU QUALIFY FOR A VARIANCE:

1. The Board may grant only the minimum variance necessary while preserving the purpose and intent of the zoning ordinances.
2. The Board may impose conditions on project design, construction activities, or operation of a facility to assure that public interests are protected.
3. A variance granted by the Board of Appeals shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.
4. A variance decision may be appealed to circuit court by an aggrieved party within thirty (30) days of filing of the decision. For this reason you may choose to delay construction on your project until after the appeal period has expired in order to minimize the risk that the court may overturn the Board of Appeals decision and void your variance.
5. Because a property, rather than its owner, may qualify for a variance (unique property limitations test), a variance transfers to subsequent property owners.

(Property Owner)

(Date)

(Applicant/Agent)

(Date)

COST RECOVERY AGREEMENT

I/We, the undersigned, do hereby understand and agree that as an applicant or petitioner of the Village/Town of Bloomfield, I/We will be responsible for all normal fees payable by an applicant or petitioner (e.g. application fees, engineer fees, attorney fees, etc.). I/We further understand and agree to be responsible for any additional or consequential costs to the municipality as a result of my/our application or petition (i.e. engineering, legal, or other professional services). All fees and costs shall be paid within thirty (30) days of invoice and must be paid prior to the issuance of any permit or license. If payment is not made, said fees and costs may be assessed against the real property as a special charge.

(Property Owner's Signature)

(Applicant/Agent Signature)

(Property Owner's Printed Name)

(Applicant/Agent Printed Name)