



DIMENSIONAL VARIANCE APPLICATION PACKET

PLANNING SERVICES - COMMUNITY DEVELOPMENT

Applicant (Please Print or Type)

Date:

Name:

Business Name:

Address:

City:

State:

Zip Code:

Phone Number:

Fax Number:

Mobile Number:

E-mail Address:

Property Owner (Please Print or Type) *This section can be left blank if the same as above.*

Name:

Business Name:

Address:

City:

State:

Zip Code:

Phone Number:

Fax Number:

Mobile Number:

E-mail Address:

Please fill out the information below regarding the proposed dimensional variance.

Location/Address:

Tax Key Number(s):

Describe the Variance Request:

Describe the effects on the property if the variance is not granted:

Hardship

List the specific hardship(s) relating to your variance request:

Alternatives

Describe alternatives to your proposal, such as other locations, designs and construction techniques, etc.

Alternatives that you considered that comply with existing regulations:

Reasons for not pursuing the alternative(s) listed above:

Alternatives that you considered that require a lesser variance:
(if applicable)

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Reasons for not pursuing the request for a lesser variance:
(if applicable)

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Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

Do unique physical characteristics of your property prevent compliance with the ordinance? Explain?

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Would granting of the variance be contrary to the public interest? Explain?

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Why would not getting the variance unreasonably prevent you from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome?

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If this form has been filled out electronically, please click on the "Print Application" button on the top of page 1 or to the right of this text.

Once the application is printed/filled out it can be submitted to the Planning Services Division along with any applicable information required for your submittal. Please see the attached sheet to ensure that the proper supporting documents are submitted along with this completed form.

I HEREBY CERTIFY THAT I HAVE READ AND FULLY UNDERSTAND THE DIMENSIONAL VARIANCE PROCEDURE AND FAILURE TO COMPLY WITH CITY REQUIREMENTS WILL RESULT IN THIS APPLICATION BEING WITHHELD FROM CONSIDERATION BY THE ZONING BOARD OF APPEALS.

PLEASE BE INFORMED THAT ANY LEGAL, ENGINEERING AND ADMINISTRATIVE FEES INCURRED BY THE CITY, IN THE PROCESS OF REVIEWING A PROPOSAL OR APPLICATION, BUT NOT INCLUDED IN THIS FEE SCHEDULE, WILL BE CHARGED BACK TO THE PETITIONER / APPLICANT / OWNER / DEVELOPER FOR 100% RECOVERY. (Ch. 3.085/Ord. #909)

Signature of the Property Owner:

Signature of the Applicant (working as "Agent" for the owner):

Print Name:

Print Name:

Date:

Date:

For Planning Services Use Only

Submittal Date:

Staff Signature:

Fees Paid: Yes No

Public Hearing/Meeting Date:



DIMENSIONAL VARIANCE APPLICATION PACKET PLANNING DEPARTMENT

Submittal Requirements For Dimensional Variance Request

You have requested to be heard by the City of Muskego Board of Appeals. Although this is a local body, it is one required by law. Every community that enacts a Zoning Ordinance must have a Zoning Board of Appeals. The Board has the power to grant variances, or exceptions, from the terms of the Zoning Code.

A property owner may file for a variance when special conditions, unique to the property, will not allow the property owner to meet the dimensional standards of the Zoning Code. Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to the very unusual qualities or circumstances relating to the parcel in question. The property owner must demonstrate that "unnecessary hardship" is caused by the terms of the Ordinance.

In formulating its decision for variance requests, the Zoning Board of Appeal acts as an agent of the City of Muskego. By law, the Board is not permitted to represent the property owner. It is the duty of the Board to preserve the Zoning Code without modification as much as possible, while assuring substantial justice to the Appellant. When a variance is granted, it should be for an alternative with the least impact or least possible modification to the Zoning Ordinance.

As an Appellant for a variance, you must submit a completed application to the Planning Services Division within twenty (20) days of the date the Zoning Administrator decided against your proposal. You are responsible for presenting your own case to the Zoning Board of Appeals. The City's staff and the Board may not legally represent you. You may, however, have legal counsel represent you during your hearing.

By law, variances to the provisions of the Zoning Code may be granted by the Board after a public hearing is held on the matter and finds that all of the following facts and conditions exist, and so indicates in the minutes of its proceedings:

1. Preservation of Intent. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
2. Exceptional Circumstance. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be so general or recurrent in nature as to suggest that the zoning ordinance should be changed.
3. Economic Hardship and Self-imposed Hardship Not Grounds for Variance. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
4. Preservation of Property Rights. The variance shall be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
5. Absence of Detriment. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of the zoning ordinance and public interest.

Additional requirements apply when considering variance requests in floodplain districts.

All applicants are strongly encouraged to schedule a pre-application meeting with the Planning Services Division to review the code requirements and the variance necessary. Meetings should be held one week prior to submittal of the application in order to allow the applicant time to make necessary changes or additions to their application. Please call (262) 679-4136 to schedule your pre-application meeting.

At the direction of the Zoning Board of Appeals, the following information is required to be submitted with the application **(2 copies of each)**:

For any variance pertaining to a parcel of land, a Plat of Survey, prepared by a Registered Land Surveyor, must be submitted. The Plat of Survey must be dated, with no time requirements, and include the original seal of the surveyor.

- A narrative and/or supporting photos, documents, paperwork, etc. that may have a bearing on the variance request. Items that are brought to the meeting and not submitted beforehand are strongly discouraged since the board will not have ample time to review the items at hand.

- Plat of Survey must contain the following:
 1. The parcel in question with dimensions, bearings and a description of the exterior boundaries.
 2. Abutting streets, properties, lakes and/or rivers, etc.
 3. Location and size (with dimensions and area) of any existing buildings or structures.
 4. Ordinary High-water Mark, 100-year Flood Elevation, 2-foot above the 100-year Flood Elevation, Easements, etc.
 5. Location and size of culverts, ditches, trees, wells, septic system, retaining walls, driveways, sidewalks, patios, or any other items pertinent to the variance requested--including area calculations.
 6. Elevations at corners of parcel, building corners, grade breaks and any other elevations pertinent to the variance requested.
 7. Proposed building, structure or appurtenance for which the variance is being requested.

- The scaled construction drawings of the appurtenance, addition, or structure for which the variance is being requested.

- Fee in the amount of **\$200.00**, which is non-refundable once the hearing has been noticed.

NOTE: The Board of Appeals meets on the fourth Thursday of each month. All submittals are due at least 20 days prior to the meeting you wish to attend, by 12:00 noon.

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If there are any questions regarding the variance request process please contact the Community Development Department at (262) 679-4136. The department can also be reached at zoning@ci.muskego.wi.us