



Community & Economic Development Department
100 North Jefferson Street - Room 608
Green Bay, Wisconsin 54301-5026
www.greenbaywi.gov

Phone 920.448.3400
Fax 920.448.3426

Dear Zoning Board of Appeals Variance Applicant:

In this packet you will find a variance application form as well as detailed information by which the Zoning Board of Appeals (ZBA) bases its decisions. Please review all the information regarding variance standards. Perhaps you have a few general questions about the ZBA process, so here's some of the basics about the variances.

What is a variance? It's an authorization granted by the ZBA to construct or alter a building or structure in a manner that deviates from the dimensional standards of the Zoning Code.

What is the ZBA? It's a quasi-judicial body that functions much like a court. The ZBA reviews variance applications. The ZBA has the power to grant variances when special conditions unique to the property itself will not allow the property owner to meet dimensional standards of specific ordinances. It is the job of the ZBA to *not* compromise Zoning Code provisions for a property owner's convenience. Variance approvals are meant to be used infrequently as a remedy when an ordinance imposes a unique and substantial burden.

The ZBA has the power to grant a variance when special and unique conditions exist on a property and the property owner cannot meet the dimensional standards of a specific ordinance. To demonstrate these conditions, you as the applicant need to explain the following standards:

- Unnecessary Hardship
- Unique Property Limitation
- Protection of the Public Interest

In the attached packet, please reference Part 3: Criteria for Variance for further details on these standards. The ZBA must uphold the intent of the zoning ordinance in its decision.

You must contact our office to discuss your project before you intend to apply for a variance. You must provide a site plan to staff to discuss your project. To apply for a variance, a site plan must be denied. During this process, staff will discuss alternatives which could avoid a variance request. Please contact me if you have any questions or concerns about the materials provided in this packet or any other aspects of the City's appeal process.

Sincerely,

Jon LeRoy
Zoning Administrator / Senior Planner
Phone: (920) 448-3405
Email: jon.leroy@greenbaywi.gov

Zoning Board of Appeals (ZBA)

The five members of the ZBA are citizens appointed by the Mayor and approved by the City Council, who give their time without compensation. Cases are generally heard in the order as they appear on the agenda. As an applicant you will be invited to present information regarding your request. City staff may provide factual evidence regarding your request. Neighboring property owners have been sent notice of your project and will also be allowed an opportunity to speak.

The ZBA decision is based on the evidence and testimony received as part of the application and through the public hearing process. The ZBA may impose special conditions on any use or development being proposed in order to ensure that these criteria can and will continue to be met. Only the minimal amount of relief necessary to allow reasonable use or development of the property will be granted. Unless otherwise stipulated by a condition of approval, variances that permit some type of building or development will expire after twelve (12) months unless the building or development commences within 12 months and continues in reasonable manner toward completion.

Part 1: Application Requirements

The ZBA meets the third Monday of each month starting at 4:30 p.m. The meetings are held both in person at City Hall, Room 604, and virtually through Zoom. Instructions to access the meeting will be provided in advance of the meeting. For an appeal to be heard at any monthly hearing, an application must be on file in the Community and Economic Development Department, City Hall, 100 N Jefferson Street, Room 608, by **12:00 Noon on the first Tuesday of the month.**

The following items must be addressed, prepared, and submitted as part of your appeal application. Some of the items may not apply to all appeals. Incomplete applications will be returned and will affect the scheduling and processing of your appeal before the ZBA. A site plan must first be filed with the Community and Economic Development Department prior to application. The Zoning Administrator may grant an exemption from this requirement based on evidence provided by the applicant.

At the direction of the ZBA, the following information is required to be submitted with the application (**plans are not to be larger than 11 x 17**):

1. The parcel in question with property boundaries and dimensions.
2. Abutting streets, properties, natural features, structures and their dimension to the site in question.
3. Location and size (with dimensions and area) of any existing buildings or structures.
4. Ordinary High-water Mark, 100-year Flood Elevation, 2-ft. above the 100-year Flood Elevation, Easements, etc.
5. Location and size of culverts, ditches, trees, wells, septic system, retaining wall, 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 other elevations pertinent to the variance requested.
7. Proposed building, structure or appurtenance for which the variance is being requested.
8. Additional requirements may apply when considering variance requests in floodplain districts.
9. A narrative and/or supporting photos, documents, paperwork, etc. that may have a bearing on the variance request.

Fee in the amount of \$250 for Commercial Properties and \$125 for Residential Properties, which is non-refundable once the hearing has been noticed. Contact the Zoning Administrator, Jon LeRoy, at (920) 448-3405 or Jon.leroy@greenbaywi.gov to discuss your appeal.

Please submit completed City of Green Bay Zoning Board of Appeals Variance Application (attached as part of this packet) to:

Community and Economic Development Department
Attn: Jon LeRoy, Zoning Administrator / Senior Planner
100 North Jefferson Street, Room 608
Green Bay, WI 54301

Part 2: Review Process

Please check with the Zoning Administrator for further information on application deadlines, meeting dates, times, and when your appeal may be scheduled. Appeal applications are reviewed and scheduled on a first come first served basis. Once an appeal is scheduled, public hearing notices for that appeal will be (1) published in the City's official newspaper, (2) mailed to property owners who are within 100 feet; and (3) mailed to you along with an agenda for the meeting your appeal is scheduled. On or prior to the meeting date, ZBA members may visit your property prior to conducting a public hearing of your appeal.

Once the public hearing and testimony have been completed, the ZBA will act on your appeal (or continue to the next meeting if additional information or clarification is needed). Once decided, an Appeal summary will be prepared by the Zoning Administrator and will be recorded in the minutes as part of the proceeding of the ZBA meeting.

Each applicant (or a representative of the applicant) is required to attend the hearing, or the appeal may be denied by the ZBA. In granting variances, the ZBA may impose special conditions to ensure that public interest and welfare will not be threatened. Variances granted by the ZBA remain valid for one year from the hearing date or as stipulated in the decision. If work to implement the variance has not begun within that time, the variance shall expire requiring the ZBA to re-approve the variance should the applicant wish to implement the plan.

If necessary, an applicant may postpone the hearing of an appeal provided it is received by staff in writing prior to the hearing. The appeal will be postponed for one month or at a future meeting agreed upon by the ZBA. An application for appeal may be withdrawn provided it is received by staff in writing prior to the hearing date.

No application which has been denied by the ZBA shall be reconsidered without material alteration or revision within one year of the board's decision, except pursuant to a court order or motion to reconsider made by a member voting with the majority. The ZBA may refuse to act upon an appeal if the applicant has failed to implement previously granted appeals.

Part 3: Criteria for Variance

To qualify for a variance, an applicant must demonstrate that all three statutory standards will be met:

1. **Unnecessary Hardship.** A matter to be determined from the facts and circumstances of each individual appeal, including:
 - A. Unnecessary hardship is situation where, in the absence of a variance, an owner can make no feasible use of a property or strict conformity is unnecessarily burdensome. *A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with a zoning ordinance.*
 - B. Hardship must be peculiar to the parcel in question and different from that of other parcels. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the zoning ordinance.
 - C. Self-imposed hardship is not grounds for a variance. Improvements that were made in violation of the ordinance are generally considered to be self-imposed hardships.
 - D. Hardships cannot be one that would have existed in the absence of a zoning code.
2. **Unique Property Limitation.** Unique physical characteristics 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. These features may be a wetland, soil type, parcel shape, or a steep slope that limits the reasonable use of the property.
3. **Protection of the Public Interest.** Granting of a variance must neither harm the public interest nor undermine the purpose of the ordinance. The public interest includes the interest 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 public interest. Property owners within 100 ft. of the property area and Alderpersons will be noticed of the request prior to the meeting.

Part 4: Findings by the ZBA

No variance shall be granted by the ZBA unless it finds the following facts and conditions exist and so indicates in the minutes of its proceedings:

- 1) *Preservation of Intent.* A variance would not be inconstant with the spirit, purpose, and intent of the regulations for the district in which it is requested.
- 2) *Exceptional Circumstances.* Exceptional, extraordinary, or unusual circumstances or conditions apply to the lot or intended use that do not apply generally to other properties or uses in the same district, and the variance is not of so general or recurrent a nature to suggest that this chapter should be changed.
- 3) *Preservation of property rights.* The variance is necessary for the preservation and enjoyment of the same substantial property rights which are possessed by other properties in the same district and vicinity.
- 4) *Absence of detriment.* The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the spirit, purpose, and intent of this chapter or the public interest.
- 5) *Hardship.* The alleged difficulty in complying with the Municipal Code is not self-imposed nor is it based solely on economic grounds.

List ordinance(s) (number and description) the variance will be impacting (staff will assist with this).

THREE STEP TEST - To qualify for a variance, the applicant must demonstrate that their property meets the following three (3) requirements:

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

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

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?

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

Signature of the Property Owner

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

Print Name

Print Name

Date

Date

OFFICE USE ONLY:	Parcel #:	Residential \$125	Commercial \$250
District: Zoning:	Meeting Date:	Receipt #:	
Submittal Date:	Staff Signature:		