

TOWN OF RICHMOND ZONING VARIANCE

Notice of Requirements

Definition

A **Variance** is a relaxation of dimensional standards in land use regulations (e.g. setbacks, lot area, height, etc.) *Variances are decided by the 3-member Board of Adjustment of Walworth County.* Prior to appearing before the Board of Adjustment, applicants must present their proposal to the local Town Board. After a local public hearing, the Town Board will make recommendations to the Board of Adjustment to either approve or deny the variance request. Applicants should be aware that approval of the Town of Richmond does not always mean approval at the County level. The Walworth County Board of Adjustment is a "quasi-judicial" body that functions almost like a court. Its decisions must comply with specific criteria provided in state statutes, and must apply Walworth County zoning ordinance provisions as they are written. The Board of Adjustment'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.

Process

Prior to appearing before the Town Plan Commission for a Variance, applicants should consult with the Walworth County Land Use and Resource Management Department to determine the exact variance requirements, and submit the following to the Town Clerk:

- 1.) A completed application form together with a \$250 fee (payable to Town of Richmond); A "Notice of Public Hearing" sign will be posted on the property for informational purposes. A \$100 deposit will be required at the time of the application, to be refunded when the sign is returned undamaged to the Town. Please include a separate check in the amount of \$100 with the application.
- 2.) A plat of survey or drawing showing the location of buildings on the lot, proposed buildings, addition, etc., and distances to the lot lines, body of water, and roads, and any other information that will assist the Plan Commission in making its recommendation. Walworth County will also require detailed construction plans.

A Public Hearing on your Application will be held at the Plan Commission meeting, usually the 2nd Wednesday of each month. Deadline for Applications is 15 days before the meeting, allowing the Commission members to view the property prior to the Hearing.

The Burden will be on you, as the property owner, to provide verifiable facts upon which the Commission may base its decision (the Three Step Test.) You or your representative must be present at the meeting. Decisions are usually rendered at the meeting, but may be tabled at the Commission's discretion. Tabled hearings will not require an additional fee at the Town level.

Three Step Test

To qualify for a variance, your request must meet all three criteria of the Three Step Test:

- 1) *Exceptional Circumstances*: the variance request must be due to unique physical limitations of the property such as steep slopes, drainage or waterways, wetlands, soil types, densely wooded areas, utility and other easements, unusual configuration/dimensions of the lot, etc., which are not generally shared by other properties. Personal circumstances are not a factor in deciding variances. Nearby ordinance violations and prior variances do not provide a basis for granting a variance.
- 2) *Absence of Detriment*: the variance will not create substantial detriment to adjacent property, and will not materially impair, or be contrary to, the purpose and spirit of the Zoning ordinances or the public interest.
- 3) *Hardship Not Created By Owner*: Strict application of the ordinance requirements (dimensional standard) would result in unnecessary hardship. The hardship must be based on conditions unique to the property rather than considerations personal to the property owner. You must demonstrate that compliance with the strict letter of the restrictions on area, setbacks, frontage, height, bulk, or density would unreasonably prevent you from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome. The hardship will be evaluated in light of the zoning restriction purpose. You may not claim hardship because of conditions which are self-imposed. Loss of profit or financial hardship do not, by themselves, justify a variance. You, the property owner, bear the burden of proving unnecessary hardship.

APPLICATION FOR VARIANCE
Town of Richmond

Date Filed: _____

\$250.00 payable to Town of Richmond

| | Owner | Applicant |
|----------|-------|-----------|
| Name: | | |
| Address: | | |
| Phone: | | |
| Fax: | | |
| Email: | | |

Legal Description of Property: _____

Physical Address: _____

Tax Parcel Number: _____

Lot area & dimensions: _____

Zoning District(s): _____

Project Description: _____

| Required by Zoning Ordinance | Variance Requested |
|------------------------------|--------------------|
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NO VARIANCE TO THE PROVISIONS OF THE WALWORTH COUNTY CODE OF ORDINANCES SHALL BE GRANTED UNLESS ALL OF THE FOLLOWING FACTS AND CONDITIONS EXIST.

Indicate your "Exceptional Circumstances", Absence of Detriment", and Hardship Not Created By the Owner" in the spaces provided below (attach additional pages as necessary):

1) EXCEPTIONAL CIRCUMSTANCES. Compliance with the terms of the Code of Ordinances is prevented by unique features of this property . . .

2) ABSENCE OF DETRIMENT. A variance will not be contrary to the public interest . . .

3) HARDSHIP NOT CREATED BY OWNER. Unnecessary hardship is present because . . .

Attach a plat of survey or drawing.

IF YOU QUALIFY FOR A VARIANCE

- The Commission may recommend only the minimum variance necessary while preserving the purpose and intent of the zoning ordinance.
- The Commission may impose conditions on project design, construction activities or operation of a facility to assure that public interests are protected.
- A variance shall expire within twelve (12) months unless substantial work has commenced pursuant to such grant.
- A variance decision by the Board of Adjustment may be appealed to circuit court by an aggrieved party within 30 days of the decision. For this reason, you may choose to delay construction on your project until after the appeal period has expired.
- Because a property, rather than its owner, may qualify for a variance, a variance transfers to subsequent property owners.

Signed: _____

Date: _____

Remit to: Town of Richmond
c/o Barbara Ceas, Town Clerk
W8776 Territorial Road
Whitewater, WI 53190