

Door County Land Use Services Department

VARIANCE

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A variance is an exception to the standards contained in a zoning ordinance that is granted by the Board of Adjustment. When considering a variance request, the Board of Adjustment is required to apply relevant legal standards to a specific fact situation and cannot grant a variance merely for the convenience of the property owner. Variances are an infrequent remedy and are only granted when an ordinance imposes a unique and substantial burden on the applicant.

PERMIT PROCESS

You are required to do the following:

1. Submit a completed application form with the non-refundable fee.
2. Provide a detailed description of your project, including building plans and a site plan.
3. Attend a public hearing on your application. If unable to attend, you must contact the Door County Land Use Services Department (920-746-2323) and let us know who will represent you in your absence.
4. Obtain a zoning permit from the Door County Land Use Services Department if the variance is granted.

VARIANCE CRITERIA

An area variance may only be granted if you would suffer unnecessary hardship without a variance. To qualify for a variance, you must prove your property meets the following three step test:

- a.) You must show the hardship is due to unique physical limitations of the property; i.e. compliance with the ordinance is prevented by limitations of the property (steep slopes, wetlands, etc.) which are not generally shared by other properties. Previous variances do not provide a basis for granting a variance. You will be asked to demonstrate that alternate project design or locations on the parcel, which comply with the ordinance, are not feasible.
- b.) You must show that the application of the ordinance requirements will result in an unnecessary hardship described as follows:

An unnecessary hardship exists when strict compliance with the zoning code unreasonably prevents an owner from using the property for a permitted purpose or is unnecessarily burdensome. Whether something is unreasonable depends on the purpose of the zoning restriction and its effect on the property. It also depends on the effect of the variance on the neighborhood and the larger public interest.
- c.) You must show that if granted, the variance will not result in harm to the public interests. The Board of Adjustment must consider the public interest factors listed as objectives in the purpose of the ordinance requirement.

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HEARING PROCESS

After the Door County Land Use Services Department receives your application materials and deems the application complete, it will notify you in writing of the hearing date and time. It will also notify the Town, the Door County Peninsula Pulse and send a copy of the notice to neighboring property owners. Due to these scheduling requirements, it may take up to two months to schedule the public hearing.

At the hearing, you may appear in person or be represented by an agent or attorney to speak on your behalf. As the property owner you must provide verifiable facts upon which the Board of Adjustment can base its decision. Other people can also attend the hearing to testify for or against your request.

BOARD OF ADJUSTMENT ACTION

- The Board of Adjustment will consider the evidence presented and make a decision.
- If the Board of Adjustment has sufficient information, it will approve, modify and approve, or deny your request. The board may table your request if more information is needed.
- The Board of Adjustment will issue a written decision and file a copy with the Door County Land Use Services Department. The decision document is signed at the next Board of Adjustment hearing.

JUDICIAL REVIEW

If your variance request is denied, you may appeal the decision to Circuit Court as provided in Wisconsin Statute s. 59.694(10). Even if approved, a variance may be appealed to circuit court by an aggrieved party. All appeals must be filed within 30 days after the decision is filed with the Land Use Services Department. For this reason, you may want to delay construction of your project until the appeal period has expired.