

**ZONING VARIANCE  
APPLICATION FORM AND NOTICE OF REQUIREMENTS  
FOR TREMPEALEAU COUNTY**

**VARIANCE:** A variance is a relaxation of a dimensional standard in land use regulations (e.g., setbacks, lot area, height, etc.). Variances are decided by the 5-member Board of Adjustment which is appointed by the County Board Chair with approval of the County Board of Supervisors. The Board of Adjustment is known as 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 Adjustment must apply county ordinance provisions as they are written. Its job is not to compromise for 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:** At the time of application you will be asked to:

1. Complete an application form and submit a \$200 fee; with a permit fee when applicable;
2. Provide detailed plans describing your lot and project (location, dimensions and materials);
3. Provide a written statement showing that your project meets the legal criteria for a variance as outlined below (Three Step Test);
4. Provide a copy of the registered deed to your property; all other features of your property related to your request so that the Board may inspect the site.
5. Stake out lot lines, proposed building footprint and request so that the Board may inspect the site.
6. Submit a list of neighboring property owners with their mailing addresses; and
7. Submit a letter from the Township Board.

If any of these requirements are not met or if you or your agent do not appear at the public hearing, the Board must deny your request for a variance and your fee will be forfeited. Following these steps, the Zoning Office will publish notice of your request for a variance in a local newspaper(s) noting the location and time of the required public hearing. The burden will be on you as property owner to provide verifiable facts upon which the Board may base its decision. At the hearing, any party may appear in person or be represented by agent.

**THREE STEP TEST: To qualify for a variance, you must meet all three requirements of a three step test:**

- 1. Strict application of an ordinance requirement (dimensional standard) will result in unnecessary hardship. Wisconsin case law describes hardship as being present where, in the absence of a variance, no reasonable use can be made of the property. If a parcel as a whole (but not necessarily each portion of the parcel) provides some reasonable use for its owner, then the test is not met and a variance cannot be granted. 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 hardships do not, by themselves, justify a variance. Decks and similar minor accessory structures are not essential to the reasonable use of property and are not eligible for variances.**
- 2. 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. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations and prior variances do not provide a basis for granting a variance. You will be asked to demonstrate that alternative project designs or locations on the parcel which comply with ordinance requirements are not feasible. Minor property limitations which prevent ordinance compliance and are common to a number of properties may be addressed by amendment of the ordinance.**
- 3. A variance may not be granted which results in harm to public interest. In applying this test, the Board must consider the public interest factors listed as objectives in the purpose statement of the ordinance.**

**IF YOU QUALIFY FOR A VARIANCE:**

The Board may grant only the minimum variance which preserves a reasonable use of a parcel for its owner.

It may impose conditions on project design, construction activities or operation of a facility to assure that public interest is protected.

A variance decision may be appealed to circuit court by an aggrieved party within 30 days of filing of the decision in the office of the Board. 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 decision and void your variance.

Because a property rather than its owner may qualify for a variance (unique property limitations test), a variance transfers to subsequent property owners.

**JUDICIAL REVIEW:** Following are the general review standards which courts have used to decide appeals of Board of Adjustment decisions. You might consider these points to determine whether any decision you have an 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 (e.g. notice, hearing, reviewable record, open meeting law, etc.)?**

**Did the Board apply proper standards in making the decision (e.g. 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?**



TREMPEALEAU COUNTY BOARD OF ADJUSTMENT
PETITION FOR VARIANCE

Name \_\_\_\_\_
Owner/agent Contractor (If applicable)

Mailing Address \_\_\_\_\_

Phone \_\_\_\_\_

Legal Description of property \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, S \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ E/W

Town of \_\_\_\_\_ Tax Parcel Number \_\_\_\_\_

Address of Property for which variance is applied (if different from above) \_\_\_\_\_

Deed Document No. \_\_\_\_\_ Volume \_\_\_\_\_ Page No. \_\_\_\_\_

Lot area & dimensions: \_\_\_\_\_ sq. ft., \_\_\_\_\_ X \_\_\_\_\_ ft.

Zoning district \_\_\_\_\_

Current use & improvements \_\_\_\_\_

Proposed use & improvements \_\_\_\_\_

Terms of Ordinance (Section #) \_\_\_\_\_

Variance requested \_\_\_\_\_

Address each of the following criteria for granting of a variance as described on the attachment. (Attach additional pages as necessary):

1.) Unnecessary hardship is present because ...

2.) Compliance with the terms of the ordinance is prevented by unique features of this property.....

3.) A variance will not be contrary to the public interest because...

Attach a plot or other map of your site and detailed construction plans.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Remit to: Trempealeau County Dept. of Land Management (DLM) P.O. Box 67, Whitehall, WI 54773

For Office Use Only

Date filed \_\_\_\_\_ \$200.00 fee paid \_\_\_\_\_ Check No. \_\_\_\_\_ Cash \_\_\_\_\_
(Payable to Tremp. Co. D.LM) .

Public Hearing No. \_\_\_\_\_ Receipt No. \_\_\_\_\_

Variance granted / denied by Board of Adjustment on \_\_\_\_\_.