

APPLICATION FOR ZONING VARIANCE

Village of Athens

NOTE: Applicant or a representative must be present at the Public Hearing held by the Zoning Board of Appeals.

Name of owner or lessee requesting variance: _____

Requestor's address: _____

Daytime phone: (_____) _____

Address and legal description of property: _____

Zoning classification: _____ -- _____

Reason for zoning variance: _____

The three criteria for granting a variance are "unnecessary hardship", "unique property limitations" and "no harm to public interests". Please address each of the criteria to obtain a variance. Describe in detail why you believe this project meets those requirements. In addition, applicant must flag or otherwise mark the property corners and stake out the proposed building footprint and authorize the Board of Appeals to inspect the property.

1. Unnecessary hardship is present because _____

2. Compliance with the ordinance is prevented by unique features of the property because _____

3. A variance would not be contrary to the public interest because _____

I attest that I am the owner of the property or an agent authorized by the property owner.

Signature (circle one) >>> OWNER or AUTHORIZED AGENT _____ *Date*

Attachments: Site plan with dimensions, buildings, streets, etc. \$300.00 fee

OFFICE USE ONLY

Tax key number: 102 . _____

Publication of Class One Notice: ____/____/____ (Record Review)

Public Hearing – Date: ____/____/____ Time: _____ p.m.

Application and \$300.00 received: ____/____/____ by _____

“Unnecessary Hardship”

For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner 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.”

To determine whether this standard is met, zoning boards should consider the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance.

Courts state that “unnecessarily burdensome” may be interpreted in different ways depending on the purposes of the zoning law from which the variance is being sought. For example, the purpose of a shoreland district to protect water quality, fish, and wildlife habitat and natural scenic beauty for all navigable waters in Wisconsin would be interpreted differently from the purpose of a residential district to protect the character of established residential neighborhoods. In light of increased focus on the purposes of a zoning restriction, zoning staff and zoning boards have a greater responsibility to explain and clarify the purposes behind dimensional zoning requirements.

“Hardship Due to Unique Property Limitations”

Unnecessary hardship must be due to unique physical limitations of the property, such as steep slopes or wetlands that prevent compliance with the ordinance. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. For example, an ordinance may, in some cases, be amended to provide reduced setbacks for a subdivision that predates the current ordinance and where lots are not deep enough to accommodate current standards.

“No Harm to Public Interests”

A variance may not be granted which results in harm to public interests.

In applying this test, the zoning board should review the purpose statement of the ordinance and related statutes in order to identify public interests. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Promoting and maintaining public health, safety, and welfare
- Protecting water quality
- Protecting fish and wildlife habitat
- Maintaining natural scenic beauty
- Minimizing property damages
- Ensuring efficient public facilities and utilities
- Requiring eventual compliance for nonconforming uses, structures, and lots
- Any other public interest issues

In light of public interests, zoning boards must consider the short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state.

Review should focus on the general public interest, rather than the narrow interests or impacts on neighbors, patrons or residents in the vicinity of the project.