



**Department of Planning and Development**  
 Eau Claire County Courthouse  
 721 Oxford Avenue, Room 3344  
 Eau Claire, Wisconsin 54703  
 (715) 839-4741

*Office Use Only*

|                            |  |
|----------------------------|--|
| Date Application Accepted: |  |
| Accepted By:               |  |
| Receipt Number:            |  |
| Town Hearing Date:         |  |
| Scheduled Hearing Date:    |  |

## VARIANCE APPLICATION

|                      |        |
|----------------------|--------|
| Property Owner Name: | Phone# |
| Mailing Address:     |        |
| Email Address:       |        |

|                  |        |
|------------------|--------|
| Agent Name:      | Phone# |
| Mailing Address: |        |
| Email Address:   |        |

### SITE INFORMATION

|   |   |
|---|---|
| Site Address:   |   |
| Property Description: _____ ¼ _____ ¼ Sec. _____, T _____ N, R _____ W, Town of _____ |   |
| Zoning District:  | Code Section(s):  |
| Overlay District:<br>Check Applicable   | <input type="checkbox"/> Shoreland <input type="checkbox"/> Floodplain <input type="checkbox"/> Airport <input type="checkbox"/> Wellhead Protection <input type="checkbox"/> Non-Metallic Mining |
| Computer #(s):  |   |
| or  |   |
| PIN #(s):   |   |

### GENERAL APPLICATION REQUIREMENTS

**Applications will not be accepted until the applicant has met with department staff to review the application and determine if all necessary information has been provided. All information from the checklist must be included.**

- A detailed written statement that specifically identifies what is being requested.
- Written argument that justifies the need for the variance and addresses the variance standards. It is the applicant's responsibility to prove that an "unnecessary hardship" exists and that a variance can be granted. (See reverse for additional information.)
- The applicant must flag/stake the property/project corners and label them accordingly (e.g., NE Lot corner, NE building corner).
- A scaled site plan of the site and surrounding area for a distance of 100 feet, including buildings and other structures. Also, include the proposed addition/structure/location of septic system, well, driveway, property lines, navigable water ways, wetlands, floodplains, slopes in excess of 20%, and any other unique limiting condition of the property. All maps and engineering data to be no larger than 11" x 17".
- Provide a \$550.00 application fee (non-refundable). Send application to [landuse@eauclairecounty.gov](mailto:landuse@eauclairecounty.gov) or to the address above.

I certify by my signature that all information presented herein is true and correct to the best of my knowledge. I give permission for the staff of the Eau Claire County Department of Planning and Development to enter my property for the purpose of collecting information to be used as part of the public hearing process. I further agree to withdraw this application if substantive false or incorrect information has been included.

Owner/Agent Signature \_\_\_\_\_

Date \_\_\_\_\_

**At the public hearing, the applicant may appear in person or through an agent or an attorney of his/her choice. The applicant/agent/attorney may present testimony, evidence, and arguments in support of the application. All site plans, pictures, etc. become the property of the Department, and will remain in the file.**

## APPROVAL CRITERIA FOR VARIANCES

The Board of Land Use Appeals has the authority to issue variances only when the approval criteria is met. The approval criteria is located in Section 18.109.070 Of the Eau Claire County Code. The board of land use appeals may approve a variance if the property owner demonstrates that the application complies with the requirements of Wis. Stat. § 59.694(7)(c).

A variance shall:

1. Only be granted upon a showing of good and sufficient cause,
2. Be the minimum relief necessary,
3. Not cause increased risks to public safety or nuisances' costs for rescue and relief efforts, and
4. Not be contrary to the purposes of the ordinance, other applicable ordinances, or state law or administrative order.

A variance shall not:

1. Allow in any district uses not permitted in that district; or
2. Allow any alteration of an historic structure, including its use, that would preclude its continued designation as an historic structure; or
3. Damage the rights or property values of other persons in the area; or
4. Be granted for a hardship that is self-created; or
5. Be granted for a hardship based solely on an economic gain or loss; or
6. Be granted for actions that require an amendment to Chapter 18.200; or
7. Permit any change in established flood elevations or profiles; or
8. Otherwise violate Wisconsin law.

The following principles shall guide the board's decisions:

1. The burden is upon the appellant to prove the need for a variance.
2. Pecuniary hardship; loss of profit; or self-imposed hardships, such as that caused by ignorance, deed restrictions, proceeding without a permit, or illegal sales are not sufficient reasons for granting a variance.
3. The plight of the applicant must be unique, such as a shallow or steep parcel of land or situation caused by other than his or her own action.
4. The hardship justifying a variance must apply to the appellant's parcel or structure and not generally to other properties in the same district.
5. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE. (Ord. 167-3, Sec. 1, 2023)

The Wisconsin Supreme Court's opinion in State Ex. rel. Ziervogel v. Washington County Board of Adjustment, found that the property owner will have to prove unnecessary hardship utilizing the 1976 Snyder Wisconsin Supreme Court decision. In the 2004 Ziervogel decision, the Supreme Court reaffirmed the 1976 Snyder standard for determining the existence of an unnecessary hardship stated as "...whether compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome." (at pages 3-4) Whether the standard is met depends upon "...a consideration of the purpose of the zoning restriction in question, its effect on the property, and the effect of a variance on the neighborhood and the larger public interests." (at page 4) The hardship must be unique to the property and not self-created (at page 4). The burden of proving unnecessary hardship remains on the property owner (at page 4). In the Ziervogel decision the Supreme Court affirmed the following rules of unnecessary hardship:

1. The hardship must be based on conditions unique to the property rather than considerations personal to the property owner.
2. The hardship cannot be self-created.
3. The Board is to evaluate the hardship in light of the purpose of the zoning restriction at issue.
4. The variance cannot be contrary to the public interest.
5. The property owner bears the burden of proving unnecessary hardship.

If it is found that there is a hardship and that the other criteria are present, the Board can grant a variance. In that case, the variance should only provide for the minimum relief needed to overcome the hardship. (Anderson, American Law of Zoning 3d, (9189) Vol. 3, S.20.86, pp. 624-5).

A variance grants relief from a **numerical standard**, such as a setback, that allows development that is inconsistent with the dimensional standards contained in the ordinance. Variances cannot be issued to approve uses that are inconsistent with the ordinance. The Board of Land Use Appeals is authorized by statute to grant variances to the strict terms of the Eau Claire County Zoning Ordinance only when certain criteria exist. Those criteria are listed above. It is the applicant's responsibility to prove that those criteria exist at the site and that a variance can be granted.

If you believe your request meets the criteria necessary to grant a variance, please summarize your request, the facts that show those standards have been satisfied, and arguments that support this conclusion.