



**City of Westby**  
**200 N. Main St.—Westby, WI 54667**  
**Application for VARIANCE OF ZONING ORDINANCE**  
**\$ 75.00 application fee must accompany this request.**

The undersigned hereby makes application for a Variance of Zoning Ordinance for the work described and located as shown below. The undersigned agrees that all work shall be performed in accordance with all applicable City ordinances, and the laws and regulations of the State of Wisconsin.

Name of Owner \_\_\_\_\_

Phone Number \_\_\_\_\_

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

Email Address \_\_\_\_\_

Zoning District \_\_\_\_\_

Property Address \_\_\_\_\_

Proposed Use \_\_\_\_\_

Parcel Number \_\_\_\_\_

Lot Size \_\_\_\_\_

Reason for Variance Request (see attached) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Please attach names and addresses of all adjoining property owners, and abutting and opposite owners within 100' of subject parcel. Please attach a plot plan of the area involved showing parcel, all structures (both existing) and proposed, setbacks, etc.***

**ACTION TAKEN:**

Board of Appeals \_\_\_\_\_ Approved \_\_\_\_\_ Denied \_\_\_\_\_ Date \_\_\_\_\_

Notes: \_\_\_\_\_

\_\_\_\_\_

City Council \_\_\_\_\_ Approved \_\_\_\_\_ Denied \_\_\_\_\_ Date \_\_\_\_\_

Notes: \_\_\_\_\_

\_\_\_\_\_

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

**Conditions of Approval This application is approved pursuant to the following conditions. Failure to comply may result in the suspension or revocation of this application, or other penalty.** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of Zoning Administrator \_\_\_\_\_ Date \_\_\_\_\_

***Warning: Failure to obtain required permits prior to construction will result in a penalty of not less than \$10.00, and no more than \$500.00 per day.***



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**PART 1: General Information and Alternatives Analysis**

Current Use and improvements:

Description of any prior petition for appeal, variance or conditional use:

Description and location of all nonconforming structures and uses on the property:

Ordinance standard from which variance is being sought (section number and text):

Describe the variance requested:

Type of variance requested:

\_\_\_\_\_ USE VARIANCE—permits a landowner to put a property to an otherwise prohibited use.

\_\_\_\_\_ AREA VARIANCE—provides an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback.

Describe the effects on the property if the variance is not granted:



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**Alternatives**

Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below.

- a. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.
  
  
  
  
  
  
  
  
  
  
- b. Alternatives you considered that require a lesser variance and reasons you rejected them. If you reject such alternatives, provide the reasons you rejected them.

**PART 2: Three-Step Test**

To qualify for a variance, the applicant must demonstrate that their property meets the following requirements.

1. **Unique property limitations** (to be completed by the applicant)  
Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

\_\_\_ Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives you considered.

\_\_\_ No. A variance cannot be granted.



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2. Analysis of Impacts

Discuss impacts that would result if the variance was granted. For each impact, describe potential mitigation measures and the extent to which they reduce project impact (completely, somewhat, or minor). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term and cumulatively.

Short term impacts: (through the completion of construction)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Long term impacts (after construction is completed)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Cumulative impacts (what would happen if a similar variance request was granted for many properties)

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Impact:

Mitigation:

Extent to which mitigation reduces project impact:

Will granting the variance harm the public interest?

Yes. A variance cannot be granted.

No. Mitigation measures described above will be implemented to protect the public interest.



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3. Unnecessary hardship (to be completed by the applicant)

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

\*\* For an area variance, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. (1) The Wisconsin Supreme Court also determined that living without a lakeside porch was a personal inconvenience and did not constitute unnecessary hardship. (2) The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

\*\* For a use variance, unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance.

**Note:** While Wisconsin Statutes do not specifically prohibit *use variances*, there are a number of practical reasons why they are not advisable:

- \* Unnecessary hardship must be established in order to qualify for a variance. This means that without the variance, no reasonable use can be made of the property.
- \* Many applications for use variances are in fact administrative appeals. Often the zoning board is asked to determine whether a proposed use is included within the meaning of a particular permitted or conditional use or whether it is sufficiently distinct as to exclude it from the ordinance language. Such a decision is not a *use variance* but an appeal of the administrator's interpretation of ordinance text.
- \* Zoning amendments are a more comprehensive approach than use variances. Elected officials consider the larger land area to avoid piecemeal decisions that may lead to conflict between adjacent incompatible uses or may undermine land use plan and ordinance objectives. Towns have meaningful input (veto power) for zoning amendments to general zoning ordinances.
  - ~ Zoning map amendments can change zoning district boundaries so as to allow uses provided in other zoning districts.
  - ~ Zoning text amendments can add (or delete) permitted or conditional uses allowed in each zoning district.

Is unnecessary hardship present?

\_\_\_\_\_ Yes. Describe:

\_\_\_\_\_ No. A variance cannot be granted.

(1) *State ex rel. Ziervogel v. Washington County Bd. Of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. Of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514

(2) *Snyder v. Waukesha County Zoning Bd. Of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)