

# Oconto County

## Planning & Zoning

### Variance Application Packet

#### This packet includes:

- *Checklist*
- *Guidelines for Variance Applicants*
- *Variance Application (3 pages)*
- *Oconto County Board of Adjustment Public Hearing and Business Meeting Dates*

#### Checklist for submitting your Variance Application:

- Consult with Planning & Zoning Staff regarding your proposal
- Complete all three pages of the Variance Application
- Submit to the Oconto County Planning & Zoning Office
  - Complete Variance Application
  - Survey by professional land surveyor noting property boundaries, location of existing structures such as houses, decks, garages, wells, septic systems, and the proposed structures.
  - Locations and description of **buildable areas** on the parcel and reasons why these areas cannot be utilized for the proposed structure.
  - Additional information (where applicable) floodplain boundaries, ordinary high-water mark, wetland boundaries, adjacent property structures and wells, steep slopes.
  - \$475.00 Application fee – “After the Fact” fee is triple
    - Complete applications must be received by the Oconto County Planning & Zoning Office by the application deadline (*refer to the “Oconto County Board of Adjustment Public Hearing and Business Meeting Dates” included in this packet*) in order to be processed for the following month’s public hearing docket. If more than 10 applications are received, the last ones received may be moved to the next month. Please note that incomplete applications will not be processed. Refer to “**Guidance for Variance Applicants**” included in this packet for additional information.
- Attend On-Site and Public Hearing
- If a variance is granted, consult with county staff regarding permits.

# **GUIDELINES FOR VARIANCE APPLICATIONS**

## **OCONTO COUNTY BOARD OF ADJUSTMENTS**

The Oconto County Zoning Ordinance was adopted and enacted by the Oconto County Board of Supervisors.

The Board of Adjustments is a body that reviews and makes decisions on petitions for variances from the Oconto County Zoning Ordinance. The Board of Adjustments is comprised of five elected supervisors.

The Board of Adjustments general grant of authority is found in Section 59.99, Wis. Stats. as follows:

*To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed, and substantial justice shall be done.*

A zoning ordinance cannot anticipate every land use question that will arise in a community. The Board of Adjustment's authority to grant a variance gives the ordinance limited flexibility. The Board of Adjustment acts as a quasi-judicial administrative arm of the County Board. It is the Board of Adjustment's duty to preserve the zoning ordinance without modification as far as possible while ensuring substantial justice for the individual. The variance procedure allows the general rules to be varied in response to unusual circumstances which constitute a legal hardship.

### **Standards Followed by the Oconto County Board of Adjustment In Considering Variance Applications**

It is the responsibility of the applicant to provide "proof" that enforcement of the Zoning Ordinance will result in legal hardship. A variance cannot be granted as a convenience to the property owner.

The legal hardship must come from the Zoning Ordinance. A self-imposed hardship cannot serve as justification for a variance: i.e., the problem was self-created by the action or negligence of the applicant; the applicant commenced work on a project without required permits or had failed to inform himself on permit requirements, etc.

The legal hardship or difficulty stated as the reason why a variance is necessary must be peculiar to the parcel in question and different from that of other area parcels. The applicant for a variance must clearly show the Board that the request is due to the very unusual or unique qualities of his property.

The expenditure of money does not constitute a legal hardship. In other words, the courts do not recognize financial hardship as a basis upon which a Board of Adjustments can grant a variance (the fact that a structure erected in violation of the Zoning Ordinance would be too expensive to move, that an alternative location which would be in compliance with the ordinance might be somewhat more expensive on which to build, etc.). The courts have uniformly held that, when a hardship was created by the applicant's own acts, he is not entitled to relief.

Zoning Ordinance violations by others in the area, nonconformity of structures on other properties or other variances given in the area do not automatically entitle an applicant to approval of his variance request. What constitutes a legal hardship and substantial justice is a matter to be determined by the Board from the facts and circumstances of each individual appeal.

In granting variances, the Board may impose special conditions to ensure that there will be no harm to public interests. The board will consider factors such as control of water pollution, protection of spawning grounds, fish and aquatic life, control of building sites, placement of structures and land uses and preservation of shore cover and natural beauty.

A variance will not be granted simply because there is no objection to it or because those who do not object outnumber those who do.

# OCONTO COUNTY VARIANCE APPLICATION

## OWNER INFORMATION

**Property Owner:**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State & Zip \_\_\_\_\_

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

**Additional Property Owner: (if Applicable)**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State & Zip \_\_\_\_\_

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

**Agent:** (The property owner may appoint an agent to speak on their behalf. If appointing an agent please provide agent information.)

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Phone # \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State & Zip \_\_\_\_\_

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

## PROPERTY INFORMATION

Parcel #(s): \_\_\_\_\_ ; \_\_\_\_\_ ; \_\_\_\_\_

Location (Gov. Lot \_\_\_\_\_ or \_\_\_\_\_ ¼, \_\_\_\_\_ ¼), Section \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ E, Town of \_\_\_\_\_

Physical Address \_\_\_\_\_ Size of Parcel \_\_\_\_\_

Current Zoning of the Parcel: \_\_\_\_\_

## VARIANCE INFORMATION

**Variance request to Ordinance Section(s) \_\_\_\_\_ of Oconto County \_\_\_\_\_ Ordinance.**

**Provide description of the variance request:**

**Please check the type(s) of setback(s) you are applying for a variance from:**

- Side Lot (Left)
- Side Lot (Right)
- Road (Centerline)
- Rear Yard
- Ordinary High-Water Mark\*
- Other \_\_\_\_\_

\* Measured to Overhang/eaves

**Please enter the distance the proposed structure will be from each of the following at its closest point:**

- \_\_\_\_\_ Side Lot (Left)
- \_\_\_\_\_ Side Lot (Right)
- \_\_\_\_\_ Road (Centerline)
- \_\_\_\_\_ Rear Yard
- \_\_\_\_\_ Ordinary High-Water Mark\*
- \_\_\_\_\_ Other \_\_\_\_\_

\* Measured to Overhang/eaves

**Please enter the distance the existing structure is from each of the following at its closest point:**

- \_\_\_\_\_ Side Lot (Left)
- \_\_\_\_\_ Side Lot (Right)
- \_\_\_\_\_ Road (Centerline)
- \_\_\_\_\_ Rear Yard
- \_\_\_\_\_ Ordinary High-Water Mark\*
- \_\_\_\_\_ Other \_\_\_\_\_

\* Measured to Overhang/eaves

**Please note that incomplete applications will not be processed. A complete variance application will include the following:**

- ✓ **Signed Variance Application**
- ✓ **A survey from a professional land surveyor showing the proposed and existing structure and the distance of each at their closest point from side and rear lot lines or ordinary high-water mark, centerline, the existing septic system (both the drain field and tank), any proposed septic system (both the drain field and the tank), well location, floodplain and wetland boundaries.**
- ✓ **Three Step Test Document Completed (Found on Pages 2 & 3 of this application)**
- ✓ **\$475.00 application fee (Payable to: Oconto County Planning & Zoning) – “After the Fact” fee is a triple fee.**

**I certify that the information I have provided in this application is true and accurate. Property owner signature is required.**

Property Owner Signature \_\_\_\_\_ Date \_\_\_\_\_

Property Owner Signature (if applicable) \_\_\_\_\_ Date \_\_\_\_\_

Submit with other required variance application materials to: Oconto County Planning & Zoning – 301 Washington St – Oconto WI 54153

### THREE STEP TEST TO BE COMPLETED BY APPLICANT

**THREE STEP TEST:** To qualify for a variance, the applicant must demonstrate that their property meets **all three** of the following requirements.

#### 1. Unique physical limitations

Unique physical limitations of the property such as steep slopes, wetlands or parcel shape that limits reasonable use of the property and that are not generally shared by other properties prevents the applicant from developing in compliance with ordinance requirements. **The circumstances of an applicant (growing family, need for a larger structure, poor site planning by the owner or previous owners, 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.

Do unique physical characteristics of your property prevent compliance with the ordinance?  Yes  No  
If yes, please explain the limitations of the parcel in relation to your proposal.

**Have you considered alternatives to lessen the impact to setbacks?** Explain why a smaller or reconfigured structure cannot be proposed. Show buildable area on a detailed site plan and explain the unique physical limitations that exist, reasons for exceeding buildable area, and why structure size cannot be reduced to meet or lesson setbacks?

#### 2. No harm to public interests

Variances may not be granted which result in harm to public interests. In applying this test, the Board considers the impacts of the proposal and the cumulative impacts of similar projects to the interests of the neighbors, community and the general public.

Explain how the project will not harm public interests upon reviewing the following descriptions that pertain to this parcel and application.

Reducing road or side yard setbacks for placement of structures can have a negative impact on the safety of the traveling public or emergency services accessibility to the parcel. Will the proposed structure restrict or hinder turnaround areas, reduce areas for a town to efficiently plow snow off of town roads, cause vehicles to park on the town roads, hinder utilities along town road right of way or impair fire or rescue services proper access to the parcel? **It is highly recommended that the applicant contacts the local municipality for review of impacts your proposed structure may have to a town road.**

Reducing the shoreland setback is a detriment to maintaining/ preserving a natural shoreland buffer and generates water pollution unless the impacts can be mitigated. These concerns are listed as objectives in the Oconto County Shoreland Zoning Ordinance and include:

- Further the maintenance of safe and healthful conditions and prevent and control water pollution.
- Protect spawning grounds, fish and aquatic life.
- Control building sites, placement of structures and land uses.
- Preserve shore cover and natural beauty.

It is well documented that structures placed within the shoreland setback have negative impacts to the public interests of providing for clean water. Stormwater runoff from impervious surfaces (roofs, driveways, paved areas) increases water body temperatures, promotes algae blooms that impair fish & aquatic life, and introduces pollutants (car fluids, sediments) to the waters. Diverting runoff to natural depression areas or creating rain gardens to control runoff from downspouts and driveways can solve some of the water pollution problems.

Describe setback concerns and/or potential mitigation measures and the extent to which they reduce the project impacts to the public's interests.

**A shoreland variance will not be granted without a review of the parcels shoreland buffer. A plan to re-establish or maintain native plants in the shoreland buffer (35 ft landward of the ordinary high-water mark) may be required as a condition of any shoreland setback variance approval. Please review the [NRCS Bulletin 643A Shoreland Habitat & WI Biology Technical Note 1: Shoreland Habitat](#) for further details.**

### **3. Unnecessary Hardship**

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 or constructing a detached structure on a vacant lot and then claiming 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. **Convenience for a certain location cannot be justified if other areas of the parcel can conform to setbacks for the structure.** The property owner bears the burden of proving an unnecessary hardship.

For an area (setback) 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. The Board of Adjustments must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the effects of a variance on the neighborhood, the community and the public interests. This standard reflects the *Ziervogel* and *Waushara County* court decisions.

**Explain the unnecessary hardship.** If the owner cannot demonstrate an unnecessary hardship, a variance cannot be granted.

**Please Note: The location of the proposed structure must be staked out with all corners marked prior to the date of the public hearing.**

#### **Other required information:**

- ✓ Survey by professional land surveyor noting property boundaries, location of existing structures such as houses, decks, garages, wells, septic systems, and the proposed structures.
- ✓ Locations and description of **buildable areas** on the parcel and reasons why these areas cannot be utilized for the proposed structure.
- ✓ Additional information (where applicable) floodplain boundaries, ordinary high-water mark, wetland boundaries, adjacent property structures and wells, steep slopes.
- ✓ Variance application completed with property owner signature.

Applications will be reviewed for completeness and valid responses to the questions. Incomplete applications will be returned and may not meet the deadlines for processing the application. Hearings are held monthly, and applications will not be scheduled in a timely manner if returned for incomplete information. **Please be aware that postponement/rescheduling of a public hearing due to the applicant's error in the submittal or absence from the public hearing shall be charged \$175 fee to cover administration costs for re-notice of the public hearing.**

# Oconto County Board of Adjustment

## Public Hearing and Business Meeting Dates

**Conditional Use Permit / Variance Application Deadline**

*(Application must be complete - Refer to requirements outlined in the Conditional Use Application Packet / Variance Application Packet)*

**Public Hearing/Business Meeting**

*(Due to unforeseen circumstances, the public hearing date/business meeting date may on occasion need to be altered. Every effort will be made to hold to the dates shown.)*

**Complete applications must be received by the Oconto County Planning & Zoning Office by the application deadline in order to be processed for the following month's public hearing agenda. If more than 10 applications are received, the last ones received may be moved to the next month. Please note that incomplete applications will not be processed. The application and hearing dates shown are subject to change due to holidays, number of applications etc. If you are planning on submitting an application at or near a deadline shown, please confirm dates with the Planning and Zoning Office at 920.834.6827.**

### 2025

November						
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**Courthouse Closed: November 27-28; December 24-25; 31**

### 2026

January						
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August						
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November						
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December						
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27	28	29	30	31		

**Courthouse Closed: January 1; April 17; May 25; July 3; September 1; November 26-27; December 24-25; December 31**