

# Variance Application

A variance is a relaxation of a standard in land use ordinance. Variances are decided by the zoning board of adjustment/appeals. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance 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 and application** form and submit a \$ 250.00 fee.
2. **Provide a detailed plan** describing your lot and project (location, dimensions, and materials).
3. **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three Step Test in Part 2); and
4. **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the zoning board may inspect the site.

Following these steps, the zoning agency will publish notice of your request for a variance in the towns official newspaper noting the location and time of the required public hearing before the zoning board. Your neighbors and any affected state agency will also be notified. The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or agent must convince the zoning board to make a ruling in your favor. The board will make its decision based on the information provided with your application, a possible onsite visit by one or more committee members and information obtained during your board meeting presentation. Unless you and your agent are present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

# Town of Scott Variance Application

## Part 1: General Information

Date of Application \_\_\_\_\_ Fee Paid \_\_\_\_\_

Name of Applicant \_\_\_\_\_

Address \_\_\_\_\_

Phone # \_\_\_\_\_

Legal description: \_\_\_\_ 1/4, \_\_\_\_ 1/4, S \_\_\_\_, T \_\_\_\_ N, R \_\_\_\_ E \_\_\_\_\_

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

Tax parcel number \_\_\_\_\_

Total Acres in parcel \_\_\_\_\_ Zoning District \_\_\_\_\_

Current use and improvements:

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

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

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

Describe the variance requested:

Name of adjoining property owners: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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.

## Part 2: Three-Step Test

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

### 2) No Harm to Public Interests (To be completed by zoning staff)

A variance may not be granted which results in harm to public interests. In applying this test, the board of appeals board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Public health, safety, and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures, and lots
- Any other public interest issues

### 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 on 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 (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessary

burdensome. The board of adjustment must consider the purpose of the zoning restrictions, 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.

**Part 3: Construction Plans** (To be completed and submitted by the applicant)

Attach construction plans detailing:

- Property lines
- Vegetation removal proposed
- Contour lines (2 ft. interval)
- Ordinary high-water mark
- Floodplain & wetland boundaries
- Dimensions, locations & setbacks of existing & proposed structures
- Utilities, roadways & easements
- Well & sanitary system
- Location & extent of filling/grading
- Location & type of erosion control measures
- Any other construction related to your request
- Anticipated projects start date

I certify that the information I have provided in this application is true and accurate.

Signed: (applicant/agent/owner) \_\_\_\_\_

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

Remit to:

Town of Scott

N1306 Boltonville Rd

Adell, WI 53001

920.994.4470

[townofscottclerk@gmail.com](mailto:townofscottclerk@gmail.com)

SCALE DRAWING MUST BE ATTACHED that accurately depicts the following:

1. The location and size of the property including all lot line dimensions
2. Indicate north
3. Show the location and names of all surrounding roads / highways
4. Show the location of all area water bodies (lake, rivers, streams, ponds, etc.)
5. Indicate all existing buildings and mark with "EB"
6. Indicate all wells and sanitary systems and mark as such
7. Include all directly abutting properties and structures, sanitary, etc.
8. Show the requested change or construction and include the following measurements:
  - a. Distance from the centerline of all roads
  - b. Distance from the right-of-way of all the roads
  - c. Distance to all lot lines
  - d. Distance to all the water bodies
  - e. Distance from sanitary system drain field and tanks
  - f. Distance from the well

**Applicants are required to clearly mark on their property the location of:**

1. The proposed change or construction
2. All property lines
3. Sanitary system components (drain fields, tanks, etc.)
4. Wells
5. Other physical features pertinent to the decision

**These features should be marked with high visibility flags, tap, or stakes.**

Additional information beyond what has been specifically requested in this application may be required by the Town of Scott Board of Appeals before rendering a decision. Failure to provide all requested information could result in the dismissal or denial of your application.

To the Town of Scott Board of Appeals: The undersigned hereby makes application for a PETITION FOR VARIANCE for work described and located as shown herein. The undersigned agrees that all work shall be done in accordance with the requirements of the Town of Scott Zoning Ordinance and with all other applicable County Ordinances and the laws and regulations of the State of Wisconsin. I declare that the information that I am supplying is true and accurate to the best of my knowledge and I acknowledge that this information will be relied upon for the issuance of this permit. By signing this application, I am also granting permission to the zoning department staff to enter my property at any reasonable time for the purpose of inspection to assure compliance with the zoning laws relative to the issuance of this permit.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Property owner's signature(s) required

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
Property owner's signatures(s) required