



## **GUIDELINES USED BY THE BOARD OF APPEALS TO DETERMINE WHETHER A VARIANCE SHOULD BE GRANTED**

Although the statutes contain a number of qualifying phrases, the main statutory test of whether a variance may be properly granted is whether an “unnecessary hardship exists”.

The leading Wisconsin case on variances is *SNYDER v WAUKESHA COUNTY* (1976), 74 Wis. (2nd) 468, 247 NW (2nd) 468. In this case, the court set forth the following guidelines for granting variances:

- 1) An unnecessary hardship means that the property cannot yield a reasonable return when used for the permitted purposes or where no feasible use can be made of the land without a variance.
- 2) The changes in the character of the neighborhood that would be caused by the variance are important.
- 3) The hardship must be unique to the property in question and may not apply equally to similar lots.
- 4) The hardship must be unique to the lot, not personal to the owner of the lot.
- 5) A variance cannot be granted in the case of a self-created hardship.

**IN ADDITION, the courts have made it clear that a variance CANNOT be granted in the following situations:**

- 1) Where there is a self-created hardship, that is, where the application is due to a problem created by the owner/applicant.
- 2) Where there is a personal hardship, and the variance would continue to affect the character of the neighborhood after title to the property has passed.
- 3) Where there is an economic hardship, a purely financial hardship, for example, restriction of the property to a less profitable use.

### **IMPORTANT INFORMATION FOR APPLICANTS**

The City of Oshkosh Board of Appeals meets on the 2nd Wednesday of each month at 3:30 P.M. in Room 404 of City Hall, 215 Church Avenue, Oshkosh, Wisconsin. Application deadline is approximately 20 days prior to a meeting at 12:00 NOON. Please confirm the deadline with staff.

**The following must be submitted in order for your application to be accepted:**

- Complete the attached application form. Both the owner and applicant must sign the application form.
- Answer all questions on the application form.
- A site plan drawn to scale showing all structures, lot lines, streets and distances from the structures to the lot lines and street.
- Any other supporting documentation you feel is necessary or as may be required by staff.

It is recommended for the applicants and/or a representative for the applicant to attend the meeting to answer questions of the Board and present their variance request. If the applicant and/or representative fail to appear, the Board may choose to act on the item, or to postpone action until the next meeting. **A meeting notice and staff report will be sent to the applicant and/or owner prior to the scheduled meeting.**

If for any reason the owner/applicant withdraws the application, it must be done so in writing. If the owner/applicant wishes to reapply they must file a new application form, site plan, supporting documentation, and filing fee. Filing fees are non-refundable.

If you have any questions about the variance application form, or the process of obtaining a variance, please contact the Planning Services Division at (920) 236-5059.

**YOUR APPLICATION IS DUE BY:** \_\_\_\_\_ **AT 12:00 NOON**

**YOUR VARIANCE HEARING DATE:** \_\_\_\_\_ **AT 3:30 P.M.**



**2. Describe how the variance would not have an adverse effect on surrounding properties:**

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**3. Describe the special conditions that apply to your lot or structure that do not apply to surrounding lots or structures:**

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**4. Describe the hardship that would result if your variance were not granted:**

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