

### 3) No Harm To Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the Board of Adjustment must consider the impacts of the proposal and the cumulative impacts of similar projects on the interest of the neighbors, the entire community, and the general public.

These interests may include:

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

### NOTIFICATION

A Class II notice is published in the newspaper and a notice of the date and time of the hearing will be mailed to you and neighboring property owners. Notice is also sent to your township. However, applicants should contact their town and discuss the proposed request with the town prior to the Board of Adjustment hearing.

Depending on the location of your property, other political subdivisions and agencies may be notified—County Departments such as *Highway Dept., Health Dept., Dept. of Natural Resources, WI Dept. of Transportation, cities, villages, FEMA, Manitowoc County Airport, etc.*

The property owner or their agent or representative shall be present at the public hearing to present their request to the Board

and answer any questions the Board may have. If someone fails to appear before the Board or if insufficient information is presented, the appeal will not be considered at that meeting. The request will be placed on the next meeting agenda and the applicant shall pay any additional expenses incurred with postponement and republishing of the hearing.

### YOUR TOWNSHIP & VARIANCES

Your local town board is a RECOMMENDING body to the Board of Adjustment. It is your responsibility to contact your town board chairman to be placed on the agenda for a town board meeting.

Cato	Gerald Linsmeier	(920)732-3205
Centerville	Brian Kraemer	(920)693-8935
Cooperstown	David Blakeslee	(920)639-0555
Eaton	Rick Christel	(920)773-2535
Franklin	Jerold Korinek	(920)732-3563
Gibson	Edward Peterik	(920)973-5950
Kossuth	Ralph Schuh	(920)732-3772
Liberty	Joel Aulik	(920)726-4302
Manitowoc	Dale Markwardt	(920)682-3244
Mtwc Rapids	Joshua Stradal	(920)323-0357
Maple Grove	Paul Heraly	(920)756-2583
Meeme	Dennis Graf	(920)693-8700
Mishicot	Lee Stefaniak	(920)323-4358
Newton	Roger Busse	(920)901-0258
Rockland	Randall Brandes	(920)375-0940
Schleswig	Joseph Meyer	(920)894-2504
Two Creeks	Lee Engelbrecht	(920)755-4042
Two Rivers	William Wilfert	(920)683-3352

**Manitowoc County Planning and Zoning Department**  
4319 Expo Drive—PO Box 935  
Manitowoc WI 54221-0935  
Phone: 920-683-4185



## Board of Adjustment Setback Variance Procedure

### WHAT IS A VARIANCE?

The Manitowoc County Zoning Ordinances require certain minimum setbacks and/or requirements for construction projects. These setbacks can vary depending on the parcel of land being built upon. If a construction project cannot meet the requirements set forth in the Zoning Ordinance, the application is denied. An appeal of that denial can be made through a procedure requesting a variance.

### THE APPEAL PROCESS:

Appeals to the Board of Adjustment are normally considered at a monthly public hearing. In order to be considered at the next meeting, a complete application and required fee must be received by the Planning and Zoning Office no later than 12:00 NOON on the last Monday of the month.

Once an application for an appeal is completed and received, you will be placed on the agenda for the next available public hearing in front of the Manitowoc County Board of Adjustment.

If your appeal is granted, a zoning/setback permit must be obtained, allowing the proposed construction.

## WHAT IS THE BOARD OF ADJUSTMENT?

- The Board of Adjustment is a 5 member board, appointed by the County Executive.
- The Board of Adjustment will physically review the properties, prior to the public hearing date.
- Hearings are typically held on the 3rd Monday of each month, beginning at 7:00 p.m. in Room 300 located in the County Office Complex.
- In order for the Board to hold a hearing, there has to be a minimum of three (3) applications received prior to the deadline date.
- The maximum number of applications per meeting is normally six (6).

## APPLICATIONS

All applications, available online or at the Planning and Zoning Office, must include:

1. A completed application that is signed, dated and includes a legal description of property.
  2. A filing fee is required to complete the application.
  3. A site diagram drawn to scale, indicating the location of all existing structures, the proposed construction, all property lines, and ordinary high mark. (A survey may be required if the drawing is inadequate.)
- **Incomplete applications will not be placed on the meeting agenda.**

## VARIANCE DECISION

The Wisconsin Supreme Court has set forth guidelines for members of the Board of Adjustment for variance decisions. The standards are also provided in State statute and local ordinances.

Unnecessary hardship is present when “compliance with the strict letter of the ordinances governing area set backs, 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.” State v. Waushara County Board of Adjust, 2004 WI 56 (2004), State ex rel. Ziervogel v. Washington County Board of Adjustment, 2004 WI23 (2004).

### THE THREE STEP TEST:

Applicants shall answer 3 questions pertaining to unnecessary hardship, unnecessary burden or reasonable use, and the protection of public interest.

#### 1) Unique Property Limitations

Unnecessary hardship must be due to unique physical limitations of the property, such as steep slopes or wetlands that are not generally shared by other properties and may prevent compliance with the ordinance. The circumstances of an applicant (such as a growing family, need for a larger garage, etc.) **are not** factors in deciding variances.

Nearby ordinance violations, prior variances, or approval 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.

#### 2) Unnecessary Hardships

- A) 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. If the property currently supports a reasonable use, the hardship test is not met and a variance may not be granted.
- B) For an area variance unnecessary hardship exists when compliance with the ordinances 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 the ordinance “unnecessarily burdensome.”
- C) Self-created hardships: 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 not suitable location for a home.) In determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel.

- **The property owners bear the burden of proving unnecessary hardship.**