

# Petition for Variance

Application  
Village of Weston/ETZ

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

Permit No. : \_\_\_\_\_

Payment:  Cash       Check No. \_\_\_\_\_

**FULL COMPLETION OF THIS FORM IS REQUIRED FOR PROCESSING**  
**NO HAND WRITTEN APPLICATIONS WILL BE ACCEPTED**



5500 Schofield Ave  
Weston, WI 54476

## PROPOSALS AND FEES

Variance **\$ 400.00**

## DESCRIPTION OF PROCESS

A variance is a relaxation of a standard in the Village of Weston Zoning Ordinance of the Municipal Code. Variances are decided by the zoning board of appeals. The Zoning Board of Appeals is a quasi-judicial body because it functions similar to a court of law. 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.

**Along with the completion and submittal of this application, the following must be completed and provided:**

- The fee of \$400.00. Checks may be written out to the “Village of Weston.”
- A detailed plan describing your lot and project (location, dimensions and materials). A Certified Survey Map may be required.
- All lot lines, proposed building dimensions and other features be staked out related to your request so that the site may be inspected by the Zoning Board of Appeals. No contact may be made with any member of the board during these site visits.

Following these steps, the Department of Planning and Development will publish notice of your request for a variance in the Village Official Newspaper of Record noting the location and time of the required public hearing before the Zoning Board of Appeals. Your neighbors and any affected state agencies will be notified. The burden will fall onto you, the property owner, to provide information upon which the Zoning Board of Appeals may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or the agent must convince the Zoning Board of Appeals to make a ruling in your favor. The Zoning Board of Appeals must make a decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent are present, the Zoning Board of Appeals may not have sufficient evidence to rule in your favor and must then deny your application.

## APPLICANT INFORMATION

**Applicant Name:** \_\_\_\_\_  Agent\*    Property Owner

Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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

*\* Agents must have a LETTER OF AUTHORIZATION from all property owners at the time of filing.*

**Property Owner:** \_\_\_\_\_ **Contact Name:** \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone: \_\_\_\_\_

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

## PROJECT SITE SPECIFICATIONS

Project Address: \_\_\_\_\_ Lot Size(ft<sup>2</sup>): \_\_\_\_\_  
(or PIN if no address)

\_\_\_\_\_ Acres: \_\_\_\_\_

Future Land Use

Property Zone: \_\_\_\_\_ Designation: \_\_\_\_\_

Legal Description: \_\_\_\_\_

**ELIGIBLE PROVISIONS FOR WHICH VARIANCES MAY BE GRANTED**

Variations from the regulations of this Chapter may be granted only in the following instances and in no others. Please check the following instance in which you, the applicant, are applying for a variance:

- To permit any setback, principal building separation distance, or landscape surface ratio that is less than the setback, principal building separation distance, or landscape surface ratio required within the applicable zoning district under Article 5.
- To permit building construction on a lot where otherwise prohibited solely because of the insufficient lot area, lot width, or lot frontage within the applicable zoning district under Article 5. In no event shall the respective lot area, lot width, or lot frontage be less than 75 percent of the required dimension under Article 5.
- To permit a building, fence, wall, or other structure height that is greater than that required within the applicable zoning district under Article 5, Section 94.12.03, or any other provision of this Chapter.
- To permit a maximum or minimum floor area or density of any building or use so limited by the applicable regulations in this Chapter to vary by not more than 25 percent, where the matter is not otherwise covered by the above eligible variances.
- To permit variations from an access, driveway, off-street parking, traffic circulation, or loading standard in Sections 94.12.08 to 94.12.10.
- To permit installation of a holding tank in a circumstance that does not meet the requirements in Section 94.3.03(13).

**APPLICATION REQUIREMENTS**

Maps showing the current location and current zoning and future land use of all lands for which the conditional use permit is proposed, the location and current zoning of all lands within 300 feet, and the jurisdiction(s) within the subject property lies (Village of Weston or Town of Weston) will be provided by Village Staff.

The following questions must be answered by the applicant. If necessary, please use an additional sheet of paper and attach to the applications. All responses MUST be typed.

1. Describe all current uses and improvements on the subject property.

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

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3. Description of all non-conforming structures and uses on the property.

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4. Describe the variance being requested.

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5. Describe the effect on the property if the variance is not granted.

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## THREE-STEP TEST

**Step 1: Unique property limitations.** 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.

**Step 2: No harm to Public Interests (will be completed by staff see below under 'STAFF REVIEW').** A variance may not be granted which results in harm to public interests. In applying this test, the zoning 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:

- Protecting the public health, safety, morals, comfort, convenience, and general welfare;
- Implementing the Comprehensive Plan to the extent possible under zoning;
- Controlling and lessening congestion in the streets;
- Securing safety from fire, panic, and other dangers;
- Promoting adequate light and air;
- Encouraging the protection of natural resources;
- Preventing the overcrowding of land and undue concentration of population;
- Preserving and enhancing property values;
- Facilitating adequate transportation, water, sewage disposal, parks, and other public facilities;
- Promoting high quality and sustainable community design;
- Managing growth and the impacts of land development; and
- Preserving and enhancing community appearance and quality of life.

**Step 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 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 unnecessarily burdensome. 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.

**Is unnecessary hardship present?**

Yes. Describe in detail.

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No. A variance cannot be granted.

**CONSTRUCTION PLANS**

Construction plans detailing the following must be provided:

- Property lines
- Vegetation removal
- Contour lines (2ft intervals)
- Ordinary high water mark
- Floodplain and wetland boundaries
- Dimensions, locations and setbacks of existing and proposed structures
- Utilities, roadways and easements
- Well and sanitary systems
- Location and extend of filling and grade
- Location and type of erosion control measures
- Any other contraction related to your request
- Anticipated start of construction

**REIMBURSEMENT FOR DEVELOPMENT REVIEW SERVICES**

The Village Planner, Village Engineer, Public Works Director, Village Attorney, and other Village staff and consultants may expend time in the administration, investigation, and processing of development review applications. In addition, the Village may retain the services of other professional consultants—including but not limited to landscape architects, architects, environmental specialists, and recreation specialists—in the investigation and processing of such applications.

Reinforcing the requirements of Section 94.16.18(4) of the Village zoning ordinance, the signing and submittal of this application or petition for development review shall be construed as an agreement to pay for professional consulting services associated with the administration, investigation, and processing of this application or petition. The Village Administrator shall retain sole discretion in determining when and to what extent it is necessary to involve one or more professional consultants in the review of each application or petition.

The Applicant shall be responsible for the costs for such professional consulting services. The Applicant shall pay such costs upon receipt of one or more invoices from the Village, following the execution of the development review services associated with the application. In the event the Applicant fails to pay such costs, the responsibility shall pass to the property owner, if different, under the same terms. Development review fees that are assigned to the Applicant or property owner, but that are not actually paid, may then be imposed by the Village as a special charge on the affected property.

In the event the Village should chooses to exercises the above stated policy, and as stated in the Zoning Code, the applicant shall be notified and consulted with prior to Staff expending additional time that is not already built into the review process fee and/or the hiring of a professional consultant for the review, processing and investigation of this application. The intent of the Zoning Administrator is to exercise this policy in extreme and unusual circumstances or in the absence of the Zoning Administrator.

**STATEMENT OF UNDERSTANDING AND SIGNATURES**

By signing and dating below, I acknowledge that I have reviewed and understand the Village of Weston zoning ordinance and its standards of approval related to this application; read, understand, and accept my responsibilities under the reimbursement section above; submitted an application that is true, correct, and complete to the best of my knowledge; acknowledge that Village officials and/or employees may, in the performance of their functions, enter upon the subject property to inspect or gather information necessary to process this application; understand that all meeting dates are tentative and may be postponed by the Village for the reason of incomplete submittals or other administrative reasons; if this application is approved, agree to abide by this application, approved plans, and required conditions associated with plan approval in the development of the subject property; and understand that the Village’s zoning ordinance and/or the conditions of development approval may specify timeframes within which I must take certain actions related to the development of the subject property, or risk having the approval being nullified. **Failing to attach all the required components will deem the status of this application as incomplete. Incomplete applications will not be reviewed and shall be discarded within 30-days if the application status remains incomplete. Any fees collected will not be refunded.**

Signature of Applicant

Date

Print Applicant Name

Property Owner     Agent (*Agents must have a LETTER OF AUTHORIZATION from all property owners*)

STATE OF WISCONSIN            )  
  ) ss.  
COUNTY OF MARATHON        )

Personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_, the above named individual, to me known to be the person who executed the foregoing instrument and acknowledge the same.

Notary Public

My Commission Expires: \_\_\_\_\_

**STAFF REVIEW**

PIN: \_\_\_\_\_ Zoning: \_\_\_\_\_  Village  ETZ  
Filed After the Fact:  Yes  No Fine Imposed:  Yes  No Amount: \_\_\_\_\_  
Publication of Notice Date 1: \_\_\_\_\_ Publication of Notice Date 2: \_\_\_\_\_

**Step 2: No harm to Public Interests.** A variance may not be granted which results in harm to public interests. In applying this test, the zoning 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:

Purpose of the ordinance in which the variance is being requested for.

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Purpose(s) of standard from which the variance is requested.

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**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: \_\_\_\_\_

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Mitigation: \_\_\_\_\_

Extent to which mitigation reduces project impact: \_\_\_\_\_

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Long Term Impacts (through the completion of construction):

Impact: \_\_\_\_\_

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Mitigation: \_\_\_\_\_

Extent to which mitigation reduces project impact: \_\_\_\_\_

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Cumulative Impacts (through the completion of construction):

Impact: \_\_\_\_\_

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Mitigation: \_\_\_\_\_

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Extent to which mitigation reduces project impact: \_\_\_\_\_

**Will granting the variance harm the public interest?**

- Yes. A variance cannot be granted.
- No, mitigation measures describes as above will be implemented to protect public interests.

**Village of Weston Zoning Board of Appeals**

**FINDING OF FACT.** Having heard the testimony and considered the evidence, the Zoning Board of Appeals determines the facts of the case to be:

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

Affidavit of publication is on file.

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

1. The applicant or appellant is (name and address):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The applicant or appellant is the owner/lessee/mortgagee of the following described property, which is the subject of the application:

\_\_\_\_\_ ¼ of \_\_\_\_\_ ¼ of Section \_\_\_\_\_ of Village of Weston, Marathon County

Also known as: \_\_\_\_\_

3. The property is currently used for

\_\_\_\_\_  
\_\_\_\_\_

and has been so used continuously since: \_\_\_\_\_

4. The property includes a non-conforming structure/use described as

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The property has been the subject of a prior appeal/variance/conditional use described as:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The applicant or appellant proposes (brief project description/attached plans)

\_\_\_\_\_  
\_\_\_\_\_

7. The applicant or appellant requests:  Use Variance  Area Variance

Under Section \_\_\_\_\_ of the Zoning Code.



8. The features of the proposed construction and property that relate to the grant or denial of the application or appeal are (refer to the language/standards of the ordinance):

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**CONCLUSION OF LAW.** Based on the above finding of fact the Zoning Board of Appeals concludes that:

Appeal/Interpretation – The order of the Zoning Administrator [ IS / IS NOT ] in excess of his/her authority because (or)

The Zoning Administrator’s interpretation of Section \_\_\_\_\_ Of the Zoning Code [ IS / IS NOT ] a correct interpretation because: \_\_\_\_\_

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Variance – The Variance [ DOES / DOES NOT ] meet all three of the following tests:

1. The hardship [ IS / IS NOT ] due to physical limitations of the property rather than the circumstances of the appellant because:

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2. The Variance [ WILL / WILL NOT ] harm the public interest because:

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3. Unnecessary hardship [ IS / IS NOT ] present because:

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**ORDER AND DETERMINATION.** On the basis of the above finding of fact, conclusions of law and the record in this matter the Zoning Board of Appeals orders:

Appeal/Interpretation - The Zoning Administrator’s order/interpretation of the Zoning Code or Map is [ AFFIRMED / MODIFIED / REVERSED ] and the administrator is ordered to:

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Variance – The requested variance is [ DENIED / GRANTED / GRANTED-IN-PART ] subject to the following:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

The zoning administrator is directed to issue a zoning permit incorporating these conditions and certifying by the petitioner/applicant's signature that he/she understands and accepts the conditions.

Expiration of Permit: Any privilege granted by this decision must be exercised within \_\_\_\_\_ Months of the date of this Decision after obtaining the necessary building, zoning and/or other permits of the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.

Revocation: This order may be revoked by the Zoning Board of Appeals after notice and opportunity to be heard for violation of any of the conditions proposed.

Appeals: This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an action in certiorari in the circuit court for this county within 30 days after the date of filing of this decision. The municipality assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

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Village of Weston Zoning Board of Appeals

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Signed: Chairperson

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Attest: Secretary

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

Filed: \_\_\_\_\_

Recorded: \_\_\_\_\_

Document No.: \_\_\_\_\_