GUIDELINES FOR VARIANCES

INTRODUCTION

The purpose of these guidelines is to provide you with a summary of the variance procedures and regulations. In addition, the City staff is available for consultation and is willing to provide you with assistance throughout the review procedure. To that extent, you will find it helpful to meet with the City staff before an application is formally submitted. Variances approved must show substantial work completed within six (6) months of variance approval. Variances not used within six (6) months shall become VOID.

If you have additional questions or if the staff can be of further assistance, please feel free to call the City Planner at 262-375-7610 or the Building Inspector at 262-375-7609.

PROCEDURE

The variance process consists of four steps which take a minimum of six (6) weeks:

1. Applicant MUST meet with staff.

2. Applicant submits application, fee and eight (8) preliminary copies of the plans to the City Clerk. Upon receipt of this information, the City Clerk shall schedule the Board of Appeals* public hearing**.

   * Board of Appeals meetings are scheduled as needed.

   ** A public hearing requires notification by mail of all property owners within 300 feet of the subject property and publication of a Class 2 notice in the City's official newspaper (the News Graphic) twice before the public hearing. The second notice must be at least one week prior to the public hearing. (The City prepares and transmits the appropriate notices to the nearby property owners and the newspaper.)

3. Applicant must attend the public hearing before Board of Appeals to present proposal and answer questions.

4. The Board of Appeals may deny the variance, grant the variance, or grant the variance with conditions. Written notification of the action by the Board of Appeals shall be provided to the applicant within 30 days of the meeting.

APPLICATION

The application MUST include the following information:

- Application form (see attachments), which MUST be signed by the Property Owner.
- Application fee of $150.00 [SEC. 13-1-230(b)(5)].
- Site plan prepared by a registered surveyor or engineer. (See attached "Site Plan Review Requirements".)
- A written project summary addressing conditions for variance requests. (See attachments for further information.) THE BURDEN IS ON THE APPELLANT TO PROVE THE VARIANCE SHOULD BE GRANTED.

Purpose of Code: To promote comfort, health, safety, morals, prosperity and general welfare of the City and its residents.

Intent of Code: To regulate and restrict the use of all structures, land, and waters, with a view to conserve the value of buildings and encourage the most appropriate use of land.

1. Reason For Variance

   a) Is the reason for the variance caused by the applicant?

   b) How is the purpose of the code promoting comfort, health, safety, morals, prosperity, aesthetics, and general welfare provided for with the granting of this variance?

2. Exceptional Circumstances

   a) What exceptional, extraordinary, or unusual circumstances or conditions apply to this lot, structure or property that does not apply generally to other properties in the zoning district?

   b) How would the granting of this variance not be of so general or recurrent nature as to suggest the Zoning Ordinance be changed?

3. Economic Hardship

   a) How is the property so unique that a hardship is created if the standards of the Code are applied?

   b) What is the hardship?

   c) Is the economic hardship for personal gain?

4. Property Rights

   a) How will the property rights of other properties in the zoning district be preserved and enjoyed with the granting of this variance?

5. Absence of Detriment (Neighborhood Impact)

   a) How will the granting of this variance not create substantial detriment to adjacent properties?

- CONDITIONS FOR VARIANCE APPROVAL

Following conditions must be met if the Board of Appeals is to approve a variance:

1. Unnecessary Hardship
   a. Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome. Zoning board members must judge what is a feasible use for a particular parcel as a whole. A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with the Zoning Ordinance.

   b. The hardship or difficulty must be peculiar to the zoning parcel in question and different from that of other parcels, not one which affects all parcels similarly. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the Zoning Ordinance. If either circumstance renders the parcel unsuitable for any permitted use, or will not accommodate a structure of reasonable design for any use permitted under the existing Ordinance--if all area, yard and setback requirements are observed--the parcel may qualify for a hardship.

   c. Loss of profit or pecuniary (financial) hardship is not in and of itself grounds for a variance.

   d. Self-imposed hardship is not grounds for a variance. Reductions resulting from the sale of portions of a property that reduce the remainder below buildable size or cut off existing access to a public highway, deed restrictions imposed by the owner's predecessor in title, and improvements that were made in violation of the Ordinance are generally considered to be self-imposed hardships.

   e. The hardship cannot be one that would have existed in the absence of the Zoning Ordinance. Sometimes, a legitimate hardship results from the interaction of the provisions of the Zoning Ordinance with other actions or regulations adopted by public authorities.

2. Unique Property Limitation
   Unique physical characteristics of the property, not the desires of or conditions personal to the applicant, must prevent the applicant from developing in compliance with the Zoning Ordinance. These features may be a wetland, soil type, parcel shape of a steep slope that limits the reasonable use of the property.

3. Protection of the Public Interest
   Granting of a variance must neither harm the public interest nor undermine the purposes of the Ordinance. The public interest includes the interests of the public at large, not just that of nearby property owners. Lack of local opposition does not in itself mean that a variance will not harm the public interest.

4. Variances Attach to the Property as a Permanent Right
Once a variance is granted, it is permanently attached to the property. A new owner of the property may make use of a variance that was granted to the previous owner if all of the conditions that are attached to the variance are met.

The above Conditions for Variance Approval were obtained from the "City, Village and Town Zoning Board of Appeals Handbook"
Revised 11/93
Prepared by the Wisconsin Department of Natural Resources

A VARIANCE PERMIT EXPIRES SIX MONTHS AFTER GRANTING UNLESS SUBSTANTIAL WORK HAS COMMENCED

VARIANCES
SITE PLAN REVIEW REQUIREMENTS

1. Existing conditions

    a. Property boundaries and dimensions

    b. Adjacent right-of-ways, roadways, driveways and access point(s)

    c. Existing topographical elevation contours

    d. Existing buildings and foundations

    e. Existing other man-made features

    f. Existing significant vegetation (trees, other vegetation)

2. Site Plan

    a. Building layout plan with size and dimensions

    b. Parking area plan - arrangement and total spaces (including the calculations used to arrive at the number of spaces shown)

    c. Setback lines indicated

    d. Floodplain identification

    e. Curb cut, ingress, egress indicated

    f. Signage - proposed location and details

    g. Lighting placement and details

    h. Easements for access, utilities, scenic, etc.

    i. Site summary including site area, building area and coverage, total parking spaces

3. Landscape Plan

    a. Trees existing that will remain

    b. Proposed plantings - size and species

c. Sodding or special landscaped areas

d. Buffers to adjacent property - if any

4. Grading Plan (may be combined with landscape plan)

a. Existing and/or final contours

b. Method of drainage proposed (ponding areas, catch basins, culverts)

5. Utility Plan (with appropriate easements)

a. Sanitary plans

b. Water distribution

c. Electrical distribution (transformers)

6. Building Elevations

a. Building heights

b. General description of building materials, and facade and roof detail

7. Written project summary including

a. Operational information

b. Building schedule

c. Estimate of project value including all site improvement costs

NOTE: When possible, all drawings and plans should utilize an engineer's scale of 1" = 20' and on a plan sheet of 24 x 36.

Dear Applicant:

This letter is to clarify that your application for Plan Commission review is **NOT A BUILDING PERMIT APPLICATION**.

The Plan Commission will review your application in relation to land use and architectural impact on the surrounding area.

In order to begin construction, a building permit application must be filed with the Building Inspection Office, along with four copies of the building plans. One copy of the plans will be returned to you with the Building Inspector's notes when the permit is granted, the second will be retained by the Building Inspection Department, the third is forwarded to the Assessor's Office, and the fourth is for review by the Fire Department.

Please allow at least five (5) working days for processing of the building permit application.

It is necessary to apply separately for the Building Permit and Plan Commission approvals because the two approvals require somewhat different information. Also, it is possible that the Plan Commission would require revisions to the original plans, which would need to be incorporated before the building permit application is reviewed.

Our goal is to obtain approvals for your projects as quickly and smoothly as possible. If you have any questions, or wish to make any comments, please feel free to call us at 262-375-7609.

Sincerely,

CITY OF CEDARBURG

Michael F. Baier
Building Inspector

MFB:djd