

Procedures for Obtaining a Variance

1. A variance application must be filed with the Department of Community Development-Inspection Services Division. The application must be filed no later than 4:30 p.m. on the deadline date in order for the case to be heard by the Board the following month.
2. At the time of application, an applicant shall:
 - a) Complete an application form and submit a \$200 fee for setback, square footage, height and floodplain variance and a \$500 fee for a plan commission appeal. A \$50 filing fee is also required for each. All fees are non-refundable.
 - b) Provide 8 copies of detailed construction plan, plat of survey, project plan and a scaled site map that includes lot dimensions, property lines, and location of project; and
 - c) Provide a written statement of verifiable facts showing that the project meets the legal criteria for a variance. The legal criteria are the following; unique property limitations, an unnecessary hardship or practical difficulty, lack of harm to the public interest, and not a self imposed hardship.
 - d) Include any signed statement of agreement or petition from neighbors
 - e) Submit a Building Permit Application if applicable. No fees assessed at time of submission.
3. Staff develops a Staff Report to be presented to the Board of Appeals.
4. Public hearing notices are published in the local newspaper of general circulation that has been selected by the City. Notice is mailed to applicant as well as neighboring properties within 300 feet of the applicant's property. By law, a hearing cannot take place until after the required notice.
5. The notice gives the other area property owners an opportunity to either appear at the Board of Appeals hearing or to submit written documentation either in support or opposition to the proposed variance application. If written documentation is submitted, except for the applicant, one does not need to attend the hearing to support the written documentation.

Written correspondence and documentation regarding a public notice should be forwarded to:

Department of Community Development, Code Enforcement Specialist
3805 S. Casper Drive
New Berlin, WI 53151
dhogan@newberlin.org

6. Board of Appeals holds a public hearing on the first Thursday of each month to hear Variance Application cases and determine if there is an unnecessary hardship, practical difficulty, unique property limitations, and lack of harm to public interests.
7. The Board of Appeals may impose special conditions on the granting of a variance.
8. Review and action. The Board of Appeals shall within 15 days following the public hearing, act to approve, approve with conditions, or deny the variance based on the approval criteria. The Board shall transmit a signed copy of the Board's decision to the appellant or applicant and the Director of Community Development
9. An appellant may withdraw his appeal at any time prior to the decision thereon, but if a motion is pending to grant or dismiss the appeal, such motion shall have precedence. Withdrawal of the appeal shall not entitle the appellant to remission of the application fees.
10. Variances granted by the Board shall expire within one year unless substantial work has commenced pursuant to such grant.
11. Reconsiderations:
 - a) Resubmissions - No appeal or application which has been dismissed or denied shall be considered again within one year of the board's decision except by motion to reconsider made by a member voting with the majority.
 - b) Re-hearing - No rehearing shall be held except by the affirmative vote of 4 or more members of the board upon finding that substantial new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, duly verified and shall recite the reasons for the request and be accompanied by necessary data and diagrams. Re-hearings shall be subject to all of the same requirements as to notice as the original hearings.