



BOARD OF APPEALS APPLICATION

Planning & Development Department
 3930 N. Murray Avenue, Shorewood, WI 53211
 Phone (414) 847-2640

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clerks@shorewoodwi.gov

The Board of Appeals has the authority to grant exceptions, variances or review appeals regarding Village official code interpretations. A *Variance* allows dimensional variations for items within the zoning code. Use variances are prohibited. *Special Exceptions* are granted for allowed uses when certain conditions must be met.

OFFICE USE ONLY	
PERMIT #	FEE: \$250.00
DATE RECEIVED:	
SCHEDULED MEETING:	
TAX KEY #	

Property Address							
Owner's Information		Applicant Information		Contractor?	YES	NO	
Name		Name					
Address		Address					
City/State/Zip		City/State/Zip					
Phone #	Alt #	Phone #	Alt #				
Email		Email					
Check if prefer Board of Appeals Meeting Agenda Emailed:				<input type="checkbox"/>	OWNER	<input type="checkbox"/>	APPLICANT

I/We are requesting a: (refer to guidelines for explanation):

<input type="checkbox"/>	variance	<input type="checkbox"/>	special exception	<input type="checkbox"/>	appeal to interpretation to allow
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Describe in detail the reason you are applying for a Board of Appeals application:

MATERIALS REQUIRED WHEN APPEAL IS PROPERTY-BASED (ONE COLOR COPY OF EACH) :

- Picture – Of front of property taken from street curb
- Picture(s) – Of property area in question
- Property survey marked with appropriate dimensions

Variance Granting Criteria

1. Describe how the hardship is due to physical limitations (lot shape, lot size, grade, drainage, neighboring uses, access, etc.) of the property rather than the circumstances of the appellant (economic, family, personal, and physical [other than certified disability] hardships are not considered, nor are the nature, condition or configuration of structures or improvements on the property):

2. Describe how unnecessary hardship exists because compliance is unreasonably burdensome. The hardship must be unique to the property and cannot be self-created.

3. Describe how you think the granting of this variance would **not** harm public interest such as public safety, the environment, property values, etc.:

OFFICE USE ONLY – Findings of the Board of Appeals after consideration of the criteria

Reason for Application:

Applicant's Appeal Ruling

APPROVED

NOT APPROVED

Reason for Ruling:

* Please verify with the Planning and Development Department prior to placement on the Board of Appeals Agenda whether site plans or other documentation are required.

* A copy of the Board of Appeals Meeting Agenda will be mailed to the applicant/contractor unless otherwise indicated or emailed if an email is provided.

Applicant Signature



Background Information and Guidelines for Appearance before the Village of Shorewood, WI Board of Appeals

Introduction

The Shorewood Board of Appeals (“BOA”) is a local body that is composed of Shorewood residents pursuant to state law. Every Village that has enacted a zoning ordinance must have a Board of Appeals.

The Shorewood BOA not only hears matters related to zoning but is also empowered to consider appeals stemming from any administrative decision by a Village employee or official. Appeals may also be made from any decision of some Village committees, commissions, or boards. For more detailed information concerning the operation of the BOA, see Village Code Chapter 535, Article X, “Board of Appeals,” and Wis. Stat. § 62.23(7)(e). While this document is intended to provide some basic information and general guidelines associated with operation of the BOA, the above referenced Code section and statute statutes, and any applicable case law interpreting those provisions, govern and should be relied upon when making any appearance before the BOA. This document is only intended as a general overview and not an exhaustive list of every aspect of the BOA.

Organization of Board

By law, the BOA consists of five regular members appointed by the Village President and approved by the Village Board. Members serve a three-year term. In addition, the Village Code provides for the appointment of two alternate members of the BOA who act or vote when a regular member is absent or refuses to vote because of personal interest. (A personal interest includes monetary interest in the outcome of an appeal.)

Board members receive no compensation. The Village Clerk serves as Secretary to the Board. The Board has adopted its own internal operating rules for conducting business per state statute. These rules provide further explanation of the operating procedures for the BOA and can be found on the Village web site.

Powers of the Board

A. The Board of Appeals possesses the following powers:

- (1) Errors and interpretations. To hear and decide appeals where it is alleged that there is an error in any administrative order, decision, determination or interpretation of zoning districts or other code regulations.
- (2) Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
- (3) Special exceptions. To hear and decide special exceptions to the terms of this chapter upon which said Board is required to pass under this chapter.

B. Permits. The Board may reverse, affirm wholly or partly, or modify the requirements appealed from and may issue or direct the issuance of a permit.

C. Assistance. The Board may request assistance from other Village officers, departments, commissions, and boards.

D. Oath. The Chairman may administer oaths and compel the attendance of witnesses.

Appeals

Who May Appeal?

Appeals from an administrative decision concerning the literal enforcement of this chapter or of any other Village Code provisions may be made by any person aggrieved, or by any officer, department, board, commission, or bureau of the Village. Such appeals shall be filed with the Secretary within 30 days after the date of written notice of the administrative decision or order and include the items required in Village Code § 535-56 B (1)-(3).

Records before the Board

Appeals are initiated by the aggrieved party by filing a Board of Appeals Application with the Village Clerk, who will notify the Board of Appeals and the officer with whom the appeal is taken within a reasonable time, as provided by the Board's rules. The Village employee or official must transmit all records constituting the record on which they acted. Depending on whether the review standard is de novo (a new evaluation with no deference to the municipal body appealed from) or certiorari (a review with deference to the municipal body appealed from, which generally hinges on whether there was substantial evidence to support that decision), the Board may take additional evidence at the hearing, if appropriate. In proceeding for variances and special exceptions, evidence considered by the Board may include evidence obtained from site inspections, sworn testimony or exhibits at the hearing.

Types of Appeal

Errors and Interpretations:

This appeal relates to administrative decisions or actions of certain Village committees, commissions or boards by an aggrieved person of such decision.

Variances:

A variance is a deviation from the terms of the Village Code which is granted by the Board of Appeals under strict limitations. Section 62.23 of Wisconsin Statutes states that the Board of Appeals can only grant variances where the variance:

“will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship, so that the spirit the ordinance shall be observed, public safety and welfare secured, and substantial justice done.”

Area Variance

Area variances apply to physical dimensional requirements in the Zoning Code such as the height of structures or the setback of structures from property lines. Variances of this type require that unnecessary hardship be established by proving that the dimensional requirement is “unreasonably burdensome.” The courts have determined that this unreasonable burdensome form of hardship must be unique to the property and not solely self-created. The burden of proving this is on the applicant for the variance. The hardship must be unique to the property in terms of its physical and topographical characteristics, and in a way that is not common to neighboring properties. The configuration, condition, and nature of structures knowingly placed or altered on private property is solely self-created and cannot form the basis for variance. The cost of compliance can likewise not be used for basis for a variance.

Use Variance

Use variances are prohibited in the Village of Shorewood.

Special Exceptions:

Special Exceptions may be granted for expansion or improvement to nonconforming structures only.

Conducting a Hearing

The Board is a quasi-judicial body and is required to make its determination on the basis of evidence presented to it at a hearing.

Vote Requirement

The presence of three members shall constitute a quorum for the purpose of making a decision. If a quorum is present, the Board may act by majority vote of the members present.

Decision

At the conclusion of a hearing and after completing its deliberation, the Board shall vote and reduce its decision in writing in accordance with the rules of the Board. Notice of the decision shall be given to the appellant and filed with the Village.