

**AFTER-THE-FACT PETITION FOR GRANT OF VARIANCE**

A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment. The zoning board is a quasi-judicial body because it functions almost like a court. 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.

**PETITION:** (I) (We)

Full Name \_\_\_\_\_ Telephone No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
hereby petition(s) the Door County Board of Adjustment for a variance from  
Section (s) \_\_\_\_\_

of the Door County Zoning Ordinance which requires \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(I) (We) propose to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LOCATION:**

The description of the property involved in this petition is located at:

Fire # \_\_\_\_\_ Road \_\_\_\_\_ Township \_\_\_\_\_  
Govt Lot \_\_\_\_\_ or ¼ - ¼ Section \_\_\_\_\_ Town \_\_\_\_\_ North, Range \_\_\_\_\_ East  
Tax Parcel No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
Zoning District \_\_\_\_\_ Lot Size \_\_\_\_\_  
Existing use of structure or land in question \_\_\_\_\_  
\_\_\_\_\_

**ATTACHMENTS:**

- 1) A site plan, drawn to-scale, indicating lot size, size of buildings and decks, distances between buildings and the centerlines of all abutting roads, ordinary high water mark, lot lines (identify lot markers), the sanitary waste disposal system and well. If a survey is available, please submit the survey. **IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".**
- 2) Building plans, drawn to scale, of the proposed project, including floor plans and elevation views. The application will not be processed without scaled drawings. (Plans submitted with this petition will be the only plans reviewed by the Board of Adjustment. A change in plans will warrant a new petition, fee, and public hearing.) **IF PLANS EXCEED AN 11" X 17" FORMAT, SUBMIT ONE COPY OF EACH SHEET REDUCED TO NO LARGER THAN 11" X 17".**
- 3) Please provide **complete** responses regarding a), b), and c) below. Attach additional pages if necessary. To qualify for a variance, the applicant must demonstrate that their request/situation meets the following three requirements:
  - (a) 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 factors in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

Unique features of this property prevent compliance with the terms of the ordinance, including:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR OFFICE USE ONLY

Receipt No. \_\_\_\_\_ Fee \_\_\_\_\_ Date \_\_\_\_\_  
Hearing Advertised Dates: \_\_\_\_\_  
Hearing Date \_\_\_\_\_ Decision \_\_\_\_\_

TOWN OF: \_\_\_\_\_  
OWNER: \_\_\_\_\_  
SECTION \_\_\_\_\_ T \_\_\_\_\_ N, R \_\_\_\_\_ E

PARCEL NO.: 0 \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

(b) 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 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:

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

A variance will not be contrary to the public interest because:

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(c) 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.

Unnecessary hardship is present because:

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4) A non-refundable \$1000.00 fee payment to defray the cost of publishing the legal notice and mailing to all interested parties.

**AUTHORIZATION FOR INSPECTION:**

I hereby authorize the Zoning Administrator to enter upon the premises for which this petition is made at any reasonable time for all purposes of inspection related to this petition.



**CERTIFICATION:**

I hereby certify that all the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

**SIGNATURE OF PETITIONER/AGENT:**

**DATE:**

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**SCHEDULING:**

This petition will be scheduled for the next available Door County Board of Adjustment meeting. Approximately two weeks prior to that meeting, a legal notice will be mailed to you providing further information regarding the time and location of the meeting. It is recommended that the petitioner attend the Board of Adjustment meeting to present the case and to answer any questions the Board of Adjustment may ask. If you are unable to attend the meeting, you may want to have your attorney or contractor present on your behalf.

# Door County Land Use Services Department

## VARIANCE

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### **VARIANCE**

A variance is an exception to the standards contained in a zoning ordinance that is granted by the Board of Adjustment. When considering a variance request, the Board of Adjustment is required to apply relevant legal standards to a specific fact situation and cannot grant a variance merely for the convenience of the property owner. Variances are an infrequent remedy and are only granted when an ordinance imposes a unique and substantial burden on the applicant.

### **PERMIT PROCESS**

You are required to do the following:

1. Submit a completed application form with a \$500.00 non-refundable fee.
2. Provide a detailed description of your project, including building plans and a site plan.
3. Attend a public hearing on your application. If unable to attend, you must contact the Door County Land Use Services Department (920-746-2323) and let us know who will represent you in your absence.
4. Obtain a zoning permit from the Door County Land Use Services Department if the variance is granted.

### **VARIANCE CRITERIA**

An area variance may only be granted if you would suffer unnecessary hardship without a variance. To qualify for a variance, you must prove your property meets the following three step test:

1. You must show that the application of the ordinance requirements will result in an unnecessary hardship described as follows:

An unnecessary hardship exists when strict compliance with the zoning code unreasonably prevents an owner from using the property for a permitted purpose or is unnecessarily burdensome. Whether something is unreasonable depends on the purpose of the zoning restriction and its effect on the property. It also depends on the effect of the variance on the neighborhood and the larger public interest.

2. You must show the hardship is due to unique physical limitations of the property; i.e. compliance with the ordinance is prevented by limitations of the property (steep slopes, wetlands, etc.) which are not generally shared by other properties. Previous variances do not provide a basis for granting a variance. You will be asked to demonstrate that alternate project design or locations on the parcel, which comply with the ordinance, are not feasible.
3. You must show that if granted, the variance will not result in harm to the public interests. The Board of Adjustment must consider the public interest factors listed as objectives in the purpose of the ordinance requirement.

# Door County Land Use Services Department

## VARIANCE

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### **HEARING PROCESS**

After the Door County Land Use Services Department receives your application materials and deems the application complete, it will notify you in writing of the hearing date and time. It will also notify the Town, the Door County Advocate and send a copy of the notice to neighboring property owners. Due to these scheduling requirements, it may take up to two months to schedule the public hearing.

At the hearing, you may appear in person or be represented by an agent or attorney to speak on your behalf. As the property owner you must provide verifiable facts upon which the Board of Adjustment can base its decision. Other people can also attend the hearing to testify for or against your request.

### **BOARD OF ADJUSTMENT ACTION**

- The Board of Adjustment will consider the evidence presented and make a decision.
- If the Board of Adjustment has sufficient information, it will approve, modify and approve, or deny your request. The board may table your request if more information is needed.
- The Board of Adjustment will issue a written decision and file a copy with the Door County Land Use Services Department. The decision document is signed at the next Board of Adjustment hearing.

### **JUDICIAL REVIEW**

If your variance request is denied, you may appeal the decision to Circuit Court as provided in Wisconsin Statute s. 59.694(10). Even if approved, a variance may be appealed to circuit court by an aggrieved party. All appeals must be filed within 30 days after the decision is filed with the Land Use Services Department. For this reason, you may want to delay construction of your project until the appeal period has expired.

**DOOR COUNTY LAND USE SERVICES**  
**421 Nebraska Street – Door County Government Center**  
**Sturgeon Bay, WI 54235**  
**Tel 920-746-2323**  
**Fax 920-746-2387**

**BUILDING PLANS**

OWNER: \_\_\_\_\_

DATE: \_\_\_\_\_

Below or on a separate sheet attach a scale drawing showing each of the following as applicable:

- All floor plans.
- At least two elevation views.

**FLOOR PLAN**

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

**FRONT ELEVATION VIEW**

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

**END ELEVATION VIEW**

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

# EXAMPLE

## BUILDING PLANS

OWNER: \_\_\_\_\_

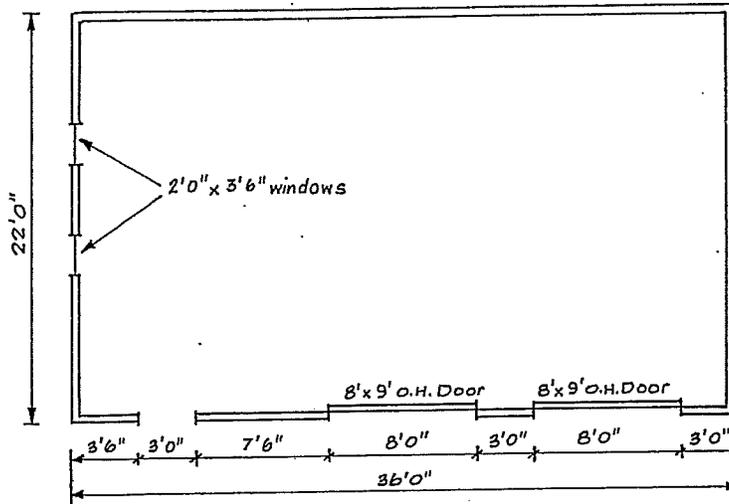
Date: \_\_\_\_\_

Below or on separate sheet(s) attach scale drawings showing the following:

- All floor plans.
- At least two elevation views.

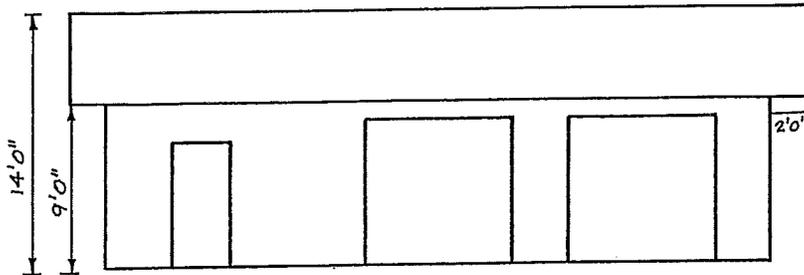
### FLOOR PLAN

Scale:  $\frac{1}{8}'' = 1'0''$



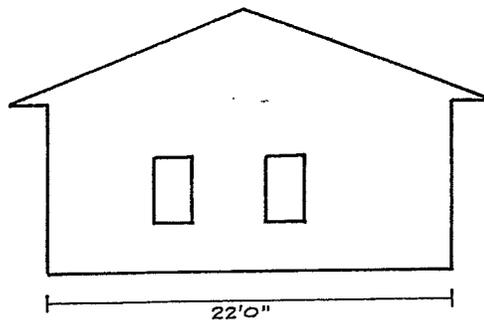
### FRONT ELEVATION VIEW

Scale:  $\frac{1}{8}'' = 1'0''$



### END ELEVATION VIEW

Scale:  $\frac{1}{8}'' = 1'0''$



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**Tel 920-746-2323**  
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**SITE PLAN**

OWNER: \_\_\_\_\_

DATE: \_\_\_\_\_

Below or on a separate sheet attach a scale drawing showing each of the following as applicable:

- Boundaries, dimensions, and area of the site.
- Location of public roads and right-of-ways.
- Location of private roads.
- Location of easements.
- Location of navigable waters.
- Location and dimensions of all existing structures.
- Location of existing or proposed well and waste water disposal system.
- Location and dimension of all proposed structures and additions.
- Location of rockholes.
- Impervious Surface Ratio
- Location of proposed and existing road access points, parking and loading areas, and driveways.
- Distances from proposed project to:
  - Abutting public roads and right-of-ways.
  - Private roads.
  - Property lines.
  - Well
  - Waste water disposal system.
  - Ordinary high water mark (OHWM) of navigable waters.
- Indicate North arrow.

**PLEASE STAKE LOCATION OF PROPOSED STRUCTURE**

# EXAMPLE

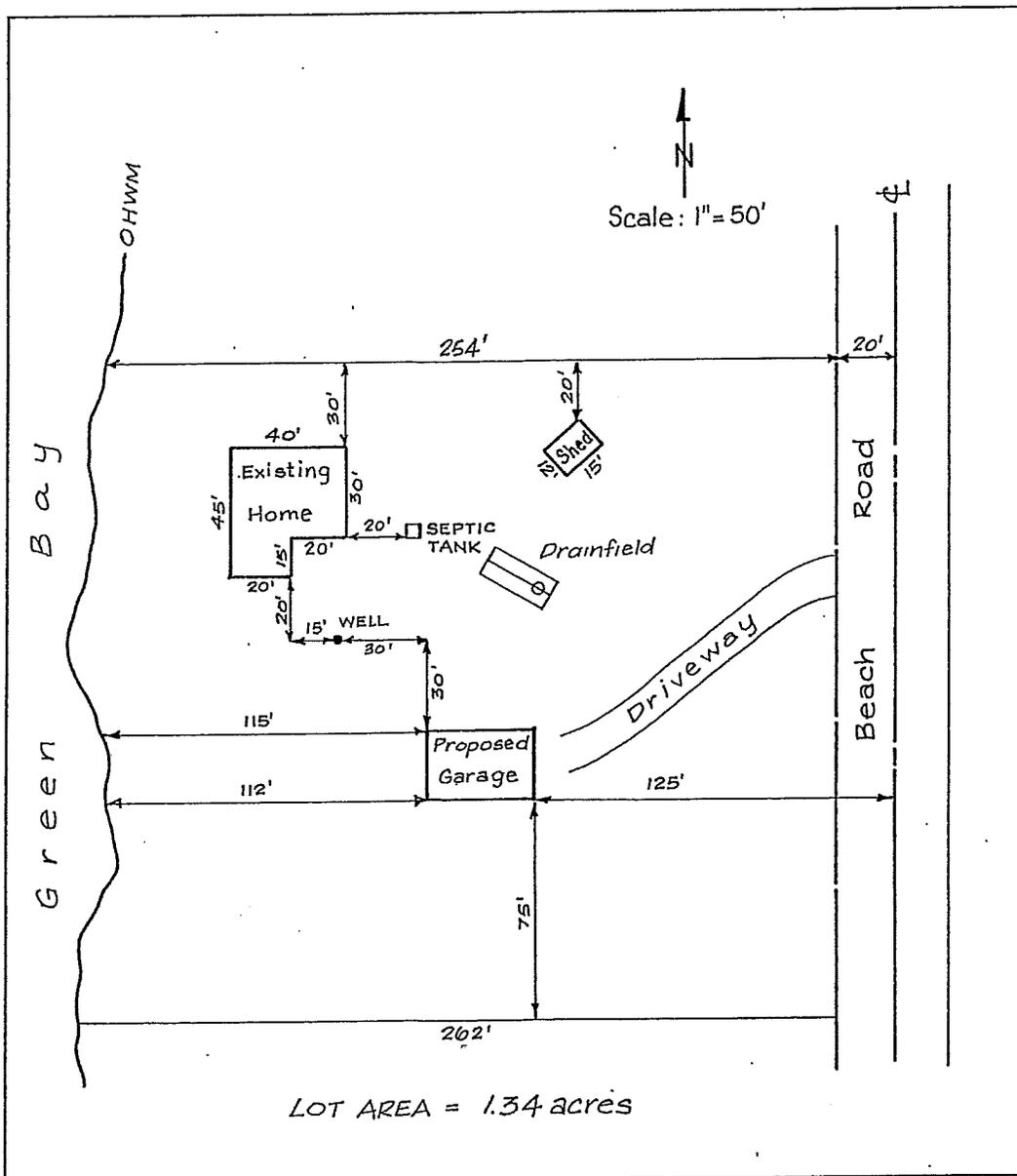
## SITE PLAN

OWNER: \_\_\_\_\_

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

Below or on a separate sheet attach a scale drawing showing each of the following as applicable:

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