

Town of Sheboygan
1512 No. 40th Street
Sheboygan, WI 53081
Telephone #(920) 451-2320
Fax #(920) 451-2323

VARIANCE APPLICATION

FEE: \$500.00 (non-refundable) Variance

RECEIPT NO: _____

Parcel # _____

DATE FILED: _____

One full size set of plans is required along with the completed application. See requirements listed below.

DATE OF HEARING: _____

DATES NOTICE PUBLISHED/POSTED (2 WEEKS PRIOR TO THE DATE OF THE HEARING): _____ & _____

DATE NOTICE MAILED TO PROPERTY OWNERS WITHIN 200': _____

PROPERTY ADDRESS: _____

PETITIONER: _____

ADDRESS: _____ PHONE NO: _____

PROPERTY OWNER: _____

OWNER ADDRESS _____ PHONE NO: _____

I/We the undersigned, being owner(s) of all the area described hereby petition for a Variance to

Address/Location of Premises Affected: _____

Current Zoning Classification: _____

Parcel Size: _____ Acres

REQUIRED ATTACHMENTS:

1. A complete legal description.
2. A site map or drawing with the parcel marked.
3. A site map or sketch of the parcel involved with existing buildings, location of septic tank, size and footage, and the proposed change included.
4. A complete set of plans for any site or building modifications.
5. Additional information may be required by the Zoning Board of Appeals.
6. 10 sets of either 8 1/2" x 11" or 11" x 17" size plans submitted with application.

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The purpose(s) of this request is as follows: _____

Description of existing use of property involved: _____

Description of proposed operation or use: _____

If Commercial or Industrial Operation, the number of employees at present _____ and the number of anticipated employees _____.

Has previous petition been filed? YES _____ NO _____
(If previously denied, state fully on separate attached sheet of PAPER what change in the parcel or plans would warrant reconsideration.)

What hardship or loss will applicant suffer if petition is denied?

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

SIGNATURE _____ DATE _____
(Property Owner)

PROPERTY OWNERS WITHIN 200' OF THE PERIMETER OF THIS PARCEL WILL BE NOTIFIED OF THIS APPLICATION VIA U.S. MAIL

THIS FORM MUST BE COMPLETE. THIS FORM MAY BE REJECTED BY THE TOWN CLERK IF INFORMATION IS INCOMPLETE.

AREA VARIANCES AND USE VARIANCES

What is the difference between an area variance and a use variance?

It may not always be easy to determine if an applicant is seeking an area variance or a use variance. It is arguable that a large deviation from a dimensional standard, or multiple deviations from several dimensional standards on the same lot, may constitute a use variance instead of an area variance. For example, allowing significantly reduced setbacks could have the same effect as changing the zoning from one residential zoning district that requires significant setbacks and open space to a second residential zoning district that has minimal setbacks and open space.

Based on majority opinions of the Wisconsin Supreme Court,¹⁶⁴ it appears that, in order to draw the line between area variances and use variances, zoning boards should consider the degree of deviation from each dimensional standard for which a variance is sought in order to determine if the requested variance would “permit wholesale deviation from the way in which land in the [specific] zone is used.”¹⁶⁵ A proactive community seeking to consistently differentiate between area variances and use variances could adopt an ordinance provision similar to the following:

Unless the board of adjustment finds that a property cannot be used for any permitted purpose, area variances shall not be granted that allow for greater than a ___% (or ___ foot) deviation in area, setback, height or density requirements specified in the ordinance.

Why are use variances discouraged?

Wisconsin Statutes do not specifically prohibit use variances. However, courts recognize that they are difficult to justify because they may undermine ordinance objectives and change the character of the neighborhood.¹⁶⁶ Some Wisconsin communities prohibit use variances in their ordinances. There are a number of practical reasons why they are not advisable:

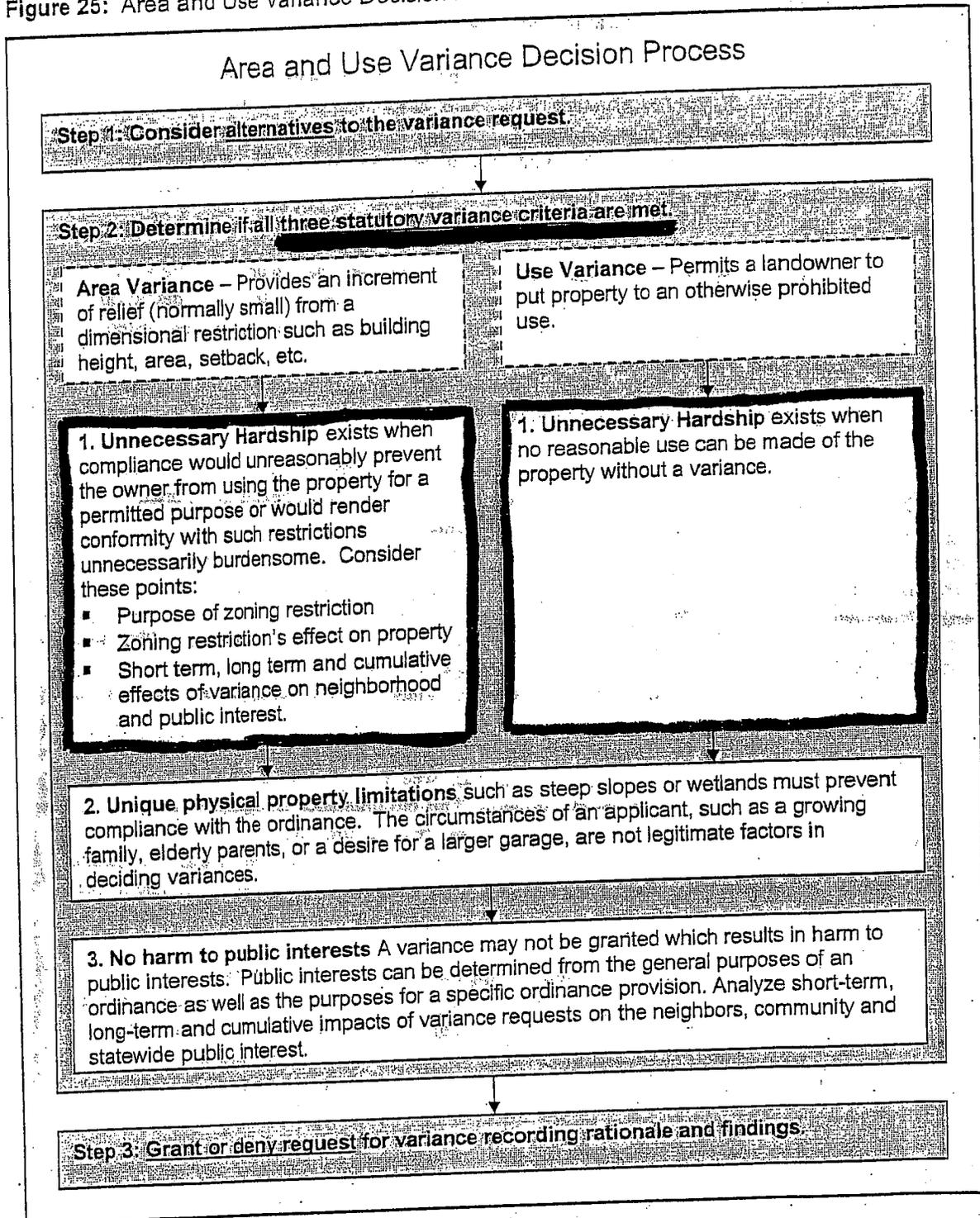
- **Unnecessary hardship must be established in order to qualify for a variance.**
This means that without the variance, none of the uses allowed as permitted or conditional uses in the current zoning district are feasible for the property. This circumstance is highly unlikely.
- **Many applications for use variances are in fact administrative appeals**
Often the zoning board is asked to determine whether a proposed use is included within the meaning of a particular permitted or conditional use or whether it is sufficiently distinct as to exclude it from the ordinance language. Such a decision is not a use variance but an appeal of the administrator’s interpretation of ordinance text.
- **Zoning amendments are a more comprehensive approach than use variances.**
When making map or text amendments to the zoning ordinance, elected officials consider the larger land area to avoid piecemeal decisions that may lead to conflict between adjacent incompatible uses and may undermine neighborhoods and the goals established for them in land use plans and ordinances. Towns also have meaningful input (veto power) on zoning amendments to general zoning ordinances.

¹⁶⁴ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514.

¹⁶⁵ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

¹⁶⁶ *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 412 fn. 10, 577 N.W.2d 813 (1998); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 473, 247 N.W.2d 98 (1976).

Figure 25: Area and Use Variance Decision Process



ALNOTICE