

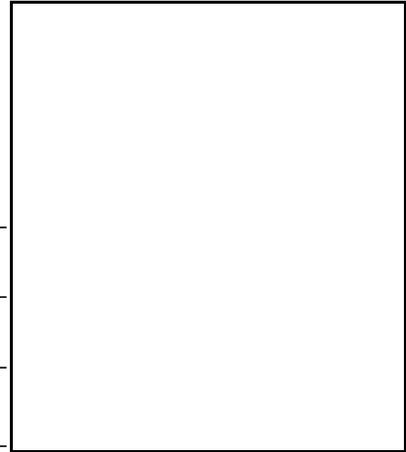


COUNTY OF KENOSHA

May 2023

Department of Planning and Development

VARIANCE APPLICATION



Owner: _____

Mailing Address: _____

Phone Number(s): _____

To the Kenosha County Board of Adjustment:

Please take notice that the undersigned was refused a Zoning Permit by the Kenosha County Department of Planning and Development for lands described below for the reason that the application failed to comply with the Kenosha County General Zoning and Shoreland/Floodplain Zoning Ordinance. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: _____ Zoning District: _____

Property Address: _____ Shoreland: _____

Subdivision: _____ Lot(s): _____ Block: _____

Current Use: _____

Proposal: _____

REQUIRED BY ORDINANCE	<u>VARIANCE REQUESTED</u>
Section: _____ - _____ _____	_____ _____
Section: _____ - _____ _____	_____ _____
Section: _____ - _____ _____	_____ _____

An Area Variance is authorization by the Kenosha County Board of Adjustments to vary one or more of the dimensional or physical requirements of the applicable zoning law, code or ordinance in connection with some proposed construction.

The burden will be on you as property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and must then deny your application.

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. Attach a site map showing alternatives you considered in each category below:

(A) Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

(B) Alternatives you considered that require a lesser variance. If you reject such alternatives, provide the reasons you rejected them.

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

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.

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 or claiming that they need more outbuilding space than that permitted to store personal belongings). 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.

(3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain.

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

(4) What would be the effect on this property, the community or neighborhood and the public interest if the variance was granted? How can these impacts be mitigated.

These interests are listed as objectives in the purpose statement of an ordinance and may include: drainage, visual impact, and fire safety and building code requirements.

The undersigned hereby attests that the above stated information is true and accurate and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Owners Signature: _____

Agent: _____ Signature: _____

Agents Address: _____

Phone Number(s): _____



COUNTY OF KENOSHA

Department of Planning & Development

19600 75th Street, Suite 185-3
Bristol, WI 53104-9772
Phone: (262) 857-1895
Fax: (262) 857-1920

ZONING PERMIT APPLICATION

* If you would rather apply for your zoning permit online, pay fees online and obtain issued permit documentation online without having to travel to and from this office to submit hardcopy documentation and physical payment, you can do so by visiting the Planning & Development Online Portal at the web address shown below, clicking on "Setup an Account" and creating a new public user account. Once your account is created you can login in under said credentials and apply for your zoning permit. If you submit via the portal, you do not need to complete/submit this application.

<https://permitting.kenoshacounty.org/eTrakit/>.

1. What is the Property Address (must include house number) or Tax Key Parcel Number?

2. Who owns the subject property (property owner)?

Property Owner Name:

Property Owner Mailing Address:

Property Owner Phone Number:

Property Owner Email Address:

3. Who is applying for and will be signing for this permit (applicant)?

Applicant Name:

Applicant Mailing Address:

Applicant Phone Number:

Applicant Email Address:

4. Who is constructing the proposed structures (contractor)?

Contractor Name:

Contractor Mailing Address:

Contractor Phone Number:

Contractor Email Address:

5. What is it you are proposing to construct?

You can apply for up to four separate structures on this permit application.

STRUCTURE DESCRIPTION	TYPE OF CONSTRUCTION	SIZE (FENCE) (L' @ H')	SIZE (BLDG.) (L' x W')	AREA (sq. feet)	HEIGHT (feet)	# OF STORIES

6. If you are proposing to construct a principal building such as a new residence or new commercial/industrial building, an addition thereto, or a detached accessory building greater than 150 sq. ft. in area, it is required that a [professional surveyor](#) be hired to complete a foundation survey of the property after the foundation is installed for the permitted building and submit said survey document to this office in order to prove that the proposed building has been constructed in the correct location and meets setback requirements.

This section is not applicable for sheds equal to or less than 150 sq. ft. in area or other accessory structures such as decks, fences and pools.

I anticipate that a foundation survey will be submitted to this office no later than _____ (insert date).

We understand this deadline needs to be flexible due to reasons such as weather, construction delays, etc., however a due date later than 18 months from the date of permit issuance will not be accepted. If a foundation survey is not received by the anticipated due date, the property owner will receive an automated letter notifying them of past due status. If a mutually agreed revised due date is not set, and a foundation survey is not submitted, violation and enforcement will proceed.

7. Does your project involve the placement of any fill material on the subject property such as dirt, gravel, landscape timbers, rock, shoreline protection material, etc....?

If so, what type of material and how much?

8. If your property is served by a private onsite wastewater treatment system (POWTS) note that pursuant to Comm 83.25(2)(c), Wisconsin Administrative Code a County shall not issue a zoning permit for the addition to a structure that will modify the design wastewater flow or contaminant load or both to an existing (POWTS) unless the owner of the property:
1. Possess a sanitary permit to either modify the existing POWTS or construct a POWTS to accommodate the modification in wastewater flow or contaminant load or both: or
 2. Provides documentation to verify that the existing POWTS is sufficient to accommodate the modification in wastewater flow or contaminant load or both.
 3. For the purpose of this ordinance, a modification in wastewater flow or contaminant load or both shall be defined as:
 - a. Commercial Facilities, public building and places of employment when there is a proposed change in occupancy of the structure; or the proposed modification affects either type or number of plumbing appliances, fixtures or devices discharging to the system.
 - b. Dwellings that have an increase or decrease in the number of bedrooms and/or additions, interior modifications, renovations or remodeling or any combination thereof that enlarges or impacts a dwelling's building area and/or floor area by 25% or greater. For purposes of this ordinance and this provision only, a modification in wastewater flow or contaminant load or both may result in; a change in roofline, the conversion of storage area to building area or floor area, re-wiring, re-insulating, re-constructing a foundation, enclosing open porches, decks or patios, replacing drywall, plaster or paneling, removal or construction of interior walls. A modification in wastewater flow or contaminant load or both does not result in the construction of open decks, patios or porches, garages, re-roofing, painting, wiring, re-siding, window replacement or the replacement of equipment or appliances.

If you have questions regarding this requirement, please contact the County Sanitarian at [this office](#) at 262-857-1910.

A bedroom is defined as *a room used to sleep in, containing a closet for storage of clothing and a doorway with a door for privacy.*

9. If your project requires improvements or alterations (such as the installation of a driveway apron) within a state highway right-of-way, then you must contact the [Wisconsin Department of Transportation](#) (WISDOT) regarding allowances and permitting requirements for said improvements.
10. If your project requires improvements or alterations (such as the installation of a driveway apron) within a county trunk highway right-of-way, then you must contact the [Kenosha County Division of Highways](#) regarding allowances and permitting requirements for said improvements.
11. If your project requires improvements or alterations (such as the installation of a driveway apron) within a local town/village/city road right-of-way, then you must contact the [local municipality](#) regarding allowances and permitting requirements for said improvements.

IF ISSUED, THIS ZONING PERMIT IS ISSUED SUBJECT TO:

1. ANY FEDERAL, STATE OR LOCAL RESTRICTIONS AND/OR DEED RESTRICTIONS.
2. EACH APPLICANT FOR A ZONING PERMIT IS CHARGED WITH KNOWLEDGE OF THE MUNICIPAL ZONING ORDINANCE. COPIES OF THE TEXT OF THIS OR PORTIONS THEREOF AND COPIES OF THE OFFICIAL ZONING MAPS ARE AVAILABLE FOR SALE, COPYING OR INSPECTION UPON REQUEST. ANY STATEMENT MADE, SITE PLAN SUBMITTED, ASSURANCE GIVEN OR PERMIT ERRONEOUSLY ISSUED CONTRARY TO THIS ORDINANCE IS NULL AND VOID.
3. THIS PERMIT SHALL EXPIRE EIGHTEEN (18) MONTHS FROM DATE OF ISSUANCE.
4. ANY ADDITIONAL CONDITIONS WRITTEN BY THE ZONING ADMINISTRATOR ISSUING THE ZONING PERMIT.

NOTICE: YOU ARE RESPONSIBLE FOR COMPLYING WITH STATE AND FEDERAL LAWS CONCERNING CONSTRUCTION NEAR OR ON WETLANDS, LAKES, AND STREAMS. WETLANDS THAT ARE NOT ASSOCIATED WITH OPEN WATER CAN BE DIFFICULT TO IDENTIFY. FAILURE TO COMPLY MAY RESULT IN REMOVAL OR MODIFICATION OF CONSTRUCTION THAT VIOLATES THE LAW OR OTHER PENALTIES OR COSTS. FOR MORE INFORMATION, VISIT THE DEPARTMENT OF NATURAL RESOURCES WETLANDS IDENTIFICATION WEB PAGE <http://dnr.wi.gov/topic/wetlands/locating.html> OR CONTACT A DEPARTMENT OF NATURAL RESOURCES SERVICE CENTER (262) 884-2300.

ATTACH STAKE-OUT SURVEY OR
TO-SCALE SITE PLAN SHOWING
DIMENSIONED PROPERTY
BOUNDARY, LOCATION OF
STRUCTURES THEREON AND
LOCATION OF PROPOSED
STRUCTURES/IMPROVEMENTS

* FOR ALL PRINCIPAL
STRUCTURES AND COMMERCIAL
BUILDING PROJECTS A STAKEOUT
SURVEY COMPLETED BY A
PROFESSIONAL SURVEYOR IS
REQUIRED

**ATTACH TO-SCALE SET OF
CONSTRUCTION DRAWINGS**

BOARD OF ADJUSTMENTS SCHEDULE FOR 2024 PUBLIC HEARINGS

*Third Thursday of each month at 6:00 p.m.
Kenosha County Center, 19600 75th Street, Bristol, Wisconsin
Conference Room A (unless published otherwise)*

*This schedule includes all areas under general zoning regulations in the following townships:
BRIGHTON, PARIS, RANDALL, SOMERS, WHEATLAND*

HEARING DATES

<u>JANUARY 18</u>	Filing Date: December 18 Published: Jan. 3 & Jan. 10	<u>JULY 18</u>	Filing Date: June 18 Published: July 3 & July 10
<u>FEBRUARY 15</u>	Filing Date: January 15 Published: Jan. 31 & Feb. 7	<u>AUGUST 15</u>	Filing Date: July 15 Published: July 31 & Aug. 7
<u>MARCH 21</u>	Filing Date: February 21 Published: Feb. 28 & March 6	<u>SEPTEMBER 19</u>	Filing Date: August 19 Published: Sept. 4 & Sept. 11
<u>APRIL 18</u>	Filing Date: March 18 Published: April 3 & April 10	<u>OCTOBER 17</u>	Filing Date: September 17 Published: Oct. 2 & Oct. 9
<u>MAY 16</u>	Filing Date: April 16 Published: May 1 & May 8	<u>NOVEMBER 21</u>	Filing Date: October 21 Published: Nov. 6 & Nov. 13
<u>JUNE 20</u>	Filing Date: May 20 Published: June 5 & June 12	<u>DECEMBER 19</u>	Filing Date: November 19 Published: Dec. 4 & Dec. 11

CHAPTER 12, KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE STATES:

12.06-4 LEGAL NOTICE REQUIREMENTS AND TIME LIMITS: Any petition or other matter requiring the publication of a legal notice must be submitted at least one month prior to the requested hearing date as scheduled by the Planning, Development & Extension Education Committee or Board of Adjustments. For purposes on this section, "one month prior to the requested hearing date" shall be defined to mean not later than 4:30 p.m. on the same calendar date of the month preceding the scheduled hearing, or the last day county offices are open prior to the aforementioned deadline. For purposes of the Open Meetings Law, the Planning and Development Administrator shall be delegated the responsibility of informing the county clerk of both scheduled open and closed meetings so that proper notices may be given.



COUNTY OF KENOSHA

Department of Planning and Development

VARIANCE PROCEDURES BEFORE THE BOARD OF ADJUSTMENTS

- 1. Contact the Department of Planning & Development and schedule a pre-application meeting. Bring the following for your pre-application meeting:
 - Completed variance application.
 - If you are in the process of purchasing the property and have yet to close, you need to provide a signed letter of agent status signed by the current property owner authorizing you to apply for the variance on their behalf.
 - A to-scale survey of the property with the following information provided.
 - Size and location of all existing structures on the property and their distances from property lines (any street yard setback should be taken from the edge of the road right of way), environmental features such as an ordinary high water mark (lake or stream) or wetland, and any onsite septic tank and associated septic field (if applicable).
 - Location and dimensions of the proposed structure(s) and their resulting setback distances from property lines (any street yard setback should be taken from the edge of the road right of way), environmental features such as an ordinary high water mark (lake or stream) or wetland, and any onsite septic tank and associated septic field (if applicable).
 - Construction plans
 - A filing fee of \$550 (non-refundable) is required at the time of application submittal time to cover the costs agenda preparation, public hearing notification, site visits, etc....
- 4. Submit the above information by the filing deadline (see Board of Adjustment Schedule handout) with the Department of Planning and Development. Once Planning & Development staff have confirmed the application is substantially completed, Planning & Development will provide you with a date-stamped copy of your variance application.
- 5. Submit a copy of your date-stamped variance application to your local Township for placement on the agenda of the Town Planning Commission and/or the Town Board.
- 6. Your first meeting will be with the Town Planning Commission, except for the Town of Wheatland. The Town of Somers has a Board of Appeals.

**VARIANCE PROCEDURES &
PUBLIC HEARING VARIANCE STANDARDS**

NOTE: You must attend, or the Commission/Board will not be able to act on your request.

- 7. Your second meeting will be with the Town Board.

NOTE: You must attend, or the Board will not be able to act on your request.

- 8. Your third meeting will be with the County Board of Adjustments.

NOTE: You must attend, or the Board of Adjustments will not be able to act on your request. At this meeting you will be asked to brief the Board on your request for a variance and state your reasons for hardship (see Public Hearing Variance Standards handout).

- 9. If the Board of Adjustments grants your variance request you may obtain your zoning permit from the Office of Planning and Development. The permit will be issued if all requirements from this office have been addressed, including sanitation and if you are the current owner of the property.

Expiration: Variances granted by the Board that require issuance of a zoning permit shall expire within one year of approval unless the zoning permit is issued. Zoning permits issued in accordance with Board of Adjustments approval are valid for 18 months and may not be renewed without Board of Adjustment approval. Variances are approved for specific sizes and dimensions. No additions shall be approved which affect the area for which the variance was granted unless approved by the Board of Adjustments.

No zoning permits issued for work approved by a variance shall be renewed unless “substantial construction” – the value of such work that has commenced equivalent to 25% of the projected cost of the project as noted on the application for the zoning permit, has commenced.

Appeals: Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the Board.

Any work the property owner commences with the window for appeal is at their own risk.

- 10. If the Board of Adjustments denies your variance you have thirty (30) days to file an appeal with circuit court if you so choose.

VARIANCE PROCEDURES &
PUBLIC HEARING VARIANCE STANDARDS

IMPORTANT TELEPHONE NUMBERS

Kenosha County Center
Department of Planning & Development
19600 - 75th Street, Post Office Box 520
Bristol, Wisconsin 53104-0520

Division of County Development (including Sanitation & Land Conservation).....	857-1895
Facsimile #.....	857-1920
Public Works Division of Highways	857-1870

Administration Building
Division of Land Information..... 653-2622

Brighton, Town of	878-2218
Paris, Town of	859-3006
Randall, Town of.....	877-2165
Somers Town of	859-2822
Wheatland, Town of.....	537-4340
Wisconsin Department of Natural Resources - Sturtevant Office	884-2300
Wisconsin Department of Transportation - Waukesha Office	548-8722

PUBLIC HEARING VARIANCE STANDARDS

- ❑ YOUR PUBLIC HEARING WILL BE BASED ON THE FOLLOWING STANDARDS FROM THE KENOSHA COUNTY GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE.

CHAPTER 12.36-1 INTENT

- ❑ It is the intent of this section of the Ordinance to recognize that under certain conditions and circumstances, it may be necessary to obtain a variance from the terms of this Ordinance so long as said variance will not be contrary to the public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship or practical difficulties and where the granting of such variance will uphold the spirit of this Ordinance and contribute to the justice of the particular case in question. Any variance granted under the terms of this ordinance shall, however, relate only to area requirements and not to use. Furthermore, it is the intent of this section to establish a Board of Adjustments for the purpose of reviewing applications for variances as well as reviewing orders and decisions made by the Office of Planning and Development.

CHAPTER 12.36-13 STANDARDS AND GUIDELINES

- ❑ In determining whether a variance is to be granted, the following standards and guidelines must be met in view of the evidence presented and in making its decision, these standards and guidelines shall be addressed by the board of adjustment:
 1. The existence of special conditions or exceptional circumstances on the land in question.
 2. The experiencing of unnecessary hardships or practical difficulties on the land in question either presently or in the future.
 3. That these hardships or difficulties are the result of the aforementioned special conditions existing on the land and are not self-inflicted.
 4. That the existence of these special conditions will restrict the use of the land if the Ordinance is applied literally so as to render the land useless.
 5. That the limitation on the use of the land does not apply generally to other properties in the district.
 6. That limiting the use of the property does not afford compensating gains to the public health, safety and welfare.
 7. That the variance(s) requested are the minimum variance(s) needed to alleviate difficulties or hardships.
 8. That the use of the parcel in question presently does conform to the ordinance.

**VARIANCE PROCEDURES &
PUBLIC HEARING VARIANCE STANDARDS**

9. That granting the variance applied for will not affect the public health, safety, morals and welfare of the community and other properties in the area.
 10. That with respect to those areas located within the floodland districts, a variance would not permit a change in the boundaries of the FPO Floodplain Overlay District; would not permit a lower degree of flood protection in the floodland districts than the floodplain elevation; would not allow any residential, commercial, institutional, or park basement or crawlway to be located below the 100-year recurrence interval flood elevation; would not allow a change or alteration of an historic structure, including its use, which would result in the structure losing its designation as an historic structure; further, that the variance for the proposed action would not require an amendment to the floodplain zoning ordinance; and furthermore, that the variance would not have the effect of granting or increasing a use property which is prohibited in the floodland districts or any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code.
 11. In addition to the criteria in subd. (10) above to qualify for a variance under FEMA regulations, the following criteria must be met:
 - a. The variance shall not cause any increase in the regional flood elevation;
 - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- Variances may be granted for example for reasons of topography, environmental protection or where permitted by state statute but in no event may a variance be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction errors, economic reasons, self-created hardships, or where the property is presently a non-conforming use. Furthermore, variances may not be granted for the purpose of altering the sanitary requirements of this ordinance except for existing structures.
 - The Board of Adjustments in considering the propriety of granting a variance shall not consider the number of persons for or against the granting of a variance but shall base their decision solely upon the equities of the situation involved.
 - Variances may be granted in the form of an area or distance variance, however, use variances shall be specifically prohibited under this Ordinance.
 - When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

A variance within any floodland district shall not:

1. Damage the rights or property values of other persons in the area;
2. Allow actions without the amendments to this ordinance or map(s) required in 12.60.040 Amendments; and
3. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

Statutory Standards

- The applicant for a variance must clearly show the Board of Adjustments that three statutory standards that govern granting a variance will be met. These three standards require the existence of an unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest.
- Unnecessary Hardship
 - ❖ 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.
 - ❖ 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.
- Unique Property Limitation
 - ❖ Unique physical characteristics of the property must prevent the applicant from developing in compliance with the zoning ordinance.
- 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.
 - ❖ Conditions may be attached to a variance to protect adjoining properties and to preserve the essential character of the neighborhood.
 - ❖ A variance should include only the minimum relief necessary to allow reasonable use of a property.

VARIANCE WORKSHEET

YOUR THREE STATUTORY STANDARDS TO PROVE BEFORE THE BOARD OF
ADJUSTMENTS. (BE READY TO DISCUSS AT THE MEETING)

UNNECESSARY HARDSHIP -

UNIQUE PROPERTY LIMITATION -

PROTECTION OF THE PUBLIC INTEREST -