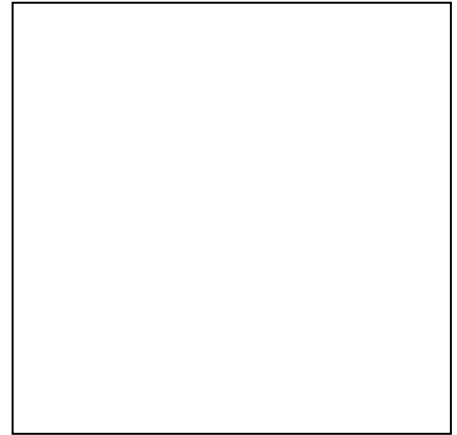




VILLAGE OF SOMERS

Department of Planning and Development

VARIANCE APPLICATION



Owner: _____

Mailing Address: _____

Phone Number(s): _____

To the Village of Somers Board of Appeals:

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 Village of Somers 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 Village of Somers Board of Appeals 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 board of appeals 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 Appeals 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): _____



VILLAGE OF SOMERS

Department of Planning and Development

7511 - 12th Street, PO Box 197

Somers, Wisconsin 53171

Telephone: (262) 859-2822

Facsimile: (262) 859-2331

ZONING PERMIT APPLICATION

Owner _____ Date _____

Mailing Address _____ Phone # _____

THE UNDERSIGNED HEREBY APPLIES FOR A PERMIT TO DO THE WORK HEREIN DESCRIBED, AND AS SHOWN ON THE REQUIRED SITE PLAN FORM OR ATTACHED REGISTERED SURVEY HEREOF, AND HEREBY AGREES THAT ALL WORK WILL BE DONE IN ACCORDANCE WITH ALL THE LAWS OF THE STATE OF WISCONSIN AND ALL THE ORDINANCES OF THE VILLAGE OF SOMERS, APPLICABLE TO THE FOLLOWING DESCRIBED PREMISES:

Parcel No. _____ Zoning District(s) _____

Property Address _____

Subdivision Name _____ CSM # _____ Lot _____ Block _____ Unit _____

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

Contractor _____

Address _____

Phone # _____

Agent _____

Address _____

Phone # _____

For Office Use Only

Permit No. _____

Foundation Survey Due Date _____

Waiver of Liability Due Date _____

Board of Appeals Approval Date _____

Conditional Use Permit Approval Date _____

Sanitation Approval _____

Receipt # _____ Check # _____

Amount _____

THIS ZONING PERMIT IS ISSUED SUBJECT TO:

1. ANY FEDERAL OR STATE RESTRICTIONS AND/OR DEED RESTRICTIONS.
2. EACH APPLICANT FOR A ZONING PERMIT IS CHARGED WITH KNOWLEDGE OF THE VILLAGE 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. REMARKS: _____

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.

Date Permit Issued _____

THE UNDERSIGNED HEREBY ATTESTS THAT THE ABOVE INFORMATION IS TRUE, ACCURATE AND HAS RECEIVED THE ABOVE NOTICE.

Village Zoning Administrator

Owner/Agent

Date



VILLAGE OF SOMERS

Department of Planning and Development

VARIANCE PROCEDURES BEFORE THE BOARD OF APPEALS

-
1. Contact the Department of Planning & Development and set an appointment. Bring the following for your pre-application meeting.
- A. A Completed Variance Application.
 - B. A copy of your tax bill or a copy of the recorded deed of transfer if you have owned the property for less than a month (this is to provide proof of ownership). If you are in the process of purchasing the property you need to provide a signed and accepted purchase agreement or if you are a realtor or contractor, a letter from the current owner granting you agent status to act on their behalf.
 - C. A Survey of the property with the following information provided. **NOTE:** The Board of Appeals strongly advises that for any new residential construction an area for a detached or attached garage should be shown for present or future construction.
 - ❖ Size and location of all existing structures on the property and their distances from property lines -- (street yard setback should be taken from the edge of the road right of way).
 - ❖ Location and dimensions of the proposed structure(s) or where the proposed addition is to be placed on an existing structure.
 - ❖ Show what the resulting area and setbacks will be for proposed structure.
 - ❖ Location of the any well and on-site waste disposal system -- (septic systems must show both the septic tank size and dimensions of the field), if applicable.
 - D. The required filing (non-refundable) is required at application time payable to "Kenosha County".
2. Submit the above information to the Kenosha County Department of Planning and Development by the filing deadline (_____). You will be given two copies of the date-stamped application.
3. Submit 15 copies of the date-stamped application to the Village of Somers clerk for placement on the agenda of the Village of Somers Board of Appeals.
4. Attend the Village Board of Appeals meeting. **NOTE:** You must attend or the Village will not be able to act on your request. At this meeting you will be asked to brief the committee on your request.

Village Board of Appeals meeting date (tentative): _____

5. If the Board of Appeals grants your variance request you may obtain your Zoning Permit from the Kenosha County Department of Planning and Development the day after the meeting. The permit will be issued if all requirements from this office have been addressed, including sanitation, and subject to signing the Statement of Appeal Process. If you do not sign the

Statement of Appeal Process you will need to wait 30 days from the date of approval before the zoning permit can be issued. PLEASE NOTE, THAT ACCORDING TO SECTION VII.B.12.36-15(c) VARIANCES GRANTED BY THE B.O.A. SHALL EXPIRE WITHIN SIX (6) MONTHS FROM THE DATE OF APPROVAL, UNLESS A ZONING PERMIT HAS BEEN ISSUED AND “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.

- 6. Follow the Permitting Process for New Construction or for Additions to Existing Structures, Accessory Structures, Decks, Pools, and/or Fences.
- 7. If the Board of Appeals denies your variance you have thirty (30) days to file an appeal with circuit court.

IMPORTANT TELEPHONE NUMBERS

Kenosha County Center
 Department of Planning & Development
 19600 - 75th Street, Suite 185-3
 Bristol, Wisconsin 53104

Division of County Development (including Sanitation & Land Conservation)..... **857-1895**
 Facsimile #857-1920

Public Works Division of Highways857-1870

Administration Building
 Division of Land Information653-2622

Village of Somers859-2822
 Wisconsin Department of Natural Resources - Sturtevant Office884-2300
 Wisconsin Department of Transportation - Waukesha Office548-8722



VILLAGE OF SOMERS

Department of Planning and Development

PUBLIC HEARING VARIANCE STANDARDS

- ❑ YOUR PUBLIC HEARING WILL BE BASED ON THE FOLLOWING STANDARDS FROM THE VILLAGE OF SOMERS 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 12.36-11 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 appeals:
 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.
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 filling and development contrary to the purpose and intent of the Camp Lake/Center Lake FWO Floodway Overlay District; would not permit a change in the boundaries of the FPO Floodplain Overlay District, FWO Camp Lake/Center Lake Floodway Overlay district or the FFO Camp Lake/Center Lake Floodplain Fringe Overlay District; would not permit a lower degree of flood protection in the floodland districts than the 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; further, that the variance for the proposed action would not require 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.

- 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 Appeals 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.

Statutory Standards

- The applicant for a variance must clearly show the Board of Appeals 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.

NOTES

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 -



VILLAGE OF SOMERS

Department of Planning and Development

STATEMENT OF APPEAL PROCESS

VILLAGE OF SOMERS GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE

CHAPTER 12.37-2 BOARD OF ADJUSTMENT REVIEWS

Expiration: Variances granted by the Board of Appeals 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 Appeals approval may not be renewed without Board of Appeals 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 Appeals.

Appeals: Any person or persons jointly or severally, aggrieved by any decision of the Board of Appeals, 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.

By signing I hereby understand and accept the conditions of approval of my variance request by the Village of Somers Board of Appeals and understand and accept the requirements for the expiration and appeal of variance. I understand that I must obtain a Zoning Permit, if applicable, from the Kenosha County Department of Planning and Development and a local Building Permit prior to commencing any work or construction.

Print Name: _____ Date: _____

Sign Name: _____

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

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

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