

**Village of Mount Horeb**  
**Building & Zoning Department**  
138 E Main Street  
Mount Horeb, WI 53572  
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<p><b>ZONING BOARD OF APPEALS VARIANCE</b> Application &amp; Procedure</p>
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Parcel ID Number# \_\_\_\_\_

( [Parcel Number Search](#) 157/060X-XXX-XXXX-X )

Address of Property: \_\_\_\_\_

Lot: \_\_\_\_\_ Block: \_\_\_\_\_ Subdivision: \_\_\_\_\_

Zoning: \_\_\_\_\_

Property Owner:

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Daytime telephone number: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

Applicant (if different from owner): \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Daytime telephone number: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

**Description of property and reason for variance request:**

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

## Legal Hardship or Unusual Circumstances

Describe below the legal hardship or unusual circumstances which justify issuing a variance in accord with Village of Mt. Horeb Zoning Ordinance Chapter 17.24 and State of Wisconsin statutes 62.23(7)(e): (General standards for such are enumerated below)

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Chapter 17.27 states, (1) "A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to nonconforming use brings that use into conformance with the district and zoning requirements. (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provision of the Zoning Code shall result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protections elevation for the particular area or permit standards lower than those required by state law. (3) For the purposes of this section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district".

### **General standards followed by the Village of Mt. Horeb Zoning Board of Appeals in considering variance applications:**

1. It is the responsibility of the applicant who is seeking the variance to provide "proof" that enforcement of the Zoning Code will result in a legal hardship. A variance cannot be granted as a convenience to the property owner.
2. The legal hardship must come from the Zoning Code. A self-imposed hardship cannot serve as justification for a variance; i.e., the problem was self-created by the action or negligence of the applicant or previous owners; the applicant commenced work on a project without required permits or had failed to inform himself of permit requirements; alterations which do not conform to current zoning standards are desired for a conforming structure; etc.
3. The legal hardship or difficulty stated as the reason why a variance is necessary must be peculiar to the zoning parcel in question and different from that of other area parcels. The applicant for a variance must clearly show the Board that the request is due to the very unusual qualities of his property.

4. The expenditure of money does not constitute a hardship. The courts do not recognize financial hardship as a basis upon which a Board of Appeals may grant a variance. The erection of a structure in violation of the Zoning Code or an error in planning caught after a structure has been erected does not constitute a hardship and does not justify the granting of a variance. The fact that a structure erected erroneously would be expensive to move or that building in an alternate location on the property would be more expensive does not constitute a hardship. The courts have uniformly held that when a hardship was created by the applicant's own acts, he is not entitled to relief.
5. Zoning Code violations by others in the area, nonconformity of structures on other properties or other variances granted in the area do not automatically entitle an applicant to approval of a variance request. What constitutes a legal hardship and substantial justice is a matter to be determined by the Board based upon the facts presented and the individual circumstances of each appeal.
6. In granting variances, the Board of Appeals may impose special conditions to ensure that the public welfare will not be unduly damaged.
7. Under certain circumstances, a variance may be approved on the basis that it is necessary in order to secure that applicant the right or rights that are enjoyed by other property owners in the same area.
8. A variance will not be granted simply because there is no objection to it or on the basis of the number of persons in favor or opposed to the variance request.

**The following information must be submitted at the time of application:**

1. This application form filled out entirely along with the application fee **\$150.00**.

*In addition, the applicant shall reimburse the Village for publication costs and all professional fees, including contracted inspector, engineering, planning, and legal review fees, incurred by the Village in connection with such application. (All fees are nonrefundable)*

2. A site plan showing the affected property, all structures on the property, location of all utilities and easements, and any landscaping that may be pertinent to making the variance decision.
3. Building plans including a floor plan of the proposed structure or alterations to the structure and elevations showing height and roof line considerations.

**The Zoning Board of Appeals meets as needed.** Minimum notice of **30** days required.

Date of Application: \_\_\_\_\_ Date of Public Hearing: \_\_\_\_\_

Action of Zoning Board of Appeals: Approved \_\_\_\_\_ Denied \_\_\_\_\_

*Zoning Board approvals expire after 6 months if not acted upon.*

Office Use:  
 Fee Paid \$ \_\_\_\_\_ Date: \_\_\_\_\_ Receipt # \_\_\_\_\_

Additional Fees \$ \_\_\_\_\_