

**Administrative Appeal Application**

Maple Bluff Zoning Board of Appeals  
Village of Maple Bluff  
18 Oxford Place  
Madison, WI 53704  
Phone (608) 244-3048 Fax (608) 244-0179



Petition #: \_\_\_\_\_ Date Filed: \_\_\_\_\_ Fee Paid \$ \_\_\_\_\_

**PETITIONER**

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

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

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Cell Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**APPEAL INFORMATION**

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

Reason for Appeal:

Zoning District boundary dispute. Include information on the specific Zoning District, Boundary Location & Boundary Determination

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Ordinance Interpretation (Include ordinance section number)

\_\_\_\_\_

Administrative decision/measurement/order in dispute

\_\_\_\_\_  
\_\_\_\_\_

Do you wish to have a:  General Hearing  Contested Hearing

I certify that the information I have provided in this application is true and accurate.

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



# Chapter 8

## Application Process

Both zoning board members and applicants benefit from a clear understanding of the application process for zoning board requests (variances, administrative appeals, and in some cases conditional uses) and the reasons for that process.

Typically persons (applicants) seeking zoning permits first contact the zoning staff to explain their development plans and obtain the necessary permit applications. Most applicants are able to get their permits directly from the zoning staff. If the applicant is seeking a conditional use permit, however, the governing body, planning commission/committee, or zoning board (as specified by local ordinance) makes the decision. If applicants want to do something that is not allowed by zoning ordinances, they may apply for a variance (which is decided by the zoning board) or a rezone (which is decided by the governing body). Applicants who disagree with the zoning staff's interpretation of the ordinance, may file an administrative appeal, which is decided by the zoning board.

In this chapter you will find legal and practical advice regarding the application process for variances, administrative appeals, and conditional uses. Specifically, we will address:

- Who completes the application?
- When do applications need to be complete and can subsequent

- changes be made?
- What is included in a complete application?
  - Who reviews the application?
  - Are zoning staff reports recommended and what do they contain?

### **Who completes the application to the zoning board?**

While statutes do not specify who completes the application, the same person who will represent the landowner at the zoning board hearing (typically the landowner, their attorney, or agent) commonly does it.<sup>85</sup> Zoning staff often explain the rationale behind the regulations, what application materials must be completed, and the type of information and level of detail that must be included in the application. Due to their experience with the ordinances and processes, the staff may also help the applicant fill out the application by providing technical information. However, the landowner or their representative is ultimately responsible for providing a complete and accurate application.

### **When do applications need to be complete? Can subsequent changes be made?**

The application for a conditional use permit must be completed by the first time notice is given for the final public hearing on the matter, unless an ordinance expressly allows later submission of information.<sup>86</sup> Although Wisconsin courts have expressly required this only for conditional uses,<sup>87</sup> we recommend applying this policy to all decisions made by the zoning board in order to:

- Avoid creating an incentive for permit seekers to withhold controversial information from their applications until during or after the public hearing.
- Provide ample time and opportunity for interested parties to review the complete application, digest the information, and develop their ideas prior to the hearing, so that they are prepared to discuss all of their concerns.

<sup>85</sup> Wis. Stat. §§ 59.694(6) & 62.23(7)(e)6

<sup>86</sup> *Weber v. Town of Saukville*, 209 Wis. 2d 214, 562 N.W.2d 412 (1997)

<sup>87</sup> LoisLaw search 3/22/05 revealed no similar standard for variances or administrative appeals.

A simple and straightforward way to ensure that applications are complete prior to notice being given is to require that the application be complete at the time of submittal. Waukesha County uses this approach, and if any changes from the original application are desired after the public notice has been sent, a new application and fee are required.<sup>88</sup>

### What is included in a complete application?

Standards for what must be included in an application to the zoning board vary widely and are decided locally. A balance must be struck between having sufficient information to make a good decision and avoiding unnecessary data that may lead to confusion or simple overload for the zoning board members. At the same time, requiring more information in the application can result in a better-informed discussion of the application and more efficient decision-making, with most applications being decided in one hearing. Regardless of the amount of information required, high quality information, such as an accurately scaled site plan, is necessary.

The following list of required application materials is compiled from multiple municipalities.<sup>89</sup> Compare it to your current application standards and add, modify or delete as appropriate based on your purposes and local issues. Rather than requiring a generic list of information for all applications you may want to tailor the standards based on the specific request for which the application is submitted. For instance, an application requesting to change only the use within a building probably doesn't need a soils report or topographic survey.

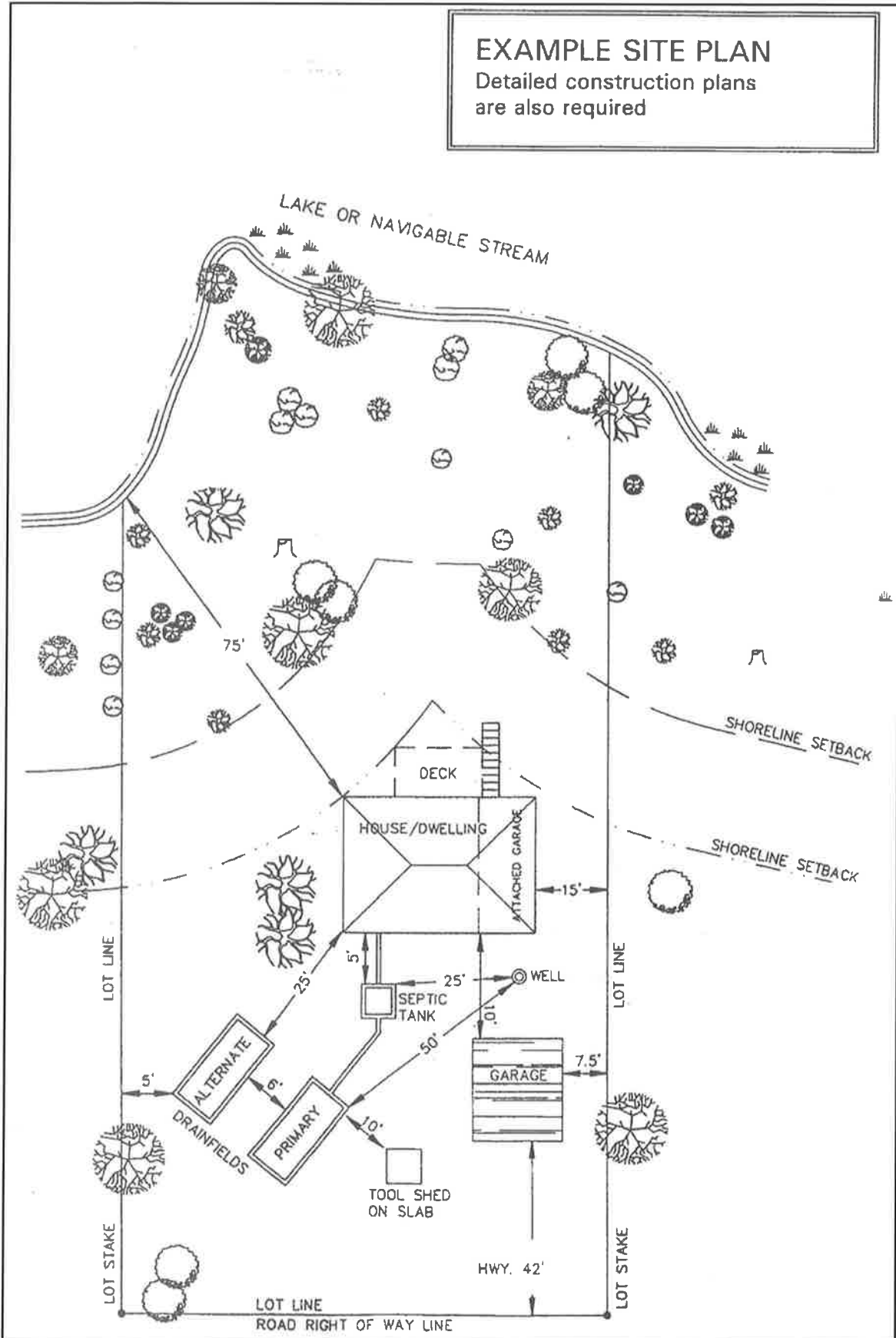
- A. A legal description covering the property for which the permit is sought
- B. Written description of and justification for the proposed permit, consisting of the petitioner's evaluation of the request against the standards in the ordinance

<sup>88</sup> Waukesha County Board of Adjustment variance and appeal form, available: [https://secure.waukeshacounty.gov/filelibrary/Files/Variance\\_and\\_Appeals.pdf](https://secure.waukeshacounty.gov/filelibrary/Files/Variance_and_Appeals.pdf)

<sup>89</sup> Lincoln County Zoning Ordinance, Section 17.8.30(2), available: <http://www.co.lincoln.wi.us/Zoning%20Ordinance%20Final%20clean%20-%20Dec%202004.pdf>; Waukesha County Board of Adjustment variance and appeal form, available: [https://secure.waukeshacounty.gov/filelibrary/Files/Variance\\_and\\_Appeals.pdf](https://secure.waukeshacounty.gov/filelibrary/Files/Variance_and_Appeals.pdf); and *Administering Township Zoning: A basic guide for citizens and elected officials, 2nd edition*, May 1996, Michigan State University Extension, Extension Bulletin E-1408, page 23.

- C. A specified number of copies of site plans, accurately drawn to a scale of not less than one inch to \_\_ feet, showing and labeling:
  - a. Landowner's name
  - b. Preparer, date of preparation and revisions
  - c. Scale and directional arrow
  - d. Boundaries and dimensions of property for which the permit is sought, and all other lands within a specified distance of the boundaries of the property
  - e. Location and dimensions of all existing and proposed structures on the property in question and adjacent properties, including:
    - i. Building elevations
    - ii. Dimensions, colors, and materials used on all exterior sides of buildings
    - iii. Distances between multiple structures
    - iv. Distance between structures and the ordinary high water mark
    - v. Distances between structures and lot lines
    - vi. Distances between structures and the centerlines of abutting streets and highways
  - f. Soils information
  - g. Topographical contour lines: \_\_ foot intervals
  - h. Wetlands, 100-year floodplain, shoreland zone and ordinary high water mark for any adjacent watercourses
  - i. Easement labels and locations
  - j. Adjacent public streets, centerlines, and rights-of-way
  - k. Auto ingress and egress
  - l. Visual clearance triangles
  - m. Parking and loading areas
  - n. Utilities: existing and proposed locations and types of private well and onsite waste treatment systems, or connections to public sanitary sewer, water, and/or storm sewer.
  - o. Grading and drainage plan, showing existing and proposed surface elevations
  - p. Proposed erosion control and stormwater management provisions
  - q. Any outdoor storage or dumpster areas
  - r. Existing and proposed landscaping on the site, including the location, species, size at time of planting, and mature size of all new plantings
  - s. Signs: location, height, dimensions, colors, materials, lighting, and copy area of all signage
  - t. Lighting: location, height, type, orientation, and power of all proposed exterior lighting

Figure 11: Example Site Plan from Langlade County



- D. Names and addresses of the owners of all lands within a specified distance of the property as they appear on the current records of the Register of Deeds, to be used to provide notice of the hearing
- E. Other pertinent information as requested by the zoning administrator to determine if the proposal complies with the ordinance
- F. The required review fee

An applicant has the burden of establishing the need for their relief from the zoning ordinance and the zoning board cannot guess or fill in the blanks of an incomplete application. Thus, an applicant fails to provide sufficiently detailed materials at his or her own peril. If the zoning board determines that it does not have sufficient information to make a decision on an application, it may postpone the decision until the applicant supplies the requested information and notice is provided for an additional hearing.

For examples of applications to the zoning board, staff reports, and zoning board decisions, see *Appendix D and E*.

### **Who reviews the applications?**

Initially, zoning staff members review the application to identify missing or problematic information. They may also ask other specialists, such as engineers or natural resource specialists, to assist in reviewing issues such as erosion control, stormwater management, delineation of ordinary high water marks, floodplains and wetlands, or restoration issues.

### **Are zoning staff reports recommended and what do they contain?**

While Wisconsin Statutes do not specifically address staff reports for the zoning board, the courts have not reacted negatively to staff providing recommendations to the zoning board.<sup>90</sup> Figures 12 and 13 show the results from a 2004 survey completed by 31 counties. Most zoning staff members prepare reports some or all of the time for zoning board members, summarizing the facts regarding applications. About half of the counties who responded

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<sup>90</sup> *Miswald v. Waukesha County Bd. of Adjustment*, 202 Wis.2d 401, 550 N.W.2d 434 (Ct. App. 1996)

said zoning staff always include recommendations about whether standards are met, whether to grant or deny the permit, and appropriate conditions if the permit is granted. When deciding whether to include recommendations in staff reports, consider preferences of the zoning board, staff and zoning board expertise, workload for staff and zoning board members, and political risk.

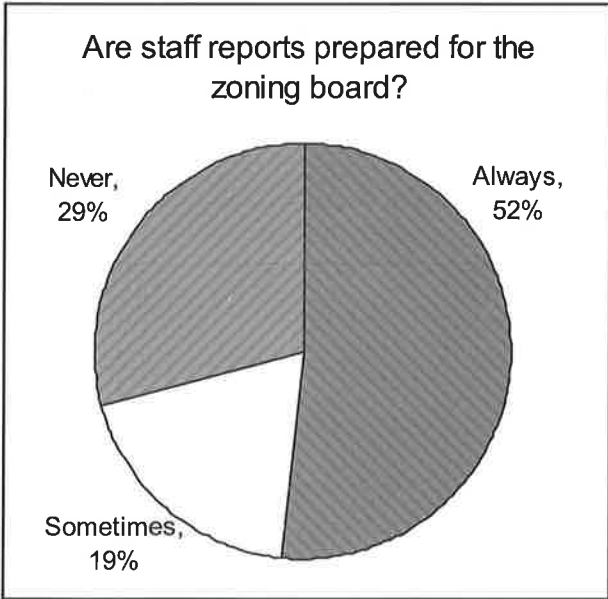
Staff reports commonly include the following components:

- Summary of applicant’s request
- Additional site information from staff visit and/or research
- Zoning history of the site, including previous permits requested and granted
- Relevant statements from comprehensive or land use plan
- Salient purpose statements and provisions from local ordinance
- Relevant statutes and case law
- Discussion of whether proposal meets standards
- Recommendation to approve, approve with conditions, or deny request

See Appendix E for an example of a staff report.

See Chapter 5 for information about who should be notified about zoning board applications and upcoming hearings.

**Figure 12: Staff Reports**



**Figure 13: Staff Report Recommendations**

