



## **Zoning Board of Appeals**

### *Variance Applicant Information*

*Planning & Zoning Staff* – As Planning and Zoning staff, we are responsible for the day-to-day administration and enforcement of the zoning ordinances. We regularly grant permits for permitted uses, and are here to provide important information to the public concerning a number of matters; including administrative appeals as well as applying for variances and conditional uses. We can play a key role in helping the public understand the rationale behind the ordinances and work with the Zoning Board in multiple ways. We are often responsible for preparing staff reports for applications decided by the Zoning Board, scheduling hearings, providing public notice of hearings, as well as recording and taking minutes at the hearings. We educate, facilitate, and enforce.

*Village Ordinances* – Chapter 225 of Maple Bluff ordinances enable the Village to hear requests for variances which are not contrary to the public interest and substantial justice, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

*Variances* – State Statutes and case law set forth the framework for the consideration of variance requests by local communities. The Maple Bluff Zoning Board's evaluation of variances is based upon this statutory framework. Past Wisconsin Supreme Court decisions have determined that localities must distinguish between area variances and use variances.

- A variance is considered a **use variance** if it permits wholesale deviation from the way in which land in the specific zoning district is used.
- A variance is considered an **area variance** if it provides an increment of relief (normally small) from a dimensional requirement (lot area, setbacks, parking standards, etc.)

To qualify for either variance, an applicant has the burden of proof to demonstrate that all three criteria defined in state statutes are met – unnecessary hardship, unique property limitations, and no harm to public interests.

*Unnecessary Hardship* – The Wisconsin Supreme Court distinguishes between area and use variances when applying the unnecessary hardship test:

- For a **use variance**, unnecessary hardship exists only if the property owner would have no reasonable use of the property without a variance. What constitutes a

reasonable use of a property is a pivotal question that the Zoning Board must answer on a case-by-case basis. If the property currently supports a reasonable use, the hardship test is not met and a variance may not be granted. If a variance is required to allow reasonable use of a property, only that variance which is essential to support reasonable use may be granted and no more. A proposed use may be reasonable when it: 1) does not conflict with uses on adjacent properties or in the neighborhood; 2) does not alter the basic nature of the site (e.g, conversion of wetland to upland); 3) does not result in harm to public interests; and, 4) does not require multiple or extreme variances.

- For an **area variance**, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions “unnecessarily burdensome.” To determine whether this standard is met, the Zoning Board often considers the purpose of the zoning ordinance in question, its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance.

*Hardship Due to Unique Property Limitations* – Unnecessary hardship must be due to **unique** physical limitations of the property, such as steep slopes or wetlands that prevent compliance with the ordinance. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Property limitations that prevent ordinance compliance and are common to a number of properties are often more appropriately addressed by amending the ordinance. For example, an ordinance may, in some cases, be amended to provide reduced setbacks for a subdivision that predates the current ordinance and where lots are not deep enough to accommodate current standards.

*No Harm to Public Interests* – A variance may not be granted which results in harm to public interests. In applying this test, the Zoning Board will review the purpose statement of the ordinance and related statutes in order to identify public interests. These interests are listed as objectives in the purpose statement of an ordinance and may include: Promoting and maintaining public health, safety, and welfare; Protecting water quality; Protecting fish and wildlife habitat; Maintaining natural scenic beauty; Minimizing property damages; Ensuring efficient public facilities and utilities; Requiring eventual compliance for nonconforming uses, structures, and lots; or any other public interest issues. In light of public interests, the Zoning Board must consider the short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state. Review focuses on the general public interest, rather than the narrow interests or impacts on neighbors, patrons or residents in the vicinity of the project.

*Application* – Please contact the Village Center at [info@villageofmaplebluff.com](mailto:info@villageofmaplebluff.com) or (608) 244-3048 for a variance application. The application fee is \$100 and may be payable to the Village of Maple Bluff. We strongly encourage applicants to provide as much information as possible and to clearly demonstrate that all three criteria defined in state statutes are met. Failure to do so will most likely result in a denial of the request.