

Petition for Area Variance

to the

Marathon County Board of Adjustment

Name of Applicant: _____		Phone: _____
Applicants Address: _____		
Email Address: _____		
Owner (if different than applicant): _____		Phone: _____
Owner's Address: _____		
Town of: _____	Parcel ID#: _____	Zoning District: _____
Property Legal Description: _____ 1/4 _____ 1/4, Section _____, T _____ N, R _____ E		
Lot _____, Block _____, Subdivision _____		
Site Address: _____		

The Marathon County Board of Adjustment is authorized by §59.694(7)(c) to authorize upon appeal, in specific cases, variances from the terms of the ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed, and substantial justice done.

Area variance – Provides an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback.

Current use of property & improvements: _____

Describe the variance requested: _____

Ordinance standard from which the variance is being sought (Section Number and Text): _____

Description of any prior petition for appeal, variance, or conditional use: _____

Description and location of all nonconforming structures & uses on the property: _____

Three-Step Test

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

1) Unnecessary Hardship / Practical Difficulty

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). 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.

- For an area variance, unnecessary hardship / practical difficulty 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. The Wisconsin Supreme Court also determined that living without a lakeside porch was a personal inconvenience and did not constitute unnecessary hardship or practical difficulty. The board of adjustment must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term and cumulative effects of a variance on the neighborhood, the community and on the public interests.

Is unnecessary hardship/practical difficulty present?

- Yes. Describe:

- No. A variance cannot be granted.

2) Unique property limitations

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with 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. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

Do unique physical characteristics of your property prevent compliance with the ordinance?

- Yes. Where are they located on your property? Please show the boundaries of these features on the site map that you used to describe alternatives you considered.

- No. A variance cannot be granted.

3) **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 must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- *Public health, safety, and welfare*
- *Water quality*
- *Fish and wildlife habitat*
- *Natural scenic beauty*
- *Minimization of property damages*
- *Provision of efficient public facilities and utilities*
- *Achievement of eventual compliance for nonconforming uses, structures and lots*
- *Any other public interest issues*

Does this request cause harm to public interests?

Yes. A variance cannot be granted.

No. (Explain)

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

Owner Signature: _____

Date: _____

Owner Signature: _____

Date: _____

Applicant Signature (if different): _____

Date: _____

Construction Plans

To be completed and submitted by the applicant.

Attach construction plans detailing:

- Property lines
- Vegetation removal proposed
- Contour lines (2 ft. interval)
- Ordinary-high-water mark
- Floodplain & wetland boundaries
- Dimensions, locations & setbacks of existing & proposed structures
- Utilities, roadways & easements
- Well & sanitary system
- Location & extent of filling/grading
- Location & type of erosion control measures
- Any other construction related to your request
- Anticipated project start date