BUILDING VARIANCE GENERAL INFORMATION

A Town of Rhine Application Package for a Building Permit Variance is available at the Town of Rhine Town Hall at W5250 County Road FF, Elkhart Lake, WI 53020, on Tuesdays and Wednesdays from 11:30 am – 4:30 pm. The applications are also available on the Town's website at townrhine.com.

The Application Package consists of a General Information Sheet, a Building Permit Variance Application, and a denied Building Permit from the Town of Rhine Building Inspector

1.) Review the Municipal Code of the Town of Rhine which can be found on the Town's website at townrhine.com. or at the Town Hall at W5250 County Road FF, Elkhart Lake, WI 53020. The Land Use map is also located at the Town Hall.

2.) Determine what other town, county, state and/or federal regulations (ex: building codes, shoreland zoning, county sanitary or subdivision requirements) might apply to a proposed use or developments, and for obtaining any necessary approvals or permits.

3.) Ensure the application is complete before submitting to the Town Clerk. An incomplete application may require additional review time and/or fees.

4.) Submit all fees at time of application. Fees are non-refundable.

PERMIT PROCEDURE

The entire process takes anywhere from 60 to 90 days to complete.

Step One: Applicant submits a completed application and fees to the Town Clerk.

Step Two: The application is reviewed by the Board of Appeals Chairperson for completeness. If the application is incomplete the applicant will be notified and is required to submit the additional information before any further action will be taken. Once all necessary information is submitted the process can move forward.

Step Three: The application will be forwarded to the Board of Appeals for a public hearing. Board of Appeals meetings are held at the Town of Rhine Town Hall, W5250 County Road FF, Elkhart Lake, WI 53020.

Step Four: A notice of public hearing must be published not less than fifteen (15) days before the public hearing. The applicant and the applicant's neighbors will receive a notice of public hearing in the mail. **The applicant is expected to attend the public hearing.**

Step Five: The public hearing occurs at the Board of Appeal meeting. The Board of Appeals will make a decision to approve or deny the Variance Application.

TOWN OF RHINE
BUILDING VARIANCE APPLICATION

Completed application, attachments, and fees must be submitted before Board of Appeals will review.

Office Use Only

Date Received _____

Fee: $_____ Rcpt.#_____

Fee Received By: _____

Revised 12/25

REQUEST

I hereby request the Town Rhine Board of Appeals to allow a Building Permit Variance for:

_____

_____

_____

OWNER/APPLICANT

Owner Name(s): _____

Mailing Address: _____

Phone Number: _____

Email Address: _____

SUBJECT PROPERTY

Property Address: _____

Tax Parcel No.: _____ Current Zoning: _____

Lot Size (Acres or ft^2): _____ Lot Dimensions: _____

Current Improvements on Property (House/Garage/Shed/Deck/Pool/Etc.): _____

_____

_____

Current Use of Subject Property: _____

QUESTIONNAIRE (use additional sheets of paper as necessary)

Proposed Improvements: _____

List Each Practical Difficulty or unnecessary hardship (see guide): _____

_____

_____

Unique Property Limitations (see guide): _____

_____

_____

Public Interest Factors (see guide): _____

_____

_____

REQUIRED DOCUMENTS CHECKLIST

- ☐ Denied Building Permit Application (2 copies)
- ☐ Variance application signed by owner(s) (2 copies)
- ☐ Application fee- $400.00 check or money order payable to Town of Rhine
- ☐ Legal Description
- ☐ Certified Survey of Existing Property (2 copies)
- ☐ Site plan (2 copies)
- ☐ Topographical map with minimum 2'countour lines (2 copies)
- ☐ Building plan-scaled (2 copies)
- ☐ Photographs (2 copies of each)
- ☐ Neighboring property information (zoning, other helpful info)
- ☐ Additional information (if required or as needed to clarify your request)

SIGNATURE

I/WE am making this application for a variance as the owner of the above-described Subject Property and request a public hearing with the Board of Appeals. I/WE certify that the information stated above and on any attachments is true and correct to the best of MY/OUR knowledge and belief. For seven (7) days prior to the hearing, between the hours of 8 am and 8 pm, I/WE authorize members of the Board of Appeals and the public to access the Subject Property to review the proposed improvements/changes.

_____ _____

Owner/Applicant Signature Date

_____ _____

Owner/Applicant Signature Date

For Town Use:

Date(s) of Hearing: _____; _____

Dates Published: 1st: _____; 2nd: _____

Date Notice Mailed: _____ Hearing Held Date: _____ Disposition: _____

Applicant Notified on: _____ By: _____

GUIDE FOR BUILDING PERMIT VARIANCE APPLICANTS

BUILDING PERMIT VARIANCE SUBMITTAL REQUIREMENTS:

Your variance hearing date will be postponed if all requirements are not met.
All documents must be given to the Town Clerk by the submission deadline.

1) **TENTATIVE HEARING DATE** - Schedule tentative hearing date with the Town Clerk. The Town Clerk will also give you a submission deadline.

2) **DENIED BUILDING PERMIT APPLICATION** (2 copies) - The new home, addition, accessory structure, or remodel permit that was denied with signatures / notations by the Building Inspector.

3) **VARIANCE APPLICATION** (2 copies) - Obtained from the Town Clerk or Building Inspector. Signed by the owner(s) of the property (not the builder/contractor). If owned by corporation, partnership, LLC, trust, or other organization, the signature of an authorized officer, partner, member, or trustee, is sufficient.

4) **APPLICATION FEE** - Non-refundable application fee of $400.00 - check or money order made payable to the "Town Rhine."

5) **LEGAL DESCRIPTION** - The complete legal description is located on your deed, it may also be found on your Certified Survey.

6) **CERTIFIED SURVEY** (2 copies) - See Example 1
    a. Prepared and certified by Registered Land Surveyor within past 5 years.
    b. Must include: entire parcel dimensions; roads; all current structures on parcel; location of driveways and impervious surfaces (including slabs, decks, and patios); distances to all lot lines; distances between structures; lakes and streams; and well and septic.
    c. Topographic lines with minimum 20" increments (if not on site plan).

7) **SITE PLAN** (2 copies) - See Example 2
    a. Drawn to scale and laid out over the Certified Survey (if possible). Best if completed by Architect, Designer, or Certified Surveyor
    b. Must include: Same information as provided on Certified Survey plus proposed building dimensions (length, width, and height) and locations on the parcel. The length and width dimension goes to the overhang of the roof of the building not just to the foundation location. Front, side, and rear yard dimensions including setback distances. Any structures on adjacent properties located within 100' of the property. Include a North arrow.

8) **TOPOGRAPHICAL MAP WITH 2' CONTOUR LINES** (2 copies)
    a. May be included on Certified Survey and /or Site Plan
    b. Required when:
        1. Property has a difference in grade elevation of 2' or more between any two points within 25 from the area of proposed construction, -or-
        2. Property has a difference in grade elevation of 101 or more between any two points on the property.

9) **BUILDING PLANS** (2 copies) - Drawn to scale. All elevations from lowest grade to highest peak. Exterior dimensions of proposed building / structure (height, width, length.)

10) **PHOTOGRAPHS** (2 copies each) - Minimum of 4" x 8" and printed on or attached to 8.5"x1 1" paper. Show locations and conditions of current structures; as well as locations of proposed structures, Include descriptions of what each photo is showing (i.e. Location of new building, looking north, existing elevation).

11) **NEIGHBORING PROPERTY INFORMATION** (2 copies) - Names and addresses of all owners of properties within 500' of the boundary lines of the subject property obtained with the help of the Town Clerk.

12) **PROPOSED STRUCTURE LOCATION MARKERS** - At least one week prior to the public hearing, clearly stake out/ flag all proposed building locations for on-site viewing by members of the Board of Appeals.

13) **ADDITIONAL INFORMATION** - Additional information may be requested by the Town Clerk, the Building Inspector, or the Board of Appeals. You may present any additional information with the application or at the hearing that you feel will assist the Board of Appeals in reaching a decision.

STANDARD FOR GRANTING VARIANCES:

The Board of Appeals is required by State law to deny your request unless you convince them that your proposal passes all three of the following:

1) **PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP** - The ordinance that you're seeking a variance from applies to all properties in the town. You need to show how that ordinance results in a practical difficulty or unnecessary hardship on your parcel. The unreasonable difficulty or hardship must arise from the application of the ordinance to the property.

This test often (but not always) relates to the buildings on the property. For example, a house built before zoning doesn't meet the minimum setbacks and you want to do some construction that isn't allowed by the current ordinance. This might qualify for a variance.

Factors the Board May consider:

a. Alternatives That Would Meet the Code - Are there any alternatives the applicant could utilize that would fully comply with the ordinance? If so, would it be unreasonable to insist the applicant resubmit a plan that meets the ordinance?
b. Alternatives That Still Need a Variance - Are there any alternatives that would result in a lessened degree of violation of the ordinance (i.e., reducing dimensions)? If so, would it be unreasonable to insist the plan be redrawn and resubmitted?
c. Number of Violations - How many code sections does the proposal violate?
d. Degree of Violation - By how much does the proposal violate the standard in the ordinance?
e. Cause of Violation - Was any part of the problem caused by previous acts by the applicant, i.e., is this a self-created hardship?

2) **UNIQUE PROPERTY LIMITATIONS** - Unique physical characteristics of your property must prevent you from completing your project in compliance with the ordinance, and the Board must conclude your proposal is the most reasonable alternative. The property must qualify for the variance, regardless of your particular preferences.

This test often (but not always) relates to the land. For example, a lot approved before zoning doesn't meet the minimum dimensions (area, width, depth, street frontage, shoreline frontage) and you want to do some construction that isn't allowed by the current ordinance. This might qualify for a variance.

Factors the Board May consider:

a. Uniqueness - Has the applicant proved the unique physical characteristics of the property prevent completion of the project in compliance with the ordinance?
b. Similar Cases - Has the Board addressed similar cases in the past? If so, is the applicant's property truly unique?

3) **NO HARM TO PUBLIC INTEREST** - The key point the Board will consider under this test is whether your proposal is consistent with the reasons the particular zoning ordinance was adopted in the first place. We recommend you carefully read the introductory section of the zoning code, §4.01 "Interpretation and Purpose", to understand the Town's reasons for adopting the code. Then, decide which goals are served by the specific code section you're seeking relief from. Note that is a summary of the rationale, and ¥.01 (2) lists 13 specific items. The first 4 subsections (a through d) are quite broad and apply to every zoning requirement. The last 9 (e - m) are more specific.

You need to be prepared to persuade the Board that your request is fully compatible with all 13 items in §4.01(2) but focus on the items that are most important in your case. For example, one of the key reasons for the dimension and setback requirements is §4.01 (2)(i) - to "provide adequate light, air, sanitation,

drainage, and open space." That's five separate points in a single subsection. You should be prepared to address those points, along with all of the other subsections.

Factors the Board may consider:

a. Neighbors' Feelings: How do the neighbors feel about the proposal?
b. Feelings of Others - How do other residents of the Town, the DNR, and any other interested parties feel about it?
c. Impact on Town Infrastructure - How will the proposal affect existing Town services (fire protection) and Town roads (and sanitary sewers if applicable), from the standpoints of increased use, congestion, safety, adequate capacity, and road maintenance needs?
d. Impact on Other Infrastructure - How will the proposal affect school enrollment, police protection needs, and congestion on county or state roads?
e. Compatibility With Neighborhood - Will the proposal result in something that is seamlessly compatible with the immediate neighborhood?
f. Consistency With Town of Rhine Comprehensive Plan - Is the proposal fully consistent with the comprehensive plan?
g. Environmental Impact on the Parcel - Will the proposal increase the risk of erosion, water pollution, loss of vegetative cover due to grading, loss of vegetative cover due to decreased sunlight, or other environmental concerns?
h. Environmental Impact on the Neighborhood - Will the proposal impact the neighbors in such ways as surface water diversion, decreased air or sunlight to neighboring parcels, noise, airborne matter, groundwater pollution, or soil contamination?
i. Environmental Impact Beyond the Neighborhood - Will the proposal have negative impacts beyond its location in terms of surface water, ground water, air (including smoke, dust, other particulates), soil, or noise?
j. Aesthetics - Will the project have an attractive, pleasing appearance?
k. Precedent for Future Requests - If we say "yes" to this proposal, would we have any hesitation in approving ten or fifty identical requests from others? What is the likelihood of similar requests being presented?

The factors listed above are in no particular order. Success or failure is not a matter of counting the factors in your favor and the factors against you. Some of the factors will be given more weight than others, depending on the situation. For example, a proposal to build a garage one foot from your lot line would have an impact on your immediate neighbor. If your neighboring property were a public park or a cemetery, the Board might look at it differently than if your neighbor were another family.

FACTORS THE BOARD MAY NOT CONSIDER:

The Board of Appeals cannot grant a variance because the tax base will be enhanced or because they think you are a wonderful person. Applicants are strongly advised to refrain from any mention of either factor.

1) **ECONOMIC BENEFIT** - Of course your project will increase the local tax base. The Board knows that already. But there's a more important reason this factor should not be mentioned: it implies that the rules on land use can be bent in exchange for money. The future of the Town of Rhine is not for sale.

2) **PERSONAL ISSUES** - Don't raise any personal issues, such as: you are a lifelong resident, your father was Town Chairman, you've been a leading volunteer for community betterment, you're a perfectionist and the project will have the finest materials and craftsmanship, your spouse is quite ill and you have to put a new ADA-compliant bathroom in, and so on. Land use decisions are not personal decisions. Property ownership changes hands, but the property remains. The Board judges the application, not the applicant.

PRACTICAL ADVICE TO APPLICANTS:

If you haven't appeared before a local governmental body before in a similar situation, this section should be helpful. Keep in mind that the people who serve on the Board of Appeals and other similar bodies do so to serve the communities they live in. They don't do it for money - many local boards are unpaid and the others get a nominal amount. And they don't do it for power - they would rather find a way to say yes to an applicant than to have to say no. With that in mind, consider these suggestions:

1) **BE CAREFUL (major no-no's to avoid)**
   - **a.** Don't lobby any of the Board members at any time before the hearing. They act in what the law calls a "quasi-judicial capacity", and it is not proper to pitch your situation to any of them before the hearing. (It's OK to contact the Town Clerk.)
   - **b.** Don't say a word at the hearing about economic benefit or personal matters.
   - **c.** All dimensions, size changes, etc. must exactly be the same as on the application. If any changes are made, the Board of Appeals can refuse to continue with the variance procedure.

2) **BE PREPARED** - Before the hearing starts, be sure you have everything that was requested - applications, surveys, plans, maps, photos, and so on. You may have a representative speak on your behalf if you want - an attorney, contractor, or architect but it's better to do it yourself if that's feasible for you. If your neighbors support your proposal, ask them to come to the hearing. If they cannot attend the hearing, ask them to send a brief letter or email to the Town Clerk. Read this Applicants' Guide carefully. Be ready to answer any questions.

3) **BE POLITE** - It's fine to address the Board members by first name, but if you're acquainted with any of them don't act like bosom buddies. Keep it businesslike: act as if you were speaking at a business meeting with your boss watching you. Don't interrupt other speakers. Don't speak until recognized by the Chair. Casual language and casual dress are fine, but profanity won't make a good impression. Other ways to make a negative impression: arguing with a Board member; raising your voice; threatening a lawsuit if you don't get what you want.

4) **BE PREPARED** - This is too important to mention just once. To find out how the Board has handled similar situations, make an appointment to meet with the Town Clerk to review the files on recent variance requests. If the Board turned down a similar request, be ready to show how your request is different.

5) **BE BRIEF** - When the Chair recognizes you, don't simply stand up and ask for questions; give a brief summary first. Hit the high points, focusing on hardship / difficulty, uniqueness, and public interest. The Chair may set a time limit on your presentation, so be sure to be direct and don't repeat yourself. Then, introduce the neighbors who came to support you.

Adopted pursuant to Town of Rhine Municipal Code sec. 4.11 (2):
"The Board of Appeals shall adopt rules for its government and procedure."

TOWN OF RHINE BOARD OF APPEALS

W5250 County Road FF, Elkhart Lake, WI 53020 920-876-3413