



Dane County Planning & Development

Division of Zoning

Three-Step Test to Qualify for a Variance:

The Dane County Board of Adjustment uses the following "Three Step Test" as standards by which it judges the "legal hardship(s)" presented by the applicant when considering variance appeals. The Board includes Findings of Fact and Conclusions at Law when it takes action on an appeal, using specific language from each of the three requirements.

To qualify for a variance, your property must meet the following requirements:

1. Unnecessary Hardship

Strict application of an ordinance requirement (dimensional standard) must result in unnecessary hardship. Wisconsin case law describes hardship as being present where, in the absence of a variance, no reasonable use can be made of the property. In some more extreme cases, open space uses may be the only reasonable use of a property, while in others a scaled down home and some relaxation of a setback requirement may provide a reasonable use. The zoning board will balance public interests in preserving the objectives of the ordinance and private interests in a property in determining which uses are reasonable. If a parcel as a whole (but not necessarily each portion of the parcel) provides some reasonable use for its owner, then this test is not met and a variance cannot be granted. An applicant may not claim 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 determined that loss of profit or financial hardship do not, by themselves, justify a variance. Decks and similar minor accessory structures are not essential to the reasonable use of property and are not eligible for variances.

2. Hardship Due to Unique Physical Limitations of the Property

Hardship must be due to unique physical limitations of the property, i.e. compliance with ordinance requirements is prevented by limitations (steep slopes, wetlands, etc.) that are not generally shared by other properties. The circumstances of an applicant (growing family, need for 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. Minor property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amendment of the ordinance.

3. No Harm to Public Interests

A variance may not be granted which results in harm to public interests. In applying this test, the board must consider impacts of your proposal and the cumulative impacts of similar projects on the interests of the entire community. These interests are listed as objectives in the purpose statement of an ordinance and may include general public health, safety and welfare as well as more specific issues such as environmental protection, clean drinking water and other concerns.

In addition to passing the 3-step test, you must also demonstrate that no other alternatives that would not require relief from zoning regulations exist. An existing alternative demonstrates that relief is not warranted.

Source: Zoning Board Handbook for Zoning Boards of Adjustment/Appeals by Michael D. Dresen and Lynn Markham, published July 2001 by the Land Use Education Center, The College of Natural Resources and cooperative Education, University of Wisconsin – Stevens Point, pp.42-43

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5. Zoning violations by others in the area, nonconformity of structures on other properties or other variances given in the area do not automatically entitle an applicant to the approval of his or her variance request. What constitutes a legal hardship and substantial justice is a matter to be determined by the Board from the facts and circumstances of each individual appeal.
6. In granting variances, the Board of Adjustment may impose special conditions to ensure that the public welfare will not be damaged.
7. Under certain fact circumstances, a variance may be approved on the basis that it is necessary in order to secure the applicant the right of 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 because those who do not object outnumber those who do.

VARIANCE APPLICATION INSTRUCTIONS

THE FOLLOWING INFORMATION MUST BE SUBMITTED BEFORE ANY VARIANCE APPLICATION WILL BE ACCEPTED:

- A. A written statement which includes:
 1. Name and address of applicant (and agent, if any).
 2. Address, location, tax parcel number, and legal description of the property.
 3. Detailed description of the proposed project (new building, alteration or addition to existing building, etc.)
 - B. Completed "Variance Application" form describing alternatives and listing hardships. Your appeal must meet all three of the "steps" to be approved. SEE 3-Step Test BELOW.
 - C. Site plan: A detailed site plan, prepared by a Registered Land Surveyor, is required in most cases. It must be accurate, drawn to an easily measurable scale, and must show all lot lines and dimensions, locations and dimensions of all existing and proposed structures (including any additions and alterations) and their setbacks from lot lines. The site plan must include the location of any septic system, well, driveway, accessory building and other physical features of the property. Other information may be required, such as topographic data, calculation of percentages of lot coverage, etc.
 - D. Floor plans and elevations of the existing and/or proposed structure(s) -- may be preliminary.
 - E. **A letter from the Town Clerk or Administrator, acknowledging that the applicant or agent has informed the Town of their intent to apply for a Variance. (Required by Dane County Board of Adjustment directive of 09/28/1997: Staff may not accept a Variance Appeal application without a letter from the Town. Explanation: Board action on an Appeal may be delayed if the Town has not had an opportunity for input.)**
- A pre-application meeting with the Assistant Zoning Administrator is strongly encouraged prior to applying for a variance.
 - Public hearings are scheduled once per month. An annual schedule of the Board of Adjustment, including deadline dates for applications, is available on the County website.
 - **VARIANCE APPLICATION FEE IS \$500.00, payable to Dane County Zoning.**

NOTE: If Appeal is granted, a Zoning Permit must be obtained within one year, or variance(s) will expire.
Dane County Ordinance 10.26(9)



Dane County Planning & Development

Division of Zoning

Appeal No. _____
Date Received _____
Date of Public Hearing _____

VARIANCE APPLICATION:

Owner: Steve Frame

Mailing Address: 3565 Ryan Road
Blue Mounds, WI 53517

Phone Number(s): 608-575-6786

Email Address: stevenframe53@gmail.com

Assigned Agent: Wade Wyse, Wyser Engineering

Mailing Address: 300 E Front Street
Mount Horeb, WI 53572

Phone Number(s): 608-437-1980

Email Address: wade.wyse@wyserengineering.com

To the Dane County Board of Adjustment:

Please take notice that the undersigned was refused a permit by the Dane County Zoning Division, Department of Planning and Development, for lands described below for the reason that the application failed to comply with provisions of the Dane County Code of Ordinances: Chapters 10 – Zoning, 11 – Shoreland, Shoreland-Wetland & Inland-Wetland, 17 – Floodplain Zoning, and/or 76 – Airport Height Regulations. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: 0706 - 304 - 8840 - 0 Zoning District: RM-16 Acreage: 16.69

Town: Vermont Section: 30 1 / 4 NW 1 / 4 NE

Property Address: RYAN ROAD

CSM: 13988 Lot: 2 / Subdivision: _____ Block/Lot(s): _____

Shoreland: Y / N / Floodplain: Y / N / Wetland: Y / N / Water Body RYAN CREEK

Sanitary Service: Public Private (Septic System)

Current Use: Undeveloped lands including cropland, woodland, and grassland within the shoreland zone.

Proposal: Driveway construction within the 75' shoreland setback to serve a proposed single family residence.

NOTE: You are encouraged to provide a complete and detailed description of the existing use and your proposed project on an attached sheet.

REQUIRED BY ORDINANCE

Section	Description	Required	Proposed or Actual	Variance Needed
11.03 (2) 1.	75-Foot setback from OHWM for Building and Driveways	75 - Feet	25 - Feet	50 - Feet

2. Floor Plans and Elevations: Professionally-prepared plans and elevations are not required, but the plans submitted must be drawn to a standard and easily readable scale, must show each story of the building or structure, and must include all parts of existing and proposed structures, including any balconies, porches, decks, stoops, fireplaces and chimneys. Exterior dimensions must be included. Show all exit door locations, including sliding doors, and any windows or other features that are pertinent to your appeal. The plans may be a preliminary version, but are expected to represent your actual proposal for the use of your lot.

Please consult with the Assistant Zoning Administrator regarding required plans for non-conventional structures such as signs, construction cranes, etc.

3. Town Acknowledgment: Obtain a signed, dated memo or letter from the Town Clerk or Administrator of the Town where the variance is needed, acknowledging that you have informed them of your intention to apply for the variance(s). You probably will need to appear before the Town Board and/or Plan Commission, which will provide advisory input requested by the Board of Adjustment.

APPLICANT SIGNATURE:

The undersigned hereby attests that all information provided is true and accurate, and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Signature Required: Steven Frame Date: 8-6-2025

Print Name: STEVEN L Frame

Specify Owner or Agent: Owner

Agent must provide written permission from the property owner

STAFF INFORMATION:

Date Zoning Division Refused Permit (if different from filing date)

Filing Date

Filing Materials Required:

Site Plan

Floor Plans

Elevations

Fee _____ Receipt No. _____

Town Acknowledgement Date

Notices Mailed Date

Class II Notices Published Dates

Site Visit Date

Town Action Received Date:

Public Hearing Date

Action by B.O.A. _____

Approved by: _____ Date: _____
Director, Division of Planning Operations, Department of Planning and Development