

VARIANCES AND SPECIAL EXCEPTIONS



**Relief from Strict Adherence
to the Zoning Code**



MARQUETTE COUNTY

**PLANNING, ZONING
& LAND INFORMATION DEPARTMENT**

77 West Park Street, Room 104
Montello, WI 53949-9366
608-297-3036

Recognizing the fact that zoning ordinances cannot be written to address every circumstance, zoning ordinances must specify procedures for seeking relief from strict adherence to the zoning code. A zoning variance or special exception authorizes a landowner to establish or maintain a use that is prohibited in the zoning ordinance. Requests for variances or special exceptions are not always granted.

A variance is a relaxation of a standard in a land use ordinance. A special exception is any variation of a standard expressly listed in the zoning ordinance including land uses or dimensional changes.

Variances and special exceptions are decided by the zoning Board of Adjustment. The Board of Adjustment is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws, court decisions and the local ordinance to a specific fact situation.

Quasi-judicial decisions involve the application of a set of rules or policies to a particular fact situation. These decisions involve the exercise of some discretion. For example, in deciding whether to grant a variance or special exception request, the board has the

power to investigate facts, hold hearings, weigh evidence, draw conclusions, and use this information as a basis for their official decisions. Discretion of quasi-judicial decision-makers is strictly limited by local ordinance and related state laws. The board may only apply ordinances as they are written and may not substitute their judgment for that of the elected local governing body.

Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. Special exceptions are not suited to all locations in a zoning district. Special exceptions may be allowed in some locations if they meet specific conditions set out in the zoning ordinance and are not contradictory to the ordinance's intent.



Appeals Process

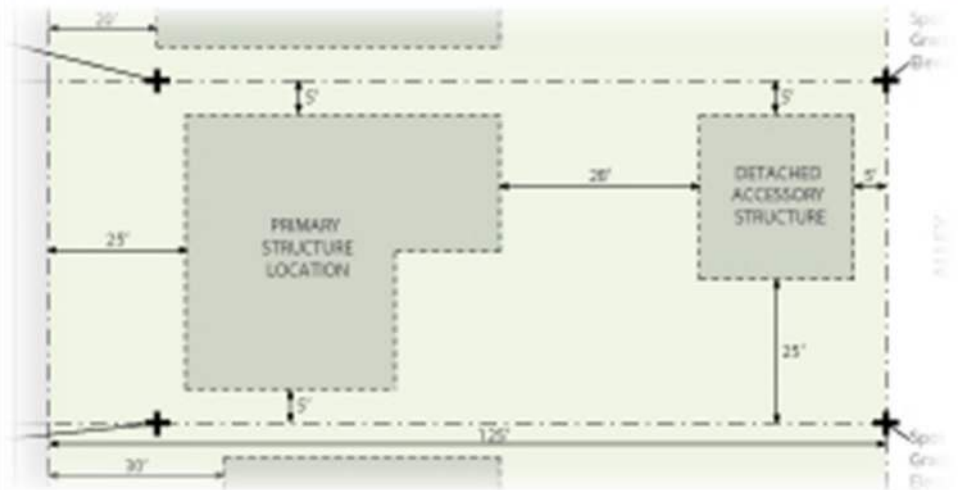
A variance or special exception decision may be appealed to circuit court by any aggrieved person, taxpayer, officer or body of the municipality within 30 days of filing of the decision in the Marquette County Zoning Office. For this reason, you may choose to delay your project until the appeal period has expired.

Permitting Process

Any permission for development granted by a decision of the Board of Adjustment must be authorized by obtaining the necessary building, zoning, and other permits. Permission to develop may be revoked for violation of any conditions imposed by the board. The applicant will be given notice of the violation and an opportunity to be heard.

**DETAILED PLANS MAY
INCLUDE SOME OR ALL OF THE
FOLLOWING:**

- Property lines
- Proposed vegetation removal
- Contour lines (2 ft. interval)
- Ordinary high-water mark (lake properties)
- 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



APPLICATION PROCESS

At the time of application, you will be asked to:

1. Complete an application form and submit a non-refundable fee.
2. Provide detailed plans describing your lot and project (location, dimensions and materials).
3. Provide a written statement of verifiable facts showing that your project meets the legal criteria for a variance or special exception.
4. Contact your Town Board to inform them of your request. The municipality may ask you to attend a Town Board meeting to discuss the application.

Following the receipt of a completed application, the zoning department will publish notice of your request for a variance or special exception in the county's official newspaper noting the location and time of the required public hearing before the zoning board. Your neighbors and any affected state agency will also be notified.

The burden will be on you as the property owner to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and then must deny your application. The board must make its decision based only on the evidence submitted to it at the time of the hearing.



