

**PEPIN COUNTY ZONING
VARIANCE/ADMINISTRATIVE APPEAL
INFORMATION SHEET**

The contents of this document briefly outlines the principles and guidelines regarding variance requests and administrative interpretation appeals as applied to Zoning Codes of Pepin County and decisions of the Pepin County Zoning Administrator.

This document is not a complete outline of the jurisdictional guidelines and requirements of the Pepin County Board of Adjustment or Zoning Office regarding these two types of appeals. It is meant to give a brief information regarding variances and appeals. For more information, please contact the Pepin County Zoning Office or legal counsel.

BOARD OF ADJUSTMENTS

In Pepin County, the Board of Adjustment (hereinafter referred to as BOA) is a five member committee constituted of three county supervisors and two citizens who serve staggered terms. The BOA is appointed by the County Board Chairperson and confirmed by the Pepin County Board of Supervisors.

The BOA acts somewhat like a court, and is called a “quasi-judicial body”. The BOA will follow accepted procedures and will evaluate the relevant facts in each case that comes before it. Occasionally, cases the BOA hears may be appealed to circuit court. For this reason, the BOA acts only within its powers.

VARIANCES

Because those who draft a zoning ordinance cannot anticipate every land use question that will arise in a community, there needs to be some mechanism to give an ordinance flexibility. The BOA, under Wisconsin State Statute 59.99 as well as a number of sections within Pepin County Codes, has been given the authority to grant variances for this purpose.

A variance is permission granted by the BOA to build or develop in a way which is consistent with the dimensional standards contained within an ordinance. The variance procedure allows the impact of the general rules to be varied in response to unusual circumstances which constitute “unnecessary hardship”.

In granting a variance request, the BOA must insure the following three criteria area met:

- 1. Unnecessary hardship (may not be self-imposed) is present in that a literal enforcement of the terms of the zoning ordinance would deny the petitioner all reasonable use of the property.**
- 2. The hardship is due to physical limitations of the property rather than circumstances of the petitioner.**
- 3. The variance will not be contrary to the public interest as expressed by the objectives of the ordinance.**

If these three criteria are not met, the BOA must deny the variance request. All decisions of the BOA may/shall be subject to review by the Circuit Court of the county or the Department of Natural Resources and the Wisconsin Attorney General’s Office depending upon the codes and jurisdiction involved.

ADMINISTRATIVE APPEALS

The BOA holds the power to review the correctness of ordinance interpretation made by the Zoning Administrator. *In exercising this authority, the BOA is not authorized to relieve the applicant from or modify the terms of the zoning ordinance.* The BOA's role is merely to determine whether, as applied to the particular set of facts and circumstances presented, the administrator's interpretation and application of the zoning ordinance is in accord with the terms of the ordinance and state law.

Any person aggrieved or any officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator may appeal to the BOA within a reasonable time as provided by the BOA's rules.

As in a variance, the actions of the BOA in an Administrative Appeal may/shall be subject to review by the circuit court of the county.

PROCEDURES

Both variances and appeals have very ridged procedures established by State law for deliberation. Summarized, the procedures are as follows:

- A) Applicant files a complete application and fee with the BOA secretary.
- B) Secretary sets public hearing date and places Public Notice in local official newspaper. Public Notice must run two consecutive weeks.
- C) Public Hearing is held and variance/appeal deliberated on by the BOA.

APPEALS TO COURT

An aggrieved party may appeal a decision of the BOA by commencing an Action of Certiorari in the circuit court within 30 days after filing of the decision.