

## **NOTICE OF MEETING**

SHEBOYGAN COUNTY BOARD OF ADJUSTMENT

**Wednesday, August 20, 2025**

**1:00 PM**

Administration Building  
508 New York Avenue  
3<sup>rd</sup> Floor, Conference Room 302  
Sheboygan, WI

### **\*AGENDA\***

Call to Order  
Certification of Compliance with Open Meeting Law  
Public Input and Comments on Non-Agenda Items  
Approval of Minutes of the August 21, 2024 Board of Adjustment Meeting

Consideration of Procedure Sheet and Application Changes

Election of Officers

Approval of 2025-2026 Calendar

Adjournment

Prepared by: Sharon Harvey, Recording Secretary

Approved by: Ed Harvey, Chairperson

A majority of the members of the County Board of Supervisors or of any of its committees may be present at this meeting to listen, observe, and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in *State ex rel. Badke v. Greendale Village Board*, 173 Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting. Persons with disabilities needing assistance to attend or participate are asked to notify the County Planning & Conservation Office, 920-459-1370, prior to the meeting so that accommodations may be arranged.

*Posted on 8/15/2025 at 10:00 AM*

## **BOARD OF ADJUSTMENT MINUTES**

Sheboygan County Administration Building  
508 New York Avenue  
Sheboygan, WI

**August 21, 2024**

**Called to Order: 1:02 PM**

**Adjourned: 2:29 PM**

**MEMBERS PRESENT:** Mark Pfaller, Charles Born, Pete Scheuerman, BJ Reenders, Marjean Pountain, Kenneth Sonntag, Ed Harvey

**OTHERS PRESENT:** Attorney Kelly Del Ponte, Kathryn Fabian (Planning & Conservation), Nick Tasche (Planning & Conservation), Aaron Brault (Planning & Conservation), Tyler Betry (Planning & Conservation), Megan Nasgovitz (BOA Recording Secretary), Sharon Harvey (BOA Recording Secretary), Korry Ardell

Chairperson Pfaller called the meeting to order and called the roll. Mr. Pfaller seated no alternates.

Ms. Harvey reported that the meeting notice was posted on August 12, 2024 at 1:30 PM in compliance with the open meeting law.

There were no public comments regarding non-agenda items.

Mr. Scheuerman made a motion to approve the minutes from the January 17th, 2024 Board of Adjustment meeting. Mr. Reenders seconded the motion. Motion carried with no opposition. Mr. Sonntag abstained as he was not at the meeting.

Mr. Pfaller opened the hearing for Korry Ardell, case number R-24-01-E. Mr. Pfaller stated that Mr. Ardell submitted an application to appeal the County's determination that he needs an Erosion Control and Stormwater Permit and he believes that he is not in violation of the requirements listed in Section 75.17(1)(a) and 75.10(7) while he was constructing a limestone parking area for storage of vehicles, equipment, trailers, and other items.

Mr. Pfaller provided an overview of the procedures for the hearing and asked the applicant if they understood the procedures.

Mr. Pfaller went through all the documents listed as follows one by one ensuring that all parties had received them:

A1: Letter to Mr. Ardell from the Planning and Conservation Department dated 5/23/24

A2: Petition of appeal submitted by Mr. Ardell

A3: Printed copy of email communication between Mr. Ardell and staff of the Sheboygan County Planning and Conservation Department dated 5/28/24 through 6/17/24

A4: Letter to the Town of Mosel with Hearing notice attached; dated 8/1/24

A5: Tyler Betry's Staff Report

A6: Printed copy of email dated 8/15/24 from Aaron Anger, Town of Mosel Chair

After ensuring everyone had received a copy of all the documents, Mr. Pfaller asked the board members if they had any additional comments regarding the site visit.

Mr. Reenders stated that it was pretty straight forward that it was a large storage lot with a gravel base.

Mr. Scheuerman stated that it is evident that it is compacted granular surface placed over what used to be an agricultural field. He also noted that before the hearing he looked it up, and that compacted limestone is considered impervious.

Mr. Sonntag stated that the entire site is filled up to the fence line and is also stock piled with additional screens. He stated that it appears that as the property heads to the north from Garton Road it has been filled to level it and the northeast corner has been filled 3 plus feet, a little bit less to the west. He added that the fence has been installed pretty close to the property lines and on the inside of the fence is mostly impervious surface.

Mr. Harvey agreed that it is a large parking area. He understands that something less than an acre has been added this year; up until then the area had been filled apparently going back to the 2000s. It doesn't appear that grades had been changed to re-direct any water. The impervious surface would probably increase run-off and probably increase total suspended solids.

Mr. Pfaller agreed with the sentiments expressed by the other board members.

Mr. Pfaller then asked for comments from members of the audience, but there were none.

Attorney Del Ponte briefed the board on this appeal and the special circumstances. She reviewed the process on this type of case. All board members stated that they understood.

Mr. Pfaller next invited the applicant, Korry Ardell, to speak. Mr. Ardell started that when he began the project, he didn't realize that he needed a permit. He stated that he didn't know he needed a permit even just for the fence, but the town stepped in before he started, so he did get that permit from the town. While they were building, he stated it was soupy along the perimeter with a lot mud. He stated that many people helped with the project which started last November and continued through March, and he then put the screening in on the fence as requested by the town in April or May. He noted that he did not strip the ground to fill. They used fill that was hauled in, that which ended up being more than he originally thought He thought it would be one weekend of hauling fill in, but it ended up being three or four weekends. Mr. Ardell went on to say that is was getting expensive, so if the county would have come out even on the second weekend to tell him he would have been happy to do less. He stated that he had asked one of the people helping him haul the fill, Matt, if he needed a permit, but Matt replied, no he didn't need one. However, he added that Matt was from Fond du Lac county. Mr. Ardell continued saying that they were having a problem with trucks going up and down Millersville Ave because the neighbors were not happy about the trucks hauling on that road, so they took a longer route to the property when the trucks were full and then took that road back once they were empty. He also noted that the state patrol was out there two weekends due to complaints. Mr. Pfaller inquired if that was relevant to our case today. Mr. Ardell replied it was not, but that he wasn't aware that he needed a permit. He said he would not have done it if he knew that he needed a retention pond that would be the size of what he hauled in. He stated that he never got an answer out of the county in the emails back and forth about how much he would need to undo and at what point he would have needed to get a permit. He believes the county is saying that from the time he moved a pebble of gravel he would have needed a permit. Mr. Pfaller clarified that no, the county is saying at one acre of disturbed land a permit is needed. Mr. Ardell replied that he shouldn't have needed a permit because he did not disturb over an acre.

The board members were then given the opportunity to ask questions of the applicant.

Looking at the paperwork received for the case, Mr. Scheuerman questioned if it was not determined that there was 1.8 acres of limestone brought on site, and does Mr. Ardell dispute the 1.8 acres? Mr. Ardell replied that some of the limestone was there before he bought the property in 2022. Mr. Pfaller asked when he bought the property. Mr. Ardell responded that he bought it in November of 2023. Mr. Pfaller asked Mr. Ardell to show the photo of how it looked when he bought it from the aerial photos included in the staff report. Mr. Ardell said there was no photo showing what it looked like when he bought it. Mr. Sonntag asked Mr. Ardell when he first bought the property. Mr. Ardell replied in 2002. Mr. Sonntag noted that there was no 2002 photo, but the staff report aerial photo from 2014 shows the property with about 10 trucks but no fill anywhere. Mr. Ardell said there should have been some fill somewhere. Mr. Sonntag summarized that from the air photos between 2002- 2014 when Mr. Ardell owned the property there may have been a just little gravel in one corner. Mr. Ardell confirmed that was true. Mr. Sonntag then stated that in the 2019 aerial image there is again no gravel- the equipment is extended but there was nothing else there. Mr. Ardell said that he didn't know when this picture was taken in 2019, but that there was a lot of gravel hauled in during 2019. Mr. Sonntag asked who hauled that gravel in. Mr. Ardell responded that the gravel was hauled in partially by him and he believed some was hauled in by Kiel Sand and Gravel. Mr. Sonntag asked if he owned the property then. Mr. Ardell stated that he did not own the property in 2019. Mr. Sonntag asked when he sold the property. Mr. Ardell stated that he sold the property in 2009 or 2010. Mr. Pfaller clarified the timeline by confirming that Mr. Ardell bought the property in 2002, sold it in 2009 and bought it back in 2023. Mr. Ardell confirmed that this was accurate. Mr. Pfaller noted that in any case, the responsibility was his in owning or operating the property.

Mr. Harvey asked if the property Mr. Ardell bought in 2002 is the same and whole property that he now owns in terms of the boundaries. Mr. Ardell stated that the boundaries changed a little due to a road project because the round-a-bout in the road was not there originally. Mr. Harvey confirmed that Mr. Ardell sold the property, bought it back, that the new area of fill is on that area and no additional real estate was bought. Mr. Ardell confirmed that no additional real estate property was bought. Mr. Sonntag asked from the time that he sold it to when he bought it back if somebody else put a substantial amount of gravel on it when Mr. Ardell didn't own it. Mr. Ardell replied yes. Mr. Sonntag continued by noting that now that Mr. Ardell has the property back, we see that the entire site is filled. Mr. Sonntag asked if when he bought the site back in 2023 if it looked like the 2022 air photo showed. Mr. Ardell said that no, it did not. He elaborated that there was more filled in because every year it got filled in a little bit more. Mr. Pfaller asked if the previous owner was doing this. Mr. Ardell stated that the previous owner was doing the work through him as he was renting and using the property, which is why she sold it back to him. Mr. Pfaller clarified that Mr. Ardell sold the property, but it was leased back to him to use, so the responsibility for the property was his. Mr. Ardell responded, yes, to a point. Mr. Pfaller asked to how much of a point, questioning that if it was an apartment and the renter was trashing the place wouldn't they be responsible. Mr. Ardell stated that he agreed, yes. Mr. Sonntag asked during the time Mr. Ardell didn't own the property if he still occupied it. Mr. Ardell responded yes. Mr. Sonntag continued asking if during that time it was filled, and if Mr. Ardell was part of the filling process of the property during that time? Mr. Ardell responded yes. Mr. Sonntag then asked that after Mr. Ardell got the property back if he continued to fill it. Mr. Ardell responded yes, for three or four weekends they filled.

Mr. Reenders asked Mr. Ardell, now that he has this notice, if he is opposed to getting this permit after the fact or if there was a reason why he was against that. Mr. Ardell stated that it

would be a substantial cost, so it would be better to strip the fill off because it would take that whole area he filled. Mr. Reenders asked if he had talked to civil engineer. Mr. Ardell stated that he did talk to an attorney who asked a friend, Roger Miller, who said that he would need a retention pond if they put up a building. Mr. Ardell felt that this lot is too small and he guessed that an engineer would say that a retention pond would have to go in the lower corner. He stated that it would probably take up the section he filled in, so they would be better off taking the fill out and not paying an engineer which would be probably \$15,000-\$20,000. Mr. Pfaller asked if anyone told Mr. Ardell at that point that he would need a permit to do that. Mr. Ardell responded that this was after the county had already reached out about the permit. Mr. Sonntag clarified with Mr. Ardell that he had filled less than an acre recently. Mr. Ardell confirmed that yes, since he purchased it in 2023 he had filled less than an acre. Mr. Sonntag then asked if he has filled more than an acre in the past, so he would have needed a permit in the past when that occurred. Mr. Ardell stated that he thinks they need to look at the County Code. He stated that he didn't know that County Code existed, but that it says more than an acre from final stabilization. He continued that from the time he owned it, there was not more than an acre of land disturbed past final stabilization. He doesn't think at any time there was more than acre disturbed at one time.

Mr. Scheuerman interjected that this is cumulative, so it carries on whether it's over 15 years or 15 months. Mr. Pfaller added that all of that disturbance was still was still done by Mr. Ardell. Mr. Ardell replied for the most part yes, but went on to say that there were a lot of properties in Sheboygan where they have disturbed more than an acre of their property over the past 40 years. It would create an issue for a lot of property owners in this situation. Mr. Ardell believes that would be overly broad and unconstitutional. Mr. Pfaller asked why would it be unconstitutional? Mr. Ardell stated that if you'd just cut an acre of trees on your property, it would be disturbance. Mr. Pfaller asked if anyone else had any questions.

Mr. Harvey noted that looking in the ordinance for the language Mr. Ardell is talking about, he cannot find it. He stated that according to the ordinance, it applies after final stabilization to one or more acres of land and sites less than one acre if they are part of a larger common land of development unless the site is otherwise exempt. Mr. Harvey noted the definition of site in the ordinance 75.03(74) states that site means the entire area included in legal description of the land on which the land disturbing construction activity is proposed in the permit application. Since it was one property throughout the couple of sales that were discussed, Mr. Harvey stated that he was not sure where the notion would come from. He noted also that the erosion control ordinance is not that old. Mr. Brault clarified that the ordinance was updated a few years ago, but it was definitely in place at least the 14 years he has been in his position.

Attorney Del Ponte asked if there were any more questions for appellant. Mr. Ardell stated that he does not think the county understands Chapter 75. He stated that according to 75.24 it says that he was supposed to be served by certified mail, but he wasn't.

Mr. Pfaller next invited the staff, Mr. Betry and Mr. Brault to come forward and speak. Mr. Betry started by referring to the county code regarding a project that has over one acre of impervious surfaces after final disturbance then the storm-water needs to be addressed. He stated that the final opinion of the department is that an erosion control permit is needed and that a storm-water management plan is needed and a better management process to address the storm water is also needed as per 75.19 of the Erosion Control Stormwater Management Ordinance.

Mr. Pfaller asked Mr. Brault if he would like to speak. Mr. Brault noted that he did not have much else to add. He stated that whether Mr. Ardell owned the property or not, there is air photo

evidence showing it more than an acre disturbed. He noted that all the air photos were taken in spring except for most recent 2024 photo. Referencing the photos, he notes that the photos in the staff report start in 2014 because we started to see equipment on the property in 2014, but that we could go further back to look at older photos if needed. 75.17 (1)(c) states whether it's an acres more, that runoff that exceeds the safe amount of the existing drainage facility- in this case a nearby wetland-, and you can easily see from the air photo that it's going into the wetland area and it looks like the farmer can't do anything in his area of the property as he had in the past. Mr. Brault continued that, as Mr. Betry had mentioned, an after the fact permit needs to be applied for and then as far as the comment about taking away the ½ acre of fill from last year, there is still over an acre of disturbance from activity going back to 2019.

Mr. Pfaller asked Mr. Ardell if he would like to add anything else. Mr. Ardell noted that he did not change any way that the drainage is going. Mr. Pfaller asked if the farmer ever planted that swale? Mr. Ardell replied that he doesn't know, but the swale has always been there. He added he doesn't know why he didn't plant it stated that he himself could have planted that area even with the channel in there. Mr. Ardell added that the water did not change at all, even though we had heavier rainfall in spring the past few years. Mr. Ardell stated that even the county agrees. Mr. Brault stated the county isn't disputing that the drainage is different, but that the increased impervious surface presents a need to treat the runoff for suspended solids before the runoff is discharged into the wetland. Mr. Ardell questioned where he would need to be so he wouldn't need a permit. Mr. Brault responded that he needs one, and that there is no instance at this point where he wouldn't need to have permit. Mr. Ardell asked at what point the property needed a permit. Mr. Pfaller responded when he started working on it. Mr. Ardell asked if he needed it in February of 2024. Mr. Brault responded that he needed it in 2019 or whenever he started filling. Mr. Ardell stated that he didn't even own the property then. Mr. Brault stated that didn't matter as he did the filling and he bought the property now.

Mr. Sonntag asked the county to explain stabilization. Mr. Betry explained that stabilization was the final grade that was usually seeded, and it meant that the sediment hitting the surface stays there. He added that the air photos show that there is sedimentation abutting the wetland as it did not stay in place. Mr. Pfaller asked if he would call what was coming through of the limestone effluence. Mr. Brault responded that there are two parts to the ordinance: erosion control, so during active construction a silt fence would have been required, and stormwater control to treat total suspended solids before they discharge in to creeks, waterways, wetlands, etc. Attorney Del Ponte clarified that there are two components, but it is still one permit. Mr. Brault confirmed that to be true. Mr. Scheuerman questioned if stabilization would be where design criteria is met. Therefore, it isn't necessarily up to the property owner and it isn't up to the county to design something, but he would hire someone to do that. Mr. Brault confirmed that generally a stormwater engineer is hired to come up with a plan and that generally the plan is implemented with a stormwater pond often the first thing to go in so that it captures the sediment during construction. Mr. Sonntag noted that looking at the aerial image from 2022, there was an acre of disturbance at that time so, they should have had a stormwater management plan in place by then. Mr. Sonntag asked if at that point they would have had to put a stormwater pond in. Mr. Brault responded they would have needed a pond or some other control measure. Mr. Sonntag asked if they continued to then still fill more if the pond would have had to be redone to account for the greater size of disturbance. Mr. Brault responded that usually when they design the site, they know how big it is going to be whether they do it all at once or in phases, so they account for the size from the beginning. Mr. Sonntag stated that removing the most recent fill that was placed wouldn't be a solution because they still would have needed a pond even before it was placed. Mr. Brault stated that he did not know exactly how big it would need to be without a plan.

Mr. Harvey interject that as he understands it, if Mr. Ardell decided he was going to fill one acre and would never fill any more- his plan was not to fill beyond that- he would be ok. However, as soon as he went beyond that one acre he needed to go back and remove all the fill. Mr. Brault stated that was a blanket statement. Mr. Harvey if wondering if Mr. Ardell could remove everything and restore the site as an option if he can show that runoff intensity and suspended particulates were the same as before. Mr. Brault replied that would be a first for the department but it might be an option. Mr. Harvey stated that it might be cheapest solution. Mr. Brault replied that the removal would be over an acre, so he would still need to get a permit. Mr. Harvey stated that he would have to get a permit, but he wouldn't have to get a retention pond. Mr. Brault stated that he did not know how to answer that exactly at this point. Mr. Scheuerman inquired if when a project is complete does the designer usually give a compliance report to the county that is verified through an inspection process. Mr. Betry responded that the county is supposed to be on site every 45 days to fill out a form supplied by the DNR, and then once the site is finished, there is a maintenance agreement in place taken on by owner.

Mr. Pfaller asked if the DNR has had input on this. Mr. Brault replied that this is a case where the state says you shall and the counties implements it. Mr. Reenders asked if the language in this ordinance mimics that of that state's. Mr. Brault explained that this is the model ordinance that the state provides. Mr. Harvey stated that some townships in the county can choose to have the DNR enforce and do not have to adopt an ordinance, so some have ordinances and some don't. Mr. Brault replied that in our county the only town that has their own ordinance is the Town of Sheboygan, and their standards are likely stricter than the counties. He continued that in an urban area, usually the area of disturbance that triggers a permit is much less than one acre.

Mr. Ardell stated that the county's ordinance is more stringent than the state's ordinance. Mr. Brault responded that Sheboygan County uses the model ordinance that the state provides. Mr. Ardell said he believes the state only requires a retention pond if a building is put up. Mr. Pfaller stated that for the DNR, every municipality and the county if something is impervious whether is a roof or asphalt, it is considered the same. It is impervious surface and it needs to be drained properly, if you put in concrete is has to be drained property without getting effluence stuck in drainage areas. Attorney Del Ponte asked Mr. Ardell if he had anything further that he wanted to add. Mr. Ardell stated that if disturbing this much property is an issue, then it should be a pretty big issue for many property owners in the county. He added that the county wouldn't tell him how they even found out, just stating that it was an anonymous complaint and they the county should have said something earlier. Mr. Pfaller interjected that it was his land and his responsibility to find out what he needs to do. Mr. Ardell continued that the county hasn't even served him properly, so we shouldn't even be here. He reiterated that according to Chapter 75.24, he should have been served by the county. He stated that he didn't have too high of hopes coming in here when people much more powerful than himself come before this board and are unsuccessful.

Mr. Sonntag motioned to close the evidence portion of the hearing and Mr. Scheuerman seconded the motion. The motion carried with no opposition.

Attorney Del Ponte reminded the board that they will be focused on this property and this particular appeal of Mr. Ardell's disagreement with the counties determination that he needs to apply for an after the fact permit for erosion and stormwater control. She advised the board to look at the sections of the ordinance highlighted in Mr. Ardell's application, the county letters and places in the ordinance that indicate where the ordinance applies. This includes 75.07

(1)(a) which provides the applicability of erosion control, similar section (b) dealing with stormwater, 75.17 (1)(a), and 75.03 which defines final stabilization (23) and land disturbing construction activity (36). She advised that the board can decide if and how the ordinance applies to this case.

Mr. Pfaller asked the board members for their thoughts on the case

Mr. Scheuerman stated that what he sees is a gravel parking lot and that he hasn't detected anything that the county has over-stepped. The property is over an acre, it is considered impervious and even a layman can see where there is runoff from the impervious surface cutting across an adjacent property. He stated that he can see the issues that the county has stated are correct.

Mr. Reenders stated that he had similar thoughts to Mr. Scheuerman. He stated that this is public information, the ordinances are no secret, so it is unfortunate that Mr. Ardell did not have the permit before-hand. He stated that it was his understanding though that there isn't a penalty, the county is just asking him to make it compliant now.

Mr. Harvey added that it does happen that people disturb their land and they don't understand that they need a permit and then there is some sort of remedial activity that has to follow up in order to make it right with the county and this is one of those cases. In this case we are talking about a very large site and to restore it or bring it into compliance will be a big deal, but I do not see a way around it. He concluded that there is not a misinterpretation, requirements were not met and they need to be met.

Mr. Sonntag stated that the property in general, since it never had a permit, he doesn't believe that stabilization applies. He stated that it is very common for people to not apply for the proper permits. Mr. Ardell's project was a multi-phase project. He stated that whether Mr. Ardell was the owner or the user of the property he controlled the filling and that he would be the responsible party. Mr. Sonntag added that you should never ask a friend or a contractor if a permit is needed. He stated that the county is not over-stepping and he agrees with their decision.

Mr. Pfaller stated that he did not have anything to add and that the other board members had covered the valid points.

Attorney Del Ponte paraphrased that what she was hearing from the board is that the ordinance applies to disturbance over one acre whether the disturbance is over time or all at once. Mr. Pfaller confirmed that was correct.

Mr. Sonntag motioned that the county acted appropriately and upholds that the county's determination outlined in the May 23, 2024 letter to Mr. Ardell that a permit is needed. Motion seconded by Mr. Scheuerman. Motion carried with no opposition.

Mr. Ardell asked how long he has to appeal the decision. Attorney Del Ponte answered that a decision letter will be mailed to him instructing on the timeline for appeal.

Mr. Sonntag motioned to close the public hearing. Mr. Reenders seconded the motion. Motion carried with no opposition.



## Election of Officers

Mr. Pfaller requested nominations for Chairperson. Mr. Sonntag made a motion to nominate Ed Harvey for the new Chairperson. Motion seconded by Mr. Born. Motion carried with no opposition. Ed Harvey was elected Chairperson for the next year.

Mr. Pfaller requested nominations for Secretary. Mr. Scheuerman made a motion to nominate Ken Sonntag for Secretary. Motion seconded by Mr. Reenders. Motion carried with no opposition. Ken Sonntag was elected Secretary for the next year.

Mr. Pfaller requested nominations for Vice-Chairperson. Mr. Sonntag made a motion to nominate Pete Scheuerman for Vice-Chairperson. Motion seconded by Mr. Pfaller. Motion carried with no opposition. Pete Scheuerman was elected Vice-Chairperson for the next year.

Approval of 2024-2025 Calendar. Mr. Sonntag motioned to approve the 2024-2025 Calendar. Motion seconded by Mr. Scheuerman. Motion carries with no opposition.

Mr. Sonntag made a motion to adjourn. Motion seconded by Mr. Pfaller. Motion carried with no opposition.

Mark Pfaller, Chairman

Sharon Harvey, Recording Secretary

# SHEBOYGAN COUNTY

## Board of Adjustments

### Procedure Applying for a Variance, Chapter 63, Airport Height and Property Use Ordinance

#### **A. Before Applying for a Variance:**

Prior to applying for a variance from Chapter 63, Airport Height and Property Use Ordinance, the applicant first must meet with the Airport Department staff to discuss the project, including ways of revising it so that the project does not need a variance, and the Bureau of Aeronautics and FAA to confirm that the project meets State and federal requirements. It is only if the project cannot be revised that an application for a variance should be filed.

#### **B. Variance Application and Review Process:**

1. If the project cannot be revised, the applicant completes pages 1, 3, 4, and 5 of the “Petition of Appeal or Application to the Sheboygan County Board of Adjustments for Chapter 63” which is available from the County Airport Manager, N6180 Resource Drive, Sheboygan Falls.
2. The applicant files the completed application with the Airport Manager by the date shown on the attached calendar. The applicant or applicant’s agent must file the original and ~~940~~ copies of the application and supporting attachments and pay the \$~~57500~~ application fee.
3. The Board of Adjustments (BOA) office secretary prepares the Notice of Hearing for publication in the County’s official newspaper for the hearing on the application and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the ~~4<sup>th</sup>~~-3rd Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA requires applicants or applicants’ representatives to attend the hearing and to present testimony regarding the proposal and need for the variance. Thereafter, the BOA will allow all others to testify. The applicant has the burden of proof on the need for the variance requested. Applicants are responsible for presenting sufficient evidence to support the granting of the variance (please refer to Section C) and especially for any claims or assertions made in the application.
6. After the public hearing, while the BOA may go into closed session to discuss the requested variance and the testimony received, it generally does this discussion in open session.
7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony and standards, make its findings, and announce its decision immediately after the hearing.
8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve a variance.

9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the applicant and other parties in interest<sup>1</sup>.
10. If the BOA approves the variance, the applicant may apply for the required permits from the County and other units of government requiring permits.
11. Any ~~party in interest~~<sup>1</sup>person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error in granting the variance, the Court can order the removal of anything done under any permits issued based on the variance.

### C. Standards and Findings Required for Granting a Variance:

**Applicant.** The County Ordinance and State law require the applicant, through testimony at the public hearing or in the written application, to present sufficient evidence showing that the proposed variance is in compliance with all ~~four~~three of the following standards (see application for a description of standards):

1. Special Conditions of the Property.

2. Unnecessary Hardship.

3. No Harm to Public Interests.

~~1. Owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship. The hardship must be based on conditions unusual to the property, not personal to the property owner, and the hardship cannot be self created. A reduction in the value of the property, if a variance is not granted, does not constitute an unnecessary hardship.~~

~~a. With respect to application for DIMENSIONAL variances, to show unnecessary hardship, the applicant must show that without the variance, the Ordinance would unreasonably prevent the applicant from using the property for a permitted purpose or the Ordinance would render the applicant's conformity with the restrictions unnecessarily burdensome.~~

~~b. With respect to application for USE variances, to show unnecessary hardship, the applicant must show that without the variance, the property has no reasonable use. If there is any reasonable use of the property, the variance must be denied.~~

~~2. Granting the variance meets the spirit or intent of the Ordinance.~~

~~3. Substantial justice to the property must be done by granting the variance.~~

~~4. The project will not cause harm to the public interest.~~

**Board of Adjustments.** The Ordinance and State law require the BOA to make its findings and determination based solely on the testimony in the written reports, letters, and application or presented to it at the hearing. In the BOA's record of its decision, it must show that the applicant has presented sufficient evidence to show the proposed variance is in compliance with all four of the standards listed above.

| Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the applicant's property, the Clerk of the Town in which the property is located, the Wisconsin Bureau of Aeronautics, and the Federal Aviation Administration.

# SHEBOYGAN COUNTY

## Board of Adjustment

### Procedure Applying for a Variance, Chapter 70, Sanitary Ordinance

#### A. Before Applying for a Variance:

Prior to applying for a variance from Chapter 70, Sanitary Ordinance, the applicant first must meet with the Planning & Conservation Department staff to discuss the project, including ways of revising it so that the project does not need a variance. It is only if the project cannot be revised that an application for a variance should be filed.

#### B. Variance Application and Review Process:

1. If the project cannot be revised, the applicant completes ~~pages 1, 3, 4, and 5 of the "Petition of Appeal or Application to the Sheboygan County Board of Adjustment for Chapter 70"~~the "Variance Application to Sheboygan County Board of Adjustment, Chapter 70 – Sanitary Regulations" which is available from the Planning & Conservation Department (508 New York Avenue, Room 335, Sheboygan).
2. The applicant files the completed application with the Planning & Conservation Department by the date shown on the attached calendar. The applicant or applicant's agent must file the original and ~~10-9~~ copies of the application and supporting attachments and pay the \$575 application fee.
3. The Board of Adjustment (BOA) office secretary prepares the Notice of Hearing for publication in the County's official newspaper for the hearing on the application and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the 3<sup>rd</sup> Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA requires applicants or applicants' representatives to attend the hearing and to present testimony regarding the proposal and need for the variance. Thereafter, the BOA will allow all others to testify. The applicant has the burden of proof on the need for the variance requested. Applicants are responsible for presenting sufficient evidence to support the granting of the variance (please refer to Section C) and especially for any claims or assertions made in the application.
6. After the public hearing, ~~the BOA generally discusses the requested variance and testimony received in open session, however, while the BOA may go into closed session to discuss the requested variance and the testimony received, it generally does for~~ this discussion in open session.
7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony and standards, make its findings, and announce its decision immediately after the hearing.

8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve a variance.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the applicant and other parties in interest<sup>1</sup>.
10. If the BOA approves the variance, the applicant may apply for the required permits from the County and Town.
11. Any ~~party in interest~~<sup>1</sup> person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error in granting the variance, the Court can order the removal of anything done under any permits issued based on the variance.

### C. Standards and Findings Required for Granting a Variance:

**Applicant.** The County Ordinance and State law require the applicant, through testimony at the public hearing or in the written application, to present sufficient evidence showing that the proposed variance is in compliance with all ~~three~~**four** of the following standards (see application for a description of standards):

1. Special Conditions of the Property.

2. Unnecessary Hardship.

3. No Harm to Public Interests.

~~1. Owing to special conditions, a literal enforcement of the Ordinance will result in unnecessary hardship. The hardship must be based on conditions unusual to the property, not personal to the property owner, and the hardship cannot be self created. A reduction in the value of the property, if a variance is not granted, does not constitute an unnecessary hardship.~~

~~2. Granting the variance meets the spirit or intent of the Ordinance.~~

~~3. Substantial justice to the property must be done by granting the variance.~~

~~4. The project does not cause harm to the public interest.~~

**Board of Adjustment.** The Ordinance and State law require the BOA to make its findings and determination based solely on the testimony in the written reports, letters, and application or presented to it at the hearing. In the BOA's record of its decision, it must show that the applicant has presented sufficient evidence to show the proposed variance is in compliance with all four of the standards listed above.

| Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the applicant's property and the Clerk of the municipality in which the property is located.

## SHEBOYGAN COUNTY Board of Adjustment

### Procedure Applying for a Variance, Chapter 72, Shoreland Ordinance

#### A. Before Applying for a Variance:

Prior to applying for a variance from Chapter 72, Shoreland Ordinance, the applicant first must meet with the Planning & Conservation Department staff to discuss the project, including ways of revising it so that the project does not need a variance. It is only if the project cannot be revised that an application for a variance should be filed.

#### B. Variance Application and Review Process:

1. If the project cannot be revised, the applicant completes the "Variance Application to the Sheboygan County Board of Adjustment for Chapter 72-Shoreland Ordinance" which is available from the Planning & Conservation Department (508 New York Avenue, Room 335, Sheboygan).
2. The applicant files the completed application with the Planning & Conservation Department by the date shown on the attached calendar. The applicant or applicant's agent must file the original and 9 copies of the application and supporting attachments and pay the \$575 application fee.
3. The **Board of Adjustment (BOA)** office secretary prepares the Notice of Hearing for publication in the County's official newspaper for the hearing on the application and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the 3rd Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA requires applicants or applicants' representatives to attend the hearing and to present testimony regarding the proposal and need for the variance. Thereafter, the BOA will allow all others to testify. The applicant has the burden of proof on the need for the variance requested. Applicants are responsible for presenting sufficient evidence to support the granting of the variance (please refer to Section C) and especially for any claims or assertions made in the application.

~~6. After the public hearing, the BOA generally discusses the requested variance and testimony received in open session, however, while the BOA may go into closed session to discuss the requested variance and the testimony received, it generally does for this discussion in open session.~~

~~6.~~

7. The BOA officially has 10 days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony and standards, make its findings, and announce its decision immediately after the hearing.

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8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve a variance.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the applicant and other parties in interest<sup>1</sup>.
10. If the BOA approves the variance, the applicant may apply for the required permits from the County and Town.
11. Any ~~party in interest~~<sup>1</sup> person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error in granting the variance, the Court can order the removal of anything done under any permits issued based on the variance.

#### C. Standards and Findings Required for Granting a Variance:

***Applicant.*** The County Ordinance and State law require the applicant, through testimony at the public hearing or in the written application, to present sufficient evidence showing that the proposed variance is in compliance with **all three** of the following standards ([see application for a description of standards](#)):

1. Special Conditions of the Property.
2. Unnecessary Hardship.
3. No Harm to Public Interests.

***Board of Adjustment.*** The Ordinance and State law require the BOA to make its findings and determination based solely on the testimony in the written reports, letters, and application or evidence presented to it at the hearing. In the BOA's record of its decision, it must show that the applicant has presented sufficient evidence to show the proposed variance is in compliance with all three of the standards listed above.

Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the applicant's property, the Clerk of the Town in which the property is located, and the Wisconsin Department of Natural Resources.

# SHEBOYGAN COUNTY

## Board of Adjustments

### Procedure for Appealing a Decision, etc., Under, Chapter 63, Airport Height and Property Use Ordinance

#### A. When to Appeal

If you believe the County made an error in any decision, determination, or interpretation; any order or requirement; or in denying or issuing a permit under Chapter 63, Airport Height and Property Use Ordinance, you may appeal it.

#### B. Who May Appeal (who is an Appellant).

1. Any property owner (or purchaser of property) who disagrees with a decision, etc., made by the County in regards to a proposed project subject to the regulations of Chapter 63.
2. Any ~~party in interest~~<sup>1</sup> person who is aggrieved by a decision, etc., made by the County for a property owned by another in regards to a project subject to the regulations of Chapter 63.

#### C. Appeal Process:

1. The appellant completes pages 1 and 2 of the "Petition of Appeal or Application to the Sheboygan County Board of Adjustments for Chapter 63" which is available from the County Airport Manager, N6180 Resource Drive, Sheboygan Falls.
2. The appellant files the completed application with the Airport Manager by the date shown on the attached calendar. The appellant or appellant's agent must file the original and ~~10~~9 copies of the appeal petition and supporting attachments and pay the ~~\$500~~\$575 application fee.
3. The Board of Adjustments (BOA) office secretary prepares the Notice of Hearing for publication in the County's official newspaper for the hearing on the appeal and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the ~~4<sup>th</sup>~~3rd Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA will hold a full hearing on your appeal and thus requires appellants or appellants' agents to attend the hearing and to be prepared to give testimony regarding the appeal. In addition to reviewing your petition and the County's full record on the subject of your appeal, the BOA will take testimony from all persons who wish to testify. The appellant has the burden of proof to demonstrate that the County's decision is incorrect or unreasonable. Appellants are responsible for presenting sufficient evidence to support the overturning of the County's decision, etc., and especially for any claims or assertions made in the appeal petition. The BOA may uphold the County's action, reverse it, or modify it.
6. After the public hearing, ~~while~~ the BOA generally discusses the request and testimony received in open session, however, the BOA may go into closed session for to discuss the request and the testimony received, it generally does this discussion, in open session.

7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony, make its findings, and announce its decision immediately after the hearing.
8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve the appeal.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the appellant and other parties in interest<sup>1</sup>.
10. If the BOA determines an error has been made, the BOA will direct the County to correct the error by a written Notice of Decision.
11. Any ~~party in interest~~<sup>1</sup> person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error, the Court can order the removal of anything done under any permits issued based on the BOA's decision

Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the property in question, the Clerk of the Town in which the property is located, the Wisconsin Bureau of Aviation, and the Federal Aviation Administration.

# **SHEBOYGAN COUNTY**

## **Board of Adjustment**

### **Procedure for Appealing a Decision, etc., Under, Chapter 75, Erosion Control and Stormwater Management Ordinance**

#### **A. When to Appeal**

If you believe the County made an error in any decision, determination, or interpretation; any order or requirement; or in denying or issuing a permit under Chapter 75, Erosion Control and Stormwater Management Ordinance, you may appeal it.

#### **B. Who May Appeal (who is an Appellant).**

1. Any property owner (or purchaser of property) who disagrees with a decision, etc., made by the County in regards to a proposed project subject to the regulations of Chapter 75.
2. Any person who is aggrieved by a decision, etc., made by the County for a property owned by another in regards to a project subject to the regulations of Chapter 75.

#### **C. Appeal Process:**

1. The appellant completes the “Petition of Appeal to Sheboygan County Board of Adjustment” which is available from the Planning & Conservation Department (508 New York Avenue, Room 335, Sheboygan).
2. The appellant files the completed application with the Planning & Conservation Department by the date shown on the attached calendar. The appellant or appellant’s agent must file the original and 9 copies of the appeal petition and supporting attachments and pay the \$575 application fee.
3. The Board of Adjustment (BOA) office secretary prepares the Notice of Hearing for publication in the County’s official newspaper for the hearing on the appeal and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the 3<sup>rd</sup> Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA will hold a full hearing on your appeal and thus requires appellants or appellants’ agents to attend the hearing and to be prepared to give testimony regarding the appeal. In addition to reviewing your petition and the County’s full record on the subject of your appeal, the BOA will take testimony from all persons who wish to testify. The appellant has the burden of proof to demonstrate that the County’s decision is incorrect or unreasonable. Appellants are responsible for presenting sufficient evidence to support the overturning of the County’s decision, etc., and especially for any claims or assertions made in the appeal petition. The BOA may uphold the County’s action, reverse it, or modify it.
6. After the public hearing, the BOA generally discusses the request and testimony received in open session, however, the BOA may go into closed session for this discussion.

7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony, make its findings, and announce its decision immediately after the hearing.
8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve the appeal.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the appellant and other parties in interest<sup>1</sup>.
10. If the BOA determines an error has been made, the BOA will direct the County to correct the error by a written Notice of Decision.
11. Any person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error, the Court can order the removal of anything done under any permits issued based on the BOA's decision.

Approved

# **SHEBOYGAN COUNTY**

## **Board of Adjustments**

### **Procedure for Appealing a Decision, etc., Under, Chapter 70, Sanitary Ordinance**

#### **A. When to Appeal**

If you believe the County made an error in any decision, determination, or interpretation; any order or requirement; or in denying or issuing a permit under Chapter 70, Sanitary Ordinance, you may appeal it.

#### **B. Who May Appeal (who is an Appellant).**

1. Any property owner (or purchaser of property) who disagrees with a decision, etc., made by the County in regards to a proposed project subject to the regulations of Chapter 70.
2. Any ~~party in interest~~<sup>1</sup> person who is aggrieved by a decision, etc., made by the County for a property owned by another in regards to a project subject to the regulations of Chapter 70.

#### **C. Appeal Process:**

1. The appellant completes the “Petition of Appeal to Sheboygan County Board of Adjustment” pages 1 and 2 of the “Petition of Appeal or Application to the Sheboygan County Board of Adjustments for Chapter 70” which is available from the Planning & Conservation Department (508 New York Avenue, Room 335, Sheboygan).
2. The appellant files the completed application with the Planning & Conservation Department by the date shown on the attached calendar. The appellant or appellant’s agent must file the original and 910 copies of the appeal petition and supporting attachments and pay the \$57500 application fee.
3. The Board of Adjustment (BOA) office secretary prepares the Notice of Hearing for publication in the County’s official newspaper for the hearing on the appeal and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the 4<sup>th</sup>-3rd Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA will hold a full hearing on your appeal and thus requires appellants or appellants’ agents to attend the hearing and to be prepared to give testimony regarding the appeal. In addition to reviewing your petition and the County’s full record on the subject of your appeal, the BOA will take testimony from all persons who wish to testify. The appellant has the burden of proof to demonstrate that the County’s decision is incorrect or unreasonable. Appellants are responsible for presenting sufficient evidence to support the overturning of the County’s decision, etc., and especially for any claims or assertions made in the appeal petition. The BOA may uphold the County’s action, reverse it, or modify it.

6. After the public hearing, ~~while the BOA generally discussed the request and testimony received in open session, however, the BOA may go into closed session to discuss the request and the testimony received, it generally does~~for this discussion ~~in open session.~~
7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony, make its findings, and announce its decision immediately after the hearing.
8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve the appeal.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the appellant and other parties in interest<sup>1</sup>.
10. If the BOA determines an error has been made, the BOA will direct the County to correct the error by a written Notice of Decision.
11. Any ~~party in interest~~<sup>1</sup>person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error, the Court can order the removal of anything done under any permits issued based on the BOA's decision

Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the applicant's property and the Clerk of the municipality in which the property is located.

# **SHEBOYGAN COUNTY**

## **Board of Adjustment**

### **Procedure for Appealing a Decision, etc., Under, Chapter 72, Shoreland Ordinance**

#### **A. When to Appeal**

If you believe the County made an error in any decision, determination, or interpretation; any order or requirement; or in denying or issuing a permit under Chapter 72, Shoreland Ordinance, you may appeal it.

#### **B. Who May Appeal (who is an Appellant).**

1. Any property owner (or purchaser of property) who disagrees with a decision, etc., made by the County in regards to a proposed project subject to the regulations of Chapter 72.
2. Any ~~party in interest~~<sup>1</sup> person who is aggrieved by a decision, etc., made by the County for a property owned by another in regards to a project subject to the regulations of Chapter 72.

#### **C. Appeal Process:**

1. The appellant completes ~~pages 1 and 2 of the "Petition of Appeal or Application to the Sheboygan County Board of Adjustment for Chapter 72"~~the "Petition of Appeal to Sheboygan County Board of Adjustment" which is available from the Planning & Conservation Department (508 New York Avenue, Room 335, Sheboygan).
2. The appellant files the completed application with the Planning & Conservation Department by the date shown on the attached calendar. The appellant or appellant's agent must file the original and ~~940~~ copies of the appeal petition and supporting attachments and pay the \$~~57500~~ application fee.
3. The Board of Adjustment (BOA) office secretary prepares the Notice of Hearing for publication in the County's official newspaper for the hearing on the appeal and notifies other parties in interest<sup>1</sup>.
4. The BOA holds its hearings on the 3<sup>rd</sup> Wednesday of each month beginning at 1:00 p.m., in Room 302 at the County Administration Building (508 New York Avenue, Sheboygan).
5. The BOA will hold a full hearing on your appeal and thus requires appellants or appellants' agents to attend the hearing and to be prepared to give testimony regarding the appeal. In addition to reviewing your petition and the County's full record on the subject of your appeal, the BOA will take testimony from all persons who wish to testify. The appellant has the burden of proof to demonstrate that the County's decision is incorrect or unreasonable. Appellants are responsible for presenting sufficient evidence to support the overturning of the County's decision, etc., and especially for any claims or assertions made in the appeal petition. The BOA may uphold the County's action, reverse it, or modify it.



6. After the public hearing, ~~while the BOA generally discusses the request and testimony received in open session, however, the BOA may go into closed session for to discuss the request and the testimony received, it generally does this discussion in open session.~~
7. The BOA officially has 10-days after the close of the hearing to make a decision. Normally, however, the BOA will discuss the testimony, make its findings, and announce its decision immediately after the hearing.
8. State law requires the BOA to have 5 members present in order to hold a hearing. If a member is not present or believes he / she has a conflict of interest in the petition, an alternate member will be seated to hear the petition. Three of the five BOA members or alternates present and participating in the hearing are needed to approve the appeal.
9. Within 10-days after the BOA has made its decision, it will send a dated, written Notice of Decision to the appellant and other parties in interest<sup>1</sup>.
10. If the BOA determines an error has been made, the BOA will direct the County to correct the error by a written Notice of Decision.
11. Any ~~party in interest~~<sup>1</sup> person aggrieved may appeal the BOA's decision to the Circuit Court within the first 30-days after the date on the written Notice of Decision. Should such an appeal be made and the Court find the BOA was in error, the Court can order the removal of anything done under any permits issued based on the BOA's decision

Approved ~~October 27, 2010~~

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<sup>1</sup> By County Ordinance and State law, parties in interest include all property owners within 200 feet of the property in question, the Clerk of the Town in which the property is located, and the Wisconsin Department of Natural Resources.

PETITION OF APPEAL TO  
SHEBOYGAN COUNTY BOARD OF ADJUSTMENT

**INSTRUCTIONS:**

- Complete all pages. You may attach any additional pages necessary to answer the questions in this petition.
- Be concise and specific in your response to questions.
- Prior to the BOA site visit, any proposed structure(s)/addition(s) must be staked or flagged in their proposed location(s).

**I. APPLICANT/AGENT CONTACT INFORMATION**

Name: \_\_\_\_\_.

Mailing Address: \_\_\_\_\_.

Telephone Nos. Home \_\_\_\_\_, Work \_\_\_\_\_, Cellular \_\_\_\_\_.

**II. PROPERTY INFORMATION**

Property Address: \_\_\_\_\_.

In Town of: \_\_\_\_\_.

Legal Description: \_\_\_\_ $\frac{1}{4}$ \_\_\_\_ $\frac{1}{4}$ \_\_\_\_, Section No. \_\_\_\_\_. **OR**

Lot No. \_\_\_\_\_. Block No. \_\_\_\_\_. Subdivision Name \_\_\_\_\_.

Current Use of Property: \_\_\_\_\_.

Current Buildings or Structures on Property: \_\_\_\_\_.

**III. NATURE OF APPEAL**

*Check the type of action appealed.*

☐ I / we hereby appeal to the Board of Adjustment to find that the County did make an error when he/she made a decision, determination, or interpretation, or issued an order or requirement, or denied or issued a permit under Ordinance Section number(s): \_\_\_\_\_.

☐ I / we hereby appeal to the Board of Adjustment to review the County's determination of a floodplain district boundary.

List the Floodplain Zoning Ordinance official map or maps on which you believe the County made an error: \_\_\_\_\_.

*Your status for this appeal:*

☐ I am / we are the property owner or potential purchaser or agent for same.

☐ I am / we are a neighbor or other party in interest, or agent for same, who is / are aggrieved by the County's action.

**Required: \$575.00 fee and the original and 9 copies (total of 10) of petition form and attachments**

Deliver or mail to:

Sheboygan County Planning and Conservation Department, 508 New York Ave., Sheboygan, WI 53081

**For Office use only:**

Date Received: \_\_\_\_\_ By \_\_\_\_\_.

For Meeting on \_\_\_\_\_.

#### IV. TESTIMONY SUPPORTING YOUR PETITION:

*Check the type of action appealed and answer the corresponding questions.*

☐ Appeal of County's Error:

- A. What is the decision, determination, interpretation, order, permit denial/approval, or requirement made by the County you believe is in error?

In your response, list the section number of the provision and your understanding of how the County applied it. If you are applying under two or more sections or for two or more decisions, etc., provide separate descriptions for each using the same format as for a single section.

- B. What is your understanding of the section or sections and how does it differ from the County's?

In your response, list the section number of the provision and your understanding of it. If you are applying under two or more sections or for two or more decisions, etc., provide separate descriptions for each using the same format as for a single section.

☐ Appeal of County's Boundary Determination:

- A. What is the boundary location determination made by the County you believe is in error?

In your response, list the official map number and name, describe the specific boundary location you believe is in error, and your understanding of how the County located the boundary. If you are applying under two or more maps or for two or more boundaries, provide separate descriptions for each using the same format as for a single map and boundary.

- B. Where do you locate the boundary or boundaries and what is your reason for believing its location is in error?

In your response, list the map number and name and the specific boundary location you believe is in error, where you would locate it, and why. If you are applying under two or more maps or for two or more boundaries, provide separate discussions for each using the same format as for a single section.

#### V. ATTACHMENTS:

- Any additional pages necessary to complete Sections I – IV above.
- One or more maps or drawings of the property that is the subject of your appeal showing lot lines and corners, required setback lines, and any existing improvements (for example: buildings whether principle or accessory, driveways, sidewalks, stairways, water well, and on-site wastewater treatment facility) on the lot.
- One or more maps or drawings of the property that is the subject of your appeal showing your proposed project with uses and dimensions clearly marked.
- Other maps, drawings, photographs, letters, or similar that prove the error you allege the County made.
- For appeals under Chapter 73, Floodplain Zoning Ordinance, one or more maps or drawings showing flood plain district boundaries; the elevation of the land, lowest floor of any buildings or structures, and flood heights; and slope determination or topographic map.
- For appeals under Chapter 63, Airport Ordinance, any correspondence from the Wisconsin Bureau of Aeronautics and/or the Federal Aviation Administration; a topographic map or drawing of the property that is the subject of your appeal showing your property and its land elevation in relation to a permanent benchmark.
- Map and Drawing Requirements:
  - Full size reproductions – neither mechanically enlarged nor reduced.
  - Drawn to scale with the scale and north arrow shown on the maps / drawings.

- All measurements noted.
- Photograph Requirements:
  - Mounted on letter size paper.
  - Captioned with the following information:
    - What the photograph shows (for example: Proposed building site);
    - The date and time the photograph was taken (for example: May 10, 1906);
    - Direction looking and where the photograph was taken from (for example: Looking north from the south west property corner); and
    - Anything in particular you want the Board to note (for example: Large conifer tree to be saved).

## VII. SIGNATURE OF APPELLANT OR AGENT:

Signature of Appellant or Agent . Date of Signing .

VARIANCE APPLICATION TO  
SHEBOYGAN COUNTY BOARD OF ADJUSTMENT  
Chapter 63 – Airport Height and Property Use Ordinance

**INSTRUCTIONS:**

- Complete all pages. You may attach any additional pages necessary to answer the questions in this application.
- Be concise and specific in your response to questions.
- Prior to the BOA site visit, any proposed structure(s)/addition(s) must be staked or flagged in their proposed location(s).

**I. APPLICANT/AGENT CONTACT INFORMATION**

Name: \_\_\_\_\_.

Mailing Address: \_\_\_\_\_.

Telephone Nos. Home \_\_\_\_\_, Work \_\_\_\_\_, Cellular \_\_\_\_\_.

**II. PROPERTY INFORMATION**

Property Address: \_\_\_\_\_.

In Town of: \_\_\_\_\_.

Legal Description: \_\_\_\_<sup>1</sup>/<sub>4</sub>\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section No. \_\_\_\_\_. **OR**

Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, Subdivision Name \_\_\_\_\_.

Current Use of Property: \_\_\_\_\_.

Current Buildings or Structures on Property: \_\_\_\_\_.

**III. NATURE OF APPLICATION**

Airport Height and Property Use Ordinance Section(s) from which variance is being sought (if in doubt, see letter of denial from County):

I / we hereby apply to the Board of Adjustment to grant me / us the following variance under this Ordinance (if in doubt, see letter of denial from County):

☐ Setback for a Structure    ☐ Lot Coverage    ☐ Lot Size    ☐ Lot Frontage

☐ Accessory Structure without a Principal Structure

☐ Other Dimensional Restriction: \_\_\_\_\_.

☐ Use Variance (permits a landowner to put a property to an otherwise prohibited use)

**Required: \$575.00 fee and the original and 9 copies (total of 10) of petition form and attachments**

Deliver or mail to:

Sheboygan County Airport Manager, N6180 Resource Drive Sheboygan Falls, WI 53085

**For Office use only:**

Date Received: \_\_\_\_\_ By \_\_\_\_\_.

For Meeting on \_\_\_\_\_.

#### IV. PROJECT DESCRIPTION

- Describe the project.
- Describe the effects on the property if the variance is not granted.
- Describe alternatives you have considered and explain why you rejected them. Include any alternatives you considered that comply with existing standards or that require a lesser variance.

#### V. TESTIMONY SUPPORTING VARIANCE

To qualify for a variance, the applicant must demonstrate that their property meets **all 3** of the following criteria:

- Special Conditions of the Property.
- Unnecessary Hardship.
- No Harm to Public Interests.

##### A. Special Conditions of the Property.

Special conditions of the property are unique physical limitations of the property that prevent compliance with the ordinance requirements. These property conditions are not generally shared by other properties in the area and can include such conditions as steep slopes, wetlands, and restrictive easements. The circumstances of an applicant (for example: growing family, need for a larger garage, etc.) are not special conditions of the property. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide the basis for granting a variance. Limitations that prevent ordinance compliance and are common to a number of properties in the same general area should be address by amending the ordinance.

*Does your property have unique or special physical conditions that prevent compliance with the ordinance?*

☐ Yes. What are they and where are they on your property?  
Please show them on your map or drawing.

☐ No. The Board cannot grant a variance.

##### B. Unnecessary Hardship.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. 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 property.

##### Area/Dimensional Variance:

Unnecessary hardship is present when “compliance with the strict letter of the restrictions . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome.” [*Ziervogel* quoting *Snyder*]. The Board of Adjustment must consider the purposes of the restrictions, the restrictions’ effects on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the *Ziervogel* and *Waushara County* court decisions.

##### Use Variance:

Unnecessary hardship exists only if the property owner shows that they would have no reasonable of the property without a variance.

*Does an unnecessary hardship exist?*

☐ Yes. Describe how the special conditions identified in Section V.A., when combined with the Ordinance provisions you listed on Page 1, have resulted in an unnecessary hardship.

☐ No. The Board cannot grant a variance.

C. No Harm to Public Interest.

The Board of Adjustment cannot grant a variance that results in harm to public interest. In applying this test, the Board must consider the direct impacts of the proposal and the cumulative impacts of similar projects on the interests of neighbors, the community, and the general public. These interests grow out of the purpose statement of the Sheboygan County Shoreland Ordinance Section 72.03 and State law authorizing them and may include:

- Promoting the public health, safety, convenience and welfare;
- Protecting the navigable airspace and aerial approaches to an airport;
- Maintaining the navigable airspace and aerial approaches to the airport in a condition best suited to safe operation of aircraft; and
- Regulating the bulk, height, location and use of any building, structure, or other object, and the use of land to provide for safe operation of aircraft.

*Granting the variance will not harm the public interest?*

☐ Yes. How will granting your variance not result in harm to the general public? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.

☐ No. The Board cannot grant a variance.

*The Board of Adjustment will also ask the County for its evaluation of how your property provides no harm to the public interest.*

VI. ATTACHMENTS:

- Any additional pages necessary to complete Sections I – V above.
- Any correspondence from the Wisconsin Bureau of Aeronautics and/or the Federal Aviation Administration.
- A topographic map or drawing of your property showing its land elevation in relation to a permanent benchmark.
- One or more maps or drawings of your property showing:
  - Existing conditions of your lot including:
    - Lot lines and corners;
    - Required setback lines including both those from the County and any underlying town ordinances, clearly noting which is which;
    - Required height and/or bulk limitations on your property; and
    - The relationship of your lot to neighboring lots and parcels.
  - Existing improvements on your lot (clearly labeled with name and dimensions) including:
    - Principal and accessory buildings;
    - Driveways, sidewalks, and stairways; and
    - Water well and on-site wastewater treatment facility.

- Your proposed project that is the subject of this application, clearly labeled with description and dimensions.
- Other maps, drawings, photographs, letters, or similar that prove the need for your variance.
- Map and Drawing Requirements:
  - Full size reproductions – neither mechanically enlarged nor reduced.
  - Drawn to scale with the scale and north arrow shown on the maps / drawings.
  - All measurements noted.
- Photograph Requirements:
  - Mounted on letter size paper.
  - Captioned with the following information:
    - What the photograph shows (for example: Proposed building site);
    - The date and time the photograph was taken (for example: May 10, 1906);
    - Direction looking and where the photograph was taken from (for example: Looking north from the south west property corner); and
    - Anything in particular you want the board to note (for example: Large conifer tree to be saved).

## VII. SIGNATURE OF THE APPLICANT OR AGENT

Signature of applicant or agent . Date of Signing .



VARIANCE APPLICATION TO  
SHEBOYGAN COUNTY BOARD OF ADJUSTMENT  
Chapter 73 – Floodplain Zoning Ordinance

**INSTRUCTIONS:**

- Complete all pages. You may attach any additional pages necessary to answer the questions in this application.
- Be concise and specific in your response to questions.
- Prior to the BOA site visit, any proposed structure(s)/addition(s) must be staked or flagged in their proposed location(s).

**I. APPLICANT/AGENT CONTACT INFORMATION**

Name: \_\_\_\_\_.

Mailing Address: \_\_\_\_\_.

Telephone Nos. Home \_\_\_\_\_, Work \_\_\_\_\_, Cellular \_\_\_\_\_.

**II. PROPERTY INFORMATION**

Property Address: \_\_\_\_\_.

In Town of: \_\_\_\_\_.

Legal Description: \_\_\_\_ $\frac{1}{4}$ \_\_\_\_ $\frac{1}{4}$ , Section No. \_\_\_\_\_. **OR**

Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, Subdivision Name \_\_\_\_\_.

Current Use of Property: \_\_\_\_\_.

Current Buildings or Structures on Property: \_\_\_\_\_.

**III. NATURE OF APPLICATION**

Floodplain Zoning Ordinance Section(s) from which variance is being sought (if in doubt, see letter of denial from County): \_\_\_\_\_.

I / we hereby apply to the Board of Adjustment to grant me / us the following variance under this Ordinance (if in doubt, see letter of denial from County):

☐ Setback for a Structure    ☐ Lot Coverage    ☐ Lot Size    ☐ Lot Frontage

☐ Accessory Structure without a Principal Structure

☐ Other Dimensional Restriction: \_\_\_\_\_.

☐ Use Variance (permits a landowner to put a property to an otherwise prohibited use)

**Required: \$575.00 fee and the original and 9 copies (total of 10) of petition form and attachments**

Deliver or mail to:

Sheboygan County Planning and Conservation Department, 508 New York Ave., Sheboygan, WI 53081

**For Office use only:**

Date Received: \_\_\_\_\_ By \_\_\_\_\_.

For Meeting on \_\_\_\_\_.

#### IV. PROJECT DESCRIPTION

- Describe the project.
- Describe the effects on the property if the variance is not granted.
- Describe alternatives you have considered and explain why you rejected them. Include any alternatives you considered that comply with existing standards or that require a lesser variance.

#### V. TESTIMONY SUPPORTING VARIANCE

To qualify for a variance, the applicant must demonstrate that their property meets **all 8** of the following criteria:

- Special Conditions of the Property.
- Unnecessary Hardship.
- No Harm to Public Interests.
- No Increase in the Regional Flood Elevation.
- Good and Sufficient Cause.
- Exceptional Hardship.
- No Additional Threats to Public Safety, etc.
- Minimum Relief Necessary.

##### A. Special Conditions of the Property.

Special conditions of the property are unique physical limitations of the property that prevent compliance with the ordinance requirements. These property conditions are not generally shared by other properties in the area and can include such conditions as steep slopes, wetlands, and restrictive easements. The circumstances of an applicant (for example: growing family, need for a larger garage, etc.) are not special conditions of the property. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide the basis for granting a variance. Limitations that prevent ordinance compliance and are common to a number of properties in the same general area should be address by amending the ordinance.

*Does your property have unique or special physical conditions that prevent compliance with the ordinance?*

☐ Yes. What are they and where are they on your property?  
Please show them on your map or drawing.

☐ No. The Board cannot grant a variance.

##### B. Unnecessary Hardship.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. 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 property.

##### Area/Dimensional Variance:

Unnecessary hardship is present when “compliance with the strict letter of the restrictions . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome.” [Ziervogel quoting Snyder]. The Board of Adjustment must consider the purposes of the restrictions, the restrictions’ effects on the property, and the short-term, long-term, and cumulative

effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the *Ziervogel* and *Waushara County* court decisions.

Use Variance:

Unnecessary hardship exists only if the property owner shows that they would have no reasonable of the property without a variance.

*Does an unnecessary hardship exist?*

☐ Yes. Describe how the special conditions identified in Section V.A., when combined with the Ordinance provisions you listed on Page 1, have resulted in an unnecessary hardship.

☐ No. The Board cannot grant a variance.

C. No Harm to Public Interest.

The Board of Adjustment cannot grant a variance that results in harm to public interest. In applying this test, the Board must consider the direct impacts of the proposal and the cumulative impacts of similar projects on the interests of neighbors, the community, and the general public. These interests grow out of the purpose statement of the Sheboygan County Floodplain Zoning Ordinance as stated in Section 73.03, and include:

- Protecting life, health, and property;
- Minimizing expenditures of public funds for flood control projects;
- Minimizing rescue and relief efforts undertaken at the expense of the taxpayers;
- Minimizing business interruptions and other economic disruptions;
- Minimizing damage to public facilities in the floodplain;
- Minimizing the occurrence of future flood blight areas in the floodplain;
- Discouraging the victimization of unwary land and home buyers;
- Preventing increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- Discouraging development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

*Granting the variance will not harm the public interest?*

☐ Yes. How will granting your variance not result in harm to the general public? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.

☐ No. The Board cannot grant a variance.

D. No Increase in the Regional Flood Elevation.

The requested variance will not result in an increase of the regional flood elevation.

*Granting the variance will not increase the regional flood elevation?*

☐ Yes. Describe why your variance will not increase the regional flood elevation.

☐ No. The Board cannot grant a variance.

E. Good and Sufficient Cause.

An applicant must show good and sufficient cause for issuance of the variance.

*The applicant has shown good and sufficient cause for the Board to issue the variance?*

☐ Yes.

☐ No. The Board cannot grant a variance.

F. Exceptional Hardship.

Compliance would result in exceptional noneconomic hardship due to the unique conditions not common with adjacent properties. The hardship may not be self-created.

*Does an exceptional hardship exist?*

☐ Yes. Describe how the special conditions identified in Section V.A., when combined with the Ordinance provisions you listed on Page 1, have resulted in an exceptional hardship.

☐ No. The Board cannot grant a variance.

G. No Additional Threats to Public Safety, etc.

Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

*Granting the variance will not result in additional threats to public safety, etc.?*

☐ Yes. How will granting your variance not result in any of the above listed items? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.

☐ No. The Board cannot grant a variance.

F. Minimum Relief Necessary.

The requested variance is the minimum necessary, considering the flood hazard, to afford relief.

*The requested variance is the minimum necessary to afford relief?*

☐ Yes. How will granting your variance not result in any of the above listed items? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.

☐ No. The Board cannot grant a variance.

*The Board of Adjustment will also ask the County for its evaluation of how your property provides no harm to the public interest.*

## VI. ATTACHMENTS:

- Any additional pages necessary to complete Sections I – V above.
- One or more maps or drawings of your property showing:
  - Existing conditions of your lot including:
    - Lot lines and corners;
    - Required setback lines including both those from the County and any underlying town ordinances, clearly noting which is which;
    - Ordinary High Water mark line and land elevation, as needed;
    - Floodplain boundary, wave run-up lines, and shoreland stabilization measures, as appropriate;
    - Elevation of the land, lowest floor of any buildings or structures, and flood heights; and
    - The relationship of your lot to neighboring lots and parcels.
  - Existing improvements on your lot (clearly labeled with name and dimensions) including:
    - Principal and accessory buildings;
    - Driveways, sidewalks, and stairways; and
    - Water well and on-site wastewater treatment facility.
  - Your proposed project that is the subject of this application, clearly labeled with description and dimensions.
- Other maps, drawings, photographs, letters, or similar that prove the need for your variance.
- Map and Drawing Requirements:
  - Full size reproductions – neither mechanically enlarged nor reduced.
  - Drawn to scale with the scale and north arrow shown on the maps / drawings.
  - All measurements noted.
- Photograph Requirements:
  - Mounted on letter size paper.
  - Captioned with the following information:
    - What the photograph shows (for example: Proposed building site);
    - The date and time the photograph was taken (for example: May 10, 1906);
    - Direction looking and where the photograph was taken from (for example: Looking north from the south west property corner); and
    - Anything in particular you want the board to note (for example: Large conifer tree to be saved).

## VII. SIGNATURE OF THE APPLICANT OR AGENT

Signature of applicant or agent \_\_\_\_\_ Date of Signing \_\_\_\_\_.

Case No. \_\_\_\_\_

VARIANCE APPLICATION TO  
SHEBOYGAN COUNTY BOARD OF ADJUSTMENT  
Chapter 70 – Sanitary Regulations

**INSTRUCTIONS:**

- Complete all pages. You may attach any additional pages necessary to answer the questions in this application.
- Be concise and specific in your response to questions.
- Prior to the BOA site visit, any proposed structure(s)/addition(s) must be staked or flagged in their proposed location(s).

**I. APPLICANT/AGENT CONTACT INFORMATION**

Name: \_\_\_\_\_.

Mailing Address: \_\_\_\_\_.

Telephone Nos. Home \_\_\_\_\_, Work \_\_\_\_\_, Cellular \_\_\_\_\_.

**II. PROPERTY INFORMATION**

Property Address: \_\_\_\_\_.

In Town of: \_\_\_\_\_.

Legal Description: \_\_\_\_ $\frac{1}{4}$ \_\_\_\_ $\frac{1}{4}$ , Section No. \_\_\_\_\_. **OR**

Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, Subdivision Name \_\_\_\_\_.

Current Use of Property: \_\_\_\_\_.

Current Buildings or Structures on Property: \_\_\_\_\_.

**III. NATURE OF APPLICATION**

Sanitary Regulations' Section(s) from which variance is being sought (if in doubt, see letter of denial from County): \_\_\_\_\_.

**Required: \$575.00 fee and the original and 9 copies (total of 10) of petition form and attachments**

Deliver or mail to:

Sheboygan County Planning and Conservation Department, 508 New York Ave., Sheboygan, WI 53081

=====

**For Office use only:**

Date Received: \_\_\_\_\_ By \_\_\_\_\_.

For Meeting on \_\_\_\_\_.

#### IV. PROJECT DESCRIPTION

- Describe the project.
- Describe the effects on the property if the variance is not granted.
- Describe alternatives you have considered and explain why you rejected them. Include any alternatives you considered that comply with existing standards or that require a lesser variance.

#### V. TESTIMONY SUPPORTING VARIANCE

To qualify for a variance, the applicant must demonstrate that their property meets **all 3** of the following criteria:

- Special Conditions of the Property.
- Unnecessary Hardship.
- No Harm to Public Interests.

##### A. Special Conditions of the Property.

Special conditions of the property are unique physical limitations of the property that prevent compliance with the ordinance requirements. These property conditions are not generally shared by other properties in the area and can include such conditions as steep slopes, wetlands, and restrictive easements. The circumstances of an applicant (for example: growing family, need for a larger garage, etc.) are not special conditions of the property. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide the basis for granting a variance. Limitations that prevent ordinance compliance and are common to a number of properties in the same general area should be address by amending the ordinance.

*Does your property have unique or special physical conditions that prevent compliance with the ordinance?*

☐ Yes. What are they and where are they on your property?  
Please show them on your map or drawing.

☐ No. The Board cannot grant a variance.

##### B. Unnecessary Hardship.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. 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 property.

##### Area/Dimensional Variance:

Unnecessary hardship is present when “compliance with the strict letter of the restrictions . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome.” [*Ziervogel* quoting *Snyder*]. The Board of Adjustment must consider the purposes of the restrictions, the restrictions’ effects on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the *Ziervogel* and *Waushara County* court decisions.

##### Use Variance:

Unnecessary hardship exists only if the property owner shows that they would have no reasonable of the property without a variance.

*Does an unnecessary hardship exist?*

- ☐ Yes. Describe how the special conditions identified in Section V.A., when combined with the Ordinance provisions you listed on Page 1, have resulted in an unnecessary hardship.
- ☐ No. The Board cannot grant a variance.

C. No Harm to Public Interest.

The Board of Adjustment cannot grant a variance that results in harm to public interest. In applying this test, the Board must consider the direct impacts of the proposal and the cumulative impacts of similar projects on the interests of neighbors, the community, and the general public. These interests grow out of the purpose statement of the Sheboygan County Ordinance, Chapter 70, Sanitary Regulations, which are to promote and protect public health and safety by assuring the proper siting, design, installation, inspection, management, and maintenance of private sewage systems.

*Granting the variance will not harm the public interest?*

- ☐ Yes. How will granting your variance not result in harm to the general public? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.
- ☐ No. The Board cannot grant a variance.

*The Board of Adjustment will also ask the County for its evaluation of how your property provides no harm to the public interest.*

## VI. ATTACHMENTS:

- Any additional pages necessary to complete Sections I – V above.
- One or more maps or drawings of your property showing:
  - Existing conditions of your lot including:
    - Lot lines and corners;
    - Required setback lines including both those from the County and any underlying town ordinances, clearly noting which is which;
    - The relationship of your lot to neighboring lots and parcels.
  - Existing improvements on your lot (clearly labeled with name and dimensions) including:
    - Principal and accessory buildings;
    - Driveways, sidewalks, and stairways; and
    - Water well and on-site wastewater treatment facility.
  - Your proposed project that is the subject of this application, clearly labeled with description and dimensions.
- Other maps, drawings, photographs, letters, or similar that prove the need for your variance.
- Map and Drawing Requirements:
  - Full size reproductions – neither mechanically enlarged nor reduced.
  - Drawn to scale with the scale and north arrow shown on the maps / drawings.
  - All measurements noted.
- Photograph Requirements:
  - Mounted on letter size paper.
  - Captioned with the following information:



- What the photograph shows (for example: Proposed building site);
- The date and time the photograph was taken (for example: May 10, 1906);
- Direction looking and where the photograph was taken from (for example: Looking north from the south west property corner); and
- Anything in particular you want the board to note (for example: Large conifer tree to be saved).

## VII. SIGNATURE OF THE APPLICANT OR AGENT

Signature of applicant or agent . Date of Signing .

VARIANCE APPLICATION TO  
SHEBOYGAN COUNTY BOARD OF ADJUSTMENT  
Chapter 72 – Shoreland Ordinance

**INSTRUCTIONS:**

- Complete all pages. You may attach any additional pages necessary to answer the questions in this application.
- Be concise and specific in your response to questions.
- Prior to the BOA site visit, any proposed structure(s)/addition(s) must be staked or flagged in their proposed location(s).

**I. APPLICANT/AGENT CONTACT INFORMATION**

Name: \_\_\_\_\_.

Mailing Address: \_\_\_\_\_.

Telephone Nos. Home \_\_\_\_\_, Work \_\_\_\_\_, Cellular \_\_\_\_\_.

**II. PROPERTY INFORMATION**

Property Address: \_\_\_\_\_.

In Town of: \_\_\_\_\_.

Legal Description: \_\_\_\_<sup>1</sup>/<sub>4</sub>\_\_\_\_<sup>1</sup>/<sub>4</sub>, Section No. \_\_\_\_\_. **OR**

Lot No. \_\_\_\_\_, Block No. \_\_\_\_\_, Subdivision Name \_\_\_\_\_.

Current Use of Property: \_\_\_\_\_.

Current Buildings or Structures on Property: \_\_\_\_\_.

**III. NATURE OF APPLICATION**

Shoreland Ordinance Section(s) from which variance is being sought (if in doubt, see letter of denial from County): \_\_\_\_\_.

I / we hereby apply to the Board of Adjustment to grant me / us the following variance under this Ordinance (if in doubt, see letter of denial from County):

☐ Setback for a Structure    ☐ Lot Coverage    ☐ Lot Size    ☐ Lot Frontage

☐ Accessory Structure without a Principal Structure

☐ Other Dimensional Restriction: \_\_\_\_\_.

☐ Use Variance (permits a landowner to put a property to an otherwise prohibited use)

**Required: \$575.00 fee and the original and 9 copies (total of 10) of petition form and attachments**

Deliver or mail to:

Sheboygan County Planning and Conservation Department, 508 New York Ave., Sheboygan, WI 53081

**For Office use only:**

Date Received: \_\_\_\_\_ By \_\_\_\_\_.

For Meeting on \_\_\_\_\_.

#### IV. PROJECT DESCRIPTION

- Describe the project.
- Describe the effects on the property if the variance is not granted.
- Describe alternatives you have considered and explain why you rejected them. Include any alternatives you considered that comply with existing standards or that require a lesser variance.

#### V. TESTIMONY SUPPORTING VARIANCE

To qualify for a variance, the applicant must demonstrate that their property meets **all 3** of the following criteria:

- Special Conditions of the Property.
- Unnecessary Hardship.
- No Harm to Public Interests.

##### A. Special Conditions of the Property.

Special conditions of the property are unique physical limitations of the property that prevent compliance with the ordinance requirements. These property conditions are not generally shared by other properties in the area and can include such conditions as steep slopes, wetlands, and restrictive easements. The circumstances of an applicant (for example: growing family, need for a larger garage, etc.) are not special conditions of the property. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide the basis for granting a variance. Limitations that prevent ordinance compliance and are common to a number of properties in the same general area should be address by amending the ordinance.

*Does your property have unique or special physical conditions that prevent compliance with the ordinance?*

☐ Yes. What are they and where are they on your property?  
Please show them on your map or drawing.

☐ No. The Board cannot grant a variance.

##### B. Unnecessary Hardship.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner. 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 property.

##### Area/Dimensional Variance:

Unnecessary hardship is present when “compliance with the strict letter of the restrictions . . . would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with the restrictions unnecessarily burdensome.” [*Ziervogel* quoting *Snyder*]. The Board of Adjustment must consider the purposes of the restrictions, the restrictions’ effects on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the *Ziervogel* and *Waushara County* court decisions.

##### Use Variance:

Unnecessary hardship exists only if the property owner shows that they would have no reasonable of the property without a variance.

*Does an unnecessary hardship exist?*

☐ Yes. Describe how the special conditions identified in Section V.A., when combined with the Ordinance provisions you listed on Page 1, have resulted in an unnecessary hardship.

☐ No. The Board cannot grant a variance.

C. No Harm to Public Interest.

The Board of Adjustment cannot grant a variance that results in harm to public interest. In applying this test, the Board must consider the direct impacts of the proposal and the cumulative impacts of similar projects on the interests of neighbors, the community, and the general public. These interests grow out of the purpose statement of the Sheboygan County Shoreland Ordinance Section 72.03 and State law authorizing them and may include:

- Promoting the public health, safety, convenience and welfare;
- Promoting and protecting the public trust in navigable waters;
- Furthering the maintenance of safe and healthful conditions and preventing and controlling water pollution;
- Protecting spawning grounds and fish and aquatic life;
- Controlling building sites, placement of structures, and land uses;
- Preserving and restoring shoreland vegetations and natural scenic beauty;
- Any other public interest issues.

*Granting the variance will not harm the public interest?*

☐ Yes. How will granting your variance not result in harm to the general public? Your explanation should include identification and evaluation of the short term (during construction), long term (during use of your project over its life), and cumulative effects (if similar variances were granted to many neighboring properties) of your variance.

☐ No. The Board cannot grant a variance.

*The Board of Adjustment will also ask the County for its evaluation of how your property provides no harm to the public interest.*

VI. ATTACHMENTS:

- Any additional pages necessary to complete Sections I – V above.
- One or more maps or drawings of your property showing:
  - Existing conditions of your lot including:
    - Lot lines and corners;
    - Required setback lines including both those from the County and any underlying town ordinances, clearly noting which is which;
    - Ordinary High Water mark line and land elevation, as needed;
    - Floodplain boundary, wave run-up lines, and shoreland stabilization measures, as appropriate; and
    - The relationship of your lot to neighboring lots and parcels.
  - Existing improvements on your lot (clearly labeled with name and dimensions) including:
    - Principal and accessory buildings;
    - Driveways, sidewalks, and stairways; and
    - Water well and on-site wastewater treatment facility.

- Your proposed project that is the subject of this application, clearly labeled with description and dimensions.
- Other maps, drawings, photographs, letters, or similar that prove the need for your variance.
- Map and Drawing Requirements:
  - Full size reproductions – neither mechanically enlarged nor reduced.
  - Drawn to scale with the scale and north arrow shown on the maps / drawings.
  - All measurements noted.
- Photograph Requirements:
  - Mounted on letter size paper.
  - Captioned with the following information:
    - What the photograph shows (for example: Proposed building site);
    - The date and time the photograph was taken (for example: May 10, 1906);
    - Direction looking and where the photograph was taken from (for example: Looking north from the south west property corner); and
    - Anything in particular you want the board to note (for example: Large conifer tree to be saved).

## VII. SIGNATURE OF THE APPLICANT OR AGENT

Signature of applicant or agent . Date of Signing .

**BOARD OF ADJUSTMENT SCHEDULE OF MEETINGS**  
**Administration Building**  
**2024 - 2025**

<b>DATES THE BOARD MAY HOLD HEARINGS 3<sup>rd</sup> Wednesday at 1:00 P.M.</b>		<b>PETITION FILING DEADLINE 4:00 P.M.</b>
2024	September 17	August 20
	October 15	September 17
	November 19	October 22
	December 17	November 19
2025	January 21	December 23
	February 18	January 21
	March 18	February 18
	April 15	March 18
	May 20	April 22
	June 17	May 20
	July 15	June 17
	August 19	July 22
	September 16	August 19
	October 21	September 23
	November 18	October 21
	December 16	November 18