

## Burnett County, WI

### **SUBDIVISION VARIANCE APPLICATION, EXPLANATION, & REQUIREMENTS**

A variance is a relaxation of a standard in a land use ordinance. Subdivision variances are decided by the Land Use and Information Committee. The Land Use and Information Committee's job is not to compromise ordinance provisions for a property owner's convenience, but is to apply legal criteria provided in state laws, court decisions, and the local ordinance to a specific-fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden.

#### **PROCESS (NOTE: PLEASE READ ENTIRE APPLICATION BEFORE PROCEEDING)**

At the time of application you will be asked to:

1. **Complete and return pages 2-8 of the application form and the required \$500.00 fee. The fee is non-refundable regardless of approval or denial; and**
2. **Provide detailed plans describing your project AND a current survey (by a WI-licensed surveyor) showing the existing and proposed improvements and existing and proposed lot lines. Preliminary surveys will not be accepted; the survey must meet all statutory requirements and be filed/recorded with the County. Required items are to be shown by the surveyor on their map, not sketched on a map by applicant; and**
3. **Provide written statements of verifiable facts showing that your project meets the legal criteria for a variance (See 'Three Step Test' in Part B of the application); and**
4. **Stake out lot corners and lines, the proposed building/improvement footprint, and all other features of your property so that County staff may inspect the site. This shall be done by your surveyor.**

When all 4 above items are complete and submitted to the Land Services Department, the Land Services Department will publish notice of your request for a variance in the County's official newspaper noting the location and time of the required public hearing before the Land Use and Information Committee. Your neighbors and any affected state agency will also be notified. The burden will be on you, as property owner, to provide information upon which the Land Use and Information Committee may base its decision. At the hearing, any party may appear in-person or may be represented by an agent or attorney. You or your agent must convince the Land Use and Information Committee to make a ruling in your favor. The Land Use and Information Committee must make its decision based only on the evidence submitted to it at the time of hearing. Unless you or your agent is present, the Land Use and Information Committee may not have sufficient evidence to rule in your favor thus resulting in the denial of your application.

In order to appear on the following month's Land Use and Information Committee hearing agenda, the complete application with required fee (including all 4 above items) is due by the first Friday of the month. *Example: an application submitted Thursday April 2<sup>nd</sup> would be heard by the Land Use and Information Committee on the first Tuesday in May.*

**SUBDIVISION VARIANCE APPLICATION – Burnett County, WI**  
**Burnett County Land Use and Information Committee**

**FEE: \$500.00      VARIANCE #: VAR-21-\_\_\_\_\_      ZONING DISTRICT:\_\_\_\_\_**

**PARCEL # (24 digits):\_\_\_\_\_**

**TAX ID #:\_\_\_\_\_**

RECEIVED STAMP (BELOW):

**LAND SERVICES STAFF ONLY ABOVE THIS LINE**

**Applicant Complete All Sections Below This Line**

**Part A: General Information and Alternatives Analysis**

*(To be completed by the applicant) (Please use additional sheets if necessary)*

Property Owner's Name: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Applicant's Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Applicant's Telephone Number: \_\_\_\_\_

Applicant's Email: \_\_\_\_\_

If staff has a question about this application, how do you prefer to be contacted? Check one below:

Letter     Phone     Email

Legal Description: \_\_\_\_\_

Lot #: \_\_\_\_\_ CSM Vol. \_\_\_\_\_ Pg. \_\_\_\_\_ OR

Lot #: \_\_\_\_\_ Block #: \_\_\_\_\_ Subdivision Name: \_\_\_\_\_ OR

Gov't Lot #: \_\_\_\_\_ OR \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4

Section #: \_\_\_\_\_ Town #: \_\_\_\_\_ N Range #: \_\_\_\_\_ W    Town of: \_\_\_\_\_

*\*Attach additional page if needed for lengthy description OR attach a copy of the deed OR attach tax system property page.\**

Lot Area: \_\_\_\_\_ ft<sup>2</sup> and \_\_\_\_\_ acres

Property Site Address #: \_\_\_\_\_

Parcel # (24 digits): \_\_\_\_\_

Tax ID # (1-5 digits): \_\_\_\_\_

Anticipated Start Date: \_\_\_\_\_

Describe variance requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe current use and improvements (*Ex. Residential/Recreation; Cabin/garage*):  
\_\_\_\_\_  
\_\_\_\_\_

Provide description and location of all nonconforming structures and uses on the property:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide Burnett County Ordinance standard from which variance is being sought (section number and text):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Alternatives: (To be completed by the applicant):**

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Examples of alternatives would be: reducing the size of request, moving the structure to a different area, or expanding upward instead of laterally. Attach a site map showing alternatives you considered in each category below.

- a. Alternatives you considered that comply with existing standards. If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b. Alternatives you considered that require a lesser variance and reasons you rejected them. If you reject such alternatives, provide the reasons you rejected them.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provide description of any prior petition for appeal, variance, or conditional use for this parcel:

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Describe the effects on the property if the variance is **not** granted:

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**Part B: Three-Step Test**

*(Please use additional paper if necessary)*

To qualify for a variance, the applicant must demonstrate that their property meets the following three requirements.

**1. Unique property limitations *(Item 1 to be completed by the applicant)***

Unique, physical limitations of the property, such as steep slopes or wetlands, which are not generally shared by other properties, must prevent compliance with ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance. List the unique property limitations:

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Do unique physical characteristics of your property prevent compliance with the ordinance? *(Applicant, check YES or NO below.)*

- YES. These items must be shown on the survey map as part of the application.
- NO. A variance cannot be granted.

2. **Unnecessary hardship** (*Item 2 to be completed by the applicant*)

Courts have determined an applicant may not claim unnecessary hardship where conditions were self-imposed or created by a prior owner.

Examples of self-imposed/created issues in which a variance should NOT be granted:

- a. Excavating a pond and then arguing that there is no suitable location for a home
- b. Constructing a sanitary system in a specific location and then arguing that there is no suitable location for a home or a garage
- c. Constructing a building incorrectly or not in the correct location and then arguing that a variance is needed so the structure doesn't have to be modified to make it conforming

Courts have also determined that economic or financial hardship does not justify a variance.

Examples of economic or financial hardship in which a variance should NOT be granted:

- a. Grading and retaining walls can be used to make a conforming location for the structure, but it would be more expensive than using a location requiring a variance
- b. Constructing a building incorrectly or not in the correct location and then arguing that a variance is needed so that costly modification doesn't have to be done to the structure

When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship. List the unnecessary hardship(s):

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Is unnecessary hardship present?  
(Applicant, check YES or NO below.)

- YES.
- NO. A variance cannot be granted.

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3. **No Harm to Public Interests** (*Item 3 to be completed by the applicant*)

A variance may not be granted which results in harm to public interests. In applying this test, the Land Use and Information Committee must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests are listed as objectives in the purpose statement of our ordinance and may include:

- Public health, safety, and welfare
- Water quality
- Fish and wildlife habitat
- Natural scenic beauty
- Minimization of property damages
- Provision of efficient public facilities and utilities
- Achievement of eventual compliance for nonconforming uses, structures, and lot
- Any other public interest issues

When determining whether a harm to public interest exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving no harm to public interest. Explain how no harm to public interest exists:

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Burnett County Ordinance purpose *(to be completed by Land Use and Information Committee members)*:

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Purpose(s) of standard from which variance is requested *(to be completed by Land Use and Information Committee members)*:

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**Part C: Construction Plans/Survey Map** *(To be completed and submitted by the applicant)*

**Attach construction plans/survey map detailing the following. Plans/map shall be drawn with a scale preferably at 1"=20' or multiples of 10'. Scale shall not exceed 1"=50'. Note scale used on the plans/map. Plans/maps shall be on letter or legal size paper with North being at the top of the page *(make sure all items below are shown)*:**

- Property lines, road right-of-ways, and road centerlines including distances to property lines, road right-of-ways and road centerlines for all existing and proposed structures on the parcel
- Show proposed lot lines
- All existing uses on parcels adjacent to the parcel for this request
- All existing zoning districts on parcels adjacent to the parcel for this request
- Vegetation proposed to be removed or disturbed
- Ordinary High Water Mark (OHWM) and distances to it from all existing and proposed structures; must show all within 200 ft of structures
- Floodplain and wetland boundaries and distances to them from all existing and proposed structures; must show all within 200 ft of structures
- Dimensions, locations and setbacks of all existing and proposed structures including all decks/porches/walkways/etc; must show dimensions for ALL items
- Sanitary system, drainfield, and well with distances to property lines, OHWM, wetlands, floodplains, existing and proposed buildings
- Location and extent of filling/grading

- Location and type of erosion control measures
- Existing and proposed utilities and utility easements
- Any other construction related to your project
- North arrow

**Part D: Provide names and addresses of adjoining property owners**

*(To be provided by the applicant)*

*\*Adjoiners are all parcels (including vacant parcels) that touch the applicant's parcel, including those across the road and those that only touch at a common property corner. Address for the owner would be their mailing address (where they get their mail) in many cases this may not be the site address.*

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**Part E: Signature and date**

*(To be completed by the applicant and owner. If applicant and owner are different, then both need to sign the application.)*

I certify that the information I have provided in this application is true and accurate. I agree to permit County officials charged with administering county ordinances or other authorized persons to have access to the above-described premises at any reasonable time for the purpose of inspection. I understand that the variance fee is non-refundable, regardless if the variance is approved or denied. I understand that the fee for this application is only for the variance request and if permits are required for the project that those will require separate fees. I understand that a subdivision permit and corresponding fee will still be required if this subdivision variance is approved. I understand that partial or incomplete applications will be returned to the applicant resulting in the application being removed from the hearing agenda, and the submittal deadlines will restart.

Signed \_\_\_\_\_  
(Applicant)

\_\_\_\_\_  
(Date)

Signed \_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Date)

SUBMIT COMPLETED APPLICATION, MAPS, PLANS, AND FEE TO:

BURNETT COUNTY LAND SERVICES  
7410 COUNTY ROAD K, #120  
SIREN, WI 54872

APPLICATIONS WILL BE ACCEPTED VIA USPS, ANY STANDARD COURIER, OR IN PERSON. COMPLETE APPLICATIONS WITH ALL REQUIRED SUBMITALS MUST BE RECEIVED BY THE LAND SERVICES DEPARTMENT BY THE DEADLINE. PARTIAL OR INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT. ONLY COMPLETE APPLICATIONS WITH ALL REQUIRED SUBMITALS AND REQUIRED FEE WILL BE INCLUDED ON THE HEARING AGENDA. NO EMAIL OR FAX APPLICATIONS WILL BE ACCEPTED.

ONLY CHECK, MONEY ORDER, OR CASH PAYMENT WILL BE ACCEPTED. CREDIT OR DEBIT CARDS ARE NOT ACCEPTED AT THIS TIME. MAKE CHECK PAYABLE TO: BURNETT COUNTY LAND SERVICES

Please call the Land Services Department if you have questions. 715-349-2109

Burnett County, WI ordinances can be found at: <http://www.burnettcounty.com/index.aspx?NID=1043>

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**AREA BELOW THIS LINE RESERVED FOR LAND SERVICES STAFF COMMENTS ONLY**

Date of staff site visit: \_\_\_\_\_ Name(s) of site visit staff: \_\_\_\_\_

**Staff comments:**

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