

Chapter 425. Zoning

Article IV. Zoning and Land Use Activity Application Procedure

§ 425-4-3. Specific standards and requirements.

The following specific standards and requirements are applicable to individual zoning and land use activities identified in § 425-4-1A through J of this chapter:

I.
Variance. A variance shall be granted only by the BOA in accordance with the procedure identified in the following:

(1)
Application submittal. An applicant shall submit to the Town Clerk a Town of Fulton Variance Application, or similarly named document, as available at the office of the Town Clerk and on the Town's website, and an application fee as determined by Board resolution.

(2)
Application review.

(a)
Upon receipt of the variance application from the applicant, the Town Clerk shall provide notification by postal mail to the parties in interest, BOA, Zoning Administrator and/or Building Inspector, and the Commission, and all land owners and the clerk of any local government unit within 500 feet of the lot identified for the variance in the application, and shall publish a Class 2 Legal Notice in accordance with § 985, Wis. Stats., listing the time and place of a public hearing at which the variance application will be reviewed by the BOA, and the variance and its location, with said postal mail notification postmarked 10 days prior to said hearing. The applicant shall appear in person, by agent, or by attorney at the public hearing.

(b)
The BOA shall review a variance application at a public hearing for compliance with this chapter, with said hearing held within 30 days of receiving the variance application from the applicant, and in accordance with § 425-4-2B(2) of this chapter, with the application to clearly identify both of the following:

[1]
Existence of unnecessary hardship and unique property limitation, indicating a situation where, in the absence of a variance, the lot owner can make no feasible use of the lot, unique landscape characteristics of the lot prevent the applicant from using the lot in compliance with this chapter, with said landscape characteristics to include but not limited to wetland, soil type, lot shape, or steep slope, or strict conformity to this chapter's lot dimensional standards and regulations is unnecessarily burdensome.

[a]
The unnecessary hardship and unique property limitation must be specific to the lot identified in the variance application and not one that affects multiple lots. Self-imposed actions are generally considered to not meet the definition of an unnecessary hardship and unique property limitation, with

said self-imposed actions to include but not limited to sale of portions of a lot that reduce the remainder below a minimum buildable size or extinguish access to a public street, deed restrictions, and construction activities and products made in violation of this chapter.

[2]

Absence of detriment and protection of the public interest, indicating a situation where granting of a variance shall neither create substantial detriment to adjacent or proximate property nor materially impair or be contrary to the purpose and spirit of this chapter or the public interest at large.

(c)

Approval of a variance application shall not be granted by the BOA unless it determines the application meets the standards and requirements as identified in § 425-4-31(2)(b) and so indicates in the hearing minutes the following as variance findings of fact;

[1]

Evidence of unnecessary hardship and unique property limitation. The variance granted is a result of an unnecessary hardship and unique property limitation applying to the lot, building, or other structure or use thereof that does not apply generally to other properties or uses in the same zoning district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be amended or changed;

[2]

Absence of detriment and protection of the public interest. The variance granted will not create substantial detriment to adjacent or proximate property and will not materially impair or be contrary to the purpose and intent of this chapter or the public interest at large.

(3)

Action. After review, the BOA shall take an action of approval, approval with conditions, or denial with findings on a variance application after a public hearing.

(4)

Issuance or denial notification.

(a)

If the variance application is approved in accordance with § 425-4-31(3) of this chapter, the BOA shall issue a variance to the applicant within 10 business days of the action. One copy of the application review form, containing the BOA action and action date, shall be provided to the applicant, Commission, Zoning Administrator and/or Building Inspector, and the Rock County Planning, Economic and Community Development Agency within 10 business days of said action. If the BOA action is denial, the BOA shall also provide explanation to the applicant of their appeal rights to the Rock County Circuit Court.

(b)

Variations shall expire 12 months from the date of issuance unless substantial work has commenced pursuant to such grant. If the variance expires and the applicant wishes to utilize the variance, the applicant shall be required to submit another variance application in accordance with § 425-4-31(1) of this chapter. Variations run with the land(s) and subsequent land owners may utilize a variance granted to a previous owner if all variance conditions are met.

(5)

Review by court of record. Any person aggrieved by an action of the BOA on a variance application may present to a court of record a petition duly verified setting forth that such action is illegal and specifying the grounds of the illegality. Such petition shall be filed by said person in Rock County Circuit Court within 120 days of the filing of the BOA action with the Town Clerk.

J.

Appeal. Any person aggrieved by and alleging an error in any specified order, standard and requirement, decision, or determination made by the Commission, Zoning Administrator, Building

Inspector, or any other party delegated by the Town in administration and enforcement of this chapter, or any other code, regulation or ordinance so related and under the Town's jurisdiction, may submit an appeal application in accordance with the following procedure:

(1)

Application submittal.

(a)

An applicant shall submit to the Town Clerk a Town of Fulton Appeal Application, or similarly named document, as available at the office of the Town Clerk and on the Town's website, along with an application fee as determined by Board Resolution, and any additional information required by the Town, within 60 days of the date of written notice of the action or order of the Commission, Zoning Administrator, Building Inspector, or any other party delegated by the Town to which the applicant is appealing, not to include any appeal of a livestock facility or driveway permit application, with said application appeal process identified in § 425-4-3J(5) of this chapter. Applications may be made by the owner of or lessee of a lot/outlot, building, or other structure affected by said action or order.

(b)

An appeal application shall include all of the following:

[1]

Name and address of the applicant, all landowners adjacent to and opposite of the lot/outlot identified in the application, and landowners within 1,000 feet of said lot;

[2]

Map of the appeal area showing all relevant information.

(2)

Application review.

(a)

Upon receipt of the appeal application from the applicant, the Town Clerk shall provide notification by postal mail to the parties in interest, BOA, Commission, Zoning Administrator and/or Building Inspector, and all land owners and the clerk of any local government unit within 500 feet of the lot/outlot identified for the appeal in the application, and shall publish a Class 2 Legal Notice in accordance with Chapter 985, Wis. Stats., listing the time and place of a public hearing at which the appeal application will be reviewed by the BOA, the appeal, and its location, with said postal mail notification postmarked 10 days prior to said hearing. The applicant shall appear in person, by agent, or by attorney at the public hearing.

(b)

The BOA shall review an appeal application at a public hearing for compliance with this chapter, with said hearing held within 30 days of receiving the appeal application from the applicant, and in accordance with § 425-4-2B(2) of this chapter.

(3)

Action. After review, the BOA shall take an action of approval, approval with conditions, or denial with findings on an appeal application after a public hearing.

(4)

Issuance or denial notification. If the appeal application is approved in accordance with § 425-4-3J(3) of this chapter, the BOA shall issue an appeal approval notice to the applicant within 10 business days of the approval action. One copy of the application review form containing the BOA action and action date shall be provided to the applicant, Commission, Zoning Administrator, and/or Building Inspector within 10 business days of said action. If the BOA action is denial the BOA shall also provide explanation to the applicant of their appeal rights to the Rock County Circuit Court.