



**BOARD OF APPEALS**  
CITY OF WISCONSIN DELLS  
MUNICIPAL BUILDING ~ 300 LACROSSE STREET  
WISCONSIN DELLS, WI 53965  
**SEPTEMBER 8, 2010**

1. Ben Borchert called the meeting to order at 5:00P.M.

Present: Ben Borchert, Tom Collins, Jesse Leichsenring, Adam Makowski, Ron Newell and alternate member Joe Gussel

Others: City Clerk-Treasurer Dale Darling, Admin. Deputy Clerk Nancy R. Holzem, Public Works Director Mike Horkan, Assistant Director of Public Works Chris Tollaksen, Tom Lucke, Gary Krueger, and Andy Steinke from the *Dells Events*.

Notice of the meeting had been given to the Dells Events, WNNO Radio and posted in accordance with State Statutes. Official Notice of the Public Hearing before the Board of Appeals was published in the *Dells Events* on August 28, 2010. Property owners within 300 feet were notified via mail by copy of the Public Hearing Notice indicating the Public Hearing date and variance requested. A packet of information detailing the request had been distributed to Board Members, Director of Public Works/Building Inspector, Council Members, the Appellant, the Assistant City Attorney and other interested persons by the City Clerk/Treasurer's office. A conflict of interest was indicated by Board member Jesse Leichsenring so Alternate member Joe Gussel took his place.

2. Board member Ben Borchert announced Larry Neal's resignation as chairperson. Motion by Collins seconded by Makowski to approve Mayor Helland's recommended appointment of Ben Borchert as chairperson. Motion carried unanimously. Chairperson Borchert declared that a quorum of the Board of Appeals was present so the requested variances could be heard.
3. Motion by Makowski seconded by Newell to approve the minutes from the May 13, 2010 meeting as presented with no corrections. Motion carried unanimously.
4. Chairperson Borchert declared the Public Hearing open on the following two variance requests received from LAJALI LLC (Tom Lucke):
  - **A Variance of four (4) feet from Municipal Code Sed. 22.26(3)(d)** which states that projecting structures may not extend more than six (6) feet over the public right-of-way. The proposed projecting structure extends ten (10) feet over the public right-of-way.
  - **A Variance of seventy-eight (78) feet from Municipal Code sec. 22.26(4)(f)** which states that signage on a projecting structure shall not exceed 300 square feet. The proposed sign is 378 square feet.

Chairperson Borchert reminded board members that they are there to act on behalf of the city and not the applicant. The three standards required in order to grant a variance are the existence of unnecessary hardship, the presence of unique property limitations, and the protection of public interest. He added that the burden of proof was on the applicant to meet the criteria. Public Works Director/Building Inspector Mike Horkan and Assistant Public Works Director Chris Tollaksen gave an explanation as to why the two variances were needed for the projecting structure and sign being proposed.

Speaking on behalf of granting the variance was Gary Krueger. He stated that because of the size of the theme on the overhead structure, they needed extra space which then warranted the variances. He explained that it would be a load bearing structure. Applicant Tom Lucke stated that it was similar to store fronts in Gatlinburg, TN and Myrtle Beach, FL. He stated that businesses there were putting a lot into store fronts to create appeal and attract customers. He stated that by doing something similar he hoped to draw more people to the business and the downtown area. The large size will allow it to be seen from a block away.

Property owners within 300' were sent notice of the Public Hearing. None appeared at the hearing. Within no one else came forward to speak, so Chairperson Borchert declared the Public Hearing closed.

5. Chairperson Borchert questioned what unique characteristics of the property or what hardships there were that would require the granting the variances. Krueger stated that the city did grant a permit for a ticket booth. Their proposed store front goes hand in hand with it in order to create a unique marquee theme. Lucke stated that the trees in front of the building will partial block the sign creating a uniqueness of the property and a hardship since not all properties on Broadway have trees in front of them.

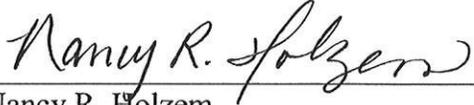
Board member Adam Makowski asked how the square footage was calculated on the sign and structure. Assistant Director of Public Works Chris Tollaksen explained how the square footage was calculated. The sign on the globe area is 270' and the sign on the front marquee is 108'. The two added together is 378' which is greater than the 300' that is allowed. If one of the signs were removed from the structure a variance would not be needed for that part. The applicant stated at this time that he was **withdrawing his request for a 78' variance** for signage stating that he will either remove the sign copy area from the globe or amend all of the copy so that it does not exceed the 300 square feet limit.

The issue before the board now is a 4' variance from the 6' limit for projecting structures over a public way. Lucke stated that there is a big tree right in front of the building. Makowski questioned how moving the structure out would help. Lucke stated that there would be more space to work with in order to make the sign more dimensional and you would have better visibility of it.

Member Gussel questioned Lucke if it was going to be a year-round business. He responded with, "Yes, I'd like it to be". Makowski questioned if there would be animals. Lucke stated, "No". Makowski added that he thought it was great that someone was taking the initiative to clean up things downtown.

It was moved by Collins seconded by Makowski to **approve the 4 feet variance from Municipal Code sec. 22.26(3)(d)** citing the tree(s) as a hardship and uniqueness to the property and also for weight bearing issues. Upon roll call vote the motion carried 5-0. Chairperson Borchert declared the variance **approved**.

6. There were no items for referral.
7. Motion by Makowski seconded by Gussel to adjourn the meeting. Motion carried unanimously and the meeting adjourned at 5:35P.M.

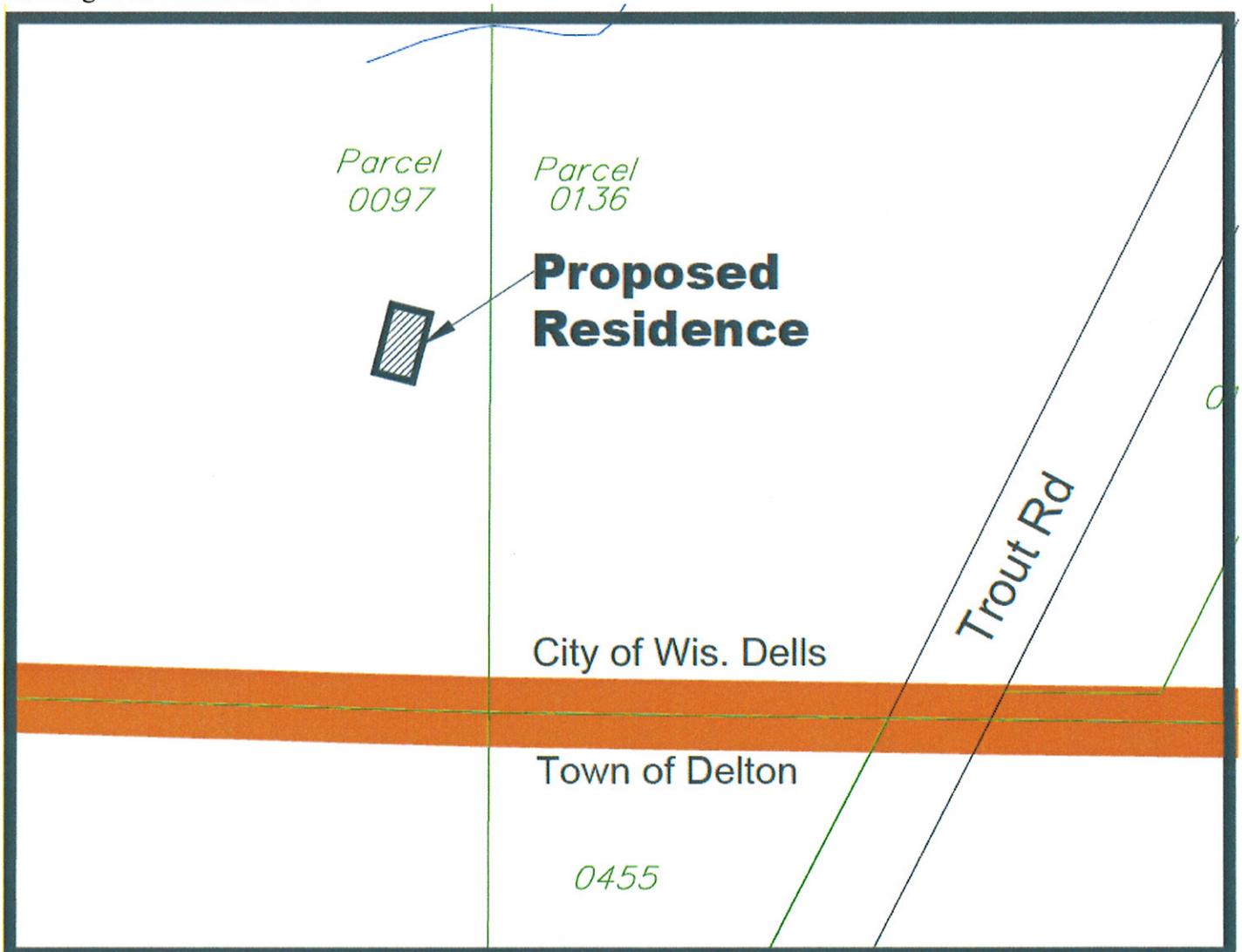


Nancy R. Holzem  
Admin. Deputy Clerk/Treasurer  
Distributed: 09/13/10

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Wisconsin Dells Board of Appeals will hold a Public Hearing on **Wednesday, October 9, 2013 at 5:00 PM** in the Council Chambers of the Municipal Building at 300 La Crosse Street, Wisconsin Dells, Wisconsin 53965, to consider the following:

Variance Application, per Municipal Code sec. 19.491, requested by John Tollaksen in order to grant a Use Variance from Municipal Zoning Ordinance Division 3, ALLOWABLE USES, which does not permit defined Land Use "3.2 Residence, single-family detached" in the C-4 Commercial, large scale Zoning District. Mr. Tollaksen has applied to construct a Single Family Residence on Sauk Co, Wis. Dells parcel 0097, to be 451 Trout Rd. This parcel is in the C-4 Commercial, large scale Zoning District. Copies of the application are available for review at the City of Wis. Dells Public Works office in the Municipal Building at 300 LaCrosse St.



All interested persons will be given an opportunity to be heard at the Public Hearing. With reasonable notice the City will provide appropriate auxiliary aids and services when necessary to afford individuals with disabilities an equal opportunity to participate in the Public Hearing.

Dated this 27th of September 2013

Ben Borchert  
Chair-Board of Appeals  
City of Wisconsin Dells

Publication Date:  
October 2, 2013

# VARIANCE APPLICATION

## Wisconsin Dells, Wisconsin

Version: May 21, 2007

**General instructions.** Complete this application as it applies to your project and submit one copy to the zoning administrator along with the required application fee. Before you formally submit your application and fee, you may submit one copy to the zoning administrator who will ensure it is complete. If you have any questions, don't hesitate to contact the zoning administrator at 608-253-2542. You may obtain a digital copy of this form from the zoning administrator.

**- Office Use Only -**

Application fee	<u>\$525.00</u>
Receipt number	<u>43197</u>
Application number	_____

**1. Applicant information**

Applicant name John Tollakson  
 Street address 451 Trout Rd  
 City Wis Dells  
 State and zip code WI 53965  
 Daytime telephone number 608-963-4161  
 Fax number, if any —  
 E-mail, if any john.tollakson@hotmail.com

**2. Subject property information**

Street address	<u>451 Trout Rd</u>	
Parcel number	<u>291-0136</u>	Note: the parcel number can be found on the tax bill for the property or may be obtained from the City.
Current zoning classification(s)	<u>C-4 COMMERCIAL, large scale</u>	
Describe the current use	<u>VACANT LAND</u>	

**3. Provide the section number of the Municipal Code from which a variance is being sought along with the standard. Finally, describe the variance being requested.**

19, 630

**4. Review criteria.** In making its decision, the Board of Appeals needs to consider various factors as listed below. Provide a response to each. (See Section 19.492 of the Municipal Code.)

**For Dimensional Variances:**

a. Whether the variance would be contrary to the public interest

b. Whether a literal enforcement would result in an unnecessary hardship, owing to conditions unique to the property

c. Whether the spirit of the zoning code would be observed and substantial justice done if a variance is granted

VARIANCE APPLICATION  
Wisconsin Dells, Wisconsin  
Version: May 21, 2007

**For Use Variances:**

- a. Whether the variance would be contrary to the public interest *1 believe not*
- b. Whether a literal enforcement would not allow the property to be used for a reasonable use given its size, configuration, and other property characteristics
- c. Whether the spirit of this code would be observed and substantial justice done if a variance is granted  
*Home bured down, need Rebuild. ...*

5. **Project map.** Attach a scaled map showing the information as listed at the end of this application. Use one of the following page sizes as appropriate: 8½" x 11", 11" x 17", or 24" x 36".

**6. Applicant certification**

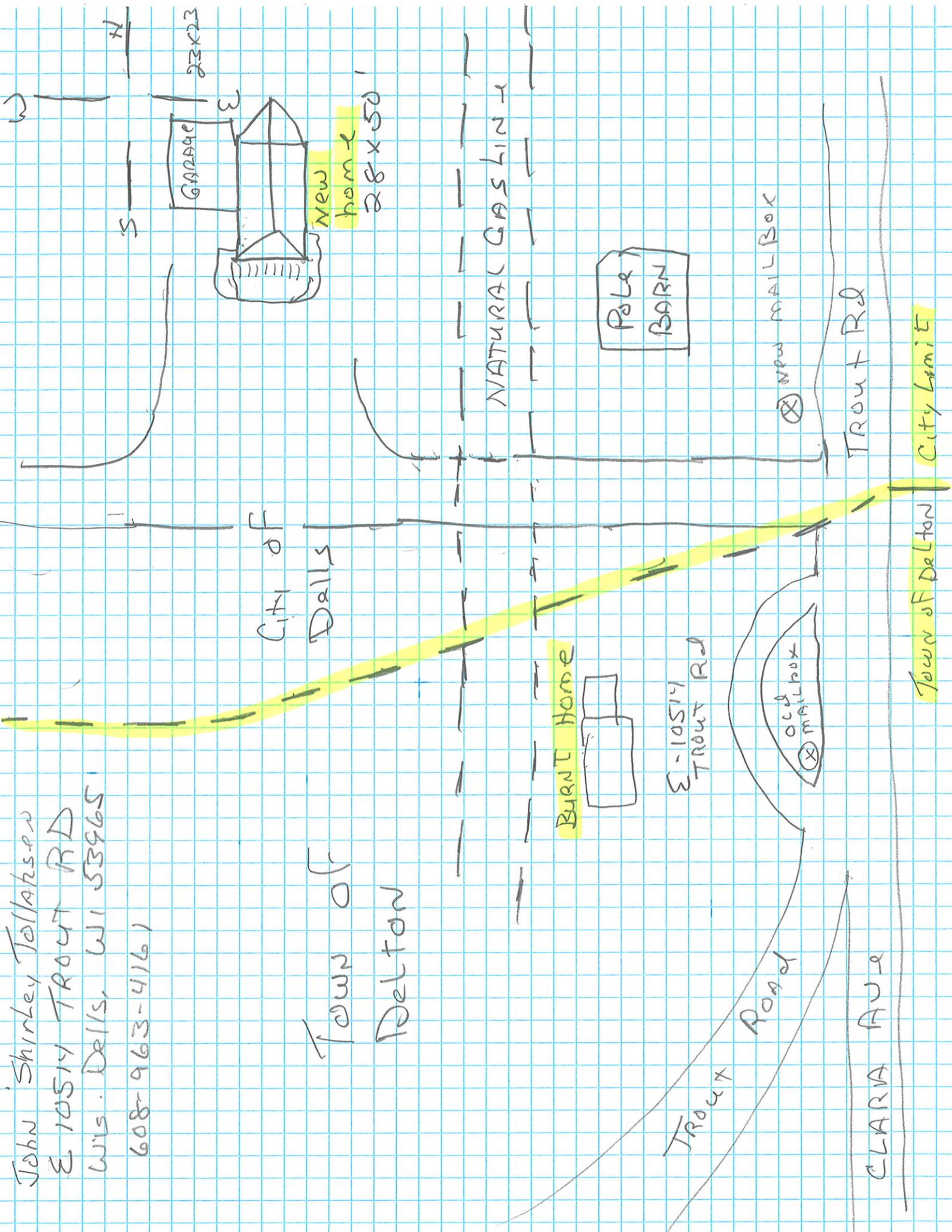
◆ I certify that the application is true as of the date it was submitted to the City for review.	
<i>John R. Jolly</i>	<i>8/21/13</i>
Applicant Signature	Date

<b>Governing Regulations</b>	The procedures and standards governing this application process are found in Chapter 19, Article 4, Division 12, of the City's Municipal Code.
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John Shirley Tolksen  
E 10514 TROUT RD  
Wis. Dells, WI 53965  
608-963-4161

Town of  
Delton

City of  
Dells



Town of Delton City Limit

Variance –Residence in C-4 Commercial Zoning District  
Staff Report for Board of Appeals, 10/09/13

The City of Wis. Dells has received a Variance application from John Tollaksen for defined land use 3.2 “Residence, single family detached” in the C-4 Commercial, large scale Zoning District.

Mr. Tollaksen owns property that straddles the City limits of Wisconsin Dells. His home existed on the property that was outside of the City Limits. Recently there was a fire at his home and Mr. Tollaksen must now rebuild a new house on his property. Mr. Tollaksen would like to build his new home on that portion of his property that exists within the City Limits of the City of Wisconsin Dells. This property is in the City of Wisconsin Dells C-4 Commercial, large scale Zoning District. In 2007 the City of Wisconsin Dells zoning code was updated so that land use 3.2 “Residence, single family detached” was no longer allowed in the C-4 Zoning District.

Therefore, a Use Variance is required from the current Wisconsin Dells Zoning Code, Division 3, “Allowable Uses”. Mr. Tollaksen intends the long term development of his property to be Commercial, and therefore does not wish to re-zone the entire property residential.

Per the City of Wis. Dells Zoning Code Section 19.492, the Board of Appeals shall consider the following in making a decision on a Use Variance such as this:

- (a) whether the variance would be contrary to the public interest.
- (b) whether a literal enforcement would not allow the property to be used for a reasonable use given its size, configuration, and other property characteristics.
- (c) whether the spirit of this code would be observed and substantial justice done if a variance is granted.

Section 19.493 of the Zoning Code states the following:

**Limitations on issuing a variance**

In issuing a use variance, the variance so granted shall only allow a use that is consistent with the uses of surrounding properties.

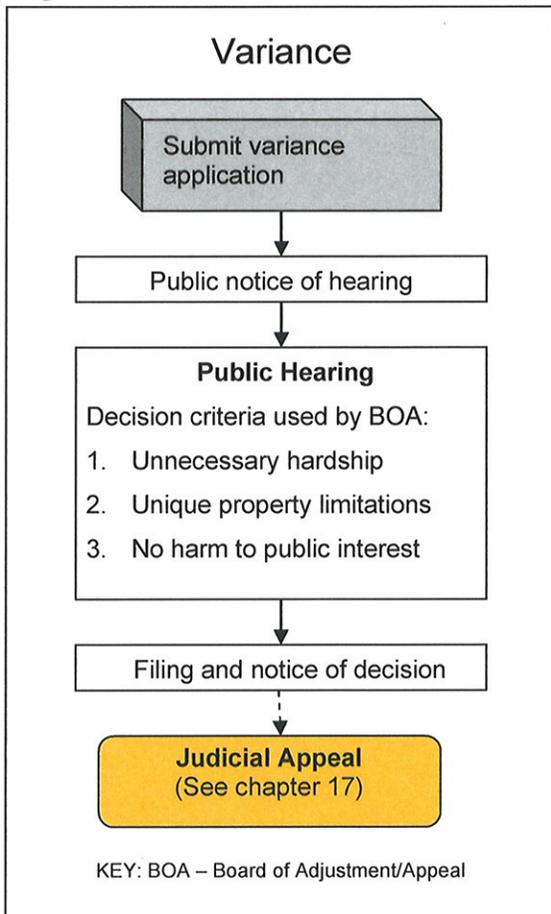
Chris Tollaksen  
City of Wis. Dells

### What are the criteria for granting a variance?

To qualify for a variance, an applicant has the burden of proof to demonstrate that all three criteria defined in state statutes and outlined below are met.<sup>144</sup>

- Unnecessary hardship
- Unique property limitations
- No harm to public interests

**Figure 24: Variance Process**



Local ordinances and case law may also specify additional requirements. The zoning department can assist a petitioner in identifying how these criteria are met by providing clear application materials that describe the process for requesting a variance and the standards for approval (see the sample application form in Appendix D).

#### 1. Unnecessary Hardship

The Wisconsin Supreme Court distinguishes between area and use variances when applying the unnecessary hardship test:

For a **use variance**, unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance.<sup>145</sup> What constitutes *reasonable use* of a property is a pivotal question that the board must answer on a case-by-case basis. If the property currently supports a reasonable use, the hardship test is not met and a variance may not be granted. If a variance is required to allow reasonable use of a property, only that variance which is essential to support reasonable use may be granted and no more. A proposed use may be *reasonable* when it:

<sup>144</sup> *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d at 420, 577 N.W.2d 813 (1998); *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d at 254, 469 N.W.2d 831 (1991).

<sup>145</sup> *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 413-414, 577 N.W.2d 813 (1998).

- does not conflict with uses on adjacent properties or in the neighborhood,
- does not alter the basic nature of the site (e.g., conversion of wetland to upland),
- does not result in harm to public interests, and
- does not require multiple or extreme variances.

For an **area variance**, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions “unnecessarily burdensome.”<sup>146</sup> To determine whether this standard is met, zoning boards should consider the purpose of the zoning ordinance in question (see the appendix for information about the purposes of shoreland and floodplain zoning), its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance.<sup>147</sup>

Courts state that “unnecessarily burdensome” may be interpreted in different ways depending on the purposes of the zoning law from which the variance is being sought. For example, the purpose of a shoreland district to *protect water quality, fish, and wildlife habitat and natural scenic beauty for all navigable waters in Wisconsin* would be interpreted differently from the purpose of a residential district to *protect the character of established residential neighborhoods*. In light of increased focus on the purposes of a zoning restriction, zoning staff and zoning boards have a greater responsibility to explain and clarify the purposes behind dimensional zoning requirements.

## 2. Hardship Due to Unique Property Limitations

Unnecessary hardship must be due to unique physical limitations of the property, such as steep slopes or wetlands that prevent compliance with the ordinance.<sup>148</sup> The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances.<sup>149</sup> Property limitations that prevent ordinance compliance and are common to a number of properties

<sup>146</sup> *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d at 475, 247 N.W.2d 98 (1976) (quoting 2 Rathkopf, *The Law of Zoning & Planning*, § 45-28, 3d ed. 1972).

<sup>147</sup> *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

<sup>148</sup> *State ex rel. Spinner v. Kenosha County Bd. of Adjustment*, 223 Wis. 2d 99, 105-6, 588 N.W.2d 662 (Ct. App. 1998); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 410, 577 N.W.2d 813 (1998); *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 255-56, 469 N.W.2d 831 (1991); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478, 247 N.W.2d 98 (1976)

<sup>149</sup> *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98

should be addressed by amending the ordinance.<sup>150</sup> For example, an ordinance may, in some cases, be amended to provide reduced setbacks for a subdivision that predates the current ordinance and where lots are not deep enough to accommodate current standards.

### 3. No Harm to Public Interests

A variance may not be granted which results in harm to public interests.<sup>151</sup> In applying this test, the zoning board should review the purpose statement of the ordinance and related statutes in order to identify public interests. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Promoting and maintaining public health, safety, and welfare
- Protecting water quality
- Protecting fish and wildlife habitat
- Maintaining natural scenic beauty
- Minimizing property damages
- Ensuring efficient public facilities and utilities
- Requiring eventual compliance for nonconforming uses, structures, and lots
- Any other public interest issues

In light of public interests, zoning boards must consider the short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state.<sup>152</sup> Review should focus on the general public interest, rather than the narrow interests or impacts on neighbors, patrons or residents in the vicinity of the project.

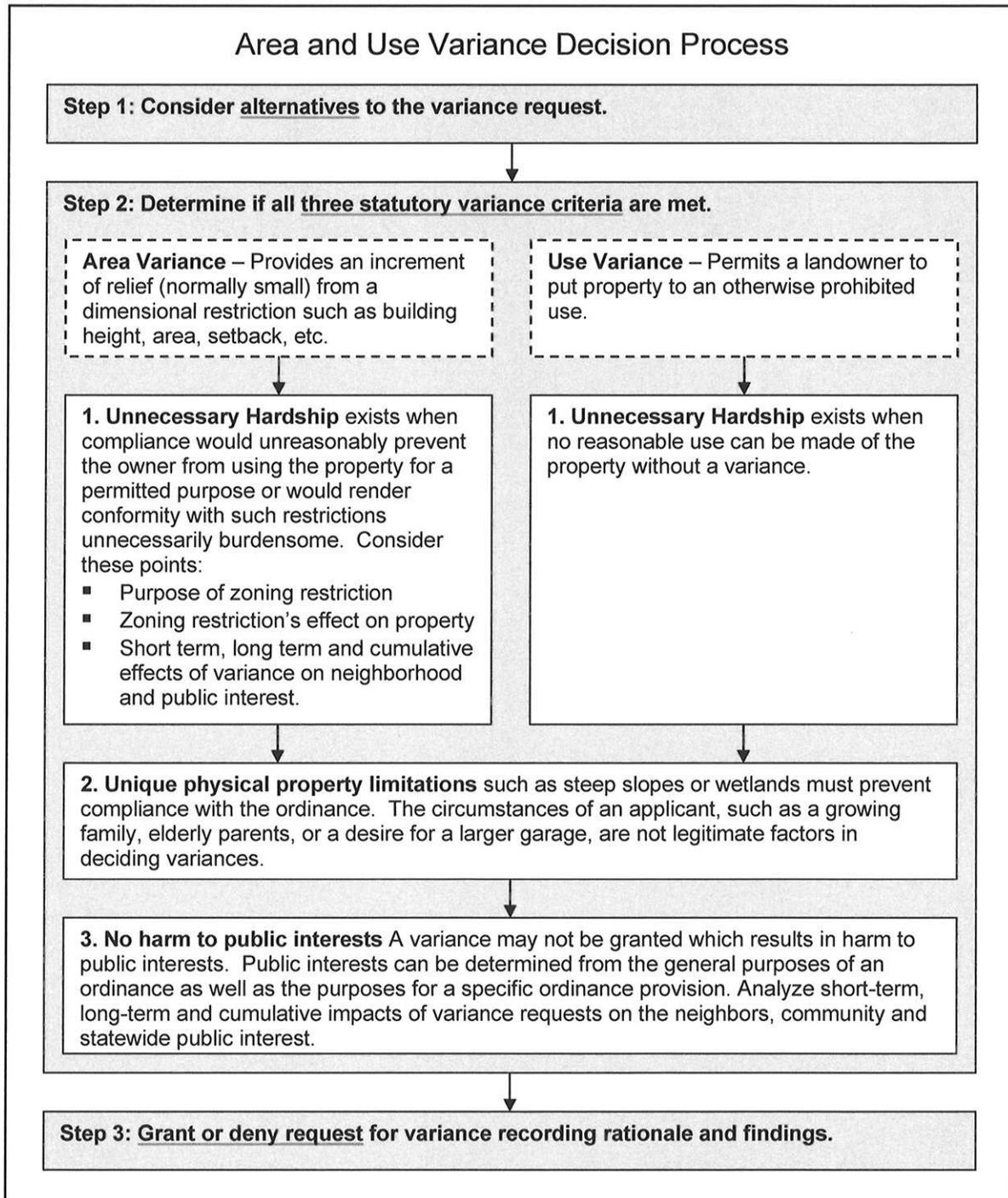
The flow chart in Figure 25 summarizes the standards for area variances and use variances. Application forms and decision forms reflecting these standards are included in *Appendix D*.

<sup>150</sup> *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 256, 469 N.W.2d 831 (1991); *State v. Winnebago County*, 196 Wis. 2d 836, 846, 540 N.W.2d 6 (Ct. App. 1995)

<sup>151</sup> *State v. Winnebago County*, 196 Wis. 2d 836, 846-47, 540 N.W.2d 6 (Ct. App. 1995); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 407-8, 577 N.W.2d 813 (1998)

<sup>152</sup> *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514.

**Figure 25:** Area and Use Variance Decision Process



### Additional Standards

Few areas of land use law are as extensively litigated as the standards necessary to qualify for a variance. The rich case law concerning variances provides these additional guiding principles that a zoning board should rely on in their decision-making. Published court decisions provide guidance for board members and are cited in the endnotes. Websites for accessing case law are provided in *Appendix B*.

- **Parcel-as-a-whole.** The entire parcel, not just a portion of the parcel, must be considered when applying the unnecessary hardship test.<sup>153</sup>
- **Self-imposed hardship.** An applicant may not claim hardship because of conditions which are self-imposed.<sup>154</sup> Examples include excavating a pond on a vacant lot and then arguing that there is no suitable location for a home; claiming hardship for a substandard lot after selling off portions that would have allowed building in compliance; and claiming hardship after starting construction without required permits or during a pending appeal.
- **Circumstances of applicant.** Circumstances of an applicant such as a growing family or desire for a larger garage are not a factor in deciding variances.<sup>155</sup>
- **Financial hardship.** Economic loss or financial hardship do not justify a variance.<sup>156</sup> The test is not whether a variance would maximize economic value of a property.
- **Nearby violations.** Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance.<sup>157</sup>
- **Objections from neighbors.** A lack of objections from neighbors does not provide a basis for granting a variance.<sup>158</sup>

<sup>153</sup> *State v. Winnebago County*, 196 Wis. 2d 836, 844-45 n.8, 540 N.W.2d 6 (Ct. App. 1995)

<sup>154</sup> *State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee*, 27 Wis. 2d 154, 163, 133 N.W.2d 795 (1965); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 479, 247 N.W.2d 98 (1976).

<sup>155</sup> *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)

<sup>156</sup> *State v. Winnebago County*, 196 Wis. 2d 836, 844-45, 540 N.W.2d 6 (Ct. App. 1995); *State v. Ozaukee County Bd. of Adjustment*, 152 Wis. 2d 552, 563, 449 N.W.2d 47 (Ct. App. 1989).

<sup>157</sup> *Von Elm v. Bd. of Appeals of Hempstead*, 258 A.D. 989, 17 N.Y.S.2d 548 (N.Y. App. Div. 1940)

<sup>158</sup> *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 254, 469 N.W.2d 831 (1991)

- **Variance to meet code.** Variances to allow a structure to be brought into compliance with building code requirements have been upheld by the courts.<sup>159</sup>

## Are there any limits on granting a variance?

### *Minimum variance allowed*

The board may grant only the minimum variance needed.<sup>160</sup> For a use variance, the minimum variance would allow reasonable use, whereas for an area variance, the minimum variance would relieve unnecessary burdens. For example, if a petitioner requests a variance of 30 feet from setback requirements, but the zoning board finds that a 10-foot setback reduction would not be unnecessarily burdensome, the board should only authorize a variance for the 10-foot setback reduction.

### *Conditions on development*

The board may impose conditions on development (mitigation measures) to eliminate or substantially reduce adverse impacts of a project under consideration for a variance. Conditions may relate to project design, construction activities, or operation of a facility<sup>161</sup> and must address and be commensurate with project impacts (*review the essential nexus and rough proportionality tests in Chapter 14*).

### *Specific relief granted*

A variance grants only the specific relief requested (as described in the application and plans for the project) and as modified by any conditions imposed by the zoning board. The variance applies only for the current project and not for any subsequent construction on the lot. Referring to Figure 26 on the next page, if the landowner has received a variance to build the garage, they may only build the screen porch if they receive an additional variance specifically for the screen porch.

### *Variances do not create nonconforming structures*

If a variance is granted to build or expand a structure, it does not give that structure nonconforming structure status. This relates to the previous point that variances only provide specific relief. In

**Nonconforming Structure** – A building or other structure, lawfully existing prior to the passage of a zoning ordinance or ordinance amendment, which fails to comply with current dimensional standards of the ordinances.

<sup>159</sup> *Thalhofer v. Patri*, 240 Wis. 404, 3 N.W.2d 761 (1942); see also *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 419-420, 577 N.W.2d 813 (1998).

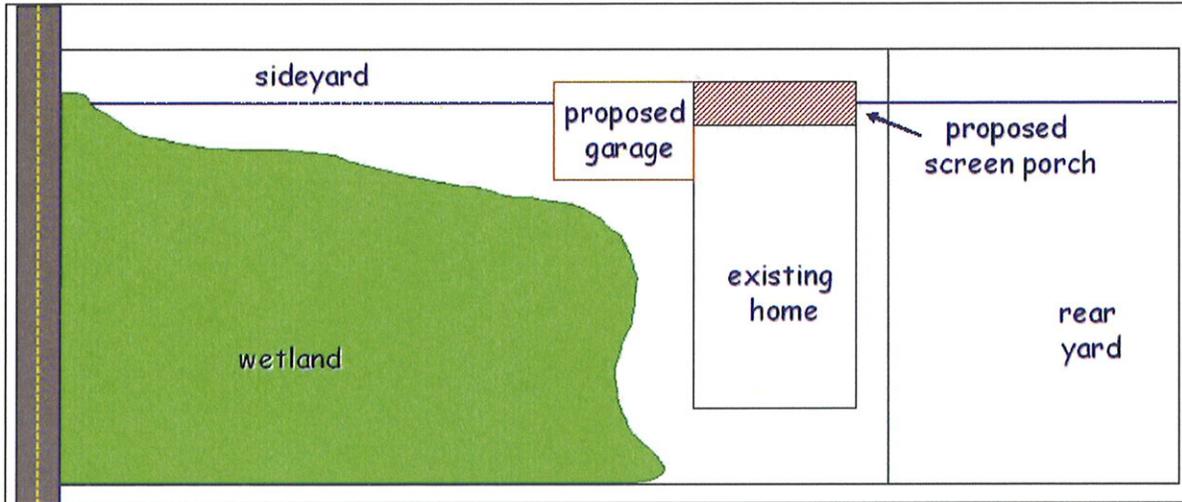
<sup>160</sup> Anderson, Robert M. *American Law of Zoning* 3d, (1986) Vol. 3, s. 20.86, pp. 624-5

<sup>161</sup> Anderson, Robert M. *American Law of Zoning* 3d, (1986) Vol. 3, ss. 20.70 and 20.71, pp. 587-95

## Section IV – Decisions of the Zoning Board

**Figure 26:** A Variance Grants Specific Relief

If the landowner has received a variance to build the garage, they may only build the screen porch if they receive an additional variance specifically for the screen porch.



contrast, nonconforming structures may be assured a limited extent of future expansion in some ordinances.

### *Variance transfers with the property*

Because a property rather than its owner must qualify for a variance to be granted (unique property limitations test), a variance transfers with the property to subsequent owners.<sup>162</sup>

### **Are multiple variances allowed?**

#### *Multiple variances for a single project*

In some cases, a single project may require more than one variance to provide reasonable use of a property. The 3-step test should be applied to each variance request in determining whether relief can be granted by the zoning board.

#### *Sequential variances*

In other cases, original development of a property may have been authorized by variance(s). The owner later requests an additional variance. Generally, the later request should be denied since, in granting the original variance, the zoning board was required to determine that a variance was essential to provide reasonable use of the property or that not granting the (area) variance would have been unreasonably burdensome in light of the ordinance purpose. The board cannot subsequently find the opposite unless there

<sup>162</sup> *Goldberg v. Milwaukee Bd. of Zoning Appeals*, 115 Wis. 2d 517, 523-24, 340 N.W.2d 558 (Ct. App. 1983)

have been significant changes on the property or on neighboring properties. A later variance could also be granted if the written purpose of the zoning designation for which an area variance was sought significantly changed, thereby allowing the variance to qualify under the unreasonably burdensome standard.

### **What is the process for appealing a variance decision?**

A variance decision may be appealed to circuit court by any aggrieved person, taxpayer, officer or body of the municipality within 30 days of filing of the decision in the office of the board.<sup>163</sup> (See Chapter 17 *Judicial Appeal of Zoning Board Decisions*.)

### **Why are the standards for area variances different from those of use variances?**

The law treats area and use variances differently because they “serve distinct purposes,” “affect property rights in distinct ways,” and “affect public and private interests differently.” According to the *Ziervogel* decision, the adverse impacts of an area variance are thought to be less than those of a use variance. Furthermore, the “no reasonable use” standard associated with use variances leaves zoning boards “with almost no flexibility” and eliminates the statutory discretion of zoning boards to decide variances.

#### **Figure 27: Land Division Variances... Creatures of a Different Color**

So far our discussion has focused only on zoning variances. As zoning boards may be asked to decide land division variances (including subdivision ordinances), here are a few salient points:

- Subdivision variances are not the same as zoning variances.
- There is no Wisconsin law addressing land division variances.
- A local unit of government may allow variances to locally-determined land division standards. In this case they must determine the process and standards, and should include them in the land division or subdivision ordinance.
- Local units of government may choose to not allow land division variances.
- A local unit of government is not allowed to provide a variance to a state-mandated standard.
- Due process, including a hearing with public notice is required for land division variances.

<sup>163</sup> Wis. Stat. § 59.694 (10)