



22817 Typo Creek Drive N.E. • Stacy, MN 55079
Phone (651) 462-2812 • Fax (651) 462-0500
E-Mail: records@linwoodtownship.org

VARIANCE PROCEDURES

Sec. 197 thru Sec. 205

Purpose: The variance is intended to allow relief from practical difficulties that may arise from the strict application of zoning regulations on properties where unique circumstances (e.g. parcel size and shape, topography, vegetation, wetlands, obsolete structures, etc.) are present which may prevent the property from being used to the extent intended by the zoning regulations. Variances will be granted only to provide relief in unusual situations that were not intended or foreseen when the zoning ordinance was adopted. Economic loss is seldom a unique situation and is generally not considered a valid difficulty if reasonable use for the property exists under the terms of the ordinance.

Pre-Application Meeting: A meeting with the Applicant(s) and Zoning Administrator will be held to discuss the situation that may need a variance prior to the submittal of an application.

Septic Compliance Inspection: A Septic Compliance Inspection is required if property is in the Shoreland Overlay District.

Application deadline: Applications must be submitted by applicant, reviewed and deemed complete by Staff, a minimum of 25 days prior to the Planning and Zoning meeting. The Public Hearing will not be scheduled until after application has been accepted as complete.

Submission requirements: There is a non-refundable fee required to process your application. The attached application form must be completed and submitted with all requested materials. Failure to submit all application materials may delay the review process described below.

Written Narrative and Criteria for Granting Variances: The narrative and criteria should fully explain the “practical difficulty” that justifies the departure from the strict application of the Code. Neither mere inconvenience nor reduction in value is sufficient on its own to justify a variance, and the inability to put property to its highest and best use is not considered a practical difficulty. The problem that justifies the variance must be caused by conditions beyond the control of the applicant. The applicant cannot create the condition that requires the variance.

Escrow Information:

Escrow is set aside for attorney, consulting, engineering, and other misc. fees. If Linwood Township is to acquire these fees while working on your Land Use Application, then you are authorizing the Township to use this escrow to pay for those fees. Owner agrees to pay additional costs incurred, if necessary. The remaining escrow amount will be returned, without interest, once all invoices have been submitted and approved.

Initial Review: Applications are not considered complete until it has been reviewed by Township staff, and the completed checklist has been signed. A copy will be given to the applicant. An incomplete application shall be returned to the applicant detailing, in writing, the missing information on the appropriate checklist.

A determination of completeness will be provided within about 10 days of the application submittal date. Minnesota State Law requires that a decision be issued for each application within 60 days of the receipt of a completed application. Once all of the outstanding application materials are received, the 60 day action timeline will begin.

VARIANCE PROCEDURES

Page 2

Additional Information Request: The Staff, Planning and Zoning Commission or Town Board of Supervisors shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant if the Planning Commission or Town Board believes that such information is declared necessary to review the request or to establish performance conditions.

Site Visit and Staff Report: The Zoning Administrator, members of the Planning and Zoning Commission and/or Town Board may visit the site to view the property to help ascertain information which will assist in the decision-making process. Photos may be taken to include in the Staff Report, which will summarize the application, reviewing it against the Township's Code, Ordinances and policies, and providing a recommendation for the Planning and Zoning Commission. A copy of this report will be available to the applicant prior to the Public Hearing.

Meeting Attendance: Applicants and/or representatives are expected to attend the Public Hearing and Town Board meeting.

Sec. 30-197. - Application and fee. Requests for a *variance* or an appeal shall be filed with the town clerk or designee on an official application form. The application shall be accompanied by a fee as provided in [section 2-249](#). This fee shall not be refunded. The application shall also be accompanied by three copies of detailed written and graphic materials. (Code 2004, § 807.13(subd. 6(1)); Ord. No. 167, § A, 4-24-2018)

Sec. 30-198. - Notice of public hearing. Upon receiving the completed application, the town clerk shall publish a notice of public hearing at least ten days prior to the next planning and zoning commission regular meeting. The notice of the public hearing will also be posted and mailed to all property owners within a 500-foot radius of the subject property. The planning and zoning commission shall consider the *variance* or appeal at that meeting. (Code 2004, § 807.13(subd. 6(2)); Ord. No. 167, § B, 4-24-2018)

Sec. 30-199. - Referral to zoning administrator. The town clerk or designee shall refer said request and all related information to the zoning administrator for a staff report and recommendation to the planning and zoning commission. (Code 2004, § 807.13(subd. 6(3)); Ord. No. 167, § C, 4-24-2018)

Sec. 30-200. - Public hearing; planning and zoning commission findings of fact and recommendations. The planning and zoning commission shall hear all persons at the public hearing who wish to be heard, either in person or by agent or attorney. The planning and zoning commission shall make findings of fact and recommend either approval or denial of the request. The commission's recommendation shall be presented to the town board. (Code 2004, § 807.13(subd. 6(4)); Ord. No. 167, § F, 4-24-2018)

Sec. 30-201. - Town board consideration of findings of fact and recommendations; approval or denial. The town board shall consider the findings of fact and recommendation presented by the planning and zoning commission at its next regular meeting and decide whether to approve or deny the request. A *variance* from this chapter or the grant of an appeal shall require passage by a majority of the town board. (Code 2004, § 807.13(subd. 6(5)); Ord. No. 167, § D, 4-24-2018)

Sec. 30-202. - Failure to receive notice of public hearing. Failure of a property owner to receive the notice of public hearing shall not invalidate any such proceedings as set forth within this chapter. (Code 2004, § 807.13(subd. 6(6)); Ord. No. 167, § F, 4-24-2018)

VARIANCE PROCEDURES

Page 3

Sec. 30-204. - Lapse of variance or appeal. Whenever within one year after granting a *variance* or appeal the work, as permitted by the *variance* or appeal, shall not have been completed, then such *variance* or appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the town board. Such extension shall be requested in writing and filed with the town clerk at least 30 days before the expiration of the original *variance* or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the *variance* or appeal. Such extension shall be presented to the planning and zoning commission for a recommendation and to the town board for a decision. (Code 2004, § 807.13(subd. 7))

Sec. 30-205. - Performance bond.

- (a) Where deemed necessary by the town board upon approval of a *variance* or appeal, the town shall be provided with a surety bond, cash escrow, certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvement or development. Said security shall guarantee conformance and compliance with the conditions of the *variance* or appeal and the town ordinances.
- (b) The security shall be in the amount of the town engineer's or building official's estimated costs of labor and materials for the proposed improvements or development.
- (c) The town shall hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the *variance* or appeal and town ordinances has been issued by the building official.
- (d) Failure to comply with the conditions of the *variance* or appeal and the town ordinances shall result in forfeiture of the security.



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File # _____
Fee \$ _____ Rcpt # _____
Chk # _____ Date: _____
Escrow \$ _____ Rcpt # _____
Chk # _____ Date: _____

VARIANCE: APPLICATION FOR CONSIDERATION

Applicant:

Name _____

Mailing Address _____

City _____ State _____ Zip _____

Daytime phone: _____

E-mail: _____

Owner (if different from Applicant):

Name _____

Mailing Address _____

City _____ State _____ Zip _____

Daytime phone: _____

Property Information

Property Address _____

City _____ State _____ Zip _____

Legal Description: Lot _____ Block _____

Development _____

(If lengthy legal, please attach full legal description)

Property ID Number: _____

Present Zoning: _____

Person/Company Paying the Escrow:

Name _____

2nd Applicant:

Name _____

Mailing Address _____

City _____ State _____ Zip _____

Daytime phone: _____

E-mail: _____

Owner (if different from Applicant):

Name _____

Mailing Address _____

City _____ State _____ Zip _____

Daytime phone: _____

Property # 2 Information

Property Address _____

City _____ State _____ Zip _____

Legal Description: Lot _____ Block _____

Development _____

(If lengthy legal, please attach full legal description)

Property ID Number: _____

Present Zoning: _____

Person/Company Receiving Returned Escrow:

(If different from the payor, permission is needed)

Name _____

CRITERIA FOR GRANTING VARIANCES

(Responses to each statement must be answered by applicant and submitted with application.)

A variance may be granted only in the event that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography or other circumstances over which the owners of property since enactment of this Ordinance have had no control. _____

2. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

3. The special conditions or circumstances do not result from the actions of the applicant.

4. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to others of other lands, structures or buildings in the same district.

5. The variance will not allow any use that is not permitted under the Ordinance for a property in the zone where the affected applicant's land is located. _____

VARIANCE: APPLICATION FOR CONSIDERATION

Page 2

Narrative description of request must be attached on a separate page. Description must include the reason for the variance request and the unique circumstances to the property that require a variance from the ordinance or standards.

Data furnished in this application form is public information.

Applicant and Owner Statement

In signing this application, I hereby acknowledge that I have read and fully understand the applicable provisions of the Zoning and Subdivision ordinances and current administrative procedures. I further acknowledge the fee explanation as outlined in the application procedures and hereby agree to pay all statements received from the Township pertaining to additional application expense(s).

I hereby certify that the information contained in this application is to my knowledge a true, accurate and complete representation of the facts and conditions concerning the proposed request for a variance. I hereby authorize the Linwood Township authorized staff to enter upon this property for such inspections as necessary for the review of this application.

Signature of Applicant

Date: _____

Signature of Applicant #2

Date: _____

Signature of Owner

Date: _____

Signature of Owner

Date: _____

Application fee: \$350.00

Escrow: \$1,000.00

For Office Use only

File # _____

Application Received by: _____

Date: _____

Document Verification by: _____

Date: _____

Additional Information Requested within 15 days of application: _____

Application Deemed Complete by (name): _____ Date: _____

Date: _____

Zoning Administrator

VARIANCE CHECKLIST AND APPLICATION ACCEPTANCE RECEIPT

The following information must be provided before a Variance Application requesting a variance will be considered accepted by Linwood Township:

1. A completed Variance Application on Township form.
2. Criteria for Granting Variances Page.
3. Mini-blueprint for construction (no hand drawings), including type of siding and roofing materials (if applicable).
4. Certification of Taxes Paid. Prior to approving an application, the Applicant shall provide certification to the Township that there are no delinquent property taxes, special assessments, or interest due upon the parcel of land to which the variance relates.
5. Scaled site plan, showing existing and proposed conditions including property lines and dimensions, building location and setbacks, dimensions of building, driveways, septic system, and well; locations of neighboring septic systems and wells OR a Certificate of Survey, if requested by Zoning Administrator).
6. If the proposed variance is located in the Shoreland Overlay District:
 - It is required to have the impervious area (hard surface) calculated and shown on the survey. This includes hard surface patios, driveways, houses, garages, etc. Properties in the Shore land Overlay District are required to have an impervious surface of no more than 25 percent.
 - An SSTS compliance inspection is required. Whenever a permit or variance of any type is required for any improvement on, or use of, shoreland property. If the system is found to be substandard, the property owner must upgrade the treatment system before a building permit or variance will be issued.
7. Additional information that you believe is relevant and helps explain the request.
8. Application fee - **\$350.00** Escrow will be required, **(minimum \$1,000.00)**.



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SITE PLAN: Please show the following information for all existing and proposed structures on the parcel of property involved and also for all structures on adjoining lots.

1. Lot lines, with dimensions
2. Structure location and dimensions
3. Shoreline (if any)
4. Setback from structure(s) to:
 - a. Shoreline and OHWL
 - b. Side lot line
 - c. Road
5. Setback from sewage system to:
 - a. Show tanks and drain field
 - b. Side lot lines
 - c. Structures
6. Setback from well to:
 - a. Structures
 - b. Sewer System
 - c. Side lot line

To help us evaluate your request, please provide as much supplementary information as possible, such as maps, plans, information about surrounding property, etc.