

VILLAGE OF GERMANTOWN
OFFICE OF THE VILLAGE CLERK
N112 W17001 MEOUON ROAD/ P. O. BOX 337
GERMANTOWN WI 53022-0337

HOW TO APPEAL TO THE ZONING BOARD OF APPEALS

- [] Fill out an application form available from the Village Clerk and attach supporting documents. (Survey of property showing location of structures, rendering of buildings, renderings of signs, etc.)
- [] File your appeal within 30 days after the date of written notice of order or decision from which the appeal/application is taken.
- [] Submit an application fee of \$570. This fee is used to pay costs of notice publication, mailings and other administrative costs.
- [] Allow a minimum of three weeks for your hearing date to be set. The Board of Zoning Appeals has set monthly meetings. If your application falls within the required time frame for notice, your appeal will be heard at the next meeting. If not, your application will be held over to the next meeting. This is due to State Law requiring two publications of the public hearing in the official paper. The last date for publication cannot be less than 7 days prior to the hearing. The official paper is published on Wednesday.
- [] You will receive from the Board Secretary a notice of public hearing, indicating the date, time and place of your hearing.
- [] Appear, at the hearing to explain the application and to answer any questions. You may appear personally or by an agent, and/or with an attorney.
- [] You will receive an official notice of decision of your appeal by "certified mail" within five (5) days following the meeting. The notice will show the date of filing in the Board's office should you wish to appeal the decision to Washington County Circuit Court.
- [] If your appeal is granted, substantial work must commence within six (6) months of the filing of the decision, or the variance will expire.
- [] If your appeal is denied, you may commence action in circuit court within 30 days of date of filing or file a revised permit application in accordance with the building and/or zoning requirements with the Zoning Administrator or Building Inspector.

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BOARD OF ZONING APPEALS
NOTICE OF APPEAL OR APPLICATION

Case No. _____
Filing Date _____
Fee Paid \$ _____
Hearing Date: _____
Notice Mailed: _____
Notices Published: ____/____

To: Board of Zoning Appeals
Village of Germantown, Wisconsin

NOTICE IS HEREBY GIVEN that the undersigned hereby (appeals for relief from a decision of an administrative official) (applies for the following described right or privilege) :

1. Appellant's or Applicant's Name:

Address:

Phone No. : _____

2. Appellant's or applicants' interest in property:

() Owner; () Tenant; () Mortgagee; () Agent.

3. Property Owner's Name: _____

Address: _____

Phone No.: _____

4. Address of property: _____

Lot ____, Block ____, Tax Parcel No. GTNV _____, Zoning District: _____

5. Present use of the property: _____

6. Proposed use of the property: _____

7. Previous Appeal or Application (if any)? Yes () No ()

If YES, list date of hearing: _____ and Decision of previous hearing: _____

8. Identify the **PURPOSE** for this appeal or application. Please circle appropriate item below and provide the requested information. Attach a separate sheet, if necessary.

(a) Appeal of decision or order of Administrative Official and Request for Interpretation of Zoning/Building Code.

1. Date of decision or order:

2. Description of decision or order:

3. Decision or order is erroneous because:

(b) Request for Variance of Zoning/Building Code.

1. Describe the requested variance and dimension of variance:

2. Explain how the Variance, IF granted, is consistent with the spirit, purpose and intent of the Code:

3. Describe the exceptional, extraordinary or unusual conditions or circumstances that apply specifically to this lot/parcel, use, structure, or intended use that **DO NOT** apply generally to other properties or uses in the SAME district:

4. Describe what special conditions exist which cause practical difficulty or unnecessary hardship, IF variance is NOT granted:

5. Explain why the variance **IS NECESSARY** for the preservation and enjoyment of substantial property rights possessed by other properties in the SAME district:

6. Explain how this variance, IF granted, **WILL NOT** create substantial detriment to adjacent property, **WILL NOT** be contrary to the public interest and **WILL NOT** endanger public safety and interest:

(c) Request for interpretation of regulations of the Zoning Code or the District boundaries of the Zoning Map.

1. List applicable section(s) of the Zoning Code: _____
2. Describe proposed use/activity/construction: _____

3. Explain reasons supporting requested action: _____

4. Has request been referred to Plan Commission? Yes () No ()
If YES, give recommendation of Plan Commission: _____

(d) Permission for Temporary Use Permit.

1. Describe use requested: _____
2. Proposed commencement date: _____
3. Proposed termination date: _____

(e) A determination that an unspecified or unclassified use is permitted in a Zoning District.

1. Describe use requested:

2. Attach copy of recommendation of Village Plan Commission.

(f) Permission to substitute a MORE restrictive non-conforming use for an existing non-conforming use.

1. Attach copy of recommendation of Village Plan Commission.
2. Attach copy of certification of Zoning Administrator to legality of present non-conforming use.

- 3. Date of commencement of present use: _____
- 4. Value of improvement on date use became non-conforming (attach documentation supporting value): \$ _____
- 5. Present value of all existing improvements, additions and alterations since date use became non-conforming (attach documentation): \$ _____

REQUIRED DOCUMENTATION

Each appeal or application must be accompanied by:

- A. Current plat or survey of the lot/parcel, with complete details of the site, dimensioned, elevation data, easements, existing and proposed physical features, yards and setbacks, etc.
- B. Attachments as outlined above.
- C. Filing fee(s)
- D. Copy of decision or order which is the basis of this appeal/application.
- E. Name and Address of counsel IF appellant/applicant elects to be represented by counsel.
- F. Any additional fee of \$ _____ to cover the administrative costs if a contested case is requested.

I hereby certify that the above application and/or appeal and all attachments hereto are true, correct and complete to the best of my knowledge and belief.

Dated: _____, 20_____

Signature of applicant or appellant

17.52 - BOARD OF ZONING APPEALS.

- (1) **MEMBERSHIP.** See section 1.30(1) of this Code.
- (2) **ORGANIZATION.** The Board of Zoning Appeals shall organize and adopt rules and procedure for its own government in accordance with the provisions of this chapter.
 - (a) *Meetings.* Meetings shall be held at the call of the chairman and shall be open, to the public.
 - (b) *Minutes.* Minutes of the proceedings and a record of all actions shall be kept by the secretary showing the vote of each member upon each question, the reasons for the Board's determination and its findings of fact. These records shall be immediately filed in the office of the Board and shall be a public record.
 - (c) *Concurring Vote.* (Am. Ord. #12-09) The concurring vote of a majority of the quorum of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified or substituted use.
- (3) **POWERS.** The Board of Zoning Appeals shall have the following powers:
 - (a) *Errors.* To hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator.
 - (b) *Variances.* To hear and grant appeals for variances as will not be contrary to the public interest when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit and purpose of this chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (c) *Interpretations.* To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (d) *Substitutions.* To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (e) *Permits.* The Board may reverse, affirm wholly or partly modify the requirements appealed from, and may issue or direct the issuance of a permit.
 - (f) *Assistance.* The Board may request assistance from other Village officers, departments, commissions and boards.
 - (g) *Oaths.* The Chairman may administer oaths and compel the attendance of witnesses.
- (4) **APPEALS.** (Rep. & Recr. Ord. #2-94; Am. Ord. #19-96) Appeals of any administrative determination of the Zoning Administrator, the Building Inspector or the Plan Commission concerning the literal enforcement of this chapter and chapters 14 and 18 of this Code may be made by any person aggrieved or by any officer, department or board of the Village. Such appeals shall be filed with the Secretary within 30 days after receiving actual or constructive notice of the administrative decision or order or the granting of a permit by the Zoning Administrator, Building Inspector or Plan Commission. Such appeals and applications shall include the following:
 - (a) Name and address of the applicant.
 - (b) What administrative determination is being appealed and the basis for the appeal.
- (5) **HEARINGS.** The Board shall fix a reasonable time and place for the required public hearing and shall give notice as specified in section 17.53 of this chapter. At the hearing, the appellant or applicant may appear in person or be represented by an agent or attorney.
- (6) **FINDINGS.** No variance to the provisions of this chapter shall be granted by the Board unless it finds, beyond a reasonable doubt, that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- (a) *Preservation of Intent.* No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or conditional use in that particular district.
 - (b) *Exceptional Circumstances.* There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - (c) *Hardships Not Grounds for Variance.* No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
 - (d) *Preservation of Property Rights.* The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - (e) *Absence of Detriment.* No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this chapter or the public interest.
- (7) **DECISION.** The Board shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, the Zoning Administrator and the Plan Commission.
- (a) *Conditions.* Conditions may be placed upon any zoning permit ordered or authorized by the Board.
 - (b) *Variations, Substitutions or Use Permits.* Variations, substitutions or use permits granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.
- (8) **REVIEW BY COURT OF RECORD.** Any person aggrieved by any decision of the Board may present to a court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Board.

State law references—Zoning board of appeals, Wis. Stats. §§ 61.35, 62.23(7)(e).