

### Variance Application

A variance is a relaxation of a standard in a land use ordinance. Variances are decided by the zoning board of adjustment/appeals. The zoning board is a quasi-judicial body because it functions almost like a court. The board's job is not to compromise ordinance provisions for a property owner's convenience but 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**

At the time of application you will be asked to:

1.  **Complete an application** form and submit a \$250 fee;
2.  **Provide detailed plans** describing your lot and project (location, dimensions and materials);
3.  **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance;
4.  **Publication Fees & Proof of Publication:** Shall be paid by the applicant and/or owner once submission to the official newspaper has been made and billed to you; and proof of publication must be presented to the Inspection Department BEFORE the public hearing can be heard.
5.  **Deed, Title Policy or CSM:** with complete legal descriptions (one (1) copy only).
6.  **Copies:** Twenty (20) ) 8x10 copies of all surveys, site plans, etc, pertaining to requested information to be distributed to the appropriate Committee members

Following these steps, the Inspection Department will prepare and submit the required public hearing notice of your request for a variance in the City's official newspaper noting the location and time of the required public hearing before the zoning board. Your neighbors (within 100' of the property) will also be notified. The burden will be on you as property owner and/or agent to provide information upon which the board 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 present all information needed to the zoning board to make a ruling in your favor. The board 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 board may not have sufficient evidence to rule in your favor and must then deny your application.

**Authorized Variances.** Variances from the regulations of this Code shall be granted by the Board of Appeals only in accordance with the standards established in the Municipal, and may be granted only in the following instances and in no others:

1. To permit any yard or setback less than a yard or a setback required by the applicable regulations;
2. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 80% of the required area and width;
3. To permit the same off street parking facility to qualify as required facilities for two or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;
4. To reduce the applicable off street parking or loading facilities required by not more than one parking space or loading space, or 20% of the applicable regulations, whichever number is greater;
5. To increase by not more than 25% the maximum distance that required parking spaces are permitted to be located from the use served; and
6. To increase by not more than 10% the maximum gross floor area of any use so limited by the applicable regulations.

The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this paragraph.

The concurring vote of 4 members of the Board of Appeals shall be necessary to grant a variance. No order of the Board of Appeals granting a variance shall be valid for a period longer than **six (6) months** from the date of such order unless the building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period.

*Variance Application*

**Part 1: General information**

*To be completed in its entirety by the applicant. **\*\*PRINT CLEARLY AND LEGIBLY!!***

**Pre-application meeting with staff:** Prior to submittal of this application, the applicant is strongly encouraged to discuss the proposed project and submittal material with the Inspection Department staff. **Incomplete applications could result in referral or denial by the Zoning Board of Appeals.**

Date of pre-application meeting: \_\_\_\_\_  Chief Williams  Asst. Chief Waydick  
 City Administrator  Mayor Johns  Inspection Department Staff

Date filed \_\_\_\_\_  \$250 fee paid (payable to City of Rhineland)

Form of Payment:  Check # \_\_\_\_\_  Cash  Receipt # \_\_\_\_\_

	Owner	Applicant/Agent
Name		
Address		
Phone		

Address Location of Variance request: \_\_\_\_\_

Tax parcel number: RH \_\_\_\_\_ Current Property Zoned: \_\_\_\_\_

**20 Copies of all submitted items must accompany application**

Current use & improvements:

Description of any prior petition for appeal, variance or conditional use:

Description and location of all nonconforming structures & uses on the property:

Ordinance standard from which variance is being sought (section number and text):

Describe the variance requested:



**Part 2: Standards for Variances**

**Standards for Variances.** The Board of Appeals shall not vary the regulations of this Code, unless it shall make findings based upon the evidence presented to it in each specific case that:

1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;

---

---

---

2. The conditions upon which a petition for a variation is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;

---

---

---

---

3. The purpose of the variance is not based exclusively upon a desire to make more money out of the property;

---

---

---

---

4. The alleged difficulty or hardship is caused by this Code and has not been created by any persons presently having an interest in the property;

---

---

---

---

5. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

---

---

---

---

6. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

---

---

---

---

**Part 3: Construction Plans:**

Reminder: 20 copies of plans and any written statements MUST be included at time of application submittal.

Attach construction plans detailing:

- Property lines
- Number of Parking stalls
- Number of employees; full and part-time
- Hours of operation
- Floodplain & wetland boundaries
- Dimensions, locations & setbacks of existing & proposed structures
- Utilities, roadways & easements
- Water & sanitary system
- Location & extent of filling/grading
- Location & type of erosion control measures
- Any other construction related to your request
- Anticipated project start date (if approved): \_\_\_\_\_

*Finality of decision of the Board of Appeals.* All decisions and findings of the Board of Appeals on appeals or upon application for a variance, after a hearing, shall, in all instances, be final administrative decisions and shall be subject to judicial review as by law may be provided.

I certify that the information I have provided in this application is true and accurate; I acknowledge any statements implied as fact require supporting evidence.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Owner       Agent       Applicant

Print Name: \_\_\_\_\_

**DECISION**

The Zoning Board of Appeals:       Approved       Denied

The Board, in accordance with the findings of fact, hereby determines that the requested variance for: \_\_\_\_\_  
\_\_\_\_\_ (is) (is not)  
in compliance with all the standards for a variance.

Further finding of fact is stated on minutes of this public hearing.

Hearing Date: \_\_\_\_\_ Published Dates: \_\_\_\_\_