



BOARD OF HOUSING AND ZONING APPEALS CRITERIA AND SUPPLEMENTAL SUBMISSION REQUIREMENTS

Pursuant to [Section 17.0804\(d\)](#) of the Oak Creek Municipal Code, the following criteria are used by the Board of Housing and Zoning Appeals to make their decisions. Please include written responses to each of the following in your application for appeal:

1. **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.
2. **Exceptional Circumstances.** There must be unique circumstances or conditions applying to the lot, parcel, or structure that do not apply generally to other properties of uses in the same zoning classification, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
3. **Economic Hardship and Self-Imposed Hardship 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.
4. **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 zoning district and same vicinity.
5. **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 ordinance or the public interest.

Requirements for Appeals, Variances, and Boundary Disputes for Floodplains

Any application for an appeal, variance request, or dispute regarding floodplain determinations and/or boundaries shall include the additional information for the specific situation as detailed below.

- **Appeals of Permit Denials**

1. Land Use Permit application data listed in [Sec. 17.0801\(b\)\(2\)](#).
2. Floodway/floodfringe determination data in [Sec. 17.0309\(e\)](#).

BOARD OF HOUSING AND ZONING APPEALS

CRITERIA AND SUPPLEMENTAL SUBMISSION REQUIREMENTS

3. Hydraulic and hydrologic analyses calculating the effects of the proposal on the regional flood height to determine the effects of the proposal according to [Sec. 17.0306\(g\)](#) and [17.0801\(b\)\(2\)\(c\)](#). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
 4. Any other supplemental data in support of the application.
- **VariANCES** – Provide written responses to demonstrate that:
 1. Literal enforcement of the ordinance will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions not common to adjacent lots or premises, and is not self-created;
 3. The variance is not contrary to the public interest, and will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 4. The variance is consistent with the purpose of this ordinance as stated in [Sec. 17.0306\(c\)](#);
 5. The variance shall not cause any increase in the regional flood elevation;
 6. The variance granted is the minimum necessary, considering the flood hazard, to afford relief;
 7. The variance will not grant, extend or increase any use prohibited in the zoning district;
 8. The variance will not allow actions without the amendments to this ordinance or map(s) required in [Sec. 17.0804\(f\)\(8\)](#);
 9. The variance will not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure;
 10. The variance will meet all of the applicable floodproofing standards in [Sec. 17.0804\(i\)\(4\)](#).
 - **Boundary Disputes**

The Board will utilize flood elevations or profiles to locate boundaries that have been established by approximate or detailed floodplain studies. Applicants shall provide a detailed written request and any available technical evidence to support the claim as part of the application package.

If the determination is made that the boundary is incorrectly mapped, the applicant(s) must apply for a map amendment according to [§17.0804\(f\)\(8\)](#).