



VARIANCE APPLICATION INFORMATION

Land Services Department
322 Laurel Street, Suite 15, Brainerd, MN 56401
Phone: 218.824.1010 Fax: 218.824.1126
Website: www.crowwing.gov
Email: landservices@crowwing.gov

ARTICLE 8 – VARIANCES & APPEALS OF ADMINISTRATIVE DECISIONS

8.1 APPLICATIONS

Applications for variances shall be filed with the Administrator who shall forward to the Planning Commission/Board of Adjustment:

- A.** A copy of the application and additional information determined by the Administrator to be pertinent to the application; and,
- B.** A Certificate of Survey prepared in accordance with Article 44 and with all items listed below:
 - i. Stormwater Management Plan according to Article 41 of this ordinance
 - ii. No-Maintenance Shoreline Buffer according to Articles 27 and 41 of this ordinance
- C.** The Administrator shall have the discretion to determine whether an application may be forwarded to the Board of Adjustment without an accompanying Certificate of Survey. A determination by the Administrator that a Certificate of Survey is not necessary shall be made in writing on a form approved by the County Board for this purpose. The form shall specifically set forth the facts upon which the determination was made, and a copy of said form, signed by the Administrator, shall be forwarded to the County Administrator and to the Board of Adjustment.

8.2 PUBLIC HEARING

Acting in its capacity as the Board of Adjustment, the Planning Commission/Board of Adjustment shall hold at least one public hearing on an application for a variance pursuant to Minnesota Statutes, Chapter 394.26 and its adopted rules of business. The Planning Commission/Board of Adjustment may hold additional public hearings when it determines that such hearings will be in the public interest.

8.3 DELAYED ACTION

In considering the application for a variance, the Planning Commission/Board of Adjustment may adjourn the hearing to a future time and defer action or consideration until further information desired from the applicant is submitted. The applicant shall be notified in writing of the information needed or reason for tabling the item. The provisions for action on an application shall be in compliance with Minnesota Statutes, Chapter 15.99 and Article 3.8 A. of the Crow Wing County Land Use Ordinance.

8.4 VARIANCE CRITERIA

- A.** Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.27 subdivision 7. No variance shall be granted that would allow any use that is prohibited in the land use district in which the subject property is located. In considering a variance request, the Board of Adjustment must consider the following factors, which the applicant will answer on their application:



1. Is the variance request in harmony with the purposes and intent of the Land Use Ordinance?

2. Is the variance consistent with the Comprehensive Plan?

3. Is the property owner proposing to use the property in a reasonable manner not permitted by the Land Use Ordinance?

4. Is the need for a variance due to circumstances unique to the property and not created by the property owner?

5. Will the issuance of a variance maintain the essential character of the locality?

6. Does the need for a variance involve more than economic considerations?

8.5 CONDITIONS MAY APPLY

A. If the variance criteria in Article 9.4 have been met, the Planning Commission/Board of Adjustment, in approving any such application, may require additional conditions and mitigating requirements to protect the public health, safety, or the environment, as may be reasonable under all circumstances concerned therewith, to be imposed as a condition for granting of the permit that shall fulfill the purposes of this Ordinance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Such conditions may include, but are not limited to, the following:

1. Mitigation actions to off-set environmental consequences of variance approval according to Article 27 and 41
2. Increased setbacks from the ordinary high water level
3. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted according to Article 27
4. Special provisions for the location, design, size and use of allowed structures, sewage treatment systems, and vehicle parking areas
5. Performance security as prescribed in Article 3.6 of the Crow Wing County Land Use Ordinance

B. The Department may conduct follow up inspections as necessary to insure that the conditions established by the Board of Adjustment are met.

C. Failure to comply with variance conditions as imposed by the Planning Commission/Board of Adjustment is a violation of this ordinance punishable under Article 3.5.

8.6 VARIANCE DECISION

After reviewing the application, considering all pertinent facts, and hearing testimony at the public hearing, the Planning Commission/Board of Adjustment may approve, deny, or modify the variance request. The Planning Commission/Board of Adjustment shall prepare written findings of fact to support its decision. A copy of the decision and findings of fact shall be forwarded to the applicant. If the variance is approved, the Administrator shall cause a copy of the variance to be recorded with the land records for subject property in the Office of the County Recorder. A copy of the final decision granting a variance within a shoreland area shall be sent to the Commissioner of the



Department of Natural Resources within 10 days of final action.

8.7 APPEALS OF ADMINISTRATIVE ACTIONS TO THE PLANNING COMMISSION/BOARD OF ADJUSTMENT

- A.** Acting in its capacity as the Board of Adjustment, the Planning Commission/Board of Adjustment shall hear all appeals of final administrative orders, requirements, decisions, or determinations. Appeals to the Planning Commission/Board of Adjustment shall be filed with the Auditor within 30 days of the date of the order, action, or determination was made. The appeal shall be filed in writing specifying the grounds thereof, together with a fee according to the most recent County Board-approved fee schedule. The Auditor shall notify the Administrator of the appeal within 5 working days. The Administrator shall, within 30 days of such notice from the Auditor, call a properly noticed public hearing to hear such appeal. The appellant may appear in person at the hearing and/or be represented by an agent.
- B.** Determination of appeal: The Planning Commission/Board of Adjustment shall review the information submitted by the appellant, a report from the Department, and the provisions of this Ordinance, and affirm the original decision unless the Planning Commission/Board of Adjustment determines that:
 - a. The decision was arbitrary and capricious; or
 - b. The decision did not comply with the standards in this Ordinance.
- C.** The Planning Commission/Board of Adjustment shall decide the matter appealed within 30 days after the date of the hearing. The Planning Commission/Board of Adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed, and to that end shall have all the powers of the officer whose decision was appealed and may direct the issuance of a permit. The reasons for the Planning Commission/Board of Adjustment decision shall be stated in writing and provided to the appellant.

8.8 APPEALS OF PLANNING COMMISSION/BOARD OF ADJUSTMENT DECISIONS

Pursuant to Minnesota Statutes, Chapter 394.27, Subd. 9, all decisions by the Planning Commission/Board of Adjustment in granting variances or in hearing appeals from any administrative order, requirement, decision, or determination shall be final, except that any aggrieved person or persons, or any department, board, or commission of the jurisdiction or of the State shall have the right to appeal within 30 days after receipt of notice of the decision, to District Court on questions of law and fact.



Variance Application Submission Requirements

<input type="checkbox"/> Attend a Development Review Team Meeting
<input type="checkbox"/> Certificate of Survey meeting requirements on Survey Requirements Checklist
<input type="checkbox"/> Authorized Agent Form (if applicable)
<u>Septic Requirements</u>
<input type="checkbox"/> Installed within the last 5 years <input type="checkbox"/> Inspected within the last 3 years <input type="checkbox"/> Winter Window (only applicable in winter)
<input type="checkbox"/> There is no septic system on this property <input type="checkbox"/> Septic Design <input type="checkbox"/> Site Suitability
<input type="checkbox"/> Wetland Delineation <input type="checkbox"/> No Wetland Letter <input type="checkbox"/> Winter Window (only applicable in winter)
<input type="checkbox"/> Variance Findings of Fact
<input type="checkbox"/> Payment Total of \$646.00 - \$600.00 Application Fee, \$46.00 Recording Fee (if Torrens property, recording fee may be higher)
<input type="checkbox"/> Complete Application
<input type="checkbox"/> Stake out or flag the proposed project area(s) so they are clearly visible to the PC/BOA for the on-site visit
<input type="checkbox"/> Locate and mark your property lines or lot corner monuments

Please note: The applicant will be required to obtain a Land Use Permit from Crow Wing County Land Services Department prior to beginning the project if the variance request is approved.



Survey Requirements for Variance Application

- ☐ A Certificate of Survey signed by a Registered Land Surveyor licensed in the State of Minnesota, unless the Administrator determines otherwise. The following information shall be required on a Certificate of Survey or site plan.
- ☐ Parcel number
- ☐ North arrow
- ☐ Graphic scale
- ☐ Legal description of subject parcel including – Section – Township – Range (unless platted: provide beginning point and end point)
- ☐ Bearing/coordinate system
- ☐ Date of preparation
- ☐ Property boundary with dimensions shown including lot area (square footage) of parcel; sufficient survey and mathematical data to locate and retrace the boundary
- ☐ Buildable area & building envelope of parcel (i.e. all setbacks identified)
- ☐ Location, size and height dimensions of all existing and proposed structures/additions with setbacks
- ☐ Location and size of existing and proposed patios
- ☐ Location of all wells & septic systems (existing and proposed) with all setbacks
- ☐ Location and size of existing and proposed driveways, roads and easements with all setbacks
- ☐ Nonconforming structure setbacks including all pertinent dimensions
- ☐ Two foot contours
- ☐ Lake name, lake classification
- ☐ MHB Corridor
- ☐ Existing and proposed impervious coverage calculations
- ☐ Bluffs (> 25 ft. ht. and >30% slope) and with setbacks of existing and proposed structures; if none on property statement from surveyor on Certificate of Survey
- ☐ Steep slopes (>30% slope, for at least 10 ft. minimum length threshold.) ; if none on property statement from surveyor on Certificate of Survey
- ☐ Ordinary high water elevation
- ☐ FEMA/Floodplain elevations if in floodplain map; if not on property, statement from surveyor on Certificate of Survey
- ☐ Location of delineated wetlands – with statement showing it was done (by whom, date) or statement indicating no wetlands with a letter by a professional wetland delineator