

Dimensional Variance Questionnaire

In order to be granted a Dimensional Variance, you must prove that a Practical Difficulty exists.

A Practical Difficulty means that the strict application of the zoning ordinance is unnecessarily burdensome and that the granting of the variance would do “substantial justice” to the owner.

The practical difficulties must be unique to the property and not self-created by the owner or previous owners of the property.

Please provide a thorough explanation below of how strict compliance with the zoning ordinance creates a Practical Difficulty.

LEGAL STANDARDS FOR A DIMENSIONAL VARIANCE

The Board of Adjustment has the authority to determine whether exceptions to an ordinance are to be allowed. The Board of Adjustment cannot amend or change an ordinance or declare an ordinance unconstitutional. The Zoning Commission and the Board of Supervisors have the power to change the Zoning Ordinance.

To justify the granting of a Dimensional Variance, the applicant must prove that a practical difficulty exists that is unique to the property and that the variance will not significantly alter the essential character of the surrounding neighborhood.

An applicant for a variance must meet following:

1. Compliance with the required area, dimensional, or other numerical Zoning Ordinance limitations would result in practical difficulties for the property owner, preventing them from making beneficial use of the property.
 - a. Numerical limitations may include requirements for: minimum lot size, setbacks, yard widths, height, sidewalks, fencing, signage, or off-street parking.
 - b. All beneficial use is said to have been lost when the land is not suitable for any use permitted by the zoning ordinance.
2. The property owner must prove that the practical difficulty is unique to the property and is not self-created. These limitations may include:
 - a. Topographical features – Example: steep slopes or wetlands
 - b. Parcel size
 - c. Parcel shape
3. The proposed use will not alter the essential character of the surrounding neighborhood.
4. A variance is not to be granted for any self-created difficulties.
 - a. Loss of profit or financial hardship alone is not grounds for approval of a variance.
 - b. When conditions giving rise to the need for a variance were created by the property owner or a former owner, the hardship is self-imposed.

PROTECTION OF THE PUBLIC INTEREST

Granting a variance must neither harm the public interest nor undermine the purposes of the ordinance. In granting a variance, the Board may attach special conditions to ensure that the public welfare will not be harmed. Such conditions must relate reasonably to the purpose and intent of the ordinance. Also, any variance granted should include only the minimum relief necessary to allow reasonable use of property.

The Board of Adjustment should determine that:

- a. The Variance will not impair an adequate supply of light and air to adjacent property.
- b. The Variance will not unreasonably increase congestion and traffic hazards on public roads.
- c. The Variance will not unreasonably diminish or impair established property values within the surrounding areas.
- d. The Variance will not in any other respect impair the public health, comfort, safety, morals, or welfare of the inhabitants of the county.
- e. The Variance will not impair the general purpose and intent of the regulations and provisions contained in the Muscatine County Zoning Ordinance and Comprehensive Plan.

BOARD OF SUPERVISORS REVIEW

The Board of Supervisors reviews variances granted by the Board of Adjustment, usually within two weeks of the Board of Adjustment's decision. The Board of Supervisors may remand a decision to grant a variance to the Board of Adjustment for further consideration. If remanded, the effective date of the variance would be delayed for thirty days.