

Use Variance Questionnaire

Some questions may not apply. Please write n/a for any that do not apply.

1. What do you feel is the unnecessary hardship preventing the land from yielding a reasonable return? The unnecessary hardship must be due to unique circumstances and must not be self-imposed by the current or former owner(s).

2. Will the proposed use alter the character of the surrounding neighborhood?

3. Will the proposed use impair an adequate supply of light or air to adjacent properties?

4. What type of traffic will be generated by the proposed use? Will the proposed use increase congestion and traffic hazards on public roads?

5. Will the proposed use diminish or impair property values within the surrounding areas?

6. Will the proposed use impair the public health, comfort, safety, morals, or welfare of the inhabitants of the county?

7. Will the proposed use impair the general purpose and intent of the regulations and provisions contained in the Muscatine County Zoning Ordinance and Comprehensive Plan?

8. What are the proposed days and hours of operation?

9. What type of county, state, and/or federal permits will be needed to conduct the business?

10. How many employees will be coming to the site?

11. Estimate the water and sewage demands for the proposed use.

12. Describe the equipment and/or materials that will be stored on site.

13. Will there be any offensive odors, noise, or fumes created by the proposed use?

LEGAL STANDARDS FOR A USE 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 use variance, the applicant must show that an unnecessary hardship exists, that there is a unique property limitation, and that the variance would not be contrary to the public interest. These are the standards under which a use variance application will be evaluated by the Board of Adjustment.

1. Unnecessary Hardship

- a. The land in question cannot yield a reasonable return if used only for a purpose allowed in that zoning district. Lack of a reasonable return may be shown by proof that the owner has been deprived of all beneficial use of the land. All beneficial use is said to have been lost when the land is not suitable for any use permitted by the zoning ordinance.
- b. The plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood.
- c. The use to be authorized by the variance will not alter the essential character of the locality.

2. Unique Property Limitation

- a. The applicant must prove that there are unique physical characteristics of the property that prevent them from developing in compliance with the zoning ordinance. The limitations must not be self-created. These limitations may include:
 1. Topographical features – Example: steep slopes or wetlands
 2. Parcel size
 3. Parcel shape

3. Protection of Public Interest

- a. Granting a variance must neither harm the public interest nor undermine the purposes of the ordinance. In granting a variance, the Board of Adjustment 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. Any variance granted should only be for the minimum relief necessary to allow for reasonable use of the property.
- b. The proposed use should not alter the essential character of the surrounding neighborhood.

A variance should not 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.

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.