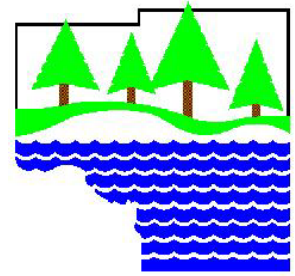


Procedures for Processing and Criteria for Granting

Variations (Updated: 4/10/2012)

Itasca County Environmental Services
Courthouse
123 NE 4th Street
Grand Rapids, MN 55744
Phone: (218) 327-2857
TDD: (218) 327-2806
Fax: (218) 327-7331
Website: www.co.itasca.mn.us



PLEASE READ THIS IMPORTANT INFORMATION
REGARDING VARIANCE APPLICATIONS

I. APPLICATION

Complete the Variance Application. The Environmental Services staff will provide assistance in filling out forms and explaining regulations; however, the burden to demonstrate sufficient need for a variance shall be that of the applicant. The application must include all the information noted below. This information is sent to adjacent property owners and others (e.g., township, lake association, DNR) to address potential concerns. The Itasca County Board of Adjustment requires the application to be complete prior to the public hearing in order to make an informed decision. Failure to address these items may cause the application to be tabled or denied.

- A. PROPERTY LOCATION:** Parcel identification number (PIN) and a complete legal description of the property. This is the number and description of the property as it appears on your tax statement or deed—location by lot, block, forty, section, township, and range. Also, indicate the site address and road number.
- B. IF APPLICABLE, VERIFICATION OF VESTED INTEREST:** If the applicant is not the property owner, verification of vested interest shall be required by submission of a contract, purchase agreement, or a signed statement from the property owners.
- C. DETAILED DESCRIPTIONS:** Please include all other information pertinent to the proposed Variance, including a detailed description of practical difficulty, or reasons for the variance, and related issues. See also: Findings of Fact and Criteria Necessary for Granting or Denying a Variance (IV, p. 5). The Board of Adjustment requires the applicant or representative to provide public answers for these Criteria at the hearing.
 - 1. Practical Difficulty

It shall be the burden of the applicant to demonstrate that there are practical difficulties in complying with the official controls to establish the need for a variance. Absent a showing of practical difficulty as provided in Minnesota Statutes and the Zoning Ordinance, the Board shall not approve any variance. The practical difficulty must be due to circumstances unique to the property and not created by the present or previous landowner. Practical difficulties do not include the personal circumstances of the land owner. Economic considerations alone do not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.
 - 2. The variance will not alter the essential character of the locality, and is not detrimental to the neighborhood.
 - 3. The variance will allow a use of the property in a reasonable manner not permitted by an official control.
 - 4. The variance is consistent with the spirit and intent of the Itasca County Zoning Ordinance and the Itasca County Land Use Plan.

Procedures for Processing and Criteria for Granting

Variances (Updated: 4/10/2012)

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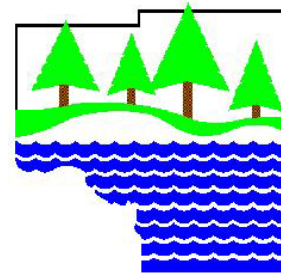
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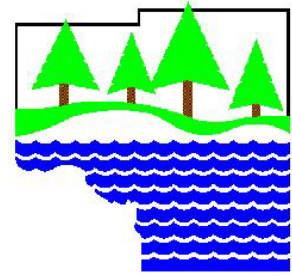
Website: www.co.itasca.mn.us



5. The variance is not contrary to the public interest regarding health, safety, convenience, welfare and property value.
6. The variance will not have a material adverse effect on the environment.
7. The septic treatment and water supply are compliant and appropriate for the intended use of the property.
8. For an application that includes a variance from the requirement that contiguous nonconforming parcels be combined (see Zoning Ordinance Section 4.2.3), the following must also be shown:
 - a. The variance will not unreasonably alter the building density of the locality;
 - b. Compliant water supply and septic system can be installed upon both the subject property and all those parcels within 100 feet of the subject parcel (where applicable), without causing pollution to wells, lakes, stream, rivers, or wetlands.
9. For After-the-Fact Variances, the following must be addressed (as appropriate) in addition to the above:
 - a. The applicant acted in good faith and did not act willfully or with the intent to violate the ordinance.
 - b. The applicant attempted to comply with the ordinance by obtaining a county zoning permit, or permit from other legal entity.
 - c. The applicant made a substantial investment in the property, or completed the repairs/construction before being informed of the impropriety. (This applies only if the applicant acted in good faith).
 - d. Allowing the After-the-Fact variance provides due process and does not create inconsistent treatment with others.
 - e. The variance is a minimal variation from the requirement and does not create an undue burden on the County or the Public.

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D. DETAILED SKETCH OF THE PROPERTY: Show existing conditions and structures (buildings, wells, sanitation, topography) on the property and adjoining properties. Include proposed development with setback distances and structure dimensions.

E. MANDATORY LAKESHORE MITIGATION.

Measures shall be required for the issuance of any variance to mitigate the impacts of developments, nonconforming structures, or uses on lake water quality. The following information shall be submitted with the Variance application:

- a. Evaluate and upgrade SSTS to comply with the requirements of Minn. Rules, Chpts. 7080-7083. If the septic system needs to be certified, a time frame needs to be outlined indicating the date the permit/design shall be obtained and when the septic system shall be certified.
- b. Erosion control, storm water management, and mitigation plan. This plan shall describe erosion control during/after construction, storm water management/runoff control and mitigation/buffer screening. The mitigation plan shall require a shoreline buffer which shall be in the shore impact zone and consist of trees, shrubs and ground cover of native plants and understory to effectively screen structure(s) as viewed from the waters. This may be accomplished by working with Itasca SWCD or other sources but said plan must be reviewed by Itasca SWCD. A shoreline buffer consisting of trees, shrubs and ground cover of native plants and understory shall be required as follows:

Lake Class	Buffer (Distance from OHWL landward)
GD	10'
RD	15'
NE	50'
Sensitive	50'

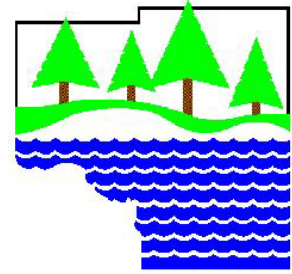
- c. Plant materials for native vegetation buffers shall be as prescribed according to the landscape position, water table, soil type and exposure of the project site. For every 5,000 square feet of buffer area, there shall be a variety of types of native trees, shrubs, forbs, and grasses planted to achieve full coverage. The survival of planting materials must be maintained for a minimum of five years, so that the approved coverage plan is adhered to. This coverage plan may be inspected periodically to assure compliance.
- d. Other mitigation practices may be required by Planning Commission / Board of Adjustment such as the use of exterior building materials that blend with natural vegetation.
- e. The Board of Adjustment may impose further conditions in the granting of Variances to insure compliance, to protect the environment, and to protect adjacent properties and the public interest, but any and all conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

G. FILING FEE: \$475.00 payable to “Itasca County Auditor / Treasurer” .

H. Deadline for Public Hearing Agenda: To be placed on the agenda, the completed application, filing fee and any applicable information must be received by Environmental Services on the second Monday of the previous month to

**Procedures for Processing and Criteria for Granting
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complete the necessary processing.

II. PROCESS:

A. Upon receipt of the application, fee, and all applicable information, the application is processed by Environmental Services staff.

B. NOTICES:

- 1. Notice is sent to area property owners** within 500' of the site or the nearest 10 property owners, whichever is greater. It is recommended that the applicant personally contact the closest neighbors to inform them of the proposal. Upon request, you may obtain a list of the names and addresses from our office.
- 2. Notice is sent to the Organized Township or the Commissioner for their information and recommendation.** It is the applicant's responsibility to contact the township clerk to learn the township's procedures for making a recommendation to the Board of Adjustment. Applicants will receive a copy of the notice sent to the township, including the clerk's name and telephone number.
- 3. Notice is sent to Lake Association for their information.** The applicant is recommended to contact their lake association to inform them of their project.
4. If appropriate, notice may also be sent to the DNR, SWCD or other agencies.

C. SITE INSPECTION:

- 1. Stake out site:** Any proposed development must have clearly visible corner stakes identifying the proposed development's location on the property. Stakes not present or clearly identified may cause delays or denial of the application from the Board of Adjustment.
- The site will be inspected by the Board of Adjustment prior to the public hearing at the courthouse. In addition to the applicant, notice of the inspection is also given to those listed above. It is recommended that the applicant and/or agent be present if possible.
- The site inspection is a public hearing. At the site inspection, any interested or concerned persons are allowed to be present. The property owner cannot restrict anyone from his property if the Board of Adjustment is allowed to be present as a quorum. The alternative to a public site inspection is a site inspection by staff; however, the Board of Adjustment's decision would be made without the benefit of a site inspection.
- The Board of Adjustment may have photographs taken during their inspection that will be placed on the record, displayed at the public hearing, and used in their decision making process.

D. PUBLIC HEARING:

- The Board of Adjustment meets the second Wednesday of every month (unless an observed holiday) at 9:00 a.m. in the County Board Room of the Courthouse. Site inspections will be conducted prior to the public

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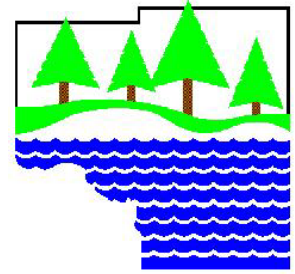
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hearing (typically on Monday prior to the Board Room Hearing).

2. The applicant and/or agent shall be present to address the application and answer any questions. **Any person representing an absent applicant must be completely informed and knowledgeable as to what the proposed project, plan, or use will entail. Unanswered questions may require tabling or denying; representatives of the applicant should be given the authority to allow an extension of time by waiving the right to a 60-day decision, as set forth in Section 15.99 of Minnesota Statutes.**
3. The Board of Adjustment will do one of following:
 - a. **Approve or Amend application based on criteria in III below, including the issuance of conditions and specific mitigation requirements.** Upon approval of the application, any aggrieved person may appeal the Board of Adjustment's decision to District Court. The judicial review information is set forth in Section 18.4 of the Itasca County Zoning Ordinance.
 - b. **Deny application based on criteria in III below.** Upon denial of the application, the appeal process described above may be carried out by the applicant.
 - c. **Table for more information.** Upon tabling of the application, the applicant will be informed of the date for the next hearing on the matter and, if applicable, what additional information is required. As set forth in Section 15.99 of Minnesota Statutes, an extension of time up to 60 days can be granted by the Board of Adjustment, or the right to a decision within 60 days can be waived by the applicant.

III. Findings of Fact and Criteria Necessary for Granting or Denying a Variance

The Board of Adjustment may authorize a Variance from the terms of the Itasca County Zoning Ordinance which will not be contrary to public interest, where owing to special conditions a practical difficulty would be created by carrying out the strict letter of the Ordinance, and when the terms of the Variance are reasonable in manner and consistent with the spirit and intent of the Ordinance and Itasca County Comprehensive Land Use Plan.

A. It is the applicant's responsibility to provide answers to all of the following before the Board of Adjustment. These criteria, labeled 1-5 below, will be asked of the applicant during the public hearing. A variance can be granted only if all criteria are answered in the affirmative and supported with established findings of fact.

1. Has the applicant established a practical difficulty that is unique to the property in complying with the land use controls? (Practical difficulties must not be the result of actions taken earlier by the applicant or previous owners of the property, nor be granted for economic or personal circumstances alone.) Why or why not?
2. Is a variance the only feasible method to alleviate the practical difficulty? Why or why not?
3. If granted, will the variance maintain the essential character of the locality and not create a substantial detriment to neighboring properties? Why or why not?
4. Will the variance result in a use of the property in a reasonable manner not permitted by an official control?

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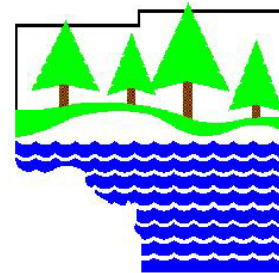
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Why or why not?

5. Is the variance consistent with the spirit and intent of the Itasca County Zoning Ordinance, the Itasca County Comprehensive Land Use Plan, and in the public interest of protecting public health, safety, convenience, welfare, property value, and the environment? Why or why not?

B. For an application that includes a variance from the requirement that contiguous nonconforming parcels be combined (see Zoning Ordinance Section 4.2.3), the following must be answered:

1. Will the variance not unreasonably alter the building density of the locality? Why or why not?
2. Can a compliant water supply and septic system be installed upon both the subject property and all those parcels within 100 feet of the subject parcel (where applicable), without causing pollution to wells, lakes, stream, rivers, or wetlands? Why or why not?

C. In addition to the above, the Board of Adjustment must make findings on the following factors for an After-the-Fact Variance:

1. Did the applicant act in good faith and not act willfully or without the intent to violate the ordinance? Why or why not?
2. Did the applicant attempt to comply with the ordinance by obtaining a county zoning permit, or permit from other legal entity? Why or why not?
3. Did the applicant made a substantial investment in the property, or completed the repairs/construction before being informed of the impropriety? (This applies only if the applicant acted in good faith). Why or why not?
4. Does allowing the After-the-Fact variance provide due process that is not inconsistent with the treatment of others? Why or why not?
5. Is the variance a minimal variation from the requirement that does not create an undue burden on the County or the Public? Why or why not?

D. Further points, stipulations, and reminders as they relate to the Variance application process.

1. Variances may only be granted in accordance with Minnesota Statutes, Chapter 394.
2. No Variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
3. No variance may be granted simply because there were no objection, or because those in support of the variance outnumber those opposed, or for any other reason other than the criteria listed above.

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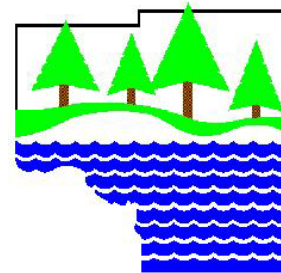
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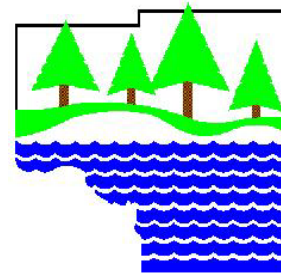


4. For existing developments, the application for a Variance must clearly demonstrate whether a conforming SSTS is present for the intended use of the property. The Variance, if issued, must require reconstruction of a non-conforming SSTS.
5. Measures shall be required to mitigate the impacts of developments, nonconforming structures or uses on lake water quality. These measures are set forth under Mandatory Lakeshore Mitigation, (see I. 6; p. 2). A mitigation plan shall be submitted with the application, and be subject to modification by the Board of Adjustment.
6. The Board of Adjustment may impose conditions in the granting of a Variance to insure compliance and to protect the environment, protect adjacent properties, and the public interest. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.
7. The Board of Adjustment may adjust (with the applicants permission) the specific dimensions (setbacks or structure) as they appear in the application. The Board of Adjustment may also adjust the specific sections of the Ordinance being requested for variance.
8. The degree of variation from the requirements of the land use controls shall be considered, with special consideration of the Shore Impact Zone
9. In no case may a variance be granted which the Board of Adjustment determines will violate MPCA Storm water or Wetlands Regulations and/or rules.
10. When in the opinion of the Board of Adjustment a Variance may result in a material adverse effect on the environment, the appellant may be required to demonstrate the nature and extent of the effect.
11. The Board of Adjustment may consider any adverse effect on government services.
12. The Board of Adjustment has exclusive power to order the issuance of variances from the terms of the Itasca County Zoning Ordinance. Upon approval or denial of an application, any aggrieved person may appeal the Board of Adjustment's decision to District Court. The judicial review information is set forth in Section 18.4 of the Itasca County Zoning Ordinance.
13. An applicant receiving an approved variance must inform the Environmental Services Department when repairs/construction is complete and schedule a compliance inspection to check that the terms and conditions of the variance have been met. This includes required mitigation measures.

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DEFINITIONS:

General Development (GD) lakes - GD lakes are large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes are extensively used for recreation and except for the very large lakes are heavily developed around the shore. Second and third tiers of development are common.

Recreational Development (RD) lakes. RD lakes are medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. Moderate levels of recreational use and existing development often characterize them.

Natural Environment (NE) lakes - NE lakes are small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high water tables, exposed bedrock, and soils unsuitable for septic systems. These lakes usually do not have much existing development or recreational use.

Phosphorus Sensitive (PS) lakes - PS lakes are lakes exhibiting the greatest potential for water quality impairment as determined by the Minnesota Lake Eutrophication Analysis Procedure (MNLEAP Itasca, W. Walker, 2005). MNLEAP uses readily available information (i.e., watershed area, lake area, mean depth, and lakeshore land use inputs) to provide a simple screening tool for predicting natural and developed lake water quality conditions. The sanitation setbacks and impervious surface coverage requirements on PS lakes are the same as Natural Environment lakes.

Trout Streams - All Trout Streams officially designated by the Minnesota Department of Natural Resources shall be assigned to the Natural Environment-1 lake class. Designated Trout Streams are specifically listed in Minn. Rule 6264.0050 subp. 4 and are subject to periodic change. If the Trout Stream identified in the Itasca County Public Waters Classification List should deviate in any way from those listed in Minnesota Rules cited above, then the designation listed in Minnesota Rules shall take precedence.

Remote river segments - Remote river segments are located in roadless, forested, and sparsely populated areas.

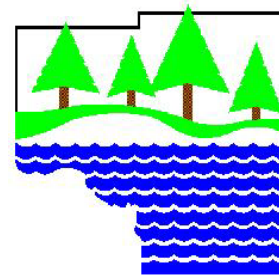
Forested river segments - Forested river segments are located in forested and sparsely to moderately populated areas.

Tributary river segments - Tributary river segments include river segments that are not classified as Remote or Forested.

Shore Impact Zone - The land located between the ordinary high water level (OHWL) of public water and a line parallel to it at a setback of 50 percent of the required structure setback for the applicable lake or river classification. The shore impact zone for permitted agricultural land uses is 100 feet from the OHWL.

**Procedures for Processing and Criteria for Granting
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CHECKLIST

Information required at the time of submission to process Variance Applications

- _____ **Completed Application**
- _____ **Detailed Sketch**
- _____ **Fee \$475**
- _____ **Stake Out Site**—all proposed structures/additions must have corner stakes
- _____ **Certification of SSTS** – Evaluate and upgrade SSTS to comply with the requirements of Minnesota Rules Chapter 7080-7083.
- _____ **Mandatory Lakeshore Mitigation Plan, if within Shoreland zoning district.**
- _____ **Answers to Findings of Fact and Criteria Necessary for Granting or Denying a Variance, and other applicable questions.**

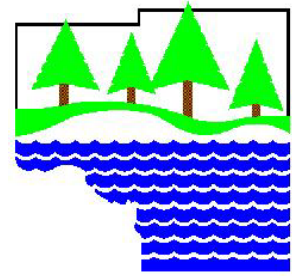
QUESTIONS AND FURTHER INFORMATION: Please contact Environmental Services, 8:00 a.m. - 4:30 p.m., M-F.

I have read and fully understand the above instructions.

SIGNATURE _____ DATE _____

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Itasca County Website Information

ITASCA COUNTY ZONING ORDINANCE

- 1) Go to www.co.itasca.mn.us
- 2) Click on DEPARTMENTS
- 3) Click on ENVIRONMENTAL SERVICES
- 4) Scroll down and click on ITASCA COUNTY ZONING ORDINANCE
- 5) Click on ITASCA COUNTY ZONING ORDINANCE

ITASCA COUNTY COMPREHENSIVE LAND USE PLAN

- 1) Go to www.co.itasca.mn.us
- 2) Click on DEPARTMENTS
- 3) Click on ENVIRONMENTAL SERVICES
- 4) Scroll down and click on COMPREHENSIVE LAND USE PLAN

ITASCA COUNTY PUBLIC WATERS CLASSIFICATION LIST

- 1) Go to www.co.itasca.mn.us
- 2) Click on DEPARTMENTS
- 3) Click on ENVIRONMENTAL SERVICES
- 4) Scroll down and click on ITASCA COUNTY PUBLIC WATERS CLASSIFICATION LIST

MAPS

- 1) Go to www.co.itasca.mn.us
- 2) Click on PROPERTY INFO
- 3) Click on MAPS - then Click on INTERACTIVE GIS MAPS
- 4) Click ZOOM IN / CLICK AND DRAG CURSOR over township and range / CLICK AND DRAG CURSOR over section / keep zooming in
- 5) Click on IDENTIFY PARCEL to get the tax parcel information on a parcel number that you click on

PLATS

- 1) Go to www.co.itasca.mn.us
- 2) Click on DEPARTMENTS
- 3) Click on SURVEYING AND MAPPING
- 4) Click on RECORDED PLATS & SURVEYS
- 5) Click on PLATS OF ITASCA COUNTY
- 6) Click on plat of interest in the alphabetical listing of plats