

WALWORTH COUNTY SPECIAL EXCEPTION APPLICATION FORM AND NOTICE OF REQUIREMENTS

Special Exception

The Walworth County Board of Adjustment may hear and decide SPECIAL EXCEPTIONS in accordance with Section 74-111/74-240 of the Walworth County Code of Ordinances and requirements of the Federal Fair Housing Act, the Wisconsin Fair Housing Acts or the Americans with Disabilities Act. Before the Board of Adjustment may grant permission to construct a deck, patio, walkway or second access to a pier (tram) in a location that would otherwise not be allowed by the ordinance, the Board of Adjustment must find that the request is for a disabled person who resides on the parcel and the applicant would have to show that a structure with smaller dimensions would not be adequate to allow the disabled person access to the residence or pier.

Process

Special Exception requests shall be filed in the Zoning Office of the Walworth County Land Management Department within 30 days after the date of written notice of the decision of order of the Zoning Administrator. At the time of application you will be asked to:

- 1) complete an application form and submit a \$450 fee (made payable to Walworth County);
(Filing fee is not refundable)
- 2) provide a written statement describing request;
- 3) provide a plat of survey (if applicable). The plat must show the location of the buildings on the lot, proposed buildings, additions, etc. and the distances to the lot lines, body of water and roads;
- 4) provide detailed construction plans and photos;
- 5) stake out all features of the property related to the request so the Board may inspect the site;
- 6) provide a detailed map and directions to the subject property from Elkhorn;
- 7) It is recommended that the applicant or a representative present the proposal to the Town Board to receive a recommendation. Some Townships will recommend denial if they have not been notified.

Following these steps, the Zoning Division will publish notice of your request for special exception in the County's official newspaper noting the location and time of the required public hearing. The Zoning Department will also notify abutting property owners. The hearing date is set by the Board of Adjustment. Hearings will be on the second Wednesday of the month at 8:30 a.m. DUE TO LEGAL PUBLICATION REQUIREMENTS THESE HEARINGS ARE SUBJECT TO FILING DEADLINE DATES. THEREFORE, IT IS IMPORTANT THAT YOU CHECK WITH THE ZONING DEPARTMENT FOR THE DEADLINE DATES. The Board of Adjustment agenda is limited to 12 hearings. Upon reaching the limit, complete applications submitted shall be scheduled for the next available agenda. Hearings postponed or tabled by the Board of Adjustment will be scheduled at the end of next months agenda.

The burden will be on you as the property owner to provide verifiable facts upon which the Board may base its decision. It is necessary for the applicant or a representative to be present at the hearing. At the hearing, any party may appear in person or be represented by agent or attorney. If any of these requirements are not met or if you or your agent do not appear at the public hearing, the Board may deny your request and your fee will be forfeited.

Cancelled hearings require another filing fee of \$450.

Postponed hearings require a filing fee of \$100 to cover administrative costs and publication expenses.

DECISION

The Board of Adjustment may, in conformity with the provisions of the Ordinance, grant special exceptions. The permit shall be temporary, may continue as long as disabled persons reside on the parcel and shall be removed not more than 30 days after the disabled person vacates the parcel. The Board of Adjustment may require the filing of a deed restriction in the register of deeds office to assure removal of the structure in accordance with the stipulation of approval. A structure, no larger than is necessary to allow the disabled person to get in and out of the building, would not significantly undermine the basic purpose of the zoning ordinance, especially since they are temporary. The Thursday after the public hearing is when the Board of Adjustment makes their decision regarding the appeal. You may call the Zoning Department on that Thursday after 1:00 p.m. for the results.

JUDICIAL REVIEW

Board of Adjustment decisions may be appealed to the Circuit Court, within 30 days of the Boards decision, by a procedure known as certiorari. Following are the general review standards which courts have used to decide appeals of Board of Adjustment decisions. You might consider these points to determine whether any decision of the Board of Adjustment is likely to be reversed on appeal.

- < Did the Board decide a matter which it is empowered by statute or ordinance to act on (subject matter jurisdiction)?
- < Did the Board follow proper procedures (e.g. notice, hearing, reviewable record, open meeting law, etc.)?
- < Was there a rational basis for the decision (could a reasonable person have reached this conclusion)?
- < Is there evidence in the record (facts) to support the decision

