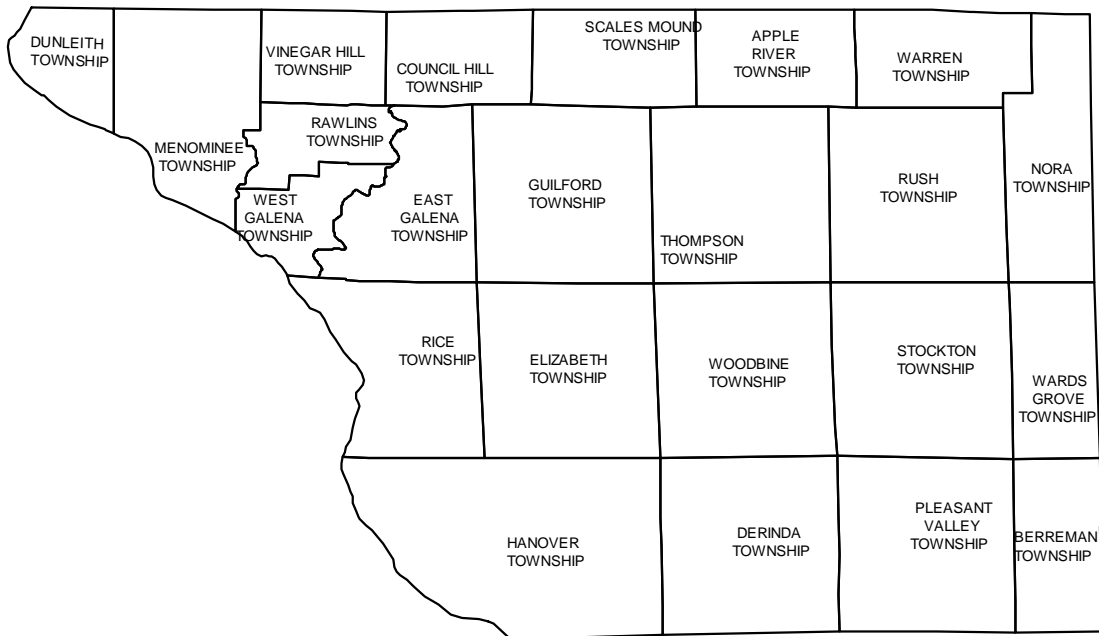


Variance Application



Revised 09/22/2022

***Jo Daviess County Planning & Development Department
1 Commercial Drive, Suite 1
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Kristina Tranel, Planning & Development Administrator***

Introduction

A variation is a zoning adjustment which permits minor changes of district requirements where individual properties are both harshly and uniquely burdened by the strict application of the law. The power to vary is restricted and the degree of variation is limited to the minimum change necessary to overcome the inequality inherent in the property. Use variations are specifically prohibited. "Variation" means the modification of the requirement of a zoning district and does not include the substitution of uses to other districts.

- A variation recognizes that the same district requirements do not affect all properties equally; it was invented to permit minor changes to allow hardship properties to enjoy equal opportunities with properties similarly zoned. You must prove that your land is affected by special circumstances of unusual conditions. These must result in uncommon hardship and unequal treatment under the strict application of the Zoning Ordinance. Where hardship conditions extend to other properties a variation cannot be granted. The remedy for general hardship is a change of the map or the text of the Zoning Ordinance.

- You must prove that the combination of the Zoning Ordinance and the uncommon conditions of your property prevent you from making any reasonable use of your land as permitted by your present zoning district. Since zoning regulates land and not people, the following conditions cannot be considered pertinent to the application for a variation: (1) proof that a variation would increase the financial return from the land; (2) personal hardship; (3) self-imposed hardship. In the last case, the recognition of conditions created after the enactment of the Zoning Ordinance would encourage and condone violation of the law.

- No variation may be granted which would adversely affect surrounding property or the general neighborhood. All variations must be in harmony with the intent and purposes of the Zoning Ordinance. The information contained in this package is to help you become familiar with the various requirements that must be met before your variation application can be accepted. This information will also prepare you to provide testimony and address any questions that might be raised at the public hearing.

Illinois Compiled Statutes, Chapter 55, Section 5/5-12001 et. seq. contains statutory provisions relating to zoning. The *Jo Daviess County Zoning Ordinance* has been adopted pursuant to these provisions.

Once your application is accepted, the entire variation process generally takes approximately 2 to 3 months to complete. Careful and proper preparation of your application is essential to obtaining a variation and, in the long run, you will save considerable time and expense for both yourself and the County.

If you should have any questions, please feel free to call the Jo Daviess County Planning & Development Department at (815) 591-3810. If you wish to visit the office to discuss your application, please call ahead for an appointment.

Before Filing the Application

You are strongly urged to meet with the staff of the Planning & Development Department before preparing any variation application. The Staff will advise you on the correct form to use, how to complete the application, explain the procedures involved and attempt to identify potential problems which might be encountered. You may wish to obtain a copy of the Zoning Ordinance, available from the Planning & Development Department, and become familiar with the standards and requirements applicable to the requested variation.

If you have any questions concerning any standards or requirements of the Zoning Ordinance or require an interpretation of any provision of the Zoning Ordinance, you may wish to consult with the staff of the Planning & Development Department. It is also advisable to consult with the staff of various County Departments and agencies such as the Health Department or Highway Department before filing your application. The staff of the Planning & Development Department will notify these and other affected agencies to seek their comments prior to the Zoning Board of Appeals (ZBA) public hearing.

Before filing your application, you should also discuss the proposal with all adjacent property owners.

Filing the Application

The following documents, information, and the correct filing fee must be submitted in proper form before your application will be accepted for processing.

The Application: The attached application must be completed in its entirety. The application must address how each requested variation meets the applicable standards contained in the Zoning Ordinance.

The Applicants: All the owners of the subject property must be the applicants. If the property is subject to a contract to purchase, the contract purchaser shall also join as an applicant. Likewise, if the property is owned or to be purchased by a land trust, the trustee shall be an applicant.

Disclosure: Whenever applicable, the following disclosures must be made:
When the applicant is a land trust or trustee of a land trust, the application shall identify each beneficiary of such land trust by name and address and define each beneficiary's interest therein. All Applications shall be verified by the applicant in his or her capacity as trustee. When the applicant is a corporation, the applicant shall include the correct names, addresses and percent interest of all stockholders or shareholders owning any interest in excess of 20 percent of all outstanding stock of such corporation. If the corporation has no shareholders, a statement to that effect shall be submitted. When the applicant is a business entity doing business under an assumed name, the application shall include the names and addresses of all true and actual owners of such business or entity.

When the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the application shall include the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.

Deed and Purchase Contract: A copy of the deed to the subject property (available from the office of the Jo Daviess County Recorder located on the first floor of the Jo Daviess County Courthouse) is required in all cases. If the property is subject to a purchase contract, a copy of the contract must also be submitted (however, the purchase price may be deleted).

Maps: Certain information must be graphically shown on maps which accompany your application. **Sixteen (16) copies** of all maps must be submitted. The map(s) may be any scale so long as the scale is an increment of ten feet (10') or one hundred feet (100'), shall be on a not larger than 30" x 36", folded to approximately nine inches by twelve inches (9" x 12"). The following information is required to be shown on these maps:

- The parcel for which the variation is requested (a plat of survey is preferred, if one is available).
- The dimensions and acreage (or square footage) of the subject parcel.
- The location of all improvements, if any, on the subject property and the distances from these improvements to all property lines.
- The location of any existing well(s) and septic system(s) on the subject property.
- The location of any proposed improvements, if any, on the subject property and the distances from these improvements to all property lines.
- If the variation requested is for building height, a building elevation view.
- All existing roads/streets (including correct name[s]) adjacent to the subject property.
- Any unique natural/physical features on or adjacent to the subject property (flood plain, wetlands, steep slopes, drainage features, geologic features, etc.) which affect the use of the property and are related to the application for a variation.

Application Fee: The application fee is to be paid at the time of filing the application. Checks must be payable to the "Jo Daviess County Treasurer." See the attached Zoning Fee Schedule for the proper amount. This fee is not refundable.

Note: It is solely the responsibility of the applicants to make sure that all information submitted, including the legal and general description of the property, is accurate as the information will be used for publication of the legal notice required by statute and ordinance. The County of Jo Daviess disclaims all responsibility if any of the information submitted by the applicants is inaccurate or in error. The required filing fee must accompany the request. Regardless of the final action, all fees are non-refundable.

Note: It is the sole responsibility of the applicant to provide a complete submittal package at time of submission. (If petitioner submits additional information either by their own accord or by the direction of the Zoning Administrator or Zoning Board of Appeals, then the additional information must be submitted no later than five (5) business days prior to the Zoning Board meeting to which they will be appearing.)

PETITION FOR VARIATION

Owner (All beneficiaries if property is held in a land trust. All stockholders holding over 20% of the stock if owner is a corporation.)

Name: _____

Address: _____ City: _____ State: ____ Zip: _____

Phone: _____ Email: _____

Contract Purchaser or Petitioner if other than Owner

Name: _____

Address: _____ City: _____ State: ____ Zip: _____

Phone: _____ Email: _____

Subject Property

PIN: 43-____-____-____-_____

Common Address: _____

That the above property is currently zoned: _____

That under the current zoning classification, the petitioners are prohibited from utilizing the property in the following manner:

That the following variation is hereby requested and is the minimum adjustment to the standards and requirements of said zoning district necessary to permit the applicant's desired use:

That the petitioner(s) have read and are familiar with each of the standards for variations contained in the *Jo Daviess County Zoning Ordinance* and believe this request meets each and all of these standards, and have answered all of the questions to the best of his/her/their knowledge and belief:

Note: The following questions must be answered completely. If additional space is needed, attach extra pages.

1. What characteristics of your property prevent its being used for any of the uses permitted in your zoning district?

- | | | |
|--------------------------------------|------------------------------------|--|
| <input type="checkbox"/> Too narrow | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Too small | <input type="checkbox"/> Slope | <input type="checkbox"/> Subsurface(geology) |
| <input type="checkbox"/> Too shallow | <input type="checkbox"/> Shape | <input type="checkbox"/> Other |

If other, please explain:

2. Describe the item(s) checked above, giving dimension(s) where appropriate:

3. How do the above site conditions prevent any reasonable use of your property under the terms of the Zoning Ordinance?

4. To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance or applicable part thereof was adopted by the Jo Daviess County Board?

Yes: _____ No: _____

If "No", explain why the hardship should not be regarded as self-imposed:

5. Are the conditions on your property the result of other man-made changes (such as relocation/widening of a road or highway)? Yes: _____ No: _____

If "Yes", please describe:

6. Which of the following types of modifications will allow you a reasonable use of your land?

a. Change in setback requirement? _____

b. Change in lot area requirement? _____

c. Change in building height requirement? _____

d. Change in off-street parking requirement(s)? _____

e. Change in Guest Accommodations Standard requirements? _____

7. State the variation requested, giving distances where appropriate: _____

8. Are the conditions of hardship for which you request a variation generally true only of your property? Yes: _____ No: _____

If not, how many other properties are similarly affected?

9. Will the granting of a variation in the form requested be in harmony with the neighborhood and not contrary to the intent and purpose of the Zoning Ordinance? Yes: _____ No: _____

Elaborate:

I hereby swear that the information given herein is true and complete.

Petitioner/Applicant

Petitioner/Applicant

Signed and sworn to before me this _____ day of _____.

Notary Public

- Please Submit evidence of Title (Deed or Title Insurance Policy or Valid Contract to Purchase) (1 Copy)
- Please Submit Photos/ Site Plan if appropriate (16 Copies)

(left blank on purpose)

CONSENT TO ON-SITE INSPECTION

Your petitioner(s), _____, respectfully represent to the Planning Commission of Jo Daviess County, as follows:

Name(s)

That _____, are the owners of record of the real estate which is the subject of this petition and more commonly known as

Owners Name(s)

Address City Township

That the Petitioners are requesting a Public Hearing for the subject property.

That the petitioners of the described real estate do hereby freely and voluntarily consent to inspection of the site of the parcel in question for purposes of determining the appropriateness of the pending proposed zoning petition by the Jo Daviess County Planning Commission and hereby release such persons from any liability based in whole or in part on the inspection of the parcel in question.

That in exchange for the above actions by the Petitioner(s), Jo Daviess County agrees that at least one (1) member of the Planning Commission will inspect the parcel in question prior to considering the evidence presented upon the above petition.

(Owner) Signature

(Owner) Signature

SUBSCRIBED and SWORN to before me

this _____ day of _____, 20____.

NOTARY PUBLIC

LIVESTOCK AFFIDAVIT

State of Illinois)
)
County of Jo Daviess)

RE: _____

_____ after being first duly sworn on oath depose(s) and say(s):

I (We) hereby certify that to the best of my (our) knowledge, the site that is subject of the above application is not within one-quarter mile (1,320') of a "livestock management facility and/or livestock waste handling facility" with more than fifty (50) animal units pursuant to the *Illinois Livestock Management Facilities Act*.

Affiant

Affiant

Acknowledgment

State of Illinois)
)
County of Jo Daviess)

I, _____, Notary Public in and for the State and County aforesaid, do hereby certify that _____, personally, known to me to be the same person(s) whose name(s) are subscribed to the foregoing affidavit, appeared before me this day in person and signed and delivered the said affidavit for the uses and purposes therein set forth as his or their free and voluntary act.

Giver under my hand and notarial seal this _____ Day of _____, 20_____.

Notary Public

My Commission Expires

(Seal)

Jo Daviess County Planning & Development

Kristina Tranel, Planning & Development Administrator

1 Commercial Drive Suite 1

Hanover, IL 61041

Telephone: (815) 591-3507 or (815) 591-3810

Fax: (815) 591-2728

Email: plan@jodaviesscountyil.gov

Website: www.jodaviesscountyil.gov

Fee Schedule

Zoning Variances:

Single residential lot or parcel ----- \$175.00
Commercial or industrial lot or parcel ----- \$250.00

Administrative

Administrative Variances----- \$125.00

ACTION TO CORRECT A VIOLATION

When any action is taken to correct a violation of any kind the fee will be increased by 50%.

Zoning Variances:

Single residential lot or parcel----- \$262.50
Commercial or industrial lot or parcel----- \$375.00

Administrative

Administrative Variances----- \$187.50

The Jo Daviess County Planning & Development Fee schedule can be viewed in its entirety by visiting our website www.jodaviesscountyil.gov or a copy may be requested.

Article 2c: Variations

8-2c-1 Administrative Variation as to Location or Bulk of Structures:

If an application is made for a variation of ten percent (10%) or less of the regulations of this ordinance governing the location of structures or as to the bulk requirements under this ordinance, such variation may be granted by the Zoning Administrator without a public hearing, provided that, before such variation is granted, a Notice of Intent to grant such is sent by certified mail to all adjoining landowners, and no adjoining landowner files a written objection with the Zoning Administrator within fifteen (15) days of receipt of such Notice of Intent. If within fifteen (15) days after receiving such Notice of Intent, an adjoining landowner files a written objection to such variation with the Zoning Administrator, then the requested variation shall be heard and decided, after a public hearing, by the Zoning Board in accordance with this Article.

8-2c-2 Procedure for Variations:

- A. All variations, except for Administrative Variations as described herein, shall be made only by ordinance, resolution or otherwise in a specific case and after a public hearing before the Zoning Board.

Applications for Variations – An application for a variation shall be filed with the Zoning Administrator in such form and accompanied by such information as may be required by the Zoning Administrator.

Public Hearing –The Zoning Administrator shall deliver the application to the Zoning Board who shall hold a public hearing on each application for a variation at such time and place as shall be established by the Zoning Board.

Standards for Variations - The Zoning Board of Appeals shall make findings of fact based upon the evidence presented to it specifying the reason for making such variation including findings with respect to the following standards:

1. The physical surroundings shape, or topographical conditions of the specific property will cause practical difficulties or a particular hardship to the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
2. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property within the same zoning classification.
3. The purpose of the variation is not based exclusively upon a desire to make more money out of the property.
4. The alleged difficulty or hardship is caused by this ordinance and has not been created by persons presently having an interest in the property.
5. The granting of the variation will not alter the essential character of the locality, and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

6. **The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public street, or increase the danger of fire or flooding, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**
 7. **The variation requested is the minimum variation that will make possible the reasonable use of the land or structure.**
- B. There shall be at least fifteen (15) days notice of the date, time, and place of such public hearing published in a newspaper of general circulation published in the township or road district in which the subject property is located. If no newspaper is published in such township or road district, then such notice shall be published in a newspaper of general circulation published in Jo Daviess County having circulation where such property is located. Costs or charges for publication of such notice shall be paid by the petitioner or applicant.**
- C. The Notice of Public Hearing for a Variation shall contain:**
1. **the particular location of the real estate for which the variation is requested by legal description and street address, and if no street address then by locating such real estate with reference to any well-known landmark, highway, road, thoroughfare or intersection;**
 2. **whether or not the petitioner or applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal;**
 3. **whether petitioner or applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of 20% of all outstanding stock of such corporation;**
 4. **whether the petitioner or applicant, or his principal if other than the applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity;**
 5. **whether the petitioner for application is a partnership, joint venture, syndicate or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association; and**
 6. **a brief statement of what the proposed variation consists.**
- D. The Zoning Board may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards set out in this Ordinance to reduce or minimize the effect of such variation upon other property in the neighborhood and to better carry out the general intent of this Ordinance.**

- E. Finality of Zoning Decisions of the Zoning Board for Variations: The decision and findings of the Zoning Board on an application for variation, after a public hearing, shall, except as provided in sub-section F. of this section, be final.**

- F. Objection of Townships in Certain Cases: If a township located within the county has a plan commission, and the plan commission objects to a zoning variation which affects unincorporated areas of the township, the township board of trustees within fifteen (15) days after the public hearing before the Board of Appeals on such zoning variation, may submit its written objections to the County Board of the county where the unincorporated areas of the township are located. In such case, the County Board shall not approve the zoning variation, except by the favorable vote of $\frac{3}{4}$ of all members of the County Board.**