



1025-01727

BZAV25-00005

City of Waukesha
Department of Community Development
BOARD OF ZONING APPEALS
201 Delafield Street, Waukesha, WI 53188

Stamp Date Received

NOTICE: The Board meets on the second Monday of every month at 4:00 p.m. at Waukesha City Hall. **ATTENDANCE OF THE APPLICANT OR A REPRESENTATIVE IS REQUIRED.** Failure to appear could result in the application being acted on without the applicant's input, or it could result in the item being removed from the agenda, requiring the applicant to reapply and pay another filing fee.

The appeal or application must be filed with the Community Development Department at least 17 days before the Board's meeting and within 20 days of the Zoning Inspector's order or decision, accompanied by the filing fee of **\$375.00**.

This application is for (choose one)

☒ A variance from section 22.53(2)⁽¹⁾ of the zoning code ☐ An appeal from the decision of the Zoning Inspector

For the property identified below:

Project Address: 1040 W. Cumberland Dr. OR Tax Key #: _____

Current Zoning: Rs-3 Existing Use: _____

ATTACH DETAILED DESCRIPTION OF PROPOSAL including what is being requested, the rationale, and if a variance request, the facts and circumstances that satisfy the criteria for variance listed on the reverse of this form.

In order to be placed on the Board of Zoning Appeals agenda, the Community Development Department must receive the completed application, fee, project description, and a set of plans in PDF format by the applicable deadline. If this is an appeal from the decision of the Zoning Inspector, also attach a copy of the decision or order rendered by the Zoning Inspector and a statement of principal points on which the appeal is based. The Community Development Department - Planning Division should be consulted to assure an application is complete before being submitted.

SEE REVERSE FOR DEADLINES AND ADDITIONAL INFORMATION.

Applicant: (Person to receive notices)

Name: Kayla Schneider

Address: 1040 W Cumberland Dr.

City & Zip: Waukesha 53188

Phone: (414) 550-5284

E-mail: Kay.waukau@gmail.com

Owner of property:

Kayla + Nicholas Schneider

I certify that the above statements and the statements contained in the materials submitted with this application are true and correct.


Applicant Signature

7/21/25
Date

PLEASE NOTE: THIS FORM MUST BE ACCOMPANIED BY A \$375.00 FILING FEE

For Internal Use Only		
Amount Paid: _____	Check # _____	Received by: _____

VARIANCES

A variance is a special exemption from the city zoning code granted by the Board of Zoning Appeals in unusual circumstances on a case-by-case basis. Variances are difficult to obtain, and they are not granted simply because of an applicant's desire to do certain things or use a property in a certain way. In order to receive a variance an applicant must show that a unique hardship exists on the applicant's property. An applicant bears the burden of proving that all of the following criteria for a variance are satisfied:

1. Special circumstances exist that apply only to the property for which the variance is requested, and not to any other neighboring properties. The special circumstances must relate to the property itself, and not to the applicant's desired use of the property. Explain the circumstances and how they are unique to the applicant's property.
2. Without a variance, substantial property rights that are enjoyed by neighboring properties will be denied to the applicant. Explain how the owners of neighboring properties are able to enjoy property rights that the applicant cannot.
3. The variance is not being requested solely for economic loss or gain. Explain how the variance is not just to increase property value or to allow profit-making activities.
4. The applicant's hardship is not self-created. Explain how the special circumstances relating to the property are not caused by the applicant's actions or wishes.
5. The variance would not defeat the purpose of the zoning ordinance, and would not be a detriment to neighboring properties. Variances cannot be contrary to the policy reasons for the ordinance from which the variance is requested. Explain how the variance would work within the existing zoning rules and not undermine the reasons for them.

In addition, please provide the following information:

If applicant is asking for a use variance, explain how the property will have no reasonable use unless a variance is granted.

If applicant is asking for a dimensional variance, explain how complying with the current rules is unreasonable or creates an unnecessary burden on the applicant.

1. Special circumstances exist that apply only to the property for which the variance is requested, and not to any other neighboring properties. The special circumstances must relate to the property itself, and not to the applicant's desired use of the property. Explain the circumstances and how they are unique to the applicant's property.

The subject property, located at 1040 W Cumberland Drive, presents a unique configuration in which the main entrance, mail delivery, and primary orientation all face Hine Avenue. There is no point of access or entry on the side of the house facing Cumberland Drive. Despite this, zoning regulations currently identify the yard facing Cumberland as the "front yard" due to the property's address. This designation does not reflect the actual use or orientation of the home. Furthermore, as illustrated in the attached aerial photo, the rear yard is significantly limited in depth—approximately 12 feet from the neighboring property—providing little to no usable backyard space in contrast to other properties on the block. These unique physical circumstances justify the need for a variance to designate the yard along Cumberland as a side yard, consistent with the home's orientation and functional layout.

2. Without a variance, substantial property rights that are enjoyed by neighboring properties will be denied to the applicant. Explain how the owners of neighboring properties are able to enjoy property rights that the applicant cannot.

Unlike neighboring homeowners, we are unable to enjoy a private and functional backyard due to the property's layout and zoning designation. Most homes on our block benefit from rear yards ranging between 4,000 to 6,000 square feet, allowing for outdoor privacy and the installation of privacy fencing. However, due to the orientation of our house and the misclassified front yard designation along Cumberland Drive, we are denied these same privileges. Granting this variance would enable us to repurpose part of our yard currently labeled as "street yard" to function as a true backyard, thereby aligning our property rights with those enjoyed by adjacent homeowners.

3. The variance is not being requested solely for economic loss or gain. Explain how the variance is not just to increase property value or to allow profit-making activities.

The request for a variance is not motivated by financial interest or an attempt to increase the property's market value. Instead, the goal is to create a safe, private, and functional outdoor space—particularly important for the well-being of our children and pets. Due to the current configuration, we are unable to utilize our yard in a typical manner. This variance would correct that disparity and allow us to enjoy basic residential comforts that are standard in the surrounding neighborhood.

4. The applicant's hardship is not self-created. Explain how the special circumstances relating to the property are not caused by the applicant's actions or wishes.

The challenges associated with our property's configuration are entirely the result of its original layout and orientation—not of any actions taken by us as the current homeowners. While the official address is on Cumberland Drive, the front door and only accessible entry are on Hine Avenue. Adhering to current zoning definitions would require placing a fence directly in front of our main entryway, obstructing access and mail delivery. This hardship stems from municipal definitions not aligning with the physical realities of the property. Granting the variance would allow for a more accurate and functional application of zoning regulations, without negatively impacting public access or neighborhood character.

5. The variance would not defeat the purpose of the zoning ordinance, and would not be a detriment to neighboring properties. Variances cannot be contrary to the policy reasons for the ordinance from which the variance is requested. Explain how the variance would work within the existing zoning rules and not undermine the reasons for them.

Approving this variance would not conflict with the underlying purposes of the zoning ordinance. Rather, it would correct a misalignment between the code's language and the property's actual orientation and use. The request respects the intent of zoning regulations by maintaining orderly development and neighborhood character, while also enabling a reasonable and appropriate use of private outdoor space. The proposed fence would not obstruct sightlines, entry points, or mail access and would not negatively impact any neighboring properties. Instead, it would allow this property to function in a manner consistent with others in the immediate area.

In addition, please provide the following information:

If applicant is asking for a use variance, explain how the property will have no reasonable use unless a variance is granted:

Currently, the yard facing Cumberland is strictly being used as extra area for us to maintain but have no real benefit of use. Allowing a variance for a fence to be installed would allow proper backyard usage that this property currently does not have.



We're requesting approval to install a 6-foot white vinyl fence along the perimeter of our home—starting from the backyard, running along the side of the house, and ending at the front corner, as shown by the red dashed line on the attached plan.

This fence won't block any entrances or affect visibility from the street. Since there's no entry point on our home facing Cumberland Avenue, and both our front door and mailbox are on Hine Avenue, we consider this portion of the property to be our side yard, not the front.

We plan to add our house number ("1040") clearly on the front corner of the fence facing Cumberland to ensure it's easy to identify.

We're asking for this variance so we can better use the side yard as a backyard, which the property currently doesn't have.



6ft. White vinyl fencing