

**APPEAL TO THE
ZONING BOARD OF ADJUSTMENT
CITY OF GUTTENBERG**

Applicant: _____ Date: _____

Address: _____ Fee Receipt # _____

Application is hereby made to the Zoning Board of Adjustment for:

- _____ Administrative Review of ordinance Sec. 165.39 (1)
- _____ Special Exception to the ordinance Sec. 165.39 (2)
- _____ Variance from the ordinance requirements Sec. 165.39 (3)

The purpose of this appeal is to permit: _____

Legal description of the property affected: _____

Lot of Tract Area: _____ Estimated Cost: \$ _____

Front Yard Distance: _____ Zoning District: _____

Side Yard Distance (x 2) _____ Height Distance: _____

Rear Yard Distance: _____

Principal Use: _____

Accessory Use: _____

Other Information: _____

Attach supporting documentation required by Section 165.39(3)(a) (1-5).

Signed: _____
(Applicant)

NOTICE TO APPLICANT

Section 165.39 of the Zoning Ordinance required the Applicant to submit the following information, which **must** accompany this Appeal **before** it can be considered by the Zoning Board of Adjustment.

For a **SPECIAL EXCEPTION** to the zoning ordinance:

1. A written application indicating the section of zoning ordinance under which the special exception is sought and stating the grounds on which it is requested.

For a **VARIANCE** from the zoning ordinance a written application demonstrating that:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
2. Literal interpretation of the provision of this ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
3. Special conditions and circumstances do not result from the actions of the Applicant.
4. Granting the variance requested will not confer on the Applicant any special privileges that is denied by the ordinance to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

165.39 BOARD OF ADJUSTMENT – POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. **Administrative Review.** To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this chapter.
2. **Special Exceptions; Conditions Governing Applications; Procedures.** To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of this chapter to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, and to deny special exceptions when not in harmony with the purpose and intent of this chapter. Special exceptions shall not be granted by the board unless and until an administrative fee of one hundred twenty-five dollars (\$125.00) has been paid, and:
 - A. A written application for a special exception has been submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested, and
 - B. Notice shall have been given at least four days in advance of the public hearing on said application for the special exception by publication in a newspaper of general circulation in the City, and
 - C. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or attorney, and
 - D. The board shall have made a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and the board shall have determined that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter and punishable under Chapter 165. The board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall void the special exception.
 - E. The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.
3. **Variances; Conditions Governing Applications; Procedures.** To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary

hardship. A variance from the terms of this chapter shall not be granted by the board unless and until, an administrative fee of one hundred twenty-five dollars (\$125.00) has been paid, and:

A. A written application for a variance shall have been submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district, and

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of right commonly enjoyed by other properties in the same district under the terms of this chapter, and

(3) That the special conditions and circumstances do not result from the action or actions of the applicant, and

(4) That granting the variance requested would not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts shall be considered grounds for the issuance of a variance, and

(5) The names and addresses of the property owners adjacent to the proposed improvement indicating their approval or denial.

A. Notice of public hearing shall have been given as in Section 165.39(2)(B) above, and

B. The public hearing shall have been held at which time any party shall have been permitted to appear in person, or by agent or by attorney, and

C. The board shall have made findings that the requirements of Section 165.39(3)(A) have been met by the applicant for a variance, and

D. The board shall further have made a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure, and

E. The board shall further have made a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.