



Structure Setback Requirement

Structure Setbacks Ensure Resource Protection



Structure setbacks help protect the water quality and scenic value of Minnesota lakes by providing space for a buffer area of trees, shrubs, and other vegetation along the shoreline that is capable of filtering nutrients and sediment from runoff that flows to the lake. Capturing nutrients and sediment before they reach the lake maintains or improves water quality, thereby enhancing property values. The other reason for the setback requirement is to maintain or enhance the aesthetic value of the lakeshore for those citizens recreating on the lake itself. Homes and buildings that meet the setback requirement also decrease the visibility of the building from people recreating on the lake because natural vegetation is between the structure and the lake. The additional screening of the structure provides a natural and undisturbed setting for other lakeshore owners and recreating on the lake.

Impacts of Setback Variances

Good land use decisions have a positive economic impact on land values of shoreland properties. Developing only lakeshore lots that have adequate area and lot width will ensure the water quality and aesthetics of what draws Minnesotans to our lakes. Granting a structural setback “variance” may result in more requests that contribute to poor water quality. Granting variances that authorize structures closer to the lake than required in an ordinance will increase soil compaction and impervious surface coverage along the shoreline. These effects have been shown to increase runoff, which results in the loss of water quality through nutrient and sediment discharge to the lake. This, in turn, may result in more nuisance algae blooms.



Shoreland setbacks are intended to keep homes away from the water's edge in order to minimize the impact of development on water quality and aesthetics.

The purpose of zoning requirements is to ensure the orderly development of shoreland in your area. Enforcement of the zoning rules will maintain the water quality, recreational and economic values, and aesthetic value of Minnesota lakes and rivers for future generations. The desires of an individual landowner, which could result in physical impacts on the lake, should be reviewed against the well being of the lake itself and the long-term economic base of the community.

The Minnesota Department of Natural Resources (DNR) opposes *any* structural variance unless there is a demonstrated “hardship,” as defined in Minnesota statute, unique to that property. The DNR urges that **no** variance be granted for any encroachment into the shore impact zone.

Conditions for a Variance

Variance is defined in statute as any modification or variation of official controls where it is determined that, by reason of *unique* circumstances, the strict enforcement of the official controls would cause unnecessary *hardship*. Only on rare occasions, however, should the local government unit grant a variance request.

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There are two basic types: use variances and area variances. **In no case shall a variance be granted to allow a use not permitted in the district.** Variances afford the landowner an opportunity to apply for administrative relief from certain provisions of the code.

In order to assist local decision makers, the DNR provides local government units additional fact sheets pertaining to many of the land use controls, such as setback requirements, for shoreland areas where variance is being considered. These references provide useful information for identifying the purpose of land use control was developed and for identifying the potential impacts if variance from an official control is approved. In most communities, a board of adjustment is charged with the task of balancing granting a variance against its impact on the surrounding area and affected natural resources.



Setback requirements that screen the house could have decreased its visibility to people recreating on the lake.

Two criteria must be met before a variance can be granted: *uniqueness* and *hardship*. These criteria require the applicant to meet a number of tests to address reasonable uses of the property:

- The property in question cannot be put to any reasonable use under the conditions allowed by the official controls.
- The plight of the landowner is due to circumstances unique to the property, not created by the landowner (the test of *uniqueness*).
- The variance, if granted, will not alter the essential character of the locality.
- Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance.
- No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
- Additionally, the variance requested should represent the **minimum** variance(s) needed to alleviate difficulties or hardships.

To ensure that a variance decision can be sustained, the local government unit must make and record “findings” that address each part of the hardship criteria.

The comments in this brochure address jurisdictional matters and concerns of the DNR, Division of Waters. Please contact your DNR Area Hydrologist to discuss issues relating to your project or this brochure.

