

## **VARIANCE OF USE INFORMATION**

**Variance** - Modification of the strict terms of the relevant regulations of the Zoning Ordinance where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

The applicant is encouraged to review IC 36-7-4-900 series regarding Board of Zoning Appeals; the relevant Zoning Ordinance, as amended; the Rules of Procedure adopted by the Board of Zoning Appeals; and the following.

1. The Board of Zoning Appeals shall approve or deny Variances of Use from the terms of the Zoning Ordinance.
2. All actions of the Board of Zoning Appeals are governed by IC 36-7-4-900 et seq., and by the Zoning Ordinance.
3. The Rules of Procedure of the Plan Commission regarding the Board of Zoning Appeals govern the actions of the Board, including how notice is provided to interested parties, how the public hearing is conducted, and when commitments are permitted.
4. The Board of Zoning Appeals shall review the variance request to determine that:
  - A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
  - B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
  - C. The need for variance arises from some condition peculiar to the property involved;
  - D. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
  - E. The approval does not interfere substantially with the Comprehensive Plan.
5. The Board of Zoning Appeals may impose reasonable conditions as a part of its approval.
6. The Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. (See: IC 36-7-4-921 and the Rules of Procedure, Board of Zoning Appeals governing commitments.)
7. In the presentation of a case, the burden shall be upon the petitioner to supply all information, including site plans, documentation, evidence and other exhibits necessary for a clear understanding of the petition. The Board or the Hearing Officer may continue the hearing or deny the petition when, in its judgment the petitioner has not provided sufficient information or evidence to make a determination.
8. If the petitioner, or an authorized agent for the petitioner, fails to appear at the scheduled hearing to represent the application, the Board or Hearing Officer may continue or withdraw the application.
9. In accordance with IC-36-7-4-1003, a decision of the Board of Zoning Appeals is subject to review by certiorari. Each person aggrieved by a decision of the Board of Zoning Appeals or the legislative body may present, to the circuit or superior court of the County in which the premises affected are located, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county in which the premises affected are located may be had in any cause arising under this section.
10. The aggrieved person shall present the petition to the court within thirty (30) days after the date of that decision of the Board of Zoning Appeals.



## **APPLICATION FOR VARIANCE OF USE**

### **Instructions**

1. Application must contain the signature of all individuals listed on the deed for the property, and contract buyer.
  2. A copy of the deed must be submitted with the application (available in the County Recorder's Office).
  3. Submit a site plan of the property showing all existing and proposed buildings, parking and loading areas, traffic access, utilities, signs, and such other information as the Board of Zoning Appeals may require to determine if the proposed variance meets the intent and requirements of the Zoning Ordinance and applicable law. Please provide a survey, if available.
  4. The required filing fee (\$150.00) must be submitted with the application.
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### **APPLICANT:**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

PHONE: \_\_\_\_\_

### **PROPERTY OWNER: (If different from applicant)**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

PHONE: \_\_\_\_\_

### **LOCATION OF PROPERTY WHERE THE VARIANCE REQUEST APPLIES: (Must be specific)**

ADDRESS: \_\_\_\_\_

**EMAIL ADDRESS OF OWNER AND APPLICANT (REQUIRED):** \_\_\_\_\_

\_\_\_\_\_

### **CURRENTLY THE PROPERTY IS:**

USED AS: \_\_\_\_\_

### **THE PURPOSE OF THIS APPLICATION IS TO PERMIT THE USE OF THE PROPERTY FOR:**

\_\_\_\_\_

\_\_\_\_\_

In order for the Variance to be granted, the request must satisfy all of the criteria contained in IC 36-7-4-918.5, the Zoning Ordinance, and other applicable law. As applicant, I submit the following evidence to the Board of Zoning Appeals to support the request:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because:

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2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

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3. The need for variance arises from some condition peculiar to the property involved because:

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4. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because:

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5. The approval does not interfere substantially with the Comprehensive Plan because:

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As the applicant, I understand that this is a request for a Variance to the terms of the Zoning Ordinance and that this request can only be granted upon the Board determining in writing that the criteria listed in IC 36-7-4-918.4 have been satisfied. I further understand that it is my responsibility to provide the information and evidence necessary to show that these criteria have been met.

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APPLICANT SIGNATURE

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DATE

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OWNERS SIGNATURE

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DATE

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PRINTED NAME

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DATE

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***TO BE COMPLETED BY THE DEPARTMENT***

*Date Filed:* \_\_\_\_\_ *Receipt #:* \_\_\_\_\_ *Zoning:* \_\_\_\_\_

*Hearing Date:* \_\_\_\_\_ *Docket #:* \_\_\_\_\_