
THE HENDRICKS COUNTY QUALITY GROWTH STRATEGY

BZA
SPECIAL EXCEPTION PROCEDURE



SPECIAL EXCEPTION PROCEDURE

Definition: A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in the Hendricks County Zoning Ordinance and authorized by the Board of Zoning Appeals.

1. Preliminary Consultation:

- a. Schedule by appointment only.
- b. On-site/in-house review.
- c. Sketch plan showing all existing and proposed improvements.

2. Application (All required information must be filed prior to placement on the agenda of the Board of Zoning Appeals) APPLICATION SUBMITTAL AND FEE RECEIPT DOES NOT CONSTITUTE PLACEMENT ON ANY SPECIFIC AGENDA OF THE BOARD OF ZONING APPEALS:

- a. Application must be filed by 3:30 P.M. at least thirty (30) days before the Board of Zoning Appeals meeting (see attached meeting schedule).
 - 1. Application must be completed in ink or typed, and the application must be completed in its entirety; and
 - 2. Application must be notarized;
- b. The following Information shall accompany the application pursuant to Section 12.7(B) of the Hendricks County Zoning Ordinance:
 - 1. A complete legal description;
 - 2. Letter of Intent (see attached checklist);
 - 3. Detailed site plan of the proposed site for the Special Exception (see attached checklist);
 - 4. Sample letter to surrounding property owners (must be approved prior to mailing); and
 - 5. List of surrounding property owners, to be notified, by name and address.
- c. Such other information as may be required by the Board of Zoning Appeals pursuant to Section 12.7(B) of the Hendricks County Zoning Ordinance.
- d. All applications must be reviewed by the Zoning Technician for completeness and accuracy, prior to acceptance.

- 3. Fee: Residential: \$460.00 plus \$55.00 for the public newspaper notification.
Commercial/Industrial: \$460.00 plus \$55.00

for the public newspaper
notification.

4. Notification:

- a. Written Notification: All land owners, to a depth of two (2) ownerships, but not to include any ownership of land located more than six hundred sixty (660) feet from the property described in the application, (see Sample Illustration of Written Notification item 1) must be notified, by certified mail, return receipt (green cards) or registered or first class mail with a USPS certificate of mailing, of a public hearing at least ten (10) days before a scheduled meeting (see attached sample illustration and procedure).
- b. Public Notification: The Planning and Building Department will submit legal notices in the Hendricks County Flyer and the Republican at least ten (10) days before a scheduled meeting.
- c. Notification Sign: The Planning and Building Department shall place a notification sign upon the real estate described in the application, at least ten (10) days before a scheduled meeting, along each road frontage. (The applicant should bring the notification sign to the Board of Zoning Appeals meeting).

5. Staff Review:

Review of all applications by the Board of Zoning Appeals staff.

Commercial and Industrial Special Exception applicants may be required to attend the Area Plan Commission Staff Review (at the discretion of the Planning Director). This is a meeting between the applicant(s) and the Area Plan Commission Staff to discuss the proposed project.

6. Board of Zoning Appeals:

A public hearing to be held on the scheduled meeting date of each month (see attached meeting schedule).

7. Action by the Board:

Any person aggrieved by a decision of the Board of Zoning Appeals may present, to the Circuit or Superior Court of Hendricks County, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality.

CHECKLIST FOR SPECIAL EXCEPTION

SITE PLAN: Pursuant to Section 12.7(B) a detailed site plan is required at the time of filing with each application.

1. The site plan must be drawn to a standard engineering scale. (A copy that is 8.5" x 11" will need to be included for duplication purposes);
2. The site plan must show the following: North arrow, Boundary lines of the property described in the application, location of all existing streets or other public ways, railroad and utility rights-of-way or easements, building setback lines, the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board may require to determine if the proposed special exception use meets the intent and requirements of the Hendricks County Zoning Ordinance; and
3. The site plan must be accompanied by an aerial location map. Obtain an aerial map from the Auditor's Office/Deeds and Plat Books and designate on that aerial the property described in the application. That shows us exactly where the project is located and what is around the proposed site.

LETTER OF INTENT: Pursuant to Section 12.7(B) the Letter of Intent must be a detailed letter to the Board of Zoning Appeals members addressing the following:

1. Who is seeking the Special Exception;
2. Nature of the Special Exception (this would be detailed information regarding the proposed use, such as days and hours of operation, employees, etc.);
3. Why the Special Exception is needed; and
4. A narrative statement pursuant to Section 12.7(B) of the Hendricks County Zoning Ordinance evaluating the effects on adjoining property: The statement must also provide adequate evidence showing that the use at the proposed location:
 - a. is in fact a permitted Special Exception use as listed in each use district and appears on the Official Schedule of District Regulations adopted for the district involved;
 - b. will be harmonious with and in accordance with the general objectives, or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance;
 - c. will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
 - d. will not be hazardous or disturbing to existing or future neighboring uses;
 - e. will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
 - f. will not create excessive additional requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community;
 - g. will not involve uses, activities, processes, materials, equipment and conditions of

- operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
- h. will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding thoroughfares; and
 - i. will not result in the destruction, loss, or damage of a natural, scenic or historic feature of major importance.



Hendricks County BZA
SPECIAL EXCEPTION PROCEDURE

Fee: _____ Case Number: _____
 Date Received: _____ Reviewed By: _____
 Date of BZA Hearing: _____ Date of Legal Publication: _____
 Decision of BZA: _____ Approval _____ Denial _____ With Conditions _____

APPLICATION
BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Applicant(s): _____ Telephone: _____

Address: _____
 Email: _____

Owner(s) _____ Telephone: _____

Address: _____
 Email: _____

Agent: _____ Telephone: _____

Address: _____
 Email: _____

REAL ESTATE EFFECTED: Section _____ Township _____ Range _____
 Township _____ Parcel Key Number(s): _____

Location of Subject Property to Nearest County Road Intersection:

Address of Subject Property: _____
 Town Of: _____ Lot _____ Block _____ Addition _____
 Subdivision: _____ Lot _____ Section _____
 Lot Size: _____ Current Zoning District: _____
 Sewer _____ Water _____

(CHECK APPROPRIATE BOX(S))

Variance From The Development Standards _____ Special Exception/ Mobile Home _____

Appeals _____ Special Exception _____

Special Exception/ Home Occupation _____

Applicable Ordinance Section Number(s): _____

Requested Action From The Board of Zoning Appeals:

Please see "Variance, Special Exception or Appeals Procedure" for the list of supportive materials which must accompany this petition.



Hendricks County BZA
SPECIAL EXCEPTION PROCEDURE

I (We) hereby authorize and grant to the employees of the Hendricks County Planning and Building Department, other Hendricks County Officials and employees, members of the Board of Zoning Appeals and members of the Plan Commission the right to come onto the above described property for the purpose of inspecting and evaluating the premises regarding this application. I (We) further release said Board members, Commission members, and County employees and officials from any and all liability during said inspection and related matters.

The undersigned, sworn upon his oath, says that the above information and attached exhibits, to my knowledge, are true and correct:

Signature of Applicant(s): _____

Date: _____

State of Indiana

SS:

County of _____
Subscribed and sworn to before me this ____ day of _____, 20____

My Commission expires: _____

NOTARY PUBLIC

AFFIDAVIT AND CONSENT OF PROPERTY OWNER(S), IF DIFFERENT THAN THE APPLICANT

I (We) _____ after being first duly sworn, depose and say:

- 1. That I (We) are the owner(s) of the above described real estate;
- 2. That I (We) have read and examined the Application for Special Exception, Variance or Appeals of the Hendricks County Zoning Ordinance, and are familiar with its contents; and
- 3. That I (We) have no objections to, and consent to such request as set forth in the application;

Signature of Property Owner(s) _____

State of Indiana

SS:

County of _____
Subscribed and sworn to before me this ____ day of _____, 20____

My Commission expires: _____

NOTARY PUBLIC

Hendricks County Planning and Building Department
355 South Washington #212
Danville, Indiana 46122 (317) 745-9254

SAMPLE ILLUSTRATION OF WRITTEN NOTIFICATION
AND
AFFIDAVIT OF NOTIFICATION PROCEDURE

The sample illustration of written notification on the following page is designed to help the applicant notify the adjacent property owners for a public hearing as required by Indiana Code 36-7-4-706 and the Hendricks County Subdivision Control Ordinance and Zoning Ordinance.

The applicant must follow steps 1 through 7 to ensure that proper written notification is given to adjacent property owners.

1. Notify all adjacent property owners within six hundred sixty (660) feet of the applicant's property lines or two (2) ownerships deep, whichever comes first. For purposes of giving notice the land described in the application shall be deemed to include any adjoining or adjacent land owned by the applicant. Any land separated from land described in the application by streets, alleys, easements, channel waters, or any other natural or artificial barrier, shall be deemed to be adjoining or adjacent to that described in the application. If the applicant's property abuts or includes a county line, the applicant shall follow the above rule of notification into that county;
2. Letters of written notification must be sent by certified mail, with return receipts (green cards), or registered or first class mail (with a USPS certificate of mailing for each letter) to the legal property owner. The mailing address of the legal property owners shall be obtained from the Hendricks County Auditor's Office, Deeds and Plats. For notification into an adjacent county, the applicant shall contact the appropriate county office to secure names and addresses of property owners;
3. The applicant must submit an Affidavit of Written Notification on the form available at the Planning and Building Department;
4. The affidavit must be completed in ink or typed;
5. The affidavit must be notarized;
6. The names and addresses of the property owners who were sent notices must be attached to the affidavit;
7. The affidavit of notice and the return receipts (green cards) must be filed with the Planning and Building Department on or before the Friday preceding the scheduled Public Hearing.
Date: _____;

STATE OR FEDERAL HIGHWAY NOTIFICATION

All applications requiring a public hearing by the Plan Commission or Board of Zoning Appeals must notify the Indiana Department of Transportation, as part of the written notification requirements, if a state or federal highway is located within six hundred sixty (660) feet of the property described in the application.

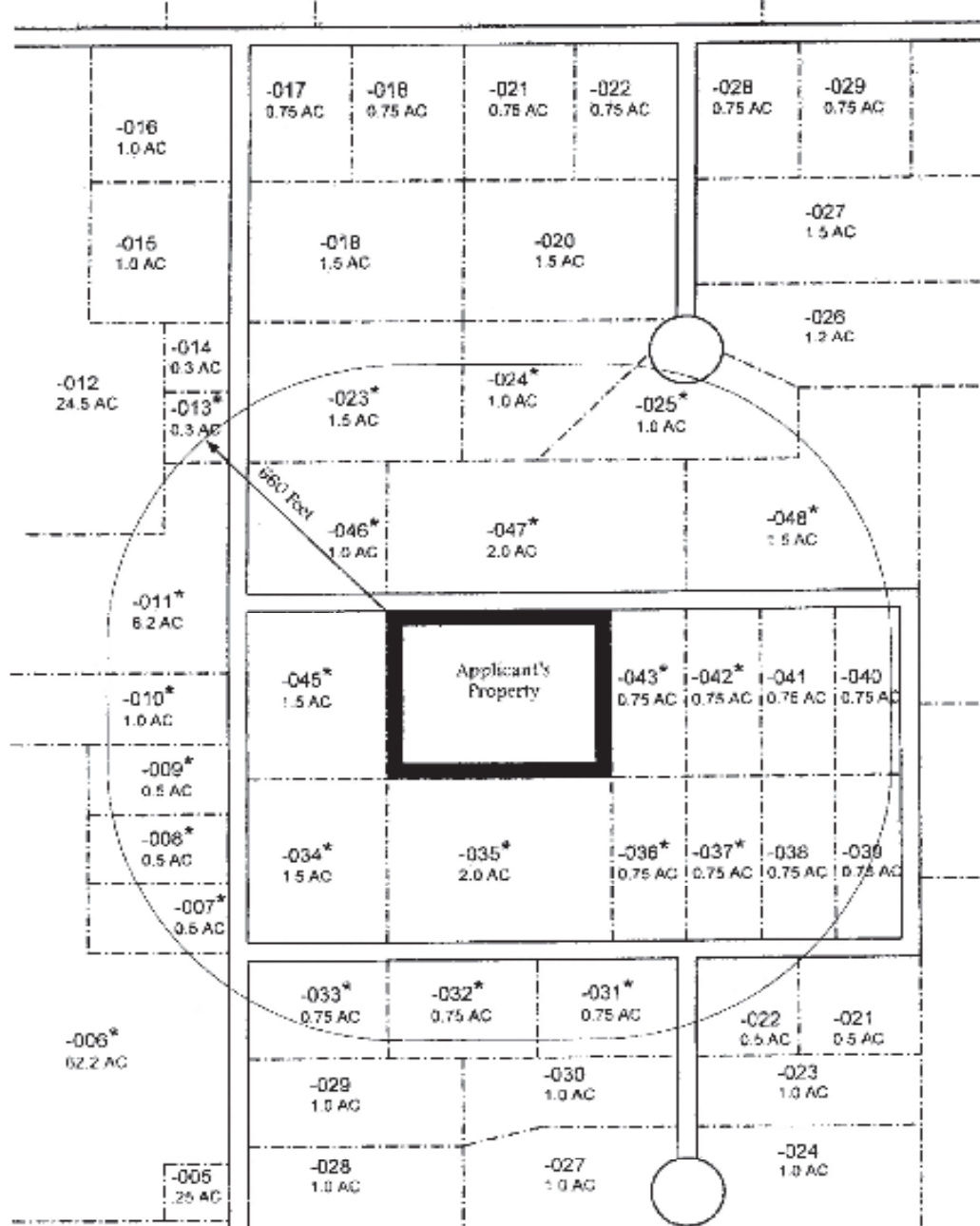
All applicants should contact the Indiana Department of Transportation as follows:

ATTENTION: PERMIT DEPARTMENT
Regulatory Department
Indiana Department of Transportation
41 W 300 N
Crawfordsville, Indiana 47933

If affidavit of notification and green cards are not filed with the Planning and Building Department on or before the Friday preceding the scheduled Public Hearing, the petition will automatically be continued to the next monthly meeting.

SAMPLE ILLUSTRATION

* DENOTES ADJACENT PROPERTY OWNERS THAT MUST BE MAILED WRITTEN NOTIFICATION



(This illustration is not drawn to scale)

SAMPLE NOTIFICATION LETTER
BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Date (DATE LETTERS MAILED)

Name (MAILING ADDRESS OF PROPERTY
Address OWNER TO BE NOTIFIED)
City, State, Zip

Dear:

Please be advised that the undersigned property owner or agent has petitioned the
Hendricks County Board of Zoning Appeals for a TYPE AND NATURE OF REQUEST,
in NAME OF CIVIL TOWNSHIP Township, Section ____, Township ____, Range ____,
Hendricks County, Indiana located on the property known as GIVE LOCATION OF
SUBJECT PROPERTY TO NEAREST COUNTY ROAD INTERSECTION AND/OR
PROPERTY ADDRESS.

A copy of this application, legal description and all development plans pertaining thereto are on file and available for examination, prior to the hearing, in the office of the Planning and Building Department at the Hendricks County Government Center, 355 South Washington Street #212, Danville, Indiana 46122, between the hours of 8:00 A.M. and 4:00 P.M., Monday through Friday. Written comments to a proposal may be filed with the Secretary of the Board of Zoning Appeals (Planning and Building Department) prior to the date set for hearing and such comments will be considered.

A public hearing will be held at the Hendricks County Government Center, 355 South
Washington Street, Danville, Indiana in Meeting Rooms 4 and 5 on DATE OF SCHEDULED
PUBLIC HEARING, 20__ at 7:30 P.M.

Yours Truly,

(NAME OF APPLICANT)



AFFIDAVIT OF NOTICE OF PUBLIC HEARING
BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA
FOR VARIANCE/SPECIAL EXCEPTION

STATE OF INDIANA)

) SS:

COUNTY OF HENDRICKS)

I/We _____ do hereby certify that notice of public hearing by the Board of Zoning Appeals of the County of Hendricks to consider Case No. _____ being the application of _____ Was registered and mailed to the last known address of the following persons:

ATTACH A LIST OF THE SURROUNDING PROPERTY OWNERS
NOTIFIED BY NAME AND ADDRESS

AND THAT SAID NOTICES WERE SERVED BY CERTIFIED MAIL (WITH RETURN RECEIPTS) OR REGISTERED OR FIRST CLASS MAIL (WITH A USPS CERTIFICATE OF MAILING FOR EACH LETTER) on or before the ____ day of _____ 20__, being at least TEN (10) days prior to _____ 20__, the date of the Public Hearing in the Hendricks County Government Center, 355 South Washington Street #212, Danville, Indiana at 7:30 P.M.

Signature of Applicant

State of Indiana

SS:

County of _____

Subscribed and sworn to before me this ____ day of _____, 20__

My Commission expires: _____

NOTARY PUBLIC

MEMORANDUM

THE ATTACHED FREQUENTLY ASKED QUESTIONS INFORMATION SHEET MUST BE MAILED WITH EACH NOTIFICATION LETTER TO SURROUNDING PROPERTY OWNER(S).

Special Exception Uses

A special Exception Use is defined as “a use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the Board of Zoning Appeals.” Hendricks County Zoning Ordinance. The Board of Zoning Appeals holds a public hearing to review and approve the Special Exception Use.

Frequently Asked Questions about Special Exception Uses

Q. Who is required to receive a certified mail notice of the public hearing?

A. The certified mail notice is to be sent to all adjacent property owners within 660 feet or two (2) property owners deep, whichever comes first. The property owners’ names are shown on the tax records in the County Auditor’s Office. These notices must be mailed at least ten (10) days before the scheduled public hearing of the Board of Zoning Appeals.

Q. Is there any other type of notification?

A. Yes. Legal notices are published in the Hendricks County Flyer and the Hendricks County Republican newspapers. These notices must appear at least ten (10) days before the public hearing. A white notification sign will also be posted on the property stating the information about the public hearing.

Q. Why are some land uses classified as Special Exception Uses?

A. “It is recognized that an increasing number of new kinds of uses are appearing daily and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually.” Hendricks County Zoning Ordinance.

Q. Is that a variance?

A. No. A variance is defined as “a modification of the strict terms of the relevant regulations where the modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not as a result of action on the part of the applicant, a literal enforcement of the regulations would result in an unnecessary and undue hardship.” Hendricks County Zoning Ordinance. The Board of Zoning Appeals has responsibility for both Variances and Special Exception Uses. A Special Exception Use must meet all applicable development standards of the zoning district in which it is proposed.

Q. What is considered by the Board of Zoning Appeals in approving a Special Exception use?

A. The Board must determine that the proposed land use is listed as a Special Exception Use in the Zoning Ordinance. The Board must find that the proposed use will be harmonious with the County Comprehensive Plan and the character of the general vicinity. The Board must also find that the proposed project will have adequate public facilities and services. The Board may impose specific conditions in its approval that would ensure that the proposed use will be compatible with surrounding land uses.

- Q. If the Special Exception use is approved, will development begin immediately?
- A. Depending on the project, other approvals may have to be granted by local and state governments or other agencies. An approval of a subdivision of the property is sometimes required. Commercial, industrial, institutional and multi-family residential developments are required to obtain Site Plan approval. At the county level, these approvals include additional public hearing. The Board may require that the applicant begin the project within a specified time after receiving these additional approvals.
- Q. Is the Special Exception applicable to future owners of the subject property?
- A. In some cases, the Board may determine that the Special Exception Use will expire when there is a change in property ownership. This decision would be made at the time that the approval is granted. A Home occupation is an example of a Special Exception use that the Board may require to cease if the property ownership changes. Some Special Exception uses, such as a Two Family Dwelling, are more permanent in nature and would be applicable to future property owners.

THIS INFORMATION IS A BRIEF SUMMARY OF THE ZONING ORDINANCE. IT IS NOT INTENDED TO ANSWER ALL QUESTIONS ABOUT A PROPOSED REZONING APPLICATION. INTERESTED PERSON SHOULD CONTACT THE PLANNING & BUILDING DEPARTMENT OFFICE BY TELEPHONE, 745-9254, OR VISIT THE OFFICE ON THE GROUND FLOOR OF THE HENDRICKS COUNTY GOVERNMENT CENTER, 355 SOUTH WASHINGTON STREET, DANVILLE, IN. OFFICE HOURS ARE 8:00 AM TO 4:00 PM, MONDAY THROUGH FRIDAY.