
THE HENDRICKS COUNTY QUALITY GROWTH STRATEGY

BZA
VARIANCE PROCEDURE



VARIANCE PROCEDURE

Definition: A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not a result of action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

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.
 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 12.6(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 Variance (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.
 6. All applications must be reviewed by the Zoning Technician for completeness and accuracy, prior to acceptance.

3. Fee: Variance of Development Standards:

Residential: \$345.00 per variance request plus \$55.00 for the public newspaper notification;

Commercial: \$345.00 per variance request for each legally addressed structure and/or tenant 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, must be notified by certified mail, return receipt / green cards, or registered or first class mail (with a USPS Certificate of Mailing for each letter), 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. (Check the Board of Zoning Appeals meeting schedule for date).

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 specifying the grounds of the illegality.

CHECKLIST FOR VARIANCE OF THE DEVELOPMENT STANDARDS

SITE PLAN: Pursuant to Section 12.6(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 variance 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 12.6(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 variance;
2. Nature of the variance;
3. Why the variance is needed; and
4. A narrative statement pursuant to Section 12.6(B) of the Hendricks County Zoning Ordinance demonstrating that the requested variance conforms to the following:
 - a. 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;
 - b. That a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - c. That special conditions and circumstances do not result from the actions of the applicant; and
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.



Hendricks County BZA

VARIANCE 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
VARIANCE 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

Revised December 9th, 2008

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.

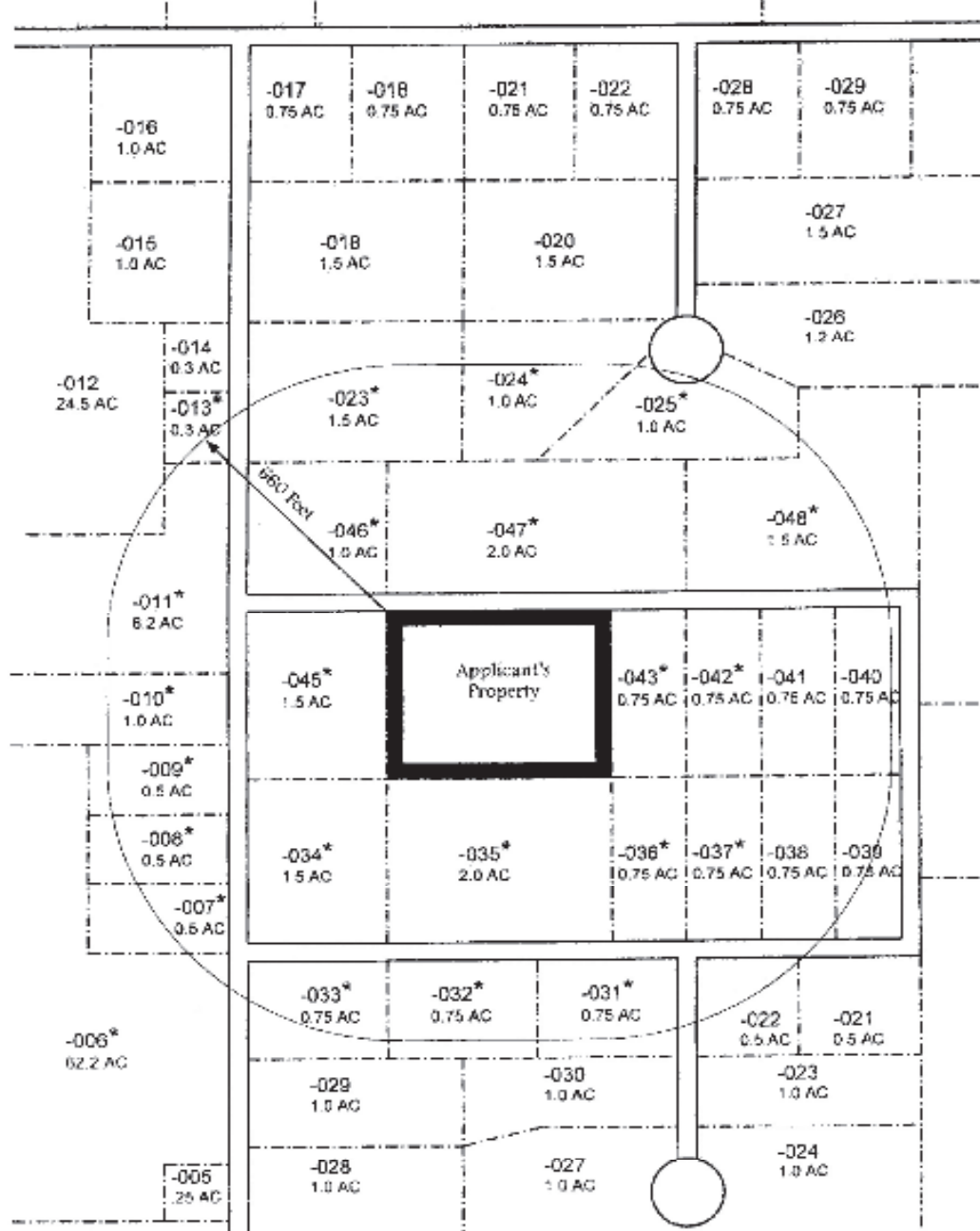
All applicants should contact the Indiana Department of Transportation as follows:

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).

Variations

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 conducts a public hearing to review and approve a variance.

Frequently Asked Questions About Variations

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

A. The 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 public hearing. A white notification sign will also be posted on the property stating the information about the public hearing.

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. What is the purpose of the public hearing?

A. The public hearing gives affected property owners and interested citizens the opportunity to ask questions about the requested variance. The Board will hear the concerns of these citizens before the decision is made whether to approve or deny the variance.

Q. Does a variance change the zoning of the property?

A. No. A variance is the procedure by which someone seeks a waiver or modification of zoning regulations such as lot width, side yard setbacks or building height. These regulations govern how buildings and other site improvements are placed on a lot. A zoning change, or rezoning, is a much different procedure. The public hearing for a rezoning is held by the Plan Commission. The Plan Commission makes a recommendation to the Board of County Commissioners, who then make the final decision on the rezoning application. A different set of land uses are permitted when a rezoning is approved.

Q. Is there anything that the Board of Zoning Appeals does not consider in deciding a variance?

A. The Board does not consider issues that are not regulated by the Zoning Ordinance. Some site development and land use issues are regulated by the Subdivision Control Ordinance or other local, state or federal regulations. The Board does not grant relief from regulations other than the development standards of the County’s Zoning Ordinance.

Q. Does a variance all different land uses to occur on the property than are otherwise permitted?

A. No. This type of variance is known as a Use Variance. The Hendricks County Board of Zoning Appeals cannot grant a Use Variance because the County operates under the state enabling law for Area Plan Commissions. The Hendricks County Board of Zoning Appeals cannot grant use variances because of this state law.

Q. What Procedure allows different land uses to occur?

A. Since a Use Variance is not permitted in Hendricks County, only a rezoning would allow the property to be used in a different manner than the current zoning districts permit. A rezoning requires an application and public hearing before the Hendricks County Area Plan Commission. The Plan Commission makes an advisory recommendation to the Board of County Commissioners. The final decision to approve or deny the rezoning is made by the County Commissioners.

Q. What is the difference between a Special Exception Use and a Variance?

A. Another responsibility of the Board of Zoning Appeals is to review and approve Special Exception Uses. Certain land uses are not permitted as a use of right, but instead are subject to the approval of the Board of Zoning Appeals. "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.

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.