VARIANCE FROM USE
APPLICATION PROCEDURES

PURPOSE: The purpose of this document is to provide a summary or overview of the necessary procedures for the application for a variance from use. All procedures described herein are contained in the Avon Zoning Ordinance and applicable statutes.

DEFINITION: A variance from the use, or a "Use Variance" is a modification of or variance from the strict terms of the zoning ordinance relating to the use of property where the modification will not be contrary to the public interest and, where owing to conditions peculiar to the property and not a result of the action of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

APPLICATION: The application will not be considered complete until all information is received. All applications and supplemental material must be submitted by close of business on the posted schedule deadline and be completed on Original Town Forms. All applications will be reviewed for completeness and accuracy prior to acceptance.

1. A notarized application filed at least thirty (30) days before the date of the Board of Zoning Appeals public hearing;
2. A legal description of the property;
3. A sketch plan drawn to scale showing all existing and proposed improvements on 8 ½ x 11 paper;
4. A completed proposed Findings of Fact for a Use Variance;
5. A Letter of Intent which includes proof supporting the Findings-of-Fact;
6. A list of adjacent property owners within six hundred sixty (660) feet but no more than two (2) property owners in depth;
7. A sample letter for the written notification requirements; and
8. An application fee payable by check to the Town of Avon.

FEES: *Fees are nonrefundable* The following fees apply to a (request for a use variance): (Please see fee schedule)

1. Application Fee by check made payable to the Town of Avon
2. Legal Advertisement Fee by check made payable to the Town of Avon

PUBLIC NOTIFICATION: The following notification is required PRIOR to the Board of Zoning Appeals meeting:

1. NEWSPAPER NOTIFICATION: The Board of Zoning Appeals Staff will submit legal notices to the Hendricks County Weekend Flyer and the Republican newspapers for publication at least ten (10) days prior to the date of the Board of Zoning Appeals public hearing.
2. WRITTEN NOTIFICATION: The applicant must mail certified letters with return receipts requested to adjacent property owners at least ten (10) days prior to the date of the Board of Zoning appeals public hearing. An adjacent property owner is defined as all property owners two (2) deep or within six hundred and sixty (660) feet; whichever is less, of the applicant’s property. The applicant must follow the sample written notification letter. The provided Affidavit of Notice to Interested Parties must be signed attesting to the mailings and a copy of a sample mailing must be submitted to the Board of Zoning Appeals staff prior to the public hearing. (See attached sample letter and affidavit form.)
3. POSTING OF PROPERTY: Ten (10) days prior to the date of the Board of Zoning Appeals public hearing, the applicant must submit the provided Affidavit of Sign Posting stating that the applicant has placed the required signs on the property stating a brief description of the proposed variance and the date, time, and location of the public hearing. (See attached affidavit and Sign to be posted)
VARIANCE FROM USE
APPLICATION PROCEDURES

BOARD OF ZONING APPEALS MEETING: The Board of Zoning Appeals meetings are held at 7:00 p.m. on the third Thursday of every month in the Avon Town Hall, located at 6570 East U.S. Highway 36, Avon, Indiana 46123.

ACTION BY THE BOARD OF ZONING APPEALS: After conducting a public hearing on the proposed variance from use, the Board of Zoning Appeals shall approve the variance, deny the variance, or approve the variance with reasonable conditions. Any person aggrieved by a decision of the Board of Zoning Appeals may present to the Circuit of Superior Court of Hendricks County a verified petition alleging forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. All appeals must be filed within thirty (30) days from the date of the Board of Zoning Appeals decision.
1. _________ One (1) completed checklist signed and dated. (Attach completed copy of this form.) Mark all items N/A (Not Applicable) which don’t apply to your project.

2. _________ One (1) completed application form: typewritten, signed by the owner or an authorized agent of the subject property, notarized and filed at least thirty (30) days before the date of the Board of Zoning Appeals meeting. If application is not complete, staff reserves the right to deny the request to be placed on the Agenda. Be sure to include:

   _______ Project Name
   _______ Acres
   _______ Project Address
   _______ Number of Lots/Parcels
   _______ Section, Township, Range
   _______ Nearest intersection
   _______ Key/Parcel number(s)
   _______ Current zoning classification
   _______ Existing land use
   _______ Previous planning/zoning approvals
   _______ Applicable provision of ordinance
   _______ Surrounding land use

3. _________ If the applicant is not the owner, one (1) signed and notarized copy of the Letter Granting authority for and Agent.

4. _________ One (1) copy of the legal description of property.

5. _________ One (1) copy of the Letter of Intent. This should include a brief description of the project and facts supporting the request.

6. _________ A completed Findings of Fact for a Variance from Use form.

7. _________ Two (2) copies of a property survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.

8. _________ A sketch plan, drawn to scale showing all proposed construction of development.

9. _________ One (1) completed Public Notification Letter to be sent to adjacent property owners.

10. _______ A list of adjacent property owner(s) and completed sample notification letter.

11. _______ Completed and notarized Affidavit of Notice to Interested Parties.

12. _______ Completed and notarized Affidavit of Sign Posting.


14. _______ Nonrefundable application fee. (Check must be made payable to the “TOWN OF AVON”).

Signature of Person Completing Application __________________________ Date __________________________
APPLICATION FOR A VARIANCE FROM USE
(Town of Avon, Indiana)
Revised 09-21-10

Project Name: ________________________________

Applicant(s): ________________________________ Telephone: ________________________________
Address: ___________________________________
Owner(s): ________________________________ Telephone: ________________________________
Address: ___________________________________
Applicant’s Attorney Applicant’s Registered Land Surveyor
Name: ___________________________________
Address: ___________________________________
Telephone: ________________________________

Property Information:

Street Address: ________________________________
Nearest Street Intersection: ________________________________
Section: _______ Township: _______ Range: _______
Key/Parcel Number(s): ________________________________
Subdivision Name: ________________________________
Section No.: _______ Lot No.: _______

Existing Zoning Classification:

_____ E-1 Single Family Estate  _____ R-1 Single Family Residential
_____ R-2 Single Family Residential  _____ R-3 Single Family Residential
_____ R-4 Multiple Family Residential  _____ R-5 Multiple Family Residential
_____ C-1 Neighborhood Commercial  _____ C-2 General Commercial
_____ C-3 Highway Commercial  _____ C-4 Transitional Office
_____ I-1 Transitional Industrial  _____ I-2 Light Industrial
_____ I-3 Heavy Industrial  _____ I-4 Industrial Park
_____ PUD Planned Unit Development  _____ SC Shopping Center

Existing Land Use: ________________________________

Area: _______ acres  Number of Lots/Parcels: _______  Lot Dimensions: _______ X _______ feet

Legal Description of the property must be attached to the application.

Applicable Avon Zoning Ordinance Section Number(s): ________________________________

Requested Action from the Avon Board of Zoning Appeals: ________________________________

__________________________________________

Application for a Variance From Use
Town of Avon, Indiana
Revised 09-21-10
T:\Planning and Building\Planning\Administration\Applications\2009 Updated Applications Online

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The undersigned, having been duly sworn upon his/her oath, states the above information is true and correct to the best of his/her information and belief.

I (We) also understand that the application fee does not include the fees associated with design review and/or construction management review. Fees for design review and/or construction management review are the direct responsibility of the applicant payable directly to the engineering firm(s) specified by the Town at rates set out by various agreements and/or ordinances of the Town, for services, inspection, reports, and the like required by the Town.

Date ____________________________________________________________________

Signature of Applicant(s) ____________________________________________________________________

STATE OF INDIANA } 
COUNTY OF HENDRICKS } SS:

Subscribed and sworn to before me this _____day of ________________, 20__.

Notary Public: Signature __________________________

Printed Name __________________________

My Commission Expires: __________________________

Residing in __________________________ County __________________________
FINDINGS OF FACT

VARIANCE FROM USE
BOARD OF ZONING APPEALS
AVON, INDIANA

Project Name: ________________________________________________________________

Requested Variance From Use: ________________________________________________

The petitioner seeking a variance from the use before the Avon Board of Zoning Appeals must answer the following five (5) questions, which may serve as the basis for the written Findings of Fact for this petition.

1. Will the approval of the variance be injurious to the public health, safety, morals, and general welfare of the community? (Please answer yes or no and state the reason[s] for your answer on the lines below.)

___________________________________________________________________________

2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? (Please answer yes or no and state the reason[s] for your answer on the lines below.)

___________________________________________________________________________

3. Does the need for the variance arise from some condition peculiar to the property? (Please answer yes or no and state the reasons[s] for your answer on the lines below.)

___________________________________________________________________________

4. Will the strict application of the terms of the Avon Zoning Ordinance constitute an unnecessary hardship if applied to the property for which the variance is sought? (Please answer yes or no and state the reasons[s] for your answer on the lines below.)

___________________________________________________________________________

5. Does the use interfere substantially with the Town's comprehensive plan? (Please answer yes or no and state the reasons[s] for your answer on the lines below.)

___________________________________________________________________________

Person Completing This Form:

Printed Name: ______________________________________________________________
Signature: ___________________________________________________________________
Title: _____________________________________________________________________
Date: ___________________________ Telephone Number: _________________________
CONTACT INFORMATION

The person indicated below will receive all correspondence between the Plan Commission Staff and the applicant. It shall be the responsibility of the contact person to provide copies of information to other interested parties.

Indicate the Contact Person to be notified to request additional information, schedule meetings, receive Plan Commission Staff Letters and Recommendations, and to receive the Plan Commissions Findings-of-Fact:

Please type or print legibly.

Business Name: 

Contact Person: 

Address: 

Daytime Phone: 

Fax Number: 

E-mail: 
LETTER GRANTING AUTHORITY FOR AN AGENT
VARIANCE FROM USE
AVON PLAN COMMISSION
TOWN OF AVON, INDIANA

I (We) do hereby grant authority to _____________________________ (Name of agent)
to seek a variance from use approval from the Board of Zoning Appeals for the property located at

______________________________
[Property address or parcel ID number(s)]

I (We) am (are) the owner(s) of the real estate included in the proposed variance from use.

_________________________________                    _______________________________
Date                                               Signature of Owner(s) or Agent

STATE OF INDIANA            }              SS:
    }  SS:  COUNTY OF HENDRICKS}

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

_________________________________                    _______________________________
Notary Public: Signature                           Notary Public: Printed Name

My Commission Expires ___________________________ Residing in __________________________ County
DISCLOSURE STATEMENT
VARIANCE FROM USE
BOARD OF ZONING APPEALS
TOWN OF AVON, INDIANA

In order to avoid any questions about conflicts of interest, all applicants for permits and petitioners to the Plan Commission and the Board of Zoning Appeals must disclose any and all financial or business relationships between the applicant and/or any entity associated with the applicant and any person associated with the Town of Avon, the Avon Town Council, the Avon Plan Commission, and/or the Avon Board of Zoning Appeals. If you are in doubt as to whether or not to disclose something, you should resolve that doubt by disclosing it.

I, __________________________ being duly sworn upon my oath state as follows:

(Strike inapplicable provision)

1. A. I am the applicant for a ____________________________________________
   (Type of Action)

   Or

   B. I represent the applicant ____________________________________________
   (Name of Applicant)

   (Type of Action)

3. To the best of my knowledge, the applicant named above has no financial agreements, or contracts or other arrangements between the applicant or any other entity associated with the applicant and anyone associated with the Town of Avon, the Avon Town Council, the Avon Board of Zoning Appeals, or the Avon Plan Commission except:

   (Strike inapplicable provision)

   A. None

   Or

   B. List any and all contracts, arrangements, or financial agreements, and all entities to such contracts arrangements or financial agreements.

   ____________________________________________

   ____________________________________________

   ____________________________________________

I affirm under the penalties of perjury that the foregoing is correct to the best of my knowledge and belief.

_________________________________________  __________________________
Date                                                Signature
AFFIDAVIT OF NOTICE TO INTERESTED PARTIES
VARIANCE FROM USE
AVON BOARD OF ZONING APPEALS
TOWN OF AVON, INDIANA

Affidavit must be submitted prior to the scheduled public hearing.

STATE OF INDIANA )
) SS:
COUNTY OF HENDRICKS )

I, ______________________________, do hereby certify that notice to interested parties of the date, time, and place of the public hearing for the application of:

__________________________________________________________
(Name of Person on the Application)

Requesting:
__________________________________________________________
(State Variance From Use Request and Cite Section(s) of the Avon Zoning Ordinance)

Located at:
__________________________________________________________
(Street Address and Give the Location in Relationship to the Nearest Intersection)

was certified and mailed to the last known address of each of the following interested persons owning property affected by this petition as defined in the Avon Zoning Ordinance (attach additional sheets, if necessary):

1. _______________________________________________________
2. _______________________________________________________
3. _______________________________________________________
4. _______________________________________________________
5. _______________________________________________________
6. _______________________________________________________
7. _______________________________________________________
8. _______________________________________________________
9. _______________________________________________________
10. _______________________________________________________

And, that said notices were sent by certified mail on or before the _____ day of ____________, 20____, being at least ten (10) days prior to the date of the public hearing.

__________________________________________________________
(Signature of Applicant or Agent)

STATE OF INDIANA )
) SS:
COUNTY OF HENDRICKS )

Subscribed and sworn to before me this __________day of ________________, 20____.

__________________________________________________________
Notary Public: Signature

Printed Name

My Commission Expires: ____________________________

Residing in ____________________________ County
SAMPLE PUBLIC NOTIFICATION LETTER
VARIANCE FROM USE

Date:  (Date Letters Mailed)

Name
Address  (Mailing Address of Adjacent Property Owner)
City, State, and Zip Code

Dear:  (Name of Adjacent Property Owner)

Please be advised that the undersigned owner or agent of the property owner of the property below has made application to the Avon Board of zoning Appeals requesting a variance from use for:

(State Requested Variance From Use and Cite the Appropriate Section(s) of the Avon Zoning Ordinance)

This proposed variance from use project to be know as  (Case Number, Case Name and a brief description of the Project) is located at (Street Address) in the Town of Avon, Indiana, Section ___, Township ___, Range ____ , located near (Give the Location of the Requested Variance(s) in Relationship to the Nearest Street Intersection).

A copy of the application, legal description, and all plans pertaining to this proposed variance from use are on file and available for examination prior to the public hearing in the office of the Planning and Zoning Department at the Avon Town Hall located at 6570 East U.S. Highway 36, Avon, Indiana 46123 between the hours of 8:00 AM and 4:00 PM, Monday through Friday. Written objections to a proposal may be filed with the BZA Staff within ten (10) days after the receipt of this letter at the Avon Town Hall at the above address and such objections will be considered.

The Avon Board of Zoning Appeals will hold a public hearing on this proposed variance from use in the Avon Town Hall located at 6570 East U.S. Highway 36, Avon, Indiana 46123 (Date of the Public Hearing) at 7:00 PM. You may attend and voice your opinion at this hearing.

Very truly yours,

(Name and Signature of applicant or Agent for the Applicant)
AFFIDAVIT OF SIGN POSTING
FOR VARIANCE FROM USE
AVON BOARD OF ZONING APPEALS
TOWN OF AVON, INDIANA

Affidavit must be submitted prior to the scheduled public hearing.

STATE OF INDIANA )
) SS:
COUNTY OF HENDRICKS )

RE: Request for a Variance From Use before the Avon Board of Zoning Appeals

I, _________________________________, after first being duly sworn states:

(Name of Person Posting Sign)

1. That the Avon Zoning Ordinance requirements for the posting of a sign on the property being considered for a variance from use, as adopted by the Avon Plan Commission, has been fully complied with in connection with the above referenced request; and

2. That said sign(s) was (were) duly erected on the ______ day of ____________, 20___, in full compliance with the requirements of the Avon Zoning Ordinance and the sign(s) remain(s) on said property to this date.

Signed this _______ day of ____________, 20___.

(Signature of Person Posting Sign)

STATE OF INDIANA )
) SS:
COUNTY OF HENDRICKS )

Subscribed and sworn to before me this ______ day of ________________, 20____.

Notary Public: Signature __________________________________________________________________________

Notary Public: Printed Name _________________________________________________________________________

My Commission Expires: __________________________ Residing in _____________________________ County
NOTICE OF PUBLIC HEARING

The Board of Zoning Appeals will consider _________________________

(Case Number and Project Name)

This case will be heard on ________________________________

(Day, Date and Time)


For additional information, call 317-272-0948.