

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 **must 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.

REQUIREMENTS FOR FILING A VARIANCE FROM USE CHECKLIST



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.
13. _____ Completed Disclosure Statement.
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**
(Page 1)



Project Name: _____

Applicant(s): _____
Address: _____
Owner(s): _____
Address: _____

Telephone: _____
Fax: _____
Telephone: _____

Applicant's Attorney
Name: _____
Address: _____
Telephone: _____

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**
(Page 2)



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 you 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:
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 _____ for a
(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
 (Name of Person Mailing Letters)

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):

	<u>OWNER</u>	<u>ADDRESS</u>
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)

at a public hearing in the Avon Town Hall, 6570 East U.S.
Highway 36, Avon, Indiana 46123.

For additional information, call 317-272-0948.