

CITY OF SHELBYVILLE



USE VARIANCE

APPLICATION PACKAGE BOARD OF ZONING APPEALS

Shelbyville Plan Commission
44 W. Washington Street
Shelbyville, IN 46176
317-392-5102
www.cityofshelbyvillein.com

Quick Check List

- Completed Application (notarized) – 6 copies
- Completed Finding of Facts sheet – 6 copies
- Site plans and other supporting materials – 6 copies
- Letter of Intent – 6 copies
- Notarized Affidavit & Consent of Property Owner (if the petitioner doesn't own the property)
- Property Deed with Legal Description of land for the file
- Filing Fee – check made payable to the City of Shelbyville
- Completed Post Office Form 3877
- Attend Meeting

DEADLINE DATE: _____ MEETING DATE: _____

What is a Use Variance?

A Use Variance is a variance to use a building, a structure or land in a manner that is not consistent with the allowed uses for a particular zoning district as specified in the Shelbyville Unified Development Ordinance. Use Variances are use specific. For example, if you are granted approval to have an office use, you can't change the use to retail sales.

If you need a special exception, development standard variance or sign variance for the same project or property, those must be filed as separate petitions.

PROCEDURE

1. Complete the forms included in this packet: This section explains how to fill out the forms.

Variance Application (This form will need to be notarized)

This is a general application filled out by the applicant or his representative. Please complete the entire application. If you are the owner and/or do not have a representative, this information may be omitted. If you are unsure how to answer some of the areas of the application, please contact our office. Do not fabricate an answer as it may make your application invalid.

Affidavit & Consent of Property Owner (This form will need to be notarized)

If the applicant is not the property owner, this form will need to be completed by the property owner. This provides proof that the owner approves your request. If you or the assumed owner are buying the property on contract, the original owner will need to sign this form as well. YOU DO NOT NEED TO FILL OUT THIS FORM IF YOU ARE THE OWNER.

Findings of Facts

The Board may only approve a variance of use upon a determination in writing that (1) the approval will not be injurious to the public health, safety and general welfare of the community; (2) the use and value of the area adjacent to the property included in the variance will not be substantially affected in an adverse manner; (3) the need for the variance arises from some condition peculiar to the property involved; (4) the strict application of the terms of the Ordinance will result in an unnecessary hardship if they were applied to the subject property. (This situation cannot be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain); and (5) the approval of the variance does not interfere substantially with the goals and objectives of the Comprehensive Plan

On the Finding of Facts form, you must answer questions in regards to those five criteria. Please use proper English and grammar when answering the questions. Do not use personal matters as reasons for findings. The findings must relate to the property, not to a person. Please make sure that you understand the statements in the Findings of Facts. If you do not know what the comprehensive plan recommends, do not try to complete the question until you learn what the comprehensive plan says.

The most important question for the use variance is the unnecessary hardship. A hardship must be proven and the hardship claimed is suffered by the property directly, and not merely by other properties. Also the hardship claimed cannot be the result of the applicant's own actions. Examples follow:

Hardship examples: (Please do not copy for your own answers)

1. A small lot or a lot so oddly shaped that the owner would have great difficulty in meeting setback requirements and yet erect a suitable building
2. Severe lot contours or the location of natural features which cause hardship in complying with setback requirements
3. Since the building sets far from the road, a larger sign is needed for visibility

What a hardship is not:

1. That the owner could sell his property for more if the Board would permit its development for commercial purposes
2. A venture, which is financially advantageous to the applicant or a financial loss if a variance was denied
3. The absence of a use in the neighborhood and the implication that the public would suffer inconvenience by it
4. An applicant who knowingly or not violated the Zoning Ordinance and then cites his expenditures as a loss that he will suffer if not permitted to continue the violation
5. Purchase of property with the knowledge of the zoning restrictions and then complain that said restrictions have disturbed construction plans

1. Write a Statement of Intent

There is no form to fill out, but please submit a letter of Statement of Intent. This is a simple letter explaining the use variance request in more detail than that which is on the application page. This can be informal and addressed directly to the Board. For example: If you are filing for a use variance for an office use, the letter would describe what type of business you are proposing, how many employees you might have, hours of operation and what parking you will provide.

2. Include Supporting Materials

If needed, you should include supporting materials that will demonstrate the need for the special exception. They could include things like site plans, drawings and/or pictures. The more information you provide the Board, the better.

3. Legal Description

You will need to provide a legal description of the property. Please bring a copy of the Deed when you file your paperwork. You can obtain a copy of your Deed at the Recorder's office in the Shelby County Courthouse Annex at 25 W. Polk Street Shelbyville, IN.

4. File with the Plan Commission Staff on or before the deadline date

You must submit all of the information in steps 1 – 3.

You will need to make 6 copies of the following: *Variance Application, Findings of Facts, Statement of Intent and any supporting materials.*

Please have the 6 copies assembled into individual packets for the board members.

You do not need to make copies of the *Affidavit & Consent of Property Owner* or the *Deed*. Only one copy of those is needed for the file.

When you file, you must pay the associated filing fee(s). Fees for Use Variances are as follows:

Residential	\$25.00
Commercial	\$100.00
Industrial	\$100.00
Each additional request on any one petition	\$50.00 each

**Please make checks payable to the City of Shelbyville

5. Public Notice

When you submit the above mentioned paperwork to the Plan Commission office, the staff will give you additional forms for the Public Notice that must be placed in the local newspaper, The Shelbyville News. It must also be mailed to surrounding property owners. The staff will supply the *Public Notice, Property Owners List* and the *Post Office Form 3877*.

You are responsible for two things:

- A. Taking the Public Notice to the newspaper and paying the associated fees for publication
- B. Postal Mailing: Supplying envelopes and postage, completing Form 3877 and having the post office stamp the form. Form 3877 will need to be returned to the Plan Commission office by the Friday following the deadline date.

6. Attend the meeting

You or your representative listed on the application must attend the meeting. If no one shows up, your petition will be dismissed and you will have to re-file your petition. At any time before your hearing comes up, you may ask the Board for a continuance, usually until the next month's meeting. We will grant you no more than two continuances. After that, your petition will be heard or dismissed unless you have already withdrawn it. You must file your continuance or withdrawal request in writing with the staff prior to the meeting.

The staff will generate a staff report and will make a recommendation on your petition to the Board. The staff report will be distributed to the Board members 5 days before the meeting. If you would like a copy of the staff report, please request it.

At the meeting: When your turn comes, the staff will read your application to the Board. You will be asked to present your petition and then the Board can ask questions pertaining to your petition. Members of the public who either support or oppose your request will be given an opportunity to speak as well. At the conclusion of the hearing, the Board will vote. They can vote to approve or deny your request. They can also vote to continue or table the petition to another meeting.

If you bring additional material to the hearing for your presentation that you did not supply when filing your petition, you must bring 6 copies (one for each board member and one for the file).

Please do not contact any Board of Zoning Appeals member prior to the meeting. Members are not allowed to talk to petitioners or their representatives outside of the public hearing. You can only communicate with the Plan Commission staff.

7. After the meeting

If your petition is approved, you can continue with your development/project to the next steps that are required. If you need a Letter of Approval, you must request it from the staff.

If your use variance was denied, you can either alter your project to meet the standard or read Article 9.09 of the Zoning Ordinance for other options.

Expiration

A use variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, Sign permit or execution of the approval has not been completed within 3 years of the date it was granted. The use variance shall also expire if the approved construction or sign erection has not been completed and approved by the Plan Commission Director as being consistent with all written commitments or conditions, the requirements of the Zoning Ordinance, the variance granted and all applicable permits within 3 years of the date the approval is granted.



USE VARIANCE APPLICATION
 Shelbyville Board of Zoning Appeals
 44 W. Washington Street
 Shelbyville, IN 46176
 317-392-5102

For Office Use Only	
Case # _____	
Hearing Date: _____	
Fees: _____	
Approved _____	Denied _____

1. Applicant (Person or Company Requesting Use Variance)

Name: _____
 Address: _____
 Phone Number: _____ Email: _____

2. Owner of Property (If Different Than Applicant)

Name: _____
 Address: _____
 Phone Number: _____ Email: _____

3. Applicant's Attorney/Representative and Project Engineer (If Any)

Name: _____
 Address: _____
 Phone Number: _____ Email: _____

4. Project Engineer

Name: _____
 Address: _____
 Phone Number: _____ Email: _____

5. Project Information

Address of Property: _____
 Current Zoning: _____ Existing Use of Property: _____

6. Applicable Ordinance Section Number(s)

I am requesting a special exception from Section _____ of the Zoning Ordinance to allow the property to be used for the following: _____

The undersigned states the above information is true and correct as (s)he is informed and believes.

Signature of Applicant: _____ Date: _____

State of Indiana)
 County of Shelby)SS:

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

_____/_____
 Notary Public Printed
 Residing in _____ County My Commission Expires: _____



**USE VARIANCE
FINDINGS OF FACT**

Petitioner's Name: _____

Location: _____

Special Exception for: _____

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

2. **Adjacent Property:** Explain why the use variance should not affect the use and the value of adjacent properties.

3. **Practical Difficulty:** Explain the conditions that are peculiar to this property that create a hardship from using it for the permitted uses in the zoning district.

4. **Unnecessary Hardship:** Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

5. **Comprehensive Plan:** Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and Future Land Use map from the Comprehensive Plan that support your argument.)
