

# Variances

## Randolph County Unified Zoning Ordinance

### Article XVIII – Variances

A variance is a variation which the Board may grant in certain circumstances according to the standards herein set forth from the requirements of the Unified Zoning Ordinance of Randolph County, Indiana, which allows the owner of property to use his property in a manner which would be in conflict with a literal application of the requirements of this Ordinance. A variance shall not include authorizing a use not among the permitted uses specified in this Ordinance for the district in which the property is located.

1. In order that the spirit of this Ordinance may be observed and substantial justice done, the Board of Zoning Appeals may, upon application or appeal, grant the variations set forth in paragraph 7, hereof.
2. The Board shall grant or deny an application for a variance properly filed and which otherwise complies with this Ordinance and the Board's Rules of Procedure.
3. A variance may be approved only upon a determination in writing that:
  - (a). The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
  - (b). The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
  - (c). That strict applications of the provisions of the Zoning Ordinance will result in practical difficulties in the use of the property.
4. In making its determination as to whether there are "practical difficulties in the use of the property", the Board of Zoning Appeals shall take into consideration the extent to which the following conditions, all favorable to the applicant or appellant, have been established by the evidence:
  - (a). That the particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular difficulty upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
  - (b). That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification; and,
  - (c). That the alleged difficulty has not been created by any person presently having an interest in the property.
5. In authorizing a variance the Board may attach thereto such conditions regarding the location, character and other features of the proposed structure or use, as it may deem necessary in the interest of the furtherance of the purposes of the Zoning Ordinance and in the public interest. In authorizing a variance with attached conditions, the Board shall require such evidence and guarantee of bond, as it may deem necessary, that the conditions attached are and will be complied with.
6. In exercising its power, Board of Zoning Appeals may, in conformity with the provisions of the rules, laws of the State of Indiana and of the Zoning Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination made, and to that end shall have all powers of the officer from whom the appeal is taken.
7. Variations from the regulations of the Zoning Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the standards set forth above and may be granted in the following instances only, and in no others:
  - (a). to permit the extension and/or substitution of a nonconforming use as provided in Article II of the Zoning Ordinance;

- (b). to permit the temporary use of a structure or premises in any district for a purpose or use that does not conform to the regulations prescribed elsewhere in the Zoning Ordinance for the district in which it is located, provided that such use be of a temporary nature and not involve the erection of a substantial structure, and further provided that an Improvement Location Permit for such use shall be granted in the form of a temporary and revocable permit, for not more than a twelve (12) month period. Further, the Board may include any and all conditions to provide conformity to this Article;
- (c). to permit extension of any district where the boundary line of a district divides a zoning lot provided that the zoning lot is in single ownership on the effective date of this ordinance;
- (d). to permit any yard of less dimension than required by the applicable regulations;
- (e). to permit any building or structure to exceed the height limitations imposed by the applicable regulations;
- (f). to permit the use of a lot for a use otherwise prohibited because of insufficient lot dimensions or area, but in no event shall the area of the lot be less than ninety (90%) percent of the required lot area;
- (g). to permit the use of a lot of record which is less than the prescribed zoning lot in lineal and area dimensions but whose frontage is greater than fifty (50%) percent in width of every improved zoning lot on the same block on the same side of the street at the time of construction provided that if such lot or record is in the same ownership on or after the effective date of the Zoning Ordinance as an adjoining unimproved lot on the same street, it shall not be improved with a residential use unless both lots are combined in a single zoning lot for this purpose or unless further subdivision produces the requisite minimum lot width;
- (h). to permit such other variance, not heretofore provided for, required to expand, alter or renovate institutions of public service, religious, philanthropic or eleemosynary use existing on the date of this amendment; and
- (i). any such other duties as may be required by the provisions of the Zoning Ordinance.