

BOARD OF ZONING APPEALS APPLICATION PACKAGE

Development Standards Variance
Flood Hazard Area Variance
Use Variance
Special Exception
Administrative Appeal



Shelby County Plan Commission
25 West Polk Street, Room 201
Shelbyville, IN 46176
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Desiree Calderella, AICP
Planning Director

BOARD OF ZONING APPEALS PETITION PROCEDURES

TYPE OF REQUEST

Below is a brief description of each type of Board of Zoning Appeals petition. Please review each to determine which type of procedure you need.

Variance of Development Standards

If you wish to develop a site to standards other than those allowed in a particular zoning district as contained in the Shelby County Zoning Ordinance, a Variance of Development Standards would be required.

The Board may only approve a variance from development standards 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 affected in a substantially adverse manner; and (3) the strict application of the terms of the Ordinance will result in a practical difficulty in the use of the subject property (This situation cannot be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain).

Flood Hazard Area Variance

If you wish to develop or occupy a site or structure in a manner other than prescribed in the Flood Hazard Area Standards of the Shelby County Zoning Ordinance, a Flood Hazard Area Standards Variance would be required.

The Board may only approve a variance from the Flood Hazard Area Standards upon a determination in writing that (1) there exists a sufficient cause for the variance; (2) the strict application of the terms of the Flood Hazard Area Standards will constitute an exceptional hardship to the applicant; and (3) the granting of the variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with other existing laws or ordinances.

Variance of Use

If you wish to use land, a building, or a structure in a manner that is not consistent with the allowed uses for a particular zoning district as specified in the Shelby County Zoning Ordinance, a Variance of Use would be required.

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 will not be affected in a substantially adverse manner; (3) the strict application of the terms of the Ordinance will result in a practical difficulty in the use of the subject property (This situation cannot be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain); (4) the strict application of the terms of the Ordinance will result in an unnecessary hardship if they were applied to the subject property; and (5) the approval of the variance does not interfere substantially with the goals and objectives of the Comprehensive Plan.

Special Exception

If you wish to use land, a building, or a structure for a use that is designated in the Shelby County Zoning Ordinance as a Special Exception Use, then a Special Exception approval from the Board of Zoning Appeals would be required.

The Board may only approve a special exception upon a determination in writing that (1) the proposal will not be injurious to the public health, safety, and general welfare of the community; (2) the requirements and development standards for the requested use as prescribed by the Ordinance will be met; (3) granting the exception will not be contrary to the general purposes served by the Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and, (4) the proposed use will be consistent with the character of the zoning district in which it is located and the Shelby County Comprehensive Plan.

Administrative Appeal

If you wish to appeal any decision, interpretation, or determination made by the Plan Commission Director, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting the Shelby County Zoning Ordinance, then an Administrative Appeal must be made to the Board of Zoning Appeals.

The Board may only grant an appeal of an administrative decision based on a determination in writing that the decision of the administrative person or board was inconsistent with the provisions of the Shelby County Zoning Ordinance.

GENERAL PROCEDURE

The procedures related to public hearings contained in this Petition Packet are provided for convenience purposes only. Adopted procedures can be found in the most recent Shelby County Board of Zoning Appeals Bylaws and Rules of Procedure.

1. SUBMITTAL OF REQUIRED MATERIALS

1. Application
2. Filing Fee
3. Affidavit and consent of property owner (if the property owner is someone other than the applicant)
4. A copy of the deed for the property involved
5. Findings of Fact sheet with completed responses.
6. Site Plan (see site plan example of following pages)
7. Statement of Intent (*for variances of use and special exceptions only*)
8. ADMINISTRATIVE APPEAL ADDITIONAL MATERIALS: In addition to the submittal materials, supporting information shall include, but not be limited to original submittals, written decisions, and a letter describing the reasons for the appeal noting specific sections of the Zoning Ordinance or other standards applicable in the Shelby County upon which the appeal is based.

2. SITE VISIT

The Planning Director will conduct a property inspection at least one week prior to the hearing. The applicant does not have to be present for the inspection unless requested by the Planning Director.

3. PUBLIC HEARING NOTIFICATION PROCEDURE

- a. Notice: The Planning Director will prepare *legal notice* and *notice to interested parties* of the petition within three business days of submittal of the application. The applicant may request to receive the notice by email or may obtain the notice at the plan commission office during regular business hours.
- b. Legal Notice: The Planning Director will post the legal advertisement in the newspaper.
- c. Notice to Interested Parties: The applicant is responsible for distributing written notice of the petition to all owners of property within 660 feet of the boundaries of the subject property. The Plan Planning Director will provide the applicant with the mailing addresses of all property owners required to receive notice. The applicant is responsible for providing the notice mailed to each property owner, envelopes, and postage.
- d. Notification Certification: The addressed and stamped envelopes to be provided to each property owner and the signed and notarized Affidavit of Notice list (the Plan Commission office can act as a notary) shall be provided to the Planning Director at least 10 days prior to the hearing (not including the date of the hearing).
- e. On-Site Public Notice Sign: The applicant is responsible for posting a public notice sign(s) on the subject property at least ten (10) days prior to the public hearing (not including the date of the hearing). The Planning Director will provide the applicant with a public notice sign for each street frontage along the subject property. The sign(s) shall be visible from the public roadway and shall remain posted until resolution of the petition. The applicant must return the sign(s) to the Planning Director upon resolution of the petition.

4. PUBLIC HEARING BEFORE THE BOARD OF ZONING APPEALS

The applicant must be present at the public hearing to present the request to the Board and to address any questions. The Board will review the request and generally issue a final decision at the public hearing. The Board may approve the petition with additional conditions.

5. EXPEDITED HEARING PROCEDURE

At the discretion of the Planning Director, requests for Development Standards Variances may be scheduled for public hearing before the Hearing Officer. The Hearing Officer will hear the petition 14 days after submittal of a completed application. The applicant is not required to attend the public hearing before the Hearing Officer. Any petition scheduled to be heard by the Hearing Officer will be automatically transferred to the next regularly scheduled Board of Zoning Appeals meeting if any person enters an oral or written objection to the petition. New notice is not required for transferred petitions.

For Office Use Only
Case #: _____
Hearing Date: _____

VARIANCE/SPECIAL EXCEPTION/APPEAL APPLICATION

Shelby County Board of Zoning Appeals
25 West Polk Street, Room 201
Shelbyville, IN 46176
P: 317.392.6338 F: 317.421.8365

1. Applicant/Property Owner

Applicant

Name: _____

Address: _____

Phone Number: _____

E-mail Address: _____

Owner (if different than Applicant)

Name: _____

Address: _____

Phone Number: _____

2. Applicant's Attorney/Representative and Project Engineer (if any)

Attorney/Representative

Name: _____

Address: _____

Phone Number: _____

E-mail Address: _____

Project Engineer

Name: _____

Address: _____

Phone Number: _____

E-mail Address: _____

3. Type(s) of Petition: Variance of Development Standards Variance of Use Special Exception
 Administrative Appeal Flood Hazard Variance

4. Project Information: Address of Property: _____ Current Zoning: _____
Existing Use (ag, home, business, etc.) of Property: _____

5. Description of Land Use Request: _____

6. Attachments

- Affidavit & Consent of Property Owner (if applicable) Appeal basis, copies of original submittals copies & copies of written decisions (for appeals only)
 Copy of Deed Filing Fee
 Site Plan Findings of Fact (if applicable)
 Statement of Intent (variance of use/special exception)

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:

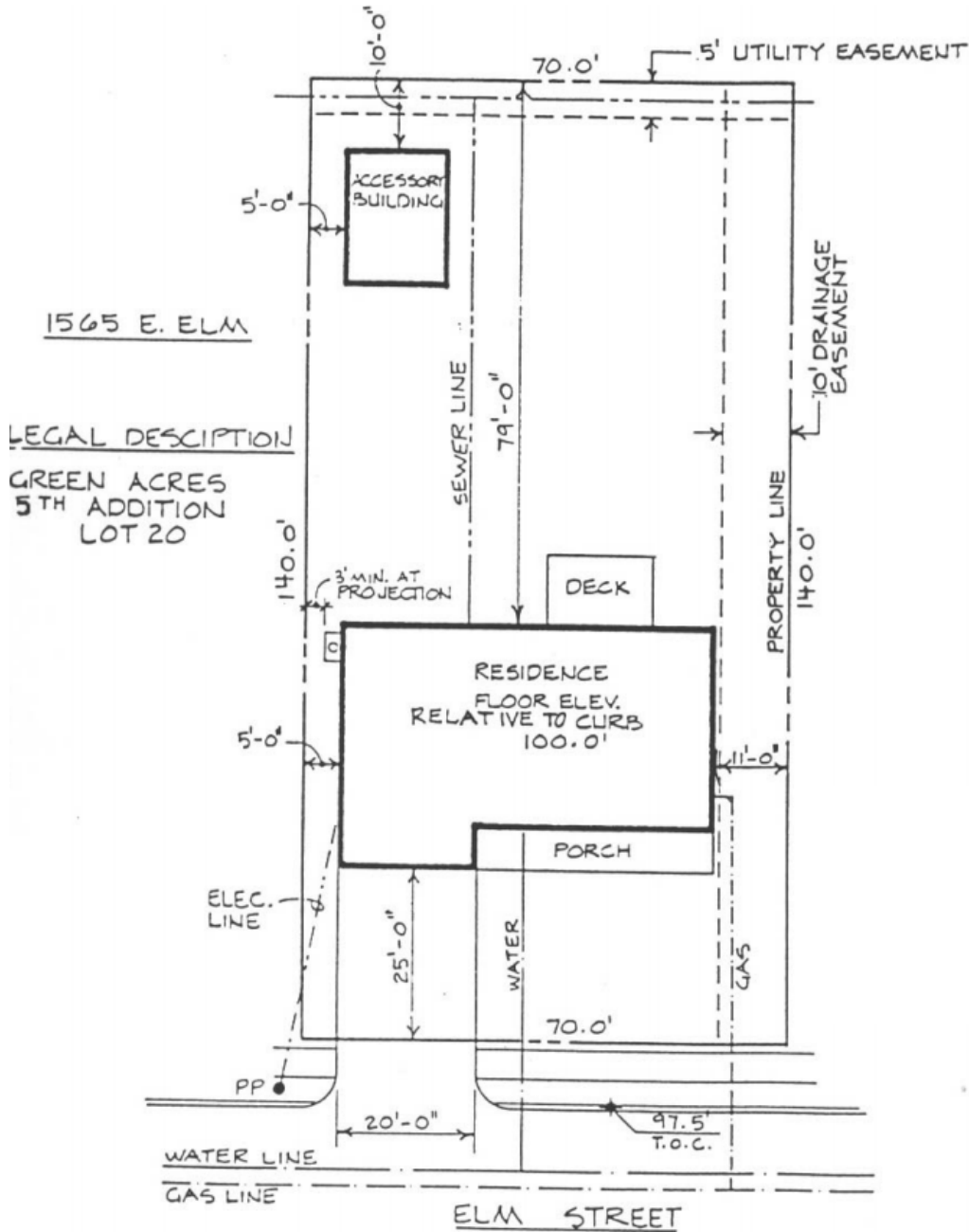
Subscribed and sworn to before me this _____ day of _____.

_____/_____
Notary Public Printed

Residing in _____ County My Commission expires _____

SITE PLAN EXAMPLE

At minimum, the site plan should include all existing & proposed buildings on the subject property and all existing & proposed features of the property related to the request. The plan does not necessarily need to be drawn to scale, however the plan should indicate the dimensions of the property, dimensions of all buildings & property features, and the distance for all buildings and property features from the property line. The applicant may hand-draw the site plan or print out an online aerial map, however the Planning Director has the discretion to require a site plan drawn by a professional engineer dependent upon the complexity of the request. If approved, the request would be limited to the information provided on the site plan and any change that increased the scope of the proposal would require new approval from the Board



STATEMENT OF INTENT (ONLY REQUIRED FOR VARAINCE OF USE & SPECIAL EXCEPTION)

Please answer the following questions (when applicable) pertaining to your request. If approved, the use would be limited to the information provided and expansion of the use would require new approval from the Board. The Board may also approve the use conditional on one or more amendments to the statement of intent.

1. Summary of Proposed Use and/or Business Activity: _____

2. Days & Hours of Operation: _____

3. Maximum Number of Customers per Day/Week/Month: _____

4. Type and Frequency of Deliveries: _____

5. Description of any Outdoor Storage: _____

6. Description, Size, and Placement of any Signage: _____

7. Description of Waste Disposal: _____

8. Existing and/or Proposed Building and Site Improvements Pertaining to Proposed Use (ex. parking lot, landscaping, commercial upgrades to building, etc.): _____

FINDINGS OF FACT GENERAL GUIDANCE (NOT TO BE CONSIDERED LEGAL ADVICE)

The applicant (or their representative) must fill out the findings of fact on the following pages. **Only fill out the findings of fact applicable to your case category** (variance of development standards, flood hazard area variance, variance of use, and/or special exception). The Board of Zoning Appeals may review the applicant's findings of fact to assist with their decision-making process. Please see below for general guidance related to completing the findings of fact.

Development Standards Variance (not to be considered legal advice):

General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

Practical Difficulty: This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain (ex. of practical difficulty: topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.)

Use Variance (not to be considered legal advice):

General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

Adjacent Property: How does the request do no harm to adjoining property and neighborhood? (ex. noise, odor, traffic generation, distance from property lines, appearance of property, etc.)

Practical Difficulty: Examples include topography of property, location of septic system, consistency with nearby land uses, historical use of property, etc.

Unnecessary Hardship: This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain

Comprehensive Plan: How does the proposed use not substantially interfere with the future land use of the property identified in the Comprehensive Plan? If you do not know the future land use of the property, please ask the Planning Director.

Special Exception (not to be considered legal advice):

Comprehensive Plan: How does the proposed use not substantially interfere with the future land use of the property identified in the Comprehensive Plan? If you do not know the future land use of the property, please ask the Planning Director.

General Welfare: How does the request do no harm to the overall community of Shelby County? (ex. pollution, customer safety, road network safety, building code compliance, etc.)

Harmony: How is the proposed use similar to surrounding land uses?

Character of the District: How does the requested use not alter the intended character (agricultural, residential, commercial, etc.) of the zoning district?

Property Values: Why would the appearance and operation of the proposed use not substantially impact surrounding property values in an adverse manner? (use answers to harmony and character of the district to help answer this question).

DEVELOPMENT STANDARDS VARIANCE
FINDINGS OF FACT

Applicant: _____

Case #: _____

Location: _____

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

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

3. **Practical Difficulty:** The strict application of the terms of the Shelby County Zoning Ordinance will result in a practical difficulty in the use of the property.

**FLOOD HAZARD AREA STANDARDS VARIANCE
FINDINGS OF FACT**

Applicant: _____

Case #: _____

Location: _____

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

- 1. **Sufficient Cause:** There exists a sufficient cause for the requested variance.

- 2. **Exceptional Hardship:** The strict application of the terms of the Shelby County Zoning Ordinance will constitute an exceptional hardship to the applicant.

- 3. **Public Safety:** The granting of the requested variance will not increase flood heights, create additional threats to public safety, create nuisances, cause fraud or victimization of the public, or conflict with other existing laws or ordinances.

**USE VARIANCE
FINDINGS OF FACT**

Applicant: _____

Case #: _____

Location: _____

The Shelby County 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:** The approval will not be injurious to the public health, safety, and general welfare of the community.

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

3. **Practical Difficulty:** The need for the variance arises from some condition particular to the property involved.

4. **Unnecessary Hardship:** The strict application of the terms of the Shelby County Unified Development Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

5. **Comprehensive Plan:** The granting of the variance does not interfere substantially with the Comprehensive Plan.

**SPECIAL EXCEPTION
FINDINGS OF FACT**

Applicant: _____

Case #: _____

Location: _____

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

- 1. **Comprehensive Plan:** The proposed special exception is consistent with the purpose of the zoning district and the Shelby County Comprehensive Plan.

- 2. **General Welfare:** The proposed special exception will not be injurious to the public health, safety, and general welfare of the community.

- 3. **Harmony:** The proposed special exception is in harmony with all adjacent land uses.

- 4. **Character of the District:** The proposed special exception will not alter the character of the district.

- 5. **Property Value:** The proposed special exception will not substantially impact property value in an adverse manner.

**AFFIDAVIT OF NOTICE TO INTERESTED PARTIES
PUBLIC HEARING OF THE SHELBY COUNTY BOARD OF ZONING APPEALS**

STATE OF INDIANA)
COUNTY OF SHELBY) SS:

I, _____, DO HEREBY CERTIFY THAT NOTICE TO INTERESTED
(Name of person mailing letters)
PARTIES OF THE PUBLIC HEARING BY THE SHELBY COUNTY BOARD OF ZONING APPEALS, to consider the application
of: _____.
(Name of person on application)

Requesting: _____

For Property Located at: _____

Was sent to the following owners and addresses as listed in the Plat Books of the Shelby County Auditor's Office (attach additional sheets if necessary):

<u>OWNERS</u>	<u>ADDRESS</u>
_____	_____, _____
_____	_____, _____
_____	_____, _____
_____	_____, _____
_____	_____, _____
_____	_____, _____
_____	_____, _____
_____	_____, _____

And that said notices were sent on or before the ____ day of _____, _____, being at least ten (10) days prior to the date of the Public Hearing.

I further certify that the required public notice sign(s) was posted in a place visible from the public roadway on the subject property on or before the ____ day of _____, _____, being at least ten (10) days prior to the date of the Public Hearing and will remain on the property until resolution of the petition.

(Name of person mailing the letters and placing sign)

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 _____