



# White County Building & Planning

110 N Main St. PO Box 851 Monticello, IN 47960

Phone: (574)583-7355 Fax: (574)583-4624

www.whitecountyindiana.us

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## VARIANCE PROCEDURE

The White County Board of Zoning Appeals meets on the third Thursday of each month at 6:00 pm, unless otherwise scheduled due to holidays, special circumstances, etc. All meetings are open to the public, held in the Commissioners' Room on the Second Floor of the White County Building, 110 N. Main Street, Monticello, and begin precisely at 6:00 pm. The north and south doors will open at 5:30 pm and close at 6:15 pm. The following is the procedure to follow to apply for a Variance; some circumstances may require additional information.

### APPLICANT'S RESPONSIBILITIES:

1. Meet with the Executive Director to discuss request.
2. Obtain a dimensional survey (at the applicant's expense) of the subject property, prepared by a registered land surveyor, that includes all information indicated on the survey checklist (Form V-1).
3. Submit a copy of all written commitments/conditions that pertain to the subject property (if applicable).
4. Provide a copy of your Property Record Card (available in Area Plan office).
5. Provide a copy of your Deed or Contract (Recorder's Office, 1st floor) showing ownership and legal description of the property. A small fee will be charged by the Recorder's Office for this copy.
6. Burden of Proof. It is the applicant's responsibility to demonstrate (as stated in 12.4.2 of the White County Zoning Ordinance) why the strict application of the terms of this ordinance would involve practical difficulties as applied to the property for which the variance is sought. It is highly recommended this justification be supplied in writing, at the time of application. Not required for a special exception use application.
7. Applications must be filed with the Area Plan Department by the established cutoff date (see below). The application, or a letter of authorization, must be signed, before a notary (notarization is provided by the Area Plan Office free of charge), by the legal owner of the property. A filing fee, as stated in the official Fee Schedule, must accompany the application. If multiple variances are requested under one application, the applicant must declare if they want all variances heard on a single ballot or individually prior to an application being considered complete.
8. The Area Plan Staff will post a "Request for Variance" sign (provided by the Area Plan Office) on the property, where it can easily be seen and read from the road, a minimum of 10 full days prior to the date of the hearing and continually until the date of the hearing. A "Sign Posting Affidavit" (provided by Area Plan) verifying the posting date, is required.

9. The Applicant or a representative should be present at the hearing to answer any questions and/or consider any changes the board may have regarding the request. The board may hear the request whether or not a representative is present. If the request is denied, re-application is not allowed for a period of one year. If no representative will be present, contact the Area Plan office to request a continuance.

<b>Survey Checklist (V-1)</b>		
<b>The requirements listed below need to be shown on the survey for the variance request. Please use the checklist below when you pick up your survey from the surveyor.</b>		
Required	Completed	Survey requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Distance from property lines to all lot improvements and any improvements on an abutting property within 50' of any subject property line;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dimensions of all proposed structures (width, length, height) and all distances to property lines;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Location of driveway and distance shown to proposed structure(s);
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Define exterior parking area boundaries and distances to property line / right of way;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Edge of road pavement and width of Right of Way with distance(s) to proposed structure;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Vacated roadway(s) if applicable;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Relevant easements with location shown on survey;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Any wells, septic system, utility poles and infrastructure;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Tiles/culverts location identified;
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Lot #'s;
<input type="checkbox"/>	<input type="checkbox"/>	Other as listed: _____ _____

Form #V-1

## BZA HEARINGS

<b>BZA</b>		
<u>Filing Dates</u>	<u>Final Approval Date</u>	<u>Meeting Dates</u>
<b>12/15/23</b>	<b>12/22/23</b>	<b>01/18/24</b>
<b>02/19/24</b>	<b>02/26/24</b>	<b>03/21/24</b>
<b>03/18/24</b>	<b>03/25/24</b>	<b>04/18/24</b>
<b>04/15/24</b>	<b>04/22/24</b>	<b>05/16/24</b>
<b>05/18/24</b>	<b>05/25/24</b>	<b>06/20/24</b>
<b>06/17/24</b>	<b>06/24/24</b>	<b>07/18/24</b>
<b>07/15/24</b>	<b>07/22/24</b>	<b>08/15/24</b>
<b>08/19/24</b>	<b>08/26/24</b>	<b>09/19/24</b>
<b>09/16/24</b>	<b>09/23/24</b>	<b>10/17/24</b>
<b>10/21/24</b>	<b>10/28/24</b>	<b>11/21/24</b>

### APPLICATION TIPS AND CRITERIA

**\*\*It is the applicant's responsibility to prove the request satisfies all the criteria. \*\***

The board hearing your request is the White County Area Board of Zoning Appeals, a five-member board. Your hearing will automatically incorporate the White County, Indiana Zoning & Subdivision Control Ordinances and the By-Laws of the Area Board of Zoning Appeals.

The specific criteria the board must consider when voting on your petition follows. Actions of the Board require a minimum of three votes. Once heard, your request may be continued until an upcoming hearing date, approved as written, approved with conditions, or denied. If your petition is approved, you may proceed with your project (upon obtaining all necessary permits). If your petition is approved with conditions, you must comply with the conditions of the board or face violation fines until you do comply. If your petition is denied, you may not reapply for the same request for a period of one year unless substantially new evidence becomes available. Any decision of the Area Board of Zoning Appeals may be appealed to the White County Circuit or Superior Court.

The effect your request will have on neighboring properties is a strong determining factor. It is important to gather and present all possible neighborhood support before and/or during the hearing. This is a public hearing and anyone in opposition to the request will be allowed to voice that opposition verbally or in writing, before and/or during the hearing. Neighborhood supporters in attendance at the hearing, individual letters or a petition signed by as many supporters in the neighborhood as possible, may prove helpful. Such items of support may be submitted to the Area Plan office in advance or brought to the hearing. Either way, they will be

read into public record at the hearing, along with any items received in opposition. The board generally asks questions at the hearing to clarify your particular situation. Please plan to attend the hearing yourself or have a representative attend in your place. The representative attending the hearing should be someone who not only understands your situation completely, but can make a decision should the board ask that the request be amended or modified. Even if no representative attends, the board may elect to vote on your request or table it to a future hearing.

### **Application Tips and Criteria Continued**

A variance can be granted only upon demonstration to the BZA of a practical difficulty in complying with the White County Zoning Ordinance (#5 Burden of Proof). It is highly recommended that you make your case in a letter to the board. Provide as much information as possible and try to explain your situation fully, yet concisely. Your “practical difficulties” in following the strict rules of the ordinance may not be based on economic gain. Remember, you must prove not only the need for a variance, but, also, that the granting of this particular variance will not negatively affect neighboring properties.

The Burden of Proof is not a requirement for special exception use applications; however, it is generally beneficial to the applicant to present as much information as possible to the board so they completely understand the request.

An applicant may request the withdrawal (filing fees are non-refundable) of a petition or the tabling of a petition to a future meeting anytime from the moment the application is submitted until the board calls for a vote. Once the voting process has begun, the applicant must abide by the ruling of the board or appeal the board’s decision to the court.

The Area Plan office reserves the right to cancel any scheduled meeting and reschedule all active petitions to a future meeting. Applicants will be contacted should this occur.

Following is an outline of the procedures of the hearing and conduct protocol during the hearing.

## **WHITE COUNTY AREA BOARD OF ZONING APPEALS STATEMENT OF PROCEDURES**

1. The Staff will introduce each application and provide a summary for the Board and audience.
2. The petitioner will be asked to present his or her case, after which anyone wishing to support the petitioner’s request will be asked to come forward.
3. After hearing from the petitioner and those speaking on his or her behalf, those speaking against the petition will be asked to present his/her arguments.
4. The petitioner will then be allowed to rebut arguments raised by those in opposition to his or her petition.

5. Following the rebuttal, the Board and/or Staff will ask questions of the petitioner, supporters, and opponents of the petition, or of the Staff.
6. The Staff will, at any time, make any necessary clarifying comments.
7. The Board will then vote by use of a prescribed ballot. Three (3) votes are necessary to make any decision. In the absence of three (3) votes either for or against, the petition is automatically continued to the next meeting.

**PLEASE OBSERVE THE FOLLOWING GUIDELINES, FOR THE SAKE  
OF TIME AND FAIRNESS TO ALL:**

1. Step to the podium and state your name for the record before you speak
2. Limit your remarks to ten (10) minutes or less or you must request and received approval from the Board for more time.
3. Do not repeat arguments that have been brought up by others.
4. Remember that all visual aids used to support your arguments will remain the property of the Board.
5. Cell phones must be turned off while the meeting is in session. Please step out of the room before using your cell phone.

# **Points the Board Must Consider Regarding a Variance Request**

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community.

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2. The use and value of the area adjacent to the property included in the development standard variance will not be affected in a substantially adverse manner.

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3. The strict application of the terms of the White County Zoning Ordinance would result in practical difficulties in the use of the property, provided that the situation is not self-imposed or that the need for the development standard variance is not based on a perceived reduction of, or restriction on, economic gain.

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4. The granting of a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district, but which is denied to the property in question.

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5. The granting of a variance would be a minimal departure from the strict application of the provisions of the White County Zoning Ordinance. In other words, the variance will be the minimum necessary to permit a reasonable use of the land and building.

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6. The variance being sought does not essentially alter the character of the surrounding area.

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7. The variance request is not the result of an act or action, or lack thereof, of the applicant, property owner, contractor or any other party affiliated with the property to which the variance is being sought.

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8. The need for the developmental standard variance is not based on a perceived reduction of, or restriction on, economic gain.

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## Sign Posting

**Area Plan staff will post a “Request for Variance” sign (provided by the Area Plan Office) on the property, where it can be easily seen and read from the road, a minimum of 10 full days prior of the date of the hearing and continually until the date of the hearing.**

**Variance notification sign requirements as follows:**

1. Sign will be posted on the subject property so that it can be clearly seen and read from the primary road front.
2. Sign will be posted a minimum of ten (10) **full days prior** to the scheduled hearing date. *The hearing date is not included in the 10-day minimum.* Sign will be posted no later than midnight on: \_\_\_\_\_
3. Sign must remain continuously posted until the time of the hearing.
4. Sign must be removed and properly disposed of within three (3) days following the initial hearing date and time. Sign is composed of recyclable plastic. It may be returned to the Area Plan Office for disposal.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(Applicant or Representative)

The information submitted, including this document and all exhibits, to my knowledge and belief, are true and correct. By signing below, I give Area Plan the right to access the site for the purpose of taking photos to aid the board in their decision-making process. Said photos will become a part of the permanent public file for this request.

Meeting Date: \_\_\_\_\_, 20\_\_\_\_ 6:00 p.m. 2<sup>nd</sup> Floor, Commissioners Room, White County Building. **A representative of the owner/applicant should be present at the hearing to answer any questions the board may have regarding this request.** The north and south doors of the White County Building will be open thirty minutes prior to and following the scheduled start time of the hearing. As stipulated in Indiana State Statute IC 36-7-4-920 (g): A person may not communicate with any member of the board before the hearing with intent to influence the member’s action on a matter pending before the board.





