



## VARIANCE OF LAND USE APPLICATION

### CITY OF NOBLESVILLE

### BOARD OF ZONING APPEALS

#### I. Filing Requirements (*required in order to file*):

##### A. Fees:

1. Please make all checks payable to "The City of Noblesville."
2. Filing Fee: When the applicant submits their Variance of Land Use application, they must also submit payment of \$800.00 plus \$35.00/acre as a filing fee. Cash, checks, or credit cards are accepted. The filing fee is not refundable.

##### B. Materials: The Applicant must submit the following information unless otherwise instructed:

1. **Legal Description:** An accurate legal description of the property which is the subject of the application.
  - a. In the event that the subject property is located within a recorded subdivision, the applicant shall submit the lot number, section number, and recorded name of such subdivision.
  - b. In the event that the subject property is not located within a recorded subdivision, the applicant shall submit a metes and bounds legal description of the subject property. Such legal description should be contained in the deed to the subject property and should also be on file with the Hamilton County Recorder's Office, located at 33 North 9<sup>th</sup> Street, Noblesville, Indiana 46060.
  - c. The recording number for, and a copy of, the most recent Deed of Record.
2. **Site Plan:** A current and accurate site plan (not to exceed 11" x 17" in size) of the subject property, drawn to scale, showing the following information:
  - a. The boundaries of the property which is the subject of the application;
  - b. The locations and dimensions of all existing and proposed structures;
  - c. Elevations (scaled drawings of the exterior appearance) of proposed structures or additions;
  - d. The locations and dimensions of all existing and proposed building lines, right-of-way lines, regulated drains, floodways, floodway fringe areas, and easements;
  - e. The locations and dimensions of all significant infrastructure, existing and proposed, on the subject site;
  - f. The locations and dimensions of all driveways and drainage areas adjacent to the subject property;
  - g. The locations and dimensions of all relevant open space areas, buffer yards, landscaped areas, refuse and service areas, and signs; and

- h. Any other information the Board of Zoning Appeals may deem useful in determining if the proposed land use is appropriate at the proposed location.
- 3. **Narrative Statement:** A narrative statement explaining the nature and extent of the proposed use of the subject property and why the requested land use variance is being requested; and
- 4. **Application:** A completed Variance of Land Use Application.

**II. Notice Requirements (required after filing, but before public hearing):**

**A. Newspaper Publication:**

- 1. **A legal notice of the scheduled public hearing will be prepared and submitted by the Department of Planning to the Noblesville Times and the Hamilton County Reporter in sufficient time to meet the notice deadlines as shown on the attached "Schedule of Meetings."**
- 2. **The Applicant is responsible for the payment for such publications. Your contact information will be provided to the Noblesville Times and Hamilton County Reporter upon submission of the legal notice.**
- 3. A "Proof of Publication" document will be provided to the Applicant and the Department of Planning by the newspaper offices. The applicant is not required to take any further action regarding the newspaper publications.

**B. Mailings to Adjoining Property Owners:**

- 1. **Notice to Affected Property Owners:** The applicant is required to send, via Certificate of Mailing (which is different than Certified Mail), written notice to all property owners of record within a distance of two parcels in depth or 660 feet, whichever is less, of the property which is the subject of this variance request. The Department of Planning will prepare this notice.
- 2. Within two weeks of the filing deadline, the Department of Planning will provide the prepared written notice to the applicant electronically, or the notice can be picked up at our office.
- 3. **The applicant is responsible for the following tasks prior to the public hearing:**
  - a. **Identifying Affected Property Owners:** The applicant shall contact the Hamilton County Office of Transfers and Mapping (located in the Old Courthouse on the Noblesville Square) in order to obtain the names and mailing addresses of all Affected Property Owners. Please allow a minimum of 5 business days to obtain this list.

Hamilton County Office of Transfers and Mapping  
33 North 9<sup>th</sup> Street  
Noblesville, Indiana 46060  
Phone: (317) 776-9624  
Fax: (317) 776-9682

**b. Mailing Legal Notices:**

- i. The applicant shall mail written notice of the public hearing, via Certificate of Mailing, to property owners of record within a distance of two parcels in depth or 660 feet, whichever is less, of the subject property as identified by the Office of Transfers and Mapping.
- ii. The applicant is responsible for payment of Certificate of Mailing fees.

iii. The applicant shall submit all Certificate of Mailing receipts to the Department of Planning at least three business days prior to the scheduled public hearing. It is acceptable to scan those items and email the information to the Department as long as the stamp indicating the date of mailing is legible.

c. Completion of Petitioner's Affidavit:

i. An affidavit entitled "Petitioner's Affidavit of Notice of Public Hearing" is attached to this application.

ii. Such affidavit shall be completed by the applicant and submitted to the Department of Planning at least three business days prior to scheduled public hearing.

d. Submission of materials for Board:

If the applicant wishes to submit packets or additional information to the Board prior to the hearing, all information must be submitted to the Department of Planning no later than two weeks prior to the hearing. If the Board receives materials at the hearing, the matter may be continued to the next scheduled hearing to allow for sufficient time to review the material.

**C. Public Hearing Sign:**

1. A member of the Noblesville Department of Planning staff will prepare a sign advertising the public hearing at which the requested variance will be considered.
2. Such sign will be installed on the subject property by a Department of Planning staff member some time prior to the scheduled public hearing, and removed by same after the hearing is completed. The applicant should not remove the sign from where it is placed.
3. During the period that such sign is present on the subject property, it is the applicant's responsibility to maintain the sign in good condition and to maintain the visibility of said sign.

**D. Property Owner Consent:**

1. In the event that the applicant and the Owner of Record (the property owner on record with the Hamilton County Office of Transfers and Mapping) are not the same person or entity, the Owner of Record shall be required to submit a written consent permitting the variance application.
2. Such consent shall include the following:
  - a. The name of the Owner of Record;
  - b. The name of the applicant;
  - c. Address or parcel number of the subject property;
  - d. A statement of awareness and support of the requested variance;
  - e. The relevant Board of Zoning Appeals case number;
  - f. The notarized signature of the Owner of Record; and
  - g. The date of signing.
3. Such consent letter must be submitted to the Department of Planning at least three business days prior to the scheduled public hearing.

### III. Public Hearing Procedure:

The full procedure for conduct of the public hearing may be found in the Board of Zoning Appeals Rules of Procedure at this City of Noblesville website page:

[https://www.cityofnoblesville.org/egov/documents/1525184972\\_93109.pdf](https://www.cityofnoblesville.org/egov/documents/1525184972_93109.pdf). Below is the summary of the conduct of the presentation of evidence on individual items at the hearing. Please note that the applicant may appear on their own behalf or be represented by counsel or an agent, but if no one is there to present evidence on behalf of the applicant, the item will be continued to the next meeting.

- A. Chairman gives a restatement of the case as an introduction to the item.
- B. The Staff presents evidence and offers a recommendation.
- C. The Board members examine the Staff.
- D. The applicant presents evidence and any necessary witnesses.
- E. The Board members examine the applicant and any witnesses.
- F. Members of the public present evidence upon the opening of the public hearing.
- G. The Board members examine the members of the public.
- H. The applicant is given a rebuttal period.
- I. The Board discusses information that has been presented and asks any additional questions.
- J. The Board votes on the agenda item.

### IV. After the Public Hearing (*required after public hearing*):

- A. Letter of Grant:
  1. A follow up Letter of Grant detailing the result of the public hearing shall be sent to the applicant after the public hearing.
  2. Such letter should be retained for the applicant's records.
  3. The Letter of Grant may include further instructions for additional tasks that must be completed by the applicant. Any instructions included in such letter should be strictly followed.
- B. "Acknowledgement of Variance" Form:
  1. Along with the Letter of Grant, an "Acknowledgement of Variance" form will be mailed to the applicant only if the variance was approved by the Board.
  2. In order for approved variances to become effective, the "Acknowledgement of Variance" form must be:
    - a. Signed by the applicant in the presence of a notary;
    - b. Recorded in the Hamilton County Recorder's Office (located at 33 North 9<sup>th</sup> Street in downtown Noblesville, in the Old Courthouse on the Square); and
    - c. A file stamped copy of the recorded document must be returned to the Department of Planning. Mail or deliver such document to: Department of Planning and Development, 16 South 10<sup>th</sup> Street, Suite 150, Noblesville, IN 46060.
- C. The "Letter of Grant" and the "Acknowledgement of Variance" form are typically mailed to the applicant at the same time after the public hearing.



**CITY OF NOBLESVILLE  
BOARD OF ZONING APPEALS  
VARIANCE OF LAND USE APPLICATION**

Application Number: \_\_\_\_\_

The undersigned requests a Variance of Land Use as specified below. Should this variance request be approved, such approval shall only authorize the particular use described in this application and as further limited by reasonable conditions imposed upon such approval by the Board of Zoning Appeals.

Project Name or Occupant Name: \_\_\_\_\_

Common Address: \_\_\_\_\_

**Applicant Name:** \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Applicant City/State/Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

Applicant Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

**Owner Name:** \_\_\_\_\_

Owner Address: \_\_\_\_\_

Owner City/State/Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

Owner Phone #1: \_\_\_\_\_ Phone #2: \_\_\_\_\_ Fax: \_\_\_\_\_

Property Location:  Not located in a recorded subdivision, see legal description attached.

Subdivision Name: \_\_\_\_\_

Subdivision Section: \_\_\_\_\_ Lot Number: \_\_\_\_\_ Last Deed of Record Number: \_\_\_\_\_

Existing Land Use: \_\_\_\_\_

Common Description of Request: \_\_\_\_\_

Zoning District of Property: \_\_\_\_\_ Code Section(s) Appealed: UDO § \_\_\_\_\_

Date: \_\_\_\_\_ Applicant's Signature: \_\_\_\_\_

The Noblesville Board of Zoning Appeals (BZA) is authorized to approve or deny Variances of Land Use from the terms of the Unified Development Ordinance. The BZA may impose reasonable conditions as part of its approval. A Variance of Land Use may be approved only upon a determination in writing that the following five (5) statements are true (see Indiana Code § 36-7-4-918.4):

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

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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 by the approval of this variance request. Explain why this statement is true in this case:

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3. The need for the proposed variance arises from some condition peculiar to the property involved. Explain why this statement is true in this case:

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4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which this variance is sought. Explain why this statement is true in this case:

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5. The approval of this variance does not interfere substantially with the provisions of the Comprehensive Master Plan for the City of Noblesville, Indiana. Explain why this statement is true in this case:

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**City of Noblesville  
Board of Zoning Appeals  
Schedule of Meetings 2020**

HEARING DATE	FILING DEADLINES	LEGAL NOTICE DEADLINES
<b>MONDAY 6:00 PM</b>	<b>MONDAY 12:00 PM</b>	<b>FRIDAY 4:00 PM</b>
January 6	December 2, 2019	December 20, 2019
February 3	January 3 (Friday)	January 17
March 2	January 27	February 14
April 6	March 2	March 20
May 4	March 30	April 17
June 1	April 27	May 15
July 6	June 1	June 19
August 3	June 29	July 17
September 1 (1st Tuesday)	August 3	August 14
October 5	August 31	September 18
November 2	September 28	October 16
December 7	October 26	November 20

- Mail Notices must be postmarked at least seventeen (17) days before the scheduled hearing. Allow at least five days for obtaining the addresses of affected property owners from the Hamilton County Office of Transfers and Mapping.
- Legal Ads will be prepared by the Department of Planning and Development to be published at least seventeen (17) days before the scheduled hearing. Legal ads are emailed by the Department to the newspaper.
- When a filing deadline falls on a holiday observed by City, applications must be submitted by noon the previous work day.
- Board of Zoning Appeals meetings begin at 6:00 p.m. and are generally held in the Noblesville City Council Chambers at 16 South 10th Street unless otherwise rescheduled (please confirm meeting location).



