

**Filing Procedure for Use Variances**

Appeals are to be filed with the Department of City Planning, City Hall, 600 East Third Street, Room 201, Mishawaka, Indiana. Typewritten appeals must be filed at least twenty (20) days prior to the date of the public hearing on 8½" by 11" paper in **Triplicate**, with all required signatures in permanent ink. **You or your authorized representative must be present at the public hearing and/or hearings.**

**The following items must be filed:**

1. An appeal patterned after the SAMPLE APPEAL included with these instructions and including such data and/or information necessary for a clear understanding and intelligent action by the Board of Zoning Appeals. The appeal must address and discuss each of the applicable questions that the Board must use to make a judgment. Please include any other pertinent data that will assist the Board in determining whether or not the literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
2. *If the appeal is filed by any person other than the legal owner or the owner's attorney,* written authorization of the owner must be filed with the application.
3. A list of all property owners of record within 300 feet of the subject property, provided by Planning Staff.
4. Business size stamped envelopes addressed to each property owner within the 300 foot radius. **NOTE:** Do *not* put a return address on the envelopes; planning will stamp on their return address. If a stamp meter is used, do not date.
5. *When changes to a building are involved,* the plans for the proposed variance must be furnished and scaled to proportion.
6. If applicable, a plot plan showing location of present and/or proposed structure on the site and any buildings on contiguous lots indicating front, side and rear setbacks.
7. *For Sign Variances,* specifications of proposed sign (dimensions, copy area, display area, colors, location on the site, number of signs on the site and their locations, composition and illumination.)
8. When paying by check, make payable to the "City of Mishawaka."

	R-1, R-2, R-4 & S-2 for R-1 & R-2	R-3, C-1 through C-10, I-1, I-2, S-1 S-2 (for high density residential, commercial, industrial)
<b><i>Developmental Variances</i></b>	<b>\$ 100.00</b>	<b>\$ 300.00</b>
<b><i>Use Variances</i></b>	<b>\$ 250.00</b>	<b>\$ 400.00</b>
<b><i>Sign Variances</i></b>	<b>\$ 100.00</b>	<b>\$ 300.00</b>
<b><i>Conditional Use Permits</i></b>	<b>\$ 500.00</b>	<b>\$ 500.00</b>

Please understand that you or your representative **MUST** be present at the public hearing. In the case of a USE VARIANCE, two (2) public hearings will be conducted— one hearing with the Board of Zoning Appeals and one hearing with the City Council, normally the following week after the Board

hearing. It is the responsibility of the Appellant to establish the date and time of the public hearing with the Common Council. **PERSONAL NOTIFICATION IS NOT GIVEN FOR THE COMMON COUNCIL PUBLIC HEARING.** The staff for the Board does send notification for the Board of Zoning Appeals meeting, along with a staff report to the Appellant. You are welcome to call the Department of City Planning if you have any questions. Secretary to the Board is:

Kari Myers

(574) 258-1625 Fax (574)968-6999

Following are the questions that **MUST** be addressed and discussed within the body of your appeal.

#### **DEVELOPMENTAL VARIANCE**

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why*
3. Will strict application of the terms of this chapter result in practical difficulties in the use of the property? *Explain your reason why*

#### **USE VARIANCE**

1. Will the approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why.*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why.*
3. Does the need for the variance arise from some condition peculiar to the property involved? *Explain your reason why.*
4. Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *Explain your reason why.*
5. Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *Explain your reason why.*

#### **SIGN VARIANCE**

1. Will approval be injurious to the public health, safety, morals or general welfare of the community? *Explain your reason why*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *Explain your reason why*
3. Will strict application of the terms of the On-Premise Sign Standards Ordinance result in practical difficulties in the use of the property? *Explain your reason why*

DATE:

TO: Board of Zoning Appeals  
City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:

1. I, ***insert property owner(s) name(s)***, am the owner of the following described real estate located within the City of Mishawaka, \_\_\_\_ Township, St. Joseph County, State of Indiana, to-wit:

***(PROVIDE ACCURATE LEGAL DESCRIPTION AND ALSO THE COMMON ADDRESS—A TAX KEY NUMBER IS NOT A LEGAL DESCRIPTION)***

2. The above-described real estate presently has a zoning classification of \_\_\_\_\_ District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner: \_\_\_\_\_.
4. Appellant desires to (*Explain what is proposed that violates the Ordinance.*)
5. The Zoning Ordinance of the City of Mishawaka requires (*Explain ordinance requirements and note Section Number of the Ordinance.*)
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship.
7. Answer the following necessary questions for a **USE VARIANCE**:
  - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? *YES OR NO and explain your reason why.*
  - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? *YES OR NO and explain your reason why.*
  - (3) Does the need for the variance arise from some condition peculiar to the property involved? *YES OR NO and explain your reason why.*
  - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? *YES OR NO and explain your reason why.*
  - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? *YES OR NO and explain your reason why.*

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

Signature of Property Owner/Title Holder  
Print Name Here

Second Property Owner/Title Holder  
Print Name Here

**CONTACT PERSON:**

Name:  
Address:  
Day Phone Number:  
Fax Number:  
Email:

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