

**TO:                   Petitioners**  
**FROM:           Town of Porter Board of Zoning Appeals**  
**RE:                Use Variance Petitions**

**According to State Law, the Porter Board of Zoning Appeals may recommend approval of a Use Variance ONLY if it is determined that:**

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community; and**
- 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 need for the variance arises from some condition peculiar to the property involved; and**
- 4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property; and**
- 5. The approval does not interfere substantially with the comprehensive plan.**

**ALL FIVE CONDITIONS MUST BE MET FOR THE BZA TO RECOMMEND THE APPROVAL OF A USE VARIANCE.**

BZA \_\_\_\_\_ - \_\_\_\_\_

DATE \_\_\_\_\_

FEE \$ \_\_\_\_\_

## TOWN OF PORTER APPLICATION FOR USE VARIANCE

NOTE: APPLICATION MUST BE COMPLETED AND FILED WITH THE CLERK-TREASURERS OFFICE, 303 FRANKLIN STREET, PORTER, INDIANA, AT LEAST 10 DAYS PRIOR TO BOARD OF ZONING APPEALS MEETING AT WHICH THE BOARD IS TO CONSIDER SUCH APPLICATION. IF THE APPLICANT IS OTHER THAN THE OWNER OF THE PROPERTY, OWNER MUST ALSO SIGN THE APPLICATION, OR SUBMIT A LETTER AUTHORIZING APPLICANT TO ACT ON OWNERS BEHALF.

APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_

ADDRESS \_\_\_\_\_

PROPERTY OWNER \_\_\_\_\_ PHONE \_\_\_\_\_

OWNERS ADDRESS \_\_\_\_\_

GENERAL LOCATION OF SUBJECT  
PROPERTY \_\_\_\_\_

LEGAL DESCRIPTION OF  
PROPERTY \_\_\_\_\_

CONTAINING \_\_\_\_\_ ACRES      CURRENT ZONING \_\_\_\_\_      DATE PURCHASED \_\_\_\_\_  
(AREA)

USE  
VARIANCE REQUESTED \_\_\_\_\_

ORDINANCE  
REQUIREMENT \_\_\_\_\_

PROPOSED USE \_\_\_\_\_

I AM REQUESTING THE USE VARIANCE FOR THE FOLLOWING REASON \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTACHMENTS: APPLICANT MUST SUBMIT TEN (10) COPIES OF THE LEGAL PLAT IN ACCORDANCE WITH THE REQUIREMENTS LISTED IN THE TOWN OF PORTER ZONING ORDINANCE.

SIGNATURE OF APPLICANT \_\_\_\_\_ DATE \_\_\_\_\_

**TOWN OF PORTER  
LEGAL NOTICE**

**BOARD OF ZONING APPEALS APPLICATION NO. \_\_\_\_\_**

**An application to request a USE VARIANCE from the requirements of Town of Porter Zoning Ordinance**

**has been filed by:**

\_\_\_\_\_  
(name of applicant)

**Notice is hereby given that the Town of Porter, Porter County, Indiana will hold a public hearing in the Porter Town Hall, 303 Franklin Street, at 5:30 p.m. on \_\_\_\_\_, 202\_\_, to consider the application filed. The application is requesting a USE VARIANCE from the requirements of the Zoning Ordinance as they affect the area bounded by:**

\_\_\_\_\_  
(common description)

\_\_\_\_\_  
(name of subdivision)

**consisting of \_\_\_\_\_ acres, located and legally described as follows:**

(insert legal description here)

**Anyone interested in the application may appear in person or by agent at the public hearing. Written objections filed with the Board of Zoning Appeals Secretary before the hearing will be considered. The hearing may be continued from time to time as may be found necessary. All information concerning such application is on file in the Building Department Office, 303 Franklin Street, Porter, Indiana, 46304, for public examination.**

# **NOTICE TO OWNERS OF AFFECTED PROPERTY**

## **BOARD OF ZONING APPEALS TOWN OF PORTER**

\_\_\_\_\_  
(name of applicant)

\_\_\_\_\_  
(address)  
\_\_\_\_\_

Application Number \_\_\_\_\_ - \_\_\_\_\_

Notice is hereby given that at the regularly scheduled meeting of \_\_\_\_\_, 202\_\_, at 5:30 p.m., at the Porter Town Hall, 303 Franklin Street, Porter, Indiana, the Board of Zoning Appeals will conduct a public hearing on the following application:

\_\_\_\_\_  
\_\_\_\_\_

Anyone interested in the application may appear in person or by agent. Written objections, filed with the Board Secretary before the hearing, will be considered. The hearing may be continued from time to time as may be found necessary. All information concerning the application is on file in the Building Department Office, 303 Franklin, PORTER, Indiana, 46304, for public examination.

\_\_\_\_\_  
(signature of applicant)

**TOWN OF PORTER  
BOARD OF ZONING APPEALS  
INSTRUCTIONS FOR FILING A PETITION FOR A USE VARIANCE**

1. Receiving a USE VARIANCE on a parcel of land permits the owner to use that parcel in a way which would not be permitted otherwise. Each parcel in Town, based on how it is currently zoned, has rules about how the property may be used, (for example residentially, commercially, etc.). A request for a USE VARIANCE is an attempt to get official permission to not follow the permitted uses. A list of permitted uses associated with each zone can be found in the Porter Zoning Ordinance at the Town Hall, 303 Franklin Street, Porter, Indiana, 46304.

2. An application for a USE VARIANCE can be picked up at the Town Hall, 303 Franklin Street, Porter, Indiana, 46304. It must be filled out and brought back to the Town Hall, between the hours of 8:30 a.m. to 4:30 p.m., Monday through Friday, at least ten (10) calendar days before the date of the Board of Zoning Appeals (BZA) meeting. The Board of Zoning Appeals meets the 3<sup>rd</sup> Wednesday of each month at 5:30 p.m. at the Town Hall.

3. At the time the completed application is submitted to the Town Hall, an application fee must be paid, as determined by the Clerk-Treasurer, and 10 copies of the application and all other documents shall be submitted. The receipt must be presented to the Board of Zoning Appeals at the first meeting.

4. The petition will be placed on the next regularly scheduled Board of Zoning Appeals meeting. The person filing the petition must be present to explain their request for the USE VARIANCE. If the person filing the petition is not the current owner of the property, he or she must be authorized in writing by affidavit to act on the owner's behalf.

5. At the meeting of the Board of Zoning Appeals where the request is first heard the members will ask questions and listen to the petitioner's explanation. The Board can either table the petition and ask for more information or they may schedule a public hearing for the next regular meeting.

6. State law requires that during each request for a USE VARIANCE, a public hearing must be advertised and held at the Board of Zoning Appeals meeting to allow neighbors and other affected property owners to speak in favor or against the request.

7. The person filing the USE VARIANCE petition is responsible for placing public notice in the local newspaper and notifying property owners of record contiguous to the subject property, about the public hearing. The NWI Times is the required newspaper for publishing notice. A legal notice must be placed in that newspaper to appear at least ten (10) calendar days in advance of the public hearing. The petitioner shall also submit an electronic copy of the public notice to post on the Town of Porter website. A sample notice to be used is included in the USE VARIANCE packet attached to these instructions.

8. The person filing the legal notice must request that the newspaper send them a Proof of Publication, showing evidence to the Board of Zoning Appeals that the notice did appear at least ten (10) days before the hearing. The Board of Zoning Appeals will ask for that proof before they will hear the petition at the public meeting.

9. The person filing the petition must give notice by certified mail to all property owners

of record whose property is contiguous to the property, which is the subject of the request. A list of those owners must be obtained by the petitioner from the Town. The notice of public hearing must be sent to these owners at least ten (10) calendar days before the date of the public hearing. A sample notice to property owners of record is attached to these instructions. The notice must be sent by certified mail with return receipt requested. A copy of the list obtained from the Town must be presented prior to the public hearing.

10. When the petitioner mails the notices, they will receive a white ticket showing each was mailed. When the owners receive their letter they are supposed to mail the attached green card back to the person who mailed them. The owners list and the white tickets, (certified mail receipts), must be submitted to the Clerk-Treasurer's Office prior to the public hearing. The green cards, when received, will serve as proof that the public hearing was properly advertised in accordance with state law. Green cards received prior to the public hearing should be brought to the public hearing. Green cards received after the public hearing should be submitted to the Clerk-Treasurer's Office when they are received to be added to your file.

11. The Petitioner must continuously post a public notice sign for at least ten (10) calendar days immediately prior to the date of the public hearing. The sign and post is provided by the Town by visiting the Clerk-Treasurers Office. There is a charge for the sign and a deposit for the post, which is refundable when the post is returned. The sign must be placed in plain view and legible from the street fronting the property.

12. The Petitioner must complete the Findings of Fact included in the application packet, and submit this with the completed application.

13. The Board of Zoning Appeals will open the public hearing and ask if there is anyone wishing to speak in favor or against the request. It is strongly suggested that the person filing the petition should contact the nearby property owners of record and inform them of the request in order to minimize confusion and misunderstanding.

14. The Board of Zoning Appeals will either continue or close the public hearing. Continuing the public hearing to the next meeting usually means that more information from the public is needed before a decision can be made. Closing the public hearing means that the Board feels that they have heard enough from the public, and they are ready to vote.

15. The Board of Zoning Appeals by state law will vote to approve or deny the petition. A majority of the whole five-member Board must vote the same way to constitute official action. In other words, three (3) members of the five (5) member Board must vote for either approval or denial for the motion to pass. The BZA action is final, and does not go before the Town Council or Plan Commission.

16. It is the duty of each Board member to inspect property and buildings, which are the subject of petitions before them. Upon the presentation of proper credentials, the petitioner agrees to allow entry into any building, structure, premises, or land, for the purpose of making inspections, at any reasonable hour.

I have carefully read these instructions and will abide by them.

Petitioner's signature \_\_\_\_\_ Date \_\_\_\_\_

**TOWN OF PORTER  
ADVISORY BOARD OF ZONING APPEALS**

**FINDINGS AND DECISION ON PETITION FOR:  
USE VARIANCE(S)**

Petition No. \_\_\_\_\_ Applicant Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_

Address or General Location of Subject Property: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tax Parcel Identification Number of Subject Property: \_\_\_\_\_

Legal Description of Subject Property (insert below or attach as Exhibit A):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Variance(s) Requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Public Hearing Opened: \_\_\_\_\_ Date Public Hearing Closed: \_\_\_\_\_

**FINDINGS OF FACT**

THE TOWN OF PORTER ADVISORY BOARD OF ZONING APPEALS, HAVING  
CONSIDERED ALL MATTERS PRESENTED IN THE PUBLIC HEARING CONCERNING  
THIS APPLICATION, NOW FINDS AS FOLLOWS:

1. The Board finds that the USE VARIANCE(S) requested WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_  
\_\_\_\_\_ be injurious to the public health, safety, morals and general welfare  
BECAUSE of the facts shown, as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. The Board finds that the use and value of the area adjacent to the property included in the USE VARIANCE(S) WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_ be affected in a substantially adverse manner BECAUSE of the facts shown, as follows:

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3. The Board finds that the need for the USE VARIANCE(S) DOES \_\_\_\_\_ DOES NOT \_\_\_\_\_ arise from some condition peculiar to the property involved BECAUSE of the facts shown, as follows:

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4. The Board finds that the strict application of the Town of Porter Zoning Ordinance WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_ constitute an unnecessary hardship if applied to the property for which the USE VARIANCE(S) is/are sought BECAUSE of the facts shown, as follows:

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5. The Board finds that the approval of the USE VARIANCE(S) requested WILL \_\_\_\_\_ WILL NOT \_\_\_\_\_ interfere substantially with the Comprehensive Plan of the Town of Porter BECAUSE of the facts shown, as follows:

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Petition No. \_\_\_\_\_  
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**DECISION:**

THE BOARD NOW GRANTS \_\_\_\_\_ REJECTS \_\_\_\_\_ the above requested USE  
VARIANCE(S), SUBJECT TO THE CONDITIONS SPECIFIED BELOW, IF ANY.

THE BOARD FURTHER DECIDES THAT THE FOLLOWING CONDITIONS SHALL BE  
IMPOSED:

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date of Decision: \_\_\_\_\_

Duly adopted at a meeting of the Town of Porter Advisory Board of Zoning Appeals held  
on the above-identified date in the Porter Town Hall, Porter, Indiana.

**TOWN OF PORTER  
ADVISORY BOARD OF ZONING APPEALS**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

# AFFIDAVIT

## POSTING OF REQUIRED PUBLIC NOTICE SIGN

STATE OF INDIANA  
TOWN OF PORTER

PETITION NO. \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_,

\_\_\_\_\_  
(Owner / Agent for Owner)  
[circle one]

personally appeared before in my State and County aforesaid, who after being first duly sworn made oath before me that: above owner or agent of owner placed the officially designated public notice of hearing sign provided by the Town of Porter Clerk-Treasurer's Office, for a minimum of ten (10) consecutive calendar days immediately preceding the scheduled public hearing pertaining to the above referenced petition in plain view on the property which is the subject of the petition.

GIVEN UNDER MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_.

\_\_\_\_\_  
AFFIANT

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_