

SPECIAL EXCEPTION –VARIANCE BROCHURE FOR WHITLEY COUNTY

HOW TO REQUEST APPROVAL OF A SPECIAL EXCEPTION OR VARIANCE

The Whitley County Board of Zoning Appeals is empowered to grant special exceptions and variances for specific uses in particular zoning districts, as outlined in the Whitley County Zoning Ordinance, for property located within Whitley County, but outside the jurisdictional areas of Columbia City, Churubusco and South Whitley. The process normally takes about six (6) weeks to complete. Unnecessary delay and inconvenience can be avoided by following the procedures outlined in the pamphlet.

A. Application is made and fee paid.

The first step in seeking a special exception or variance is to file an application with the Columbia City/Whitley County Planning and Building Department. The Staff will ask the Applicant for the necessary information to begin completion of the application.

The Applicant then pays the required application fee and receives a packet of information from the Staff. This packet, which will be described in greater detail in Part B, contains paperwork which must be returned to the Planning & Building Department for the application to be considered completed. This information is required by Indiana State Law and failure to submit the paperwork within the required time frame makes any action taken by the Board invalid.

Fees are non-refundable after 4:00 p.m. on the day the Application is taken, except where the Staff has improperly determined that a special exception or variance was necessary. If the applicant, for any reason, decides not to complete the process, and reappplies at some later date, the fees will have to be paid again. Fees will not be refunded if the request is denied.

B. Department Staff and Applicant complete information packet in Planning and Building Department.

Contained in the packet are:

1. Notification of Adjacent Property Owners.
2. Proof of Publication (newspaper ad)
3. Agent Statement (if applicable)

Detailed Site Plan.

The Staff requires the submission of a detailed site plan at the time of application. The site plan must contain the following:

1. Lot/property lines.
2. All buildings and their dimensions.
3. Distance of buildings from lot/property lines.
4. Location of proposed improvement and dimensions.
5. North arrow.
6. Location of streets.

To simplify the detailed site plan submission, a copy of the survey can be obtained from the County Recorder's Office (if available), and any changes can be shown.

Certification of Notice to Adjacent Property Owners.

This form is required by Indiana State Law and is simply a certification that all property owners adjacent to the Applicant's property have been notified that this special exception or variance is being requested, as well as the date, location, and time of the public hearing on the requested action. It is not a request for approval from adjacent property owners.

The names of adjoining property owners will be obtained from County records by the department Staff and will include all adjoining properties. Roads and natural features are not considered barriers.

Notice to adjacent property owners may be done in the following ways:

1. Copies of the notification form may be sent by certified mail, return receipt requested, to the adjacent property owners. The return receipt "cards" are then submitted to the Planning & Building Department.
2. The Applicant can take the Certification form "door-to-door" to obtain the necessary signatures.
3. A combination of the two previously mentioned methods.

The Notification of Adjacent Property Owners must be dated, and the signatures notarized, no less than ten (10) days before the scheduled meeting of the Board at which the Applicant's request is to be heard.

Newspaper Advertisement Form

Public notice through the newspaper is also required by Indiana State Law. The Applicant takes the Notice of Public Hearing form to the office of the Post and Mail for publication. The Applicant will be charged a publication fee by the newspaper. Again, State Law requires that the notice appear in the newspaper no less than ten (10) days before the scheduled meeting of the Board at which the Applicant's request is to be heard. In order to provide evidence that this has been properly completed, the Post and Mail will send the Proof of Publication to the Planning & Building Department and the Applicant.

Agent Statement

An Agent Statement is required if the Applicant does not own the property on which the proposed special exception or variance is to be located. The agent statement is acknowledgement by the owner that the Applicant has the owner's permission to construct that improvement or conduct that use on the property. It is also an acknowledgement that the Applicant has the authority to act on the owner's behalf before the Board.

Completion and Submission Deadlines

Applicants will note that some items must be completed no less than ten (10) days before the meeting date. Do not delay in completing these items. If they are not completed by the required time, the Board will have no choice but to continue the request until the next meeting, and the Applicant may have to re-advertise in the newspaper, and re-notify adjacent property owners. Failure to properly complete these items may result in extra expense to the Applicant and at least a four (4) week delay.

The Staff requests that all information and Certifications of Notice be submitted to the office no later than seven (7) days before the meeting.

C. Planning & Building Department Staff prepares report for public hearing.

A member of the Staff reviews the submitted application and related materials to insure all necessary items have been furnished. A staff report is prepared and mailed to the Board members and the Applicant. The report includes a description of the property and the request, a history of any previous actions, an analysis of the land use and zoning situations, and presentation of any factors the Board should be aware of in order to come to a decision.

D. The Board of Zoning Appeals holds a public hearing on the request.

The Applicant, or a representative, must be present at the hearing before the Board of Zoning Appeals to present and explain the request. The Applicant should bring any materials that would help explain the proposal. Other interested parties may also address the Board at this hearing. The following procedure is established for the hearing of request before the Board:

1. Petition called by the Board President.
2. Background and comments by the Board's Staff.
3. Presentation of request by Applicant.
4. Interested parties concerning the petition are heard.
5. Rebuttal by the Applicant.
6. Questions and discussion by the Board.
7. Motion is made and vote taken.
8. Results of the vote, and disposition of the case, announced before proceeding with the next petition.

The Applicant is officially informed of the Board's action by letter.

E. In the event of a denial.

In the event of a denial, the Applicant's options are as follows:

1. Consult with the Planning & Building Department Staff on further courses of action,
2. File suit in Circuit Court,
3. Drop the project.

F. Applicant applies for necessary permits.

After approval of the special exception or variance, the Applicant must then return to the Planning & Building Department to complete his application for an Improvement Location and/or Building Permit, and pay the appropriate fees. The application fees paid for the special exception or variance requests do not apply towards these subsequent permit fees. At this time, the Applicant may review the project with the Building Inspector to receive any special instructions pertaining to the construction or use of the building involved.

The Columbia City/Whitley County Planning and Building Department is located on the 2nd floor of the Whitley County Government Center.

Office Hours are:

Monday through Friday
8:00 a.m. to 4:30 p.m.

Any questions please contact the Department at 260-248-3112.

CHECKLIST FOR A SPECIAL EXCEPTION OR VARIANCE REQUEST

The following items must be submitted in order to complete the application filing process:

- File the application and pay the filing fee.
- Submit a detailed site plan.
- Place legal advertisement in the newspaper.
(Notice of Public Hearing)
- Notify adjacent property owners (Affidavit of
Notice of Public Hearing to Adjacent Property
Owners)
- Completed Agent's Statement
- Submit the following items to the Plan Commission
Office at least one (1) week prior to the date of the
scheduled hearing:
 - Proof of Publication
(if not already forwarded by the newspaper)
 - Completed Notice to Adjacent Property Owners
Form (with any green receipt cards).
- Your attendance at the hearing is required.