Variance of Use Application

Town of Avon, Indiana

Board of Zoning Appeals

APPLICATION PROCEDURES

DEFINITION

A Variance of Use, or a "Use Variance" is a modification of, or variance from, the strict terms of the Ordinance relating to the use of property where the modification will not be contrary to the public interest and, where owing to conditions peculiar to the property and not a result of the action of the applicant, a literal enforcement of the Unified Development Ordinance would result in unnecessary and undue hardship.

APPLICATION

All preliminary consultations and in-person application submittals are by appointment only. Please reach out to Planning department staff prior to application submittal. ***Preliminary consultations must occur at least two weeks prior to the filing deadline.*** *Complete applications, supporting documents, and payment may be mailed prior to the application deadline. Failure to provide a complete submittal will result in the scheduling of your petition to the following BZA meeting date.*

The application will not be considered complete until all information is received. All applications and supplemental material must be submitted by close of business on the deadline and must be completed on town forms. All applications will be reviewed for completeness and accuracy prior to acceptance.

1. A **notarized application** filed at least twenty-nine (29) days before the date of the Board of Zoning Appeals public hearing;
2. A **legal description** of the property;
3. A **site plan** drawn to scale showing all existing and proposed improvements;
4. A completed **Findings of Fact** for a Variance of Use form;
5. A **Letter of Intent** which includes proof supporting the Findings-of-Fact;
6. If the applicant is not the owner, a signed and notarized **Letter Granting Authority to an Agent**;
7. A **sample letter** for the written notification requirements;
8. A **list of adjacent property owners** within six hundred sixty (660) feet but no more than two (2) property owners in depth;

FEES

The following fees apply to a Variance of Use review:

1. **Application Fee** by check made payable to the Town of Avon.
2. **Legal Advertisement Fee** by check made payable to the Town of Avon.

*Fees are nonrefundable and are due at the time of application. See *Fee Schedule* for more details.*

PUBLIC NOTIFICATION

1. NEWSPAPER NOTIFICATION: Town Staff will submit legal notices for publication at least ten (10) days prior to the date of the Board of Zoning Appeals public hearing.

2. WRITTEN NOTIFICATION: The applicant must mail first class letters to all interested parties at least ten (10) days prior to the date of the Board of Zoning appeals public hearing. Interested parties are defined as all persons with a legal interest in the property and all owners of real property within six hundred and sixty (660) feet or a depth of two (2) ownerships, whichever is less, of the applicant's property. An adjacent property owner *must not* include properties of common ownership relative to the subject parcel and notice must be provided in accordance with the standards above beyond common ownership parcels. The applicant *must* follow the sample written notification letter. The provided Affidavit of Notice to Interested Parties *must* be signed and notarized attesting to the mailings and submitted to the Town with a copy of a sample mailing seven (7) days prior to the public hearing. (See attached sample letter and affidavit form.)

3. POSTING OF PROPERTY: Town Staff will post a public hearing sign at the subject site at least ten (10) days prior to the date of the Board of Zoning Appeals public hearing. Applicants should advise the property owner/manager and/or tenants not to remove or obscure the sign and to notify staff if it is removed or damaged prior to the hearing.

BOARD OF ZONING APPEALS MEETING

The Board of Zoning Appeals meetings are held at 6:30 p.m. on the third Tuesday of every month in the Avon Town Hall, located at 6570 East U.S. Highway 36, Avon, Indiana 46123, unless indicated otherwise.

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APPLICATION CHECKLIST					
1.		One (1) completed **checklist** signed and dated. (Attach completed copy of this form.) Mark all items N/A (Not Applicable) which don't apply to your project.			
2.		One (1) completed **application** form: typewritten, signed by the owner or an authorized agent of the subject property, notarized and filed at least thirty (30) days before the date of the Board of Zoning Appeals meeting. If application is incomplete, the petition will not be docketed. Be sure to include:			
			Project Name		Acreage
			Project Address		Number of Lots
			Parcel Number(s)		Nearest Intersection
			Existing Zoning		Existing Land Use
			Proposed Land Use		Previous Planning/Zoning Approvals
3.		If the applicant is not the owner, one (1) signed and notarized copy of the **Letter Granting Authority** to an Agent.			
4.		One (1) completed **Contact Information** form.			
5.		One (1) copy of the **legal description** of property.			
6.		One (1) copy of the **Letter of Intent**. This should include a brief description of the project and facts supporting the request.			
7.		A completed **Findings of Fact** for a Variance of Use form.			
8.		One (1) paper copy of a **site plan**, prepared to scale showing existing lot lines, existing and proposed improvements, and setbacks from lot lines, as well as all easements, any adjacent public and private rights-of-way and all streets across and adjacent to the subject property.			
9.		One (1) completed sample Public Notification Letter to be sent to adjacent property owners.			
10.		A list of adjacent property owner(s).			
11.		One (1) electronic **copy of all plans and application documents submitted on a thumb drive.**			
12.		Nonrefundable **application fee**. (Check must be made payable to the "TOWN OF AVON").			
13.		Nonrefundable **legal ad fee**. (Check must be made payable to the "TOWN OF AVON").			

*Fees are nonrefundable. See *Fee Schedule* for more details.*

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Project Name:916-918 N Avon Ave Accessory Structure			
Applicant(s):	Loreen Miller-Zareb	Address:	2286 Whirlaway Ct Indianapolis, IN 46234
Telephone:		Email:	lmz@lilly.com
Owner(s):	Sofiane Zareb / Loreen Miller-Zareb	Address:	Same as applicant
Telephone:	317 308-8601	Email:	
Attorney:		Address:	
Telephone:		Email:	
Surveyor/ Engineer:		Address:	
Telephone:		Email:	
Property Location			
Street Address:	**316-918 N Avon Ave**	Nearest Intersection:	CR E 100 N and N Avon Ave
Parcel ID:	**32-10-03-235-01-000.031**	Acreage:	
Existing Zoning:	**C-2**	Existing Land Use:	Residential Duplex
Proposed Land use:	**Accessory structure for residential use**	Applicable Ordinance Standard Section:	

The undersigned, having been duly sworn on oath states the above information is true and correct as (s)he is informed and believes.

I (We) also understand that the application fee does not include the fees associated with design review and/or construction management review. Fees for design review and/or construction management review are the direct responsibility of the applicant payable directly to the engineering firm(s) specified by the Town at rates set out by various agreements and/or ordinances of the town, for services, inspection, reports, and the like required by the Town.

_____ _____

Date **Printed Name & Title / Company (if applicable)**

_____

Signature of Owner(s) or Agent

STATE OF _____ **}**

} SS:

COUNTY OF _____ **}**

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ _____

Notary Public Signature **Notary Public: Printed Name**

My Commission Expires: _____ Residing in: _____ County

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FINDINGS OF FACT	
Project Name:	
Requested Variance of Use:	

The petitioner seeking a Variance of Use before the Avon Board of Zoning Appeals must complete the following five (5) statements and provide any documentation that may support the findings.

1. The approval of the variance would not be injurious to the public health, safety, morals, and general welfare of the community because:

__the proposed structure an accessory structure related to a legal non-conforming structure on site. It will not be injurious because it is normal and customary to the existing use.

2. The use and value of the area adjacent to the property included in the variance would not be affected in a substantially adverse manner because:

_____the adjacent properties will not be impacted because they are developed in a similar manner as the proposed accessory use.

3. The need for the variance arises from some condition peculiar to the property because:

____the property is developed as a residential use instead of commercially which is how it is zoned.

4. The strict application of the terms of the Avon Zoning Ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought because:

__the Town's Ordinance does not allow accessory uses to be developed with primary uses that are legal non-conforming.

5. The use would not interfere substantially with the Town's comprehensive plan because:

__the Plan recommends commercial uses, which can still occur in the future if there is a desire to develop this corner of CR 100 N and N Avon Avenue.

Person Completing This Form:

Printed Name:		Signature:	
Title:		Telephone:	

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CONTACT INFORMATION	
The person indicated below will receive all correspondence between the Plan Commission Staff and the applicant. It shall be the responsibility of the contact person to provide copies of information to other interested parties. *Indicate the Contact Person to be notified to request additional information, schedule meetings, receive Board of Zoning Appeals Staff Letters and Recommendations, and to receive the Board of Zoning Appeals' Findings-of-Fact.*	
Please type or print legibly.	
Business Name:	
Contact Person:	
Address:	
Phone Number:	
Email:	

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LETTER GRANTING AUTHORITY TO AN AGENT

I (We) do hereby grant authority to _____

Name of Agent

to seek a Variance of Use approval from the Town of Avon Board of Zoning Appeals

for the property located at _____

Property Address or Parcel ID number(s)

I (We) am (are) the owner(s) of the real estate included the proposed Variance of Use.

_____ _____

Date **Printed Name & Title / Company (if applicable)**

_____

Signature of Owner(s)

STATE OF **}**

_____

} SS:

COUNTY OF **}**

_____

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ _____

Notary Public Signature **Notary Public: Printed Name**

My Commission Expires: _____ Residing in: _____ County

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SAMPLE NOTIFICATION LETTER

Date **(Date Letters Mailed)**

Name
Address **(Mailing Address of Adjacent Property Owner)**
City, State, and Zip Code

Dear **(Name of Adjacent Property Owner)**:

Please be advised that the undersigned property owner or agent for the property owner has made application to the Avon Board of Zoning Appeals for a Variance of Use to be known as **(Case Number, Case Name and a brief description of the Project)** located at **(insert address if known, or parcel number)**, in the Town of Avon, Indiana, located near **(Give the Location of the Project in Relationship to the Nearest Street Intersection)**.

A copy of this application, legal description, and all plans pertaining to this proposed Variance of Use are on file and available for examination prior to the public hearing in the office of the Planning Department at the Avon Town Hall located at 6570 East U.S. Highway 36, Avon, Indiana, 46123, between the hours of 8:00 AM-11:30AM and 12:30-4:00 PM, Monday through Friday. Written objections to a proposal may be filed with the Planning Staff up to and including the date of the public hearing at the Avon Town Hall at the above address and such objections will be considered.

The Avon Board of Zoning Appeals will hold a public hearing on this proposed Variance of Use in the Avon Town Hall located at 6570 East U.S. Highway 36, Avon, Indiana, 46123 on **(Date of the Public Hearing)** at 6:30 PM.

Very truly yours,

(Name and Signature of Applicant or Agent for the Applicant)

AFFIDAVIT OF NOTICE TO INTERESTED PARTIES
VARIANCE OF
DEVELOPMENT STANDARDS
AVON BOARD OF ZONING APPEALS
TOWN OF AVON, INDIANA

Affidavit must be submitted prior to the scheduled public hearing.

I, _____ do hereby certify that notice to interested parties of the date, time,
(Name of Person Mailing Letters)

and place of the public hearing for the application of:

_____
(Case Number & Case Name)

Requesting: _____
(State Variance Request and Cite Section(s) of the Unified Development Ordinance)

Located at: _____
(Street Address and Give the Location in Relationship to the Nearest Intersection)

was mailed to the last known address of each of the following interested persons owning property affected by this petition as defined in the Avon Unified Development Ordinance (attach additional sheets, if necessary):

	OWNER	ADDRESS
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

And, that said notices were sent by certified, registered, or first-class mail on or before the _____ day of _____, 20___, being at least ten (10) days prior to the date of the public hearing.

_____
(Signature of Applicant or Agent)

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Subscribed and sworn to before me this _____ day of _____, 20_____.

_____ _____
Notary Public: Signature Notary Public: Printed Name

My Commission Expires: _____ Residing in _____County