

**LAPORTE COUNTY BOARD OF ZONING APPEALS
PROCEDURE FOR VARIANCE OR SPECIAL EXCEPTION**

The Board of Zoning Appeals handles requests for variances and special exceptions regarding any of the LaPorte County land use ordinances. When requesting a variance for special exception, the following procedure will be followed:

1. A petition filed by the owners of the property requesting the variance for special exception and the individuals requesting the variance for special exception, if different from the owners. Both parties must petition for and sign the petition.
2. A brief legal description, common address, common acreage involved and if no common address, the closest road intersection so the property may be located as well as the township of the property location.
3. The reason for the variance and the intended use of the property if the variance for special exception is granted.
4. The date the petition will be heard by the Board of Zoning Appeals.

All petitions must be filed at least fifteen (15) days before the hearing

The Petitioners must file two (2) copies of the petition with the Board of Zoning Appeals.

The Petitioners shall present a legal notice for signature by the Secretary of the Board.

It is the Petitioner's responsibility to insure that the legal notice is taken to the newspaper at least fourteen (14) days before the date of the hearing and be published at least ten (10) days prior to the meeting.

The Petitioners may prepare and file findings of fact as they relate to the petition. These may be given to the Board on the night of the hearing.

The Petitioners shall notify all adjoining property owners at least ten (10) days prior to the hearing. This may be done either in person or by certified mail, return receipt requested. The adjoining landowners must receive a copy of the petition and the notice of public hearing. If notification is done in person, the adjoining property owner (s) must sign and date the notice of public hearing which must be at least six (6) days prior to the hearing. Adjoining landowners are defined as any property owner whose border touches the property of the Petitioner where the property in which the request for variance for special exception is made. This also includes landowners who are across any roadway from the property in question.

The Petitioners shall pay the filing fee as required.

A site plan must be submitted with the petition if applicable and it involves the placement of any building or any other structure, i.e. the site plan should also include septic and well location, additional buildings and driveways and property boundaries with approximate measurements.

The Petitioner may submit any additional drawings, photographs or other documentations that they believe is helpful in presenting their request

HEARING

The Petitioners will also provide the Affidavit of Publication that they receive from the newspaper showing that notice was published. The affidavit of publication may be obtained once the Petitioner has paid for the publication. The Petitioners will use general circulation for their respective areas. Generally this will either be in the LaPorte Herald Argus or the Michigan City News Dispatch. Petitioners have the right to use any other newspapers however they must also have an additional one in the LaPorte Herald Argus or the Michigan City News Dispatch. It will not be sufficient notice if an individual on the eastern side of the County uses the Michigan City News Dispatch knowing that the paper of general circulation is the LaPorte Herald Argus. The purpose of the notice is to make sure all adjoining landowners are most likely to have notice of the public hearing, not to just meet a formal legal requirement.

The Petitioner will present to the Board, the green cards showing certified mailing regarding notice to adjoining landowners or copies of the notices signed by the adjoining landowners.

The Petitioners will also provide to the Board the Affidavit listing the adjoining landowners so that there can be verification that all the adjoining landowners have received notice.

The real estate office will also have the names and address of the adjoining landowners which notice can be sent.

The hearing format allows the Petitioner to make their presentation. The presentation is made to the Board. After the Petitioner's presentation, any individuals who wish to remonstrate against the Petition or speak in favor of the Petition will be given an opportunity to speak. The Petitioners will then be allowed additional time in which to rebut any concerns of the remonstrators.

After the presentation of evidence, the Board will make a determination to grant or deny the request. The matter may be tabled, continued for additional review or submissions or granted with certain conditions or restrictions.

Prior to the hearing it is recommended that the Petitioners consult with the adjoining landowners and advise them fully what the request is about.

EVIDENCE NECESSARY

The following is the evidence necessary provided by statute and ordinance in order to receive a variance for special exception. The Petitioner must prove each of the requirements as applicable.

VARIANCE OF USE. It is recommended that the Petitioners consult with an attorney regarding their petition. LaPorte County Zoning Ordinance and Indiana Statutes require that in order to obtain a use variance the Petitioners must prove the following five (5) requirements:

1. The granting of a variance will not be injurious to the public health, safety, morals and general welfare of the community.
2. That the use and value of the area adjacent to the property involved will not be affected in a substantially adverse manner.
3. That the need for the variance arises from a condition peculiar to the property and is not due to the general conditions of the neighborhood.
4. The strict application of the terms of the zoning ordinance would constitute an undue hardship is applied to the property for which the variance is sought.
5. The granting of the variance does not interfere substantially with the Master/Comprehensive Plan.

VARIANCE FOR DEVELOPMENTAL STANDARDS. If the variance is for one of developmental standards the Petitioner must only prove three (3) elements:

1. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
2. That the use and value of the area adjacent to the property involved will not be affected in a substantially adverse manner.
3. The strict application of the terms of the zoning ordinance would result in practical difficulties in the use of the property.

VARIANCE FOR SPECIAL EXCEPTION. If the application is for a special exception the Petitioner must show evidence regarding the following evidence:

1. The establishment, maintenance or operation of special exception will not be detrimental to or endanger the public health, safety and general welfare of the surrounding area.
2. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair property values within the neighborhood.

3. The establishment of a special exception will not impede the normal and orderly development and improvement of the surrounding property for use as permitted in the district.
4. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
5. Adequate measures have been or will be taken to provide ingress/egress so designed as to minimum congestion in the public streets.

The Petitioner may wish to provide certain commitments in advance that they are willing to be bound to if the request is granted. This may be done at the time of the filing of the petition or at the time of the hearing.

The Board of Zoning Appeals is not required to prove the Petitioner's case. It is the Petitioners' responsibility and requirement to present all the evidence necessary in order to obtain the variance for special exception. The granting of a variance is totally discretionary with the Board. The granting of that variance must be based on the evidence presented and is not based on the number of individuals for or against a particular petition. A special exception must be granted if the Board finds that the individuals prove all the requirements necessary as provided by the Ordinance. It is a violation of Indiana law for any Board member to have a discussion with a Petitioner or a remonstrator at any time other than during the hearing regarding the variance or special exception. Board members may review the property but they cannot elicit or discuss anything except at a meeting. If the Board grants the variance of use, it is personal in nature and only to the Petitioner and cannot be transferred to anyone else. If the Petitioner ceases that use, the variance becomes void. If anyone purchases the property, they must request a continuation of the variance from the Board if they wish to continue the same use for which the variance was sought. In the case of a developmental standard, the variance runs with the land because it involves a building. A special exception is the same procedure as a use variance.

COMMON VARIANCE OR SPECIAL EXCEPTION CONSIDERATIONS

MOBILE HOMES.

Mobile homes are not allowed LaPorte County except in mobile home parks. The Board considers temporary placement of a mobile home in no more than three (3) year increments. The granting of the variance for the placement of a mobile home is generally contingent upon building or placement of a residence at which time the mobile home must be removed.

FRONTAGE LIMITATIONS

All residential parcels must have at least 200 feet of frontage unless specified otherwise in the subdivision ordinance. If the frontage requirements are not met, the Board generally does not allow or accept easements but may require a 50 foot access strip that is owned by the Petitioners. The access strip is only for the use of the Petitioner if the

variance is granted. It may be a further requirement that there are commitments and deed restrictions showing that there might not be any further development of the parcel except under the Subdivision Control Ordinance.

SIGNS

If the variance or special exception involves a business use, signage is permitted for up to six (6) square feet. Any additional signage of a larger nature should be included in being part of the petition.

BUSINESS USE.

If the request is for a business use, hours and parking are primary consideration. Traffic patterns of whether or not there will be congestion of traffic will be reviewed as well as any type of exterior lighting.

DEVELOPMENTAL STANDARDS

Developmental standards involves a variance regarding height of a building or structure, placing an accessory building in front of a primary building or placing buildings closer to the lot lines than allowed by the ordinance.

TO: THE BOARD OF ZONING APPEALS
LAPORTE COUNTY INDIANA

PETITION FOR VARIANCE/SPECIAL EXCEPTION

We, the undersigned petitioners, _____
Respectfully represent to the Board as follows:

1. That the Petitioners are the legal owners/prospective buyers/lessees of the following described real estate situated in the County of LaPorte, State of Indiana located at _____
If no address, then the closest intersection where the property is located as well as the township in which the property is located.
2. The property is currently zoned _____
and the Petitioners requests a variance for _____
3. That the adjoining landowners as determined by the records of the LaPorte County Auditor's Office have been notified. (See attached Affidavit)
4. That this Petition will be heard before the LaPorte County Board of Zoning Appeals on the _____ day of _____ at the LaPorte County Complex at 6:00 p.m.
5. That the Petitioners believe the granting of the variance would not be detrimental or injurious to the surrounding properties and would not materially change the character of the surrounding area.

WHEREFORE the Petitioners respectfully pray that they be granted a variance for the above described real estate.

DATED this _____ day of _____, 200__.

SIGNATURE

SIGNATURE

ADDRESS

ADDRESS

PHONE NUMBER

PHONE NUMBER

NOTICE OF PUBLIC HEARING FOR VARIANCE REQUEST

Notice is hereby given that _____ have filed
their (his/her) (joint) petition for a variance/special exception to _____

on the following described real estate in LaPorte County, Indiana, to wit:

(legal description)

The above described real estate is located on (or near) _____
_____ in _____ Township.

Notice is further given that this petition will be heard and determined at 7:00 p.m. local
time on the ____ day of _____, 200__ in the Assemble Room (1st Floor-
Lobby) of the County Complex, LaPorte, Indiana and that interested persons may attend
and remonstrate or the written remonstrance may be filed prior to and up to the time of
the hearing.

Ray Hamilton/ Building Commissioner
Board of Zoning Appeals

AFFIDAVIT OF ADJOINING LANDOWNERS

The undersigned being over the age of eighteen (18) years and competent to testify as to the matters set forth herein, does hereby depose and states as follows:

1. The following individuals are the list of adjoining landowners as obtained from the records of the LaPorte County Auditor's Office.
2. That each person was notified by Certified Mail, Return Receipt Request and/or personal service, all sent ten (10) days prior to the hearing.

**LIST THE ADJOINING LANDOWNERS OR ATTACHED COPIES
OF THE REAL ESTATE CARDS**

I (We) affirm under penalties of perjury that the foregoing information is correct.

PETITIONER

PETITIONER

**BEFORE THE BOARD OF ZONING APPEALS
OF LAPORTE COUNTY**

IN RE THE PETITION OF:

Petitioner(s)

**FINDINGS OF FACT AND
CONCLUSION OF LAW
OF SPECIAL EXCEPTION**

This matter came before the LaPorte County Board of Zoning Appeals for hearing on the ____ day of _____, 200__. The Petitioners presented proof of paid publication to the Board together with proof of notice to all persons entitled to notice of this hearing according to the records of the LaPorte County Auditor. Remonstrators, if any, were given the opportunity to be heard.

After hearing all the evidence to be presented, the Board now makes the following findings of fact and conclusion of law:

1. The Board has jurisdiction of the parties and subject matter.
2. The Petitioners own property specified in such petition located at:

3. That the Petitioners seek a special exception for:

4. Such petition is granted on the following reason (s):

- a. The establishment, maintenance or operations of the special exception will/will not be detrimental to or endanger the public health safety and general welfare of the surrounding area because:

b. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish or impair property value of the neighborhood because:

c. The establishment of the special exception will not impede a normal and orderly development and improvement of the surrounding property for use as permitted in the district because:

d. Adequate utilities, access roads and drainage of this special exception are being provided based on:

e. Adequate measures have been or will be taken to provide ingress/egress to so design as to minimize congestion in the public streets based on _____

5. That the granting of this special exception is made subject to the following conditions:

a. _____

_____.

c. _____

_____.

d. _____

_____.

e. _____

f. _____

ADOPTED this _____ day of _____, 200__.

PRESIDENT, LaPorte County
Board of Zoning Appeals