



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ENGINEERING

70 E. MONROE STREET › FRANKLIN, INDIANA 46181 › 877.736.3631 › FAX 317.736.5310 › www.franklin.in.gov/planning

BOARD OF ZONING APPEALS APPLICATION PACKET PETITION FOR VARIANCE/SPECIAL EXCEPTION

Summary of Policy

The Board of Zoning Appeals has the power to authorize variances from the requirements of the City of Franklin Zoning Ordinance, and to attach such conditions to these variances that it deems necessary to assure compliance with the purpose of the Ordinance. A complete explanation of the variance process can be found in Article 11: Processes & Permits, Chapter 3: Variance Applications and Article 11: Processes & Permits, Chapter 4: Special Exception Applications, of the City of Franklin Zoning Ordinance.

Board of Zoning Appeals Decision Requirements

When the Board of Zoning Appeals considers a use variance, variance from developmental standards, or special exception, the decision is based on the requirements as set forth in State law. When presenting a petition to the Board, please keep the following requirements in mind and prepare testimony that will support each of the State requirements. The requirements to be considered are as follows:

Use Variance (\$350.00 Filing Fee) The Board may grant a variance from the use requirements and limitations of the Zoning Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

- a. *General Welfare*: The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. *Adjacent Property*: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- c. *Peculiar Condition*: The need for the variance arises from some condition peculiar to the property involved;
- d. *Unnecessary Hardship*: The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- e. *Comprehensive Plan*: The approval does not interfere substantially with the Comprehensive Plan.

Variance from Developmental Standards (\$75.00 Filing Fee: Residential/\$200.00 Filing Fee: Other) The Board may grant a variance from the development standards of the Zoning Ordinance (such as height, bulk, area) if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5), that:

- a. *General Welfare*: The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. *Adjacent Property*: 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
- c. *Practical Difficulty*: The strict application of the terms of the Ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on perceived reduction of, or restriction on economic gain.

Special Exception (\$75.00 Filing Fee: Residential/\$200.00 Filing Fee: Other) The Board may grant a special exception for a use listed as such in the appropriate zoning district in Article 3 of the City of Franklin Zoning Ordinance if, after a public hearing, it makes findings of facts in writing, that:

- a. *General Welfare*: The proposal will not be injurious to the public health, safety, morals, and general welfare of the community;
- b. *Development Standards*: The requirements and developments standards for the requested use as prescribed by the Zoning Ordinance will be met;
- c. *Ordinance Intent*: Granting the special exception will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and
- d. *Comprehensive Plan*: The proposed use will be consistent with the character of the zoning district in which it is located and the Franklin Comprehensive Plan.

Filing Procedure & Petitioner Checklist

All applications must be reviewed in a meeting with a Planner prior to the filing of the petition.

Step 1: Complete & Submit Application

- The Application, Affidavit and Consent of Property Owner (if the applicant is not the property owner), recorded deed, filing fee, and any exhibits must be provided to the Planning Department prior to the appropriate filing deadline (calendar enclosed).
- All documents must be completed in their entirety either in ink or typed.
- The Application and Consent of Property Owner must be notarized – a notary is available in the Planning Department.
- The Planning Department will mail exhibits to the Board members – one (1) hard copy of each exhibit must be provided at the time the application is filed.
- Site Plan Requirement – at the discretion of the Planner, up to three (3) copies of a site plan of the property may be required to be submitted at the time of filing. The site plan must show the entire layout of the property with all items related to the petition clearly shown. Digital copies (PDF) may also be requested for distribution to Board members.

STOP: Staff Review prior to Notification

- Staff review of application for completeness, correct request details and citations, applicability of the request, as well as, the need for additions or deletions to the request.

Step 2: Notification - (After Application Submittal)

- A legal notice must appear in the Johnson County Daily Journal newspaper. The Daily Journal requires advance notice on items to be placed in the public notice section. The notice must include the time, date, place, a case number and reason for the petition along with the legal description of the property (sample enclosed). The notice must appear once, a minimum of ten (10) days prior to the meeting date.
- The owners of (a) all adjoining parcels in the case of variances from developmental standards or (b) all of the adjoining parcels within 500 feet of the perimeter of the subject property or two property owners whichever is a lesser distance in the case of all other types of petitions, must be notified of the public hearing at least ten (10) days prior to the meeting (county lines, city limits, highways, streets, creeks, rivers, or other natural or man-made elements are not boundaries for notification). The names and addresses of those adjoining property owners may be obtained online at jcmeps.org or with assistance from staff.

- The notification may take the form of either (a) a Certificate of Mailing to the affected property owners or (b) a hand carried notice. Notification must include the time, date, place, case number, and reason for the petition along with the legal description of the property and common address (sample enclosed).
- The two-page flyer enclosed in this packet must either be mailed with the notification letters or provided to property owners notified in person. The flyer is intended to be copied double-sided and tri-folded.
- The following civic organizations must also be notified, by either Certificate of Mailing or the hand carried notice as described above, of the public hearing at least ten (10) days prior to the meeting:

Organization: Franklin Heritage, Inc.	Address: 57 N. Main Street Franklin, IN 46131
*Historic South Franklin Neighborhood Assoc.	179 S. Home Avenue Franklin, IN 46131

*The "Historic South Franklin Neighborhood Association" must only be notified of petitions within the South Home Neighborhood as defined by the City of Franklin Neighborhood Study (1999).

- Petitioner can request staff's assistance in the preparation of the Notice of Public Hearing and list of adjoining property owners. If petitioner chooses to prepare the Notice of Public Hearing and list of affected property owners, themselves, petitioner is strongly encouraged to notify staff and submit the documents for review prior to the mailing of the letters and submittal to the Daily Journal Newspaper. Errors and/or omissions in the Notice of Public Hearing or list of affected property owners could result in automatic continuance of the request to the following month, or until proper notice is completed.

Step 3: Proof of Notification

- The following items must be supplied to the Planning Department by 4:00p.m. on the Friday before the meeting: (1) completed Affidavit of Notice, (2) receipts from the Certificates of Mailing, (3) a copy of the information sent to adjoining property owners, (4) the list of adjoining property owners, and (5) a copy of the aerial photo used to identify adjoining property owners; or (1) completed Affidavit of Hand Carried Notice, (2) completed signature sheet, (3) the list of adjoining property owners, (4) a copy of any information distributed, and (5) a copy of the aerial photo used to identify adjoining property owners.
- A copy of the legal advertisement from the newspaper (Publisher's Affidavit) must also be provided. (The Petitioner will receive a copy from the Daily Journal).

Step 4: Public Hearing

- A staff report and all petitioner exhibits will be distributed to the Board and applicant(s) via e-mail and online meeting agenda on the City of Franklin website, by the Friday immediately preceding the hearing.
- Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address each of the relevant decision criteria.
- The Board will keep all information presented for a period of at least 30 days - information will then be returned upon request.
- Written confirmation of the Board's decision will be provided to the petitioner within ten (10) days of the hearing.

Calendar of Meeting Dates

The City of Franklin Board of Zoning Appeals meets at **6:00 p.m.** on the first Wednesday of each month in the Franklin City Hall, 70 E. Monroe Street, Franklin, Indiana 46131.

All petitions must be filed with the Planning Department by no later than the close of business on the appropriate date listed on the attached calendar. The office hours of the City of Franklin Planning Department are from 8 a.m. to 4 p.m., Monday through Friday.

Meeting Date	Application Deadline	Public Notice Deadline	Proof of Notice Deadline
January 6, 2021	December 14, 2020	December 26, 2020	January 4, 2021
February 3, 2021	January 13, 2021	January 23, 2021	January 29, 2021
March 3, 2021	February 10, 2021	February 20, 2021	February 26, 2021
April 7, 2021	March 17, 2021	March 27, 2021	April 5, 2021
May 5, 2021	April 14, 2021	April 24, 2021	April 30, 2021
June 2, 2021	May 12, 2021	May 22, 2021	May 28, 2021
July 7, 2021	June 16, 2021	June 26, 2021	July 2, 2021
August 4, 2021	July 14, 2021	July 24, 2021	July 30, 2021
September 1, 2021	August 11, 2021	August 21, 2021	August 27, 2021
October 6, 2021	September 15, 2021	September 25, 2021	October 1, 2021
November 3, 2021	October 13, 2021	October 23, 2021	October 29, 2021
December 1, 2021	November 10, 2021	November 20, 2021	November 29, 2021
January 5, 2022	December 13, 2021	December 24, 2021	January 4, 2022
February 2, 2022	January 12, 2022	January 22, 2022	January 28, 2022

CITY OF FRANKLIN – BOARD OF ZONING APPEALS

Reviewed By: _____ Date: _____
Case No.: _____
Receipt No.: _____

Application for Variance/Special Exception

Applicant’s Name: _____ **Phone No.:** _____

Applicant’s Address: _____

_____ **E-Mail:** _____

Agent’s Name: _____ **Phone No.:** _____

Agent’s Address: _____

_____ **E-Mail:** _____

Owner’s Name: _____ **Phone No.:** _____

Owner’s Address: _____

_____ **E-Mail:** _____

Premises Affected (common address – attach recorded legal description):

Township: _____ **Zoning Classification:** _____

Detailed Statement of Reason(s) for Applying for Variance/Special Exception:

As Petitioner, I am requesting a _____ from the requirements of

Article _____, Chapter _____ of the City of Franklin Zoning Ordinance to allow

The above information and attached exhibits, to my knowledge and belief, are true and correct.

Applicant’s Signature

State of _____
County of _____ SS:

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

My Commission expires: _____

Notary Public

CITY OF FRANKLIN – BOARD OF ZONING APPEALS

Affidavit & Consent of Property Owner

I (we) _____ after being duly sworn, depose and say:

1. That I (we) are the owners(s) of real estate located at _____
2. That I (we) have read and examined the Application of Variance/Special Exception of the City of Franklin Zoning Ordinance, and are familiar with its contents.
3. That I (we) have no objections to, and consent to such request as set forth in the application.
4. That such being made by the Applicant is (is not) a condition to the sale or lease of the above referenced property.

Owner's Name (Please Print)

Owner's Signature

State of _____ SS:

County of _____

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

My Commission expires: _____

Notary Public

CITY OF FRANKLIN – BOARD OF ZONING APPEALS

Notice of Public Hearing

To be Published in the Newspaper and Sent to Adjoining Property Owners

The City of Franklin Board of Zoning Appeals will hold a public hearing on the _____ day of _____, 20____, at 6:00p.m. in the City Hall at 70 E. Monroe Street, Franklin, Indiana, to consider a petition by _____, case number _____, for consideration of a request to allow:

(Insert Detailed Description from the Application)

On premises located at:

(Insert Legal Description and Common Address of the Premises Affected)

Written suggestions or objections to provisions of said request may be filed with the Secretary of the Board, at or before such meetings and will be heard by the Board at the time and place specified. Hearings may be continued from time to time as may be necessary.

Interested persons desiring to present their views upon the said request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place. Copies of the petition may be examined at the City of Franklin Planning Department, 70 East Monroe Street, Franklin, Indiana.

Signature of Applicant

CITY OF FRANKLIN – BOARD OF ZONING APPEALS

Affidavit of Notice of Public Hearing

For Certificate of Mailing

I (we) _____ do hereby certify that a notice of public hearing for the City of Franklin Board of Zoning Appeals to consider case number _____, and a copy of the public hearing informational flyer was mailed to the following persons:

(Attach a List of Property Owners and Neighborhood Groups Notified by Certificate of Mailing)

and that said notices were mailed on or before the _____ day of _____ 20____, being at least ten (10) days prior to the date of the public hearing which is to be held at 6:00p.m. on _____, 20____.

Signature of Applicant

State of _____
County of _____ SS:

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

My Commission expires: _____

Notary Public

CITY OF FRANKLIN – BOARD OF ZONING APPEALS

Affidavit of Hand Carried Notice of Public Hearing

Applicant's Name: _____ Phone No.: _____

Owner's Name: _____ Phone No.: _____

Premises Affected (common address-attach recorded legal description):

Detailed Statement of Reason(s) for Applying for Variance/Special Exception:

As Petitioner, I am requesting a _____ from the requirements of Article _____, Chapter _____ of the City of Franklin Zoning Ordinance to allow

As an Affected Property Owner: I have signed this Public Hearing Notice with full knowledge of the following information:

1. A public hearing is to be held by the City of Franklin Board of Zoning Appeals on the _____ day of _____, 20____, at 6:00 p.m. in the Franklin City Hall, 70 E. Monroe Street, Franklin, Indiana;
2. A legal advertisement will also appear in the Johnson County Daily Journal at least ten (10) days prior to the scheduled hearing;
3. All persons who may be affected by this petition will be given the opportunity to be heard at the said public hearing; and
4. My signature on the attached list is not to be construed as either a waiver of my rights to be heard or my consent to the petition, but simply verification that I have been made aware of the petition and received notice of the public hearing.

I hereby Swear and Affirm: under penalties and perjury that I witnessed each of the signatures shown on the attached list and that the said signatures are true and accurate. I have also provided each of these property owners with a copy of the public hearing informational flyer.

Signature of Applicant

State of _____
SS:

County of _____

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

My Commission expires: _____

Notary Public

A public hearing is required by Indiana State Law for...

Re-Zoning...

An amendment to the Official Zoning Map which has the effect of removing property from one zoning district and placing it in a different zoning district.

New Ordinances...

A rule established by authority; a permanent rule of action; a statute, law, regulation, rescript, or accepted usage; an edict or decree; esp., a local law enacted by a municipal government; as, a municipal ordinance.

Preliminary Plats...

The preliminary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision is based.

Amendments to Plats, Zoning, or Ordinances...

Any repeal, modification, or addition to a regulation; or any new regulation.

Special Exceptions...

A use that would not be appropriate generally or without restrictions throughout the zoning district, but if controlled as to number, area, location, or relation to the neighborhood, would promote public health, safety, and general welfare.

Zoning Variances...

A specific approval granted by a Board of Zoning Appeals in the manner prescribed by Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes. OR The approval of a use by the Board of Zoning Appeals which is not listed as a permitted or special exception use by Ordinance and is not an accessory or temporary use associated with any primary use permitted by Ordinance.

For More Information Contact...

City of Franklin
Department of Planning
70 E. Monroe Street
Franklin, Indiana 46131

Phone: (317) 736-3631
Fax: (317) 736-5310

Office Hours:

8:00 a.m.—4:00 p.m.
Monday—Friday

City of Franklin - Plan Commission
Meets the Tuesday after the 3rd Monday
of every month

City of Franklin
Board of Zoning Appeals
Meets the first Wednesday of every month.

All meetings begin at 6:00 p.m. at:
City Hall
Council Chambers
70 East Monroe Street
Franklin, Indiana 46131

**PUBLIC
HEARING**



You are invited to a
Public Hearing to discuss a
land use issue in your
neighborhood. The
enclosed letter from the
petitioner describes the
change requested.

What are Your Rights as a Neighbor?

You may submit written comments prior to the public hearing to the Department of Planning.

These written comments are generally included in the petition's file and become a part of the public record.

You may speak at the public hearing; either in favor of, or against the proposal.

You have the right to appeal any decisions by the Franklin City Plan Commission or Board of Zoning Appeals to the Courts. Most appeals must be filed within thirty (30) days after a decision has been made by a Commission, Board, or other legislative body.

What are the Procedures for a Public Hearing?

All public hearings are directed by the President or Chairman of the Commission / Board that is hearing the proposal.

Usually, a public hearing will open with the President / Chairman outlining the Rules of Procedure. The rules include an opening presentation by the property owner or their representative describing the proposal in detail and how it complies with the current Franklin City standards.

The President / Chairman will then open the floor to anyone in the audience wishing to speak in favor, or against, the proposal. If a large number of persons are present that wish to speak for or against the proposal, a time limit for public comment may be set by the President / Chairman. The petitioner is then allowed time to respond to the questions and concerns voiced by the public.

If the petitioner has not answered all of the public's concerns, the President / Chairman can request that the public repeat the questions / concerns. Once all issues have been discussed, the President / Chairman then closes the public comment portion of the hearing and allows the Commission or Board members to ask questions.

What Happens After the Public Hearing has been Closed?

If a decision has been made by the Plan Commission on any proposal other than the subdivision of land, that decision represents a recommendation to the Franklin City Council; which will make the final decision on the proposal. If a decision has been made by the Board of Zoning Appeals, it is final, unless an appeal is filed with the Board or in the Courts. If a decision has been continued, or tabled, the proposal is placed on the agenda for the next regular meeting. The adjoining property owners will not receive additional notification of the meeting. The Commission or Board can continue a proposal and request that additional information be submitted before a decision is made.