



## **USE VARIANCE APPLICATION PACKET**

City of Shelbyville Plan Commission  
44 West Washington Street  
Shelbyville, IN 46176  
Phone: 317.392.5102

[www.shelbyville.in.gov](http://www.shelbyville.in.gov)

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**Quick Check List**

- o Completed Application (notarized) – 7 copies
- o Completed Finding of Facts sheet – 7 copies
- o Site plans and other supporting materials – 7 copies
- o Letter of Intent – 7 copies
- o Notarized Affidavit & Consent of Property Owner (if the petitioner doesn't own the property)
- o Filing Fee – check made payable to the City of Shelbyville
- o Completed Post Office Form 3877
- o Attend Meeting

DEADLINE DATE: \_\_\_\_\_

MEETING DATE: \_\_\_\_\_

## What is a Use Variance?

A Use Variance is a variance to use a building, a structure, or land in a manner that is not consistent with the allowed uses for a particular zoning district as specified in the Shelbyville Unified Development Ordinance. Use Variances are use specific. For example, if you are granted approval to have an office use, you can't change the use to retail sales.

If you need a special exception, development standard variance, or sign variance for the same project or property, those must be filed as separate petitions.

## ORIGINATION OF PROPOSALS

Origination of a Use Variance can be initiated by the owner, their agent, or any person having legal or equitable interest in the property.

## USE VARIANCE DECISION CRITERIA

Use Variance Findings of Fact: The Board of Zoning Appeals shall make findings of fact for a Use Variance on the following criteria:

1. **Comprehensive Plan:** The City of Shelbyville Comprehensive Plan and any other applicable, adopted planning studies and reports;
2. **Impact to Adjacent Area:** The use and value of the area adjacent to the property included in the Use Variance will not be affected in a substantially adverse manner;
3. **Unique Condition:** The need of the Use Variance arises from some condition peculiar to the property;
4. **Hardship:** The strict terms of the ordinance will constitute an unnecessary hardship if applied to the property; and
5. **General Welfare:** Use may not be injurious to the public health, safety, moral, and general welfare.

## GENERAL PROCEDURE

The general procedure for a Use Variance is as follows:

1. **Application:** The applicant submits an application and required supplemental materials to the Zoning Administrator and pays the fee as indicated by the Planning and Building fee schedule available on the City of Shelbyville website or in the Plan Commission office. \*\*Please make checks payable to the City of Shelbyville
2. **Public Notice:** The Plan Commission will be responsible for providing the Notice of Public Hearing to the Shelbyville new.
3. **Board of Zoning Appeals Hearing:** The Board will review the application in a public hearing and make a recommendation on the application: approve, approve with conditions, or deny.
4. **Re-submission:** If application is denied, applicant can re-file in one (1) year, unless s/he files an intent to re-submit with the Zoning Administrator within 60 days after denial.

### **DURATION AND EXPIRATION**

An approved Use Variance shall run with the land if a condition to the contrary has not been imposed by the Board. If approved use has not been established within three (3) years from approval, the approval shall be null and void.

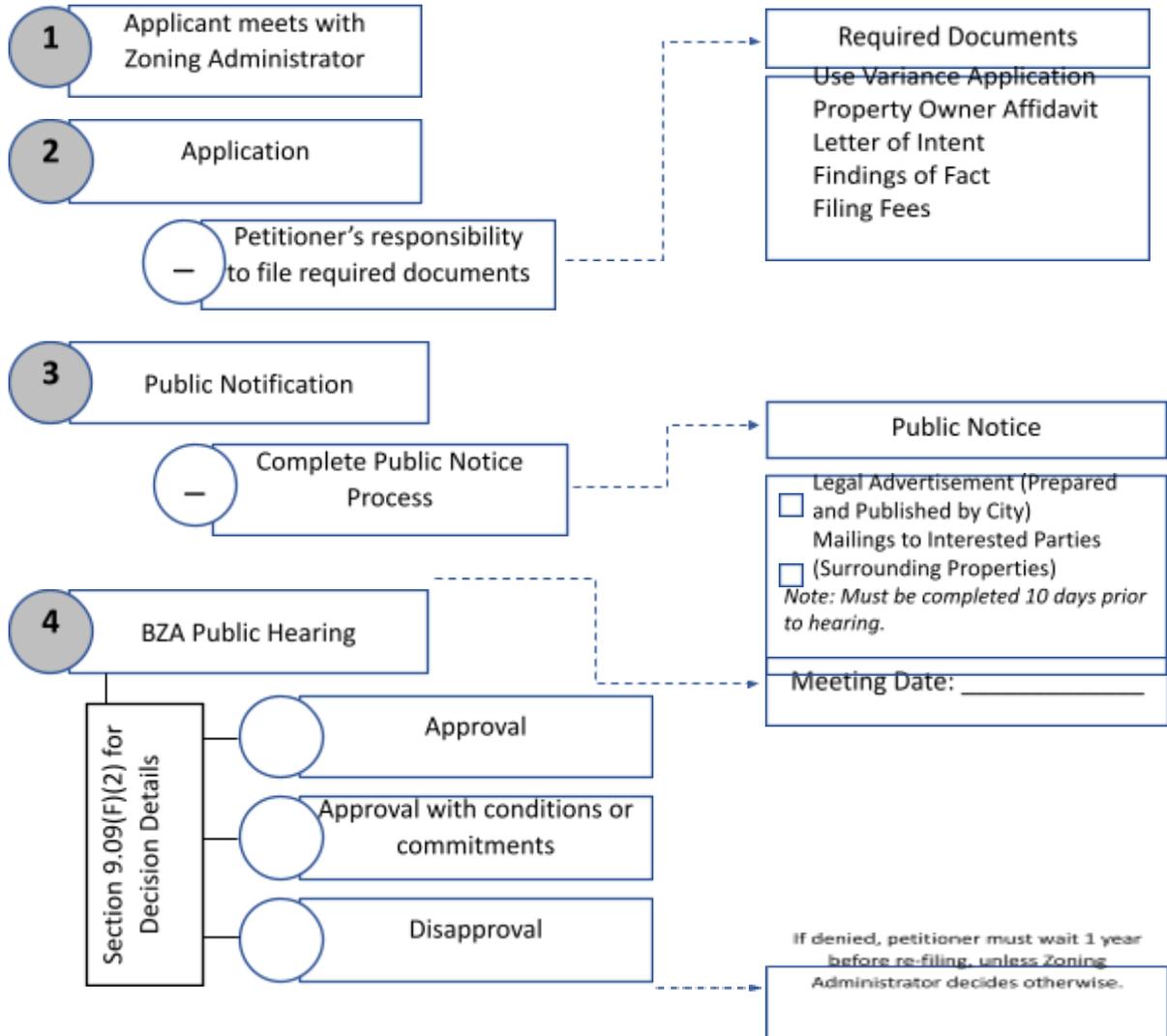
### **PUBLIC HEARING NOTIFICATION**

The City of Shelbyville is responsible for placing the Notice of Public Hearing in the local newspaper. The legal advertisement must run at least 10 days prior to the hearing (not including the date of the hearing). The applicant is responsible for:

1. **Notice to Interested Parties:** The applicant is responsible for preparing and distributing written notice of the petition (including the same information found in the Legal Notice) to all property owners within 2 ownerships of the boundaries of the subject property. Names and addresses of those property owners will be provided by the Plan Commission staff. The notices must be sent at least once, at least 10 days prior to the hearing. Notice may be distributed through either a certificate of mailing (requiring USPS Form #665), certified mail, or hand delivery (requiring signatures on form provided by Plan Commission Office).
2. **Notification Certification:** A copy of the materials provided to each property owner, the completed mailing and/or delivery forms, and a signed and notarized Affidavit of Notice certifying the correctness of the mailing list shall be provided to the Plan Commission Director by the petitioner a minimum of 2 business days prior to the date of the public hearing.

### 9.09 Use Variance

#### Process Outline



NOTE: If approved use has not been established within three (3) years from the date the Use was granted, the approval shall be null and void



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### 1.

#### Applicant

Name:

Address:

Phone Number:

Fax Number:

Email:

#### Property Owners Information (if different than Applicant)

Name:

Address:

Phone Number:

Fax Number:

Email:

<b>For Office Use Only:</b>	
Case #: BZA _____ - _____	
Hearing Date: _____	
Fees Paid: \$ _____	
Final Decision:	
Approved	Denied

### 2.

#### Applicant's Attorney/Representative

Name:

Address:

Phone Number:

Fax Number:

Email:

#### Project Engineer

Name:

Address:

Phone Number:

Fax Number:

Email:

### 3. Project Information:

General Location of Property (and address is applicable):

Current Zoning:

Proposed Use of Property:

Existing Use of Property:

### 4. Attachments

- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent

- Supporting Documentation and Exhibits (Optional)
- Vicinity Map
- Application Fee
- Findings of Fact

**The undersigned states the above information is true and correct as s/he is informed and believes.**

Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_)

County of \_\_\_\_\_) SS:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public / Printed

Residing in \_\_\_\_\_ County.

My Commission Expires: \_\_\_\_\_



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## FINDINGS OF FACT

Petitioner's Name:

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Location:

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Special Exception for:

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The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Use Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** Explain why granting the request for a use variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

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2. **Adjacent Property:** Explain why the use variance should not affect the use and the value of adjacent properties.

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3. **Practical Difficulty:** Explain the conditions that are peculiar to this property that create a hardship from using it for the permitted uses in the zoning district.

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4. **Unnecessary Hardship:** Explain why the property cannot be reasonably used for the permitted uses in the zoning district.

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5. **Comprehensive Plan:** Explain how the use variance will not interfere with the Comprehensive Plan. (Use statements and Future Land Use map from the Comprehensive Plan that support your argument).

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AFFIDAVIT & CONSENT OF PROPERTY OWNER

APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS

STATE OF \_\_\_\_\_)
COUNTY OF \_\_\_\_\_) SS:

I, \_\_\_\_\_, AFTER BEING DULY SWORN, DEPOSE AND SAY THE
(Name of property owner)
FOLLOWING:

- 1. That I am the owner of real estate located at
\_\_\_\_\_;
(Address of subject property)
2. That I have read and examined the Application made to the Shelbyville Board of Zoning Appeals by:
\_\_\_\_\_.
(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the
Shelbyville Board of Zoning Appeals.

Owner's Name (Please Print)

Owner's Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

Notary Public

Printed

Residing in \_\_\_\_\_ County My Commission expires \_\_\_\_\_