



**DEVELOPMENT STANDARDS VARIANCE**

APPLICATION PACKAGE

BOARD OF ZONING APPEALS

**Quick Check List**

- o Completed Application (notarized) – 6 copies
- o Completed Finding of Facts sheet – 6 copies
- o Site plans and other supporting materials – 6 copies
- o Letter of Intent – 6 copies
- o Notarized Affidavit & Consent of Property Owner (if the petitioner doesn't own the property)
- o Property Deed with Legal Description of land for the file
- o Filing Fee – check made payable to the City of Shelbyville
- o Completed Post Office Form 3877
- o Attend Meeting

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

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### What is a Development Standard Variance and why do you need to apply for one?

A Development Standard Variance is a deviation from the development standards outlined in the Shelbyville Zoning Ordinance. These are standards typically found in Article 2 and 5 of the Unified Development Ordinance. If you cannot meet these standards for your development/project, you must apply for a variance and receive approval from the Board of Zoning Appeals before you can move on with your project. This would apply to things such as (but not limited to) new buildings/structures, additions, accessory structures, parking lots and driveways.

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

### PROCEDURE

1. Complete the forms included in this packet: This section explains how to fill out the forms.

*Development Standard Variance Application (This form will need to be notarized)*

This is a general application filled out by the applicant or his representative. Please complete the entire application. If you are the owner and/or do not have a representative, this information may be omitted. If you are unsure how to answer some of the areas of the application, please contact our office. Do not fabricate an answer as it may make your application invalid.

*Affidavit & Consent of Property Owner (This form will need to be notarized)*

If the applicant is not the property owner, this form will need to be completed by the property owner. This provides proof that the owner approves your request. If you or the assumed owner are buying the property on contract, the original owner will need to sign this form as well. **YOU DO NOT NEED TO FILL OUT THIS FORM IF YOU ARE THE OWNER.**

*Findings of Facts*

The Board may only approve a development standard variance upon a determination in writing that (1) the approval will not be injurious to the public health, safety and general welfare of the community; (2) the use and value of the area adjacent to the property included in the variance will not be substantially affected in an adverse manner; (3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property (meaning the zoning standards cannot be met because of some hardships from the property).

**If you are filing for more than one Development Standard Variance, you MUST submit a Finding of Facts for each one. Typically, each variance is looked at separately and voted on individually.**

On the Finding of Facts form, you must answer questions in regards to those three criteria. Please use proper English and grammar when answering the questions. Do not use personal matters as reasons for findings. The findings must relate to the property, not to a person.

The most important question for the development standard variance is the practical difficulty. A hardship must be proven and the hardship claimed is suffered by the property directly, and not merely by other properties. Also the hardship claimed cannot be the result of the applicant's own actions.

Hardship examples: (Please do not copy for your own answers)

- A small lot or a lot so oddly shaped that the owner would have great difficulty in meeting setback requirements and yet erect a suitable building
- Severe lot contours or the location of natural features which cause hardship in complying with setback requirements
- Since the building sets far from the road, a larger sign is needed for visibility

What a hardship is not:

- That the owner could sell his property for more if the Board would permit its development for commercial purposes
- A venture, which is financially advantageous to the applicant or a financial loss if a variance was denied
- The absence of a use in the neighborhood and the implication that the public would suffer inconvenience by it
- An applicant who knowingly or not violated the Zoning Ordinance and then cites his expenditures as a loss that he will suffer if not permitted to continue the violation
- Purchase of property with the knowledge of the zoning restrictions and then complain that said restrictions have disturbed construction plans

### 2. Write a Statement of Intent

There is no form to fill out, but please submit a letter of Statement of Intent. This is a simple letter explaining the development standard variance request in more detail than that which is on the application page. This can be informal and addressed directly to the Board. For example: If you are filing for a development standard variance from side setback requirements, the letter would describe what you want to build, how far the setback you are proposing will be and why you cannot meet the requirement.

### 3. Include Supporting Materials

You will need to include supporting materials that will demonstrate the need for the development standard variance. They could include things like site plans, drawings and/or pictures. The more information you provide the Board, the better.

#### 4. Legal Description

You will need to provide a legal description of the property. Please bring a copy of the Deed when you file your paperwork. You can obtain a copy of your Deed at the Recorder's office in the Shelby County Courthouse Annex at 25 W. Polk Street Shelbyville, IN.

#### 5. File with the Plan Commission Staff on or before the deadline date

You must submit all of the information in steps 1 – 3.

You will need to make 6 copies of the following: *Development Standard Variance Application, Findings of Facts, Statement of Intent and any supporting materials.*

Please have the 6 copies assembled into individual packets for the board members.

You do not need to make copies of the *Affidavit & Consent of Property Owner* or the *Deed*. Only one copy of those is needed for the file.

When you file, you must pay the associated filing fee(s). Fees for Use Variances are as follows:

Residential	\$50.00
Commercial	\$200.00
Industrial	\$200.00
Each additional request on any one petition	\$50.00 each

\*\*Please make checks payable to the City of Shelbyville

#### 6. Public Notice

When you submit the above mentioned paperwork to the Plan Commission office, the staff will give you additional forms for the Public Notice that must be placed in the local newspaper, The Shelbyville News. It must also be mailed to surrounding property owners. The staff will supply the *Public Notice, Property Owners List* and the *Post Office Form 3877*.

You are responsible for two things:

- A. Taking the Public Notice to the newspaper and paying the associated fees for publication
- B. Postal Mailing: Supplying envelopes and postage, completing Form 3877 and having the post office stamp the form. Form 3877 will need to be returned to the Plan Commission office by the Friday following the deadline date.

#### 7. Attend the meeting

You or your representative listed on the application must attend the meeting. If no one shows up, your petition will be dismissed and you will have to re-file your petition. At any time before your hearing comes up, you may ask the Board for a continuance, usually until the next month's meeting. We will grant you no more than two continuances. After that, your petition will be heard or dismissed unless you have already withdrawn it. You must file your continuance or withdrawal request in writing with the staff prior to the meeting.

The staff will generate a staff report and will make a recommendation on your petition to the Board. The staff report will be distributed to the Board members 5 days before the meeting. If you would like a copy of the staff report, please request it.

At the meeting: When your turn comes, the staff will read your application to the Board. You will be asked to present your petition and then the Board can ask questions pertaining to your petition. Members of the public who either support or oppose your request will be given an opportunity to speak as well. At the conclusion of the hearing, the Board will vote. They can vote to approve or deny your request. They can also vote to continue or table the petition to another meeting.

If you bring additional material to the hearing for your presentation that you did not supply when filing your petition, you must bring 6 copies (one for each board member and one for the file).

**Please do not contact any Board of Zoning Appeals member prior to the meeting. Members are not allowed to talk to petitioners or their representatives outside of the public hearing. You can only communicate with the Plan Commission staff.**

### 8. After the meeting

If your petition is approved, you can continue with your development/project to the next steps that are required. If you need a Letter of Approval, you must request it from the staff.

If your development standard variance was denied, you can either alter your project to meet the standard or read Article 9.08 of the Zoning Ordinance for other options.

### Expiration

A development standard variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit, Sign permit or execution of the approval has not been completed within 3 years of the date it was granted. The development standard variance shall also expire if the approved construction or sign erection has not been completed and approved by the Plan Commission Director as being consistent with all written commitments or conditions, the requirements of the Zoning Ordinance, the variance granted and all applicable permits within 3 years of the date the approval is granted.



# Development Standards Variance

Shelbyville Planning and Building Department  
44 West Washington Street  
Shelbyville, IN 46176  
P. 317-392-5102

## DEVELOPMENT STANDARD VARIANCE APPLICATION

For Office Use Only

Case # \_\_\_\_\_

Hearing Date: \_\_\_\_\_

Fees: \_\_\_\_\_

Approved

Denied

1.

**Applicant** (person or company requesting variance)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Property Owners Information** (if different than applicant)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

2.

**Applicant's Attorney/Representative**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**Project Engineer**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

**4. Project Information:**

Address of Property: \_\_\_\_\_

Current Zoning: \_\_\_\_\_ Existing Use of Property: \_\_\_\_\_

**5. Number of Variances Requested** \_\_\_\_\_

**6. Applicable Ordinance Section Number (s)**

(Please indicate ALL applicable Zoning Ordinance Section Numbers for your petition; including Article, Section, and Page Number)

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

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

State of Indiana )  
County of Shelby )SS:

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

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed

Residing in \_\_\_\_\_ County My Commission Expires: \_\_\_\_\_



Development Standards Variance

Shelbyville Planning and Building Department
44 West Washington Street
Shelbyville, IN 46176
P. 317-392-5102

AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBYVILLE BOARD OF ZONING APPEALS

STATE OF INDIANA )
COUNTY OF SHELBY )SS:

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

- 1. That I am the owner of real estate located at \_\_\_\_\_;
(Address of affected 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

State of Indiana )
County of Shelby )SS:

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

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

Residing in \_\_\_\_\_ County My Commission Expires \_\_\_\_\_





# Development Standards Variance

Shelbyville Planning and Building Department  
44 West Washington Street  
Shelbyville, IN 46176  
P. 317-392-5102

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## FINDINGS OF FACT

Petitioner's Name: \_\_\_\_\_

Location: \_\_\_\_\_

Variance for: \_\_\_\_\_

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standard 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 development standard 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 development standard variance request will not affect the use and the value of adjacent properties.

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3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

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