

Case # _____

**Town of Clear Lake, Indiana
Board of Zoning Appeals**

**Variance from Development Standards
Application for Appeal Hearing**

- 1. Applicant: _____
Legal/Permanent Address: _____
Phone: _____
- 2. Owner(s) of property proposed for variance: _____
Owner's address: _____
- 3. Street address of property: _____
Legal description of property involved with proposed variance (may be attached)

- 4. Present zoning classification: _____
- 5. Present use of property: _____
- 6. Proposed use of property: _____
- 7. Describe the variance needed for your project: _____

- 8. Are there any restrictions, laws or covenants governing your property that would prohibit its use for the purpose specified in this application? _____
If yes, please attach a copy of such restrictions.

9. Describe your project request in detail.

10. Explain why your requested variance is essential to the practical use of your property.

For Zoning Administrator Use Only:

1. State the applicable Chapter and Subsection of the Town of Clear Lake, Indiana Zoning Regulations that has caused this appeal. _____

2. Have there been previous appeals filed on this property? Explain _____

**Board of Zoning Appeals
Findings Of Fact
Developmental Standard Variance**

For the BZA to consider your petition for a variance from development standards you will need to present evidence on the following points. The BZA must make a determination on each of these points in deciding whether or not to grant your petition. Indiana case law has determined that it is not enough to make the required statutory determinations in the words of the ordinance (e.g. stating “the approval will not be injurious to the public health, safety, morals and general welfare of the community”) but that the BZA must make findings that support those determinations. In effect, “because” must be added to each of the criterion, with a corresponding explanation, (e.g., “the approval will not be injurious to the public health, safety, morals, and general welfare of the community because ...”). **Failure to present evidence in support of any of these findings will result in denial of your petition; therefore, please state:**

- A. How will your proposed building-structure not be injurious to the public health, safety, morals and general welfare of the community?

Because

- B. How will the use and value of the area adjacent to the property for which you are requesting a variance not be affected in a substantially adverse manner?

Because

- C. How will the strict application of the terms of the Clear Lake zoning regulations result in practical difficulties in your use of your property?

Because

Affidavit

(I or We) _____, Being duly sworn, depose and say that (I or We) (am or are) the (Owner[s] or contract purchaser[s]) of the property involved in this application; and that the forgoing signatures, statements and answers herein contained, and the information herewith submitted, are in all respects true and correct.

Signed: _____

Signed: _____

STATE OF INDIANA)
) SS:
COUNTY OF)

Subscribed and sworn to before me, a Notary Public, in said County and State, on this ____ day of _____, 20__.

Witness my hand and notarial seal.

(Notary Public)

(Name Printed)
Resident of _____ County, IN

My Commission Expires:

Instructions for Petitioners Before The Clear Lake Board Of Zoning Appeals

Developmental Standard Variance

A variance involves a deviation or change from a developmental standard contained in the Clear Lake Zoning Ordinance. The Clear Lake Board of Zoning Appeals shall approve or deny all variance requests.

Procedure For Filing With Board Of Appeals

1. Variance Application Requirements:

- Fully completed Application for Appeal Hearing.
- Drawings to scale of proposed project including all elevations and an exterior materials list. (7 copies)
- Site plan to scale showing property lines, existing improvements and proposed improvements. A certified boundary survey. (7 copies)
- A copy of property's deed (deeds). (7 copies)
- If requesting a new sanitary waste connection, a letter of acceptance from the Clear Lake Town Council to connect to the Clear Lake sewer system.
- On your proposed building site, stakes showing your building locations and your property lines.

Application requirements must be completed before your variance hearing will be scheduled.

2. Deadline for Variance Application: 21 days prior to scheduled BZA meeting. **All application requirements must be met by deadline.**

Public Hearing Procedures

You will be scheduled for a Board of Zoning Appeals hearing and notified of the hearing date. Notice of the public hearing must be advertised in the local newspaper and must also be given to any person who owns land that touches your property. For purposes of determining which property touches your property, ignore all roads, streets, highways and alleys, that is, any property that would touch your property but for such road, street, highway or alley is considered to be an adjoining property and must be notified. You are required to obtain and submit with your application the legal residential mailing address of those persons. One source for such information is the Steuben County Treasurer's Office. You may also directly obtain the legal address from the individual property owners. When submitting the owners addresses you are required to certify under oath that the addresses are true and correct.

The Board will prepare the legal notice and will submit it to the newspaper for publication. A notice, prepared by the Board, will also be sent to the adjoining landowners via certified mail return receipt requested to their legal address. These letters must be sent to the adjoining landowners no later than ten (10) days prior to the hearing date.

As a courtesy, the Board will send a copy of the notice to owners of the five nearest additional properties in each direction located within the Clear Lake Town limits. This notice will be sent by first class mail to the owner's address listed in the current edition of the Clear Lake Directory.

Factors To Be Considered By The Board For Their Determination

The Board shall approve or deny variances from developmental standards from the terms of the Clear Lake Ordinance. The Board may impose reasonable conditions as part of its approval.

The following findings of facts **MUST** be made on every variance and **ALL** of these facts must be found in the affirmative for the variance to be granted (As required by Indiana Law). Should one of the facts be found negative, the variance will be denied. It is the applicant's responsibility and the applicant has the burden of proof to submit evidence to the Board to prove that the request for variance meets all criteria and finding of fact. The findings of fact are:

- a. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- b. The use and the value of the area adjacent to the property included in the variance will not to be affected in a substantially adverse matter.
- c. The strict application of the terms of the ordinance will result in practical difficulties in the use of the property.

Further Requirements

Any person to whom is issued an improvement location permit for a variance who fails to commence construction within twelve (12) months after such permit is issued, or who fails to carry to completion the total development plan thereof within three (3) years after such construction is begun, which ever is later, or who fails to conform to the provision of the development plan and supporting data finally approved by the Board and upon the basis of which such improvement location permit was issued, may be required by the Board upon its own motion, and shall be required by the Board upon written petition of any person deeming himself aggrieved, to show cause why such approval should not be withdrawn and such improvement permit revoked.

Case # _____

**Town of Clear Lake, Indiana
Board of Zoning Appeals**

**Variance of Use
Application for Appeal Hearing**

- 1. Applicant: _____
Legal/Permanent Address: _____
Phone: _____

- 2. Owner(s) of property proposed for variance: _____
Owner's address: _____

- 3. Street address of property: _____
Legal description of property involved with proposed variance (may be attached)

- 4. Present zoning classification: _____

- 5. Present use of property: _____

- 6. Proposed use of property: _____

- 7. Describe the variance needed for your project: _____

- 8. Are there any restrictions, laws or covenants governing your property that would prohibit its use for the purpose specified in this application? _____
If yes, please attach a copy of such restrictions.

9. Describe your request in detail. Explain the proposed use (residential or commercial, number of employees, hours of operation and reasons for the request)

10. Describe the current/existing use and type of facility. List the existing parking areas and proposed parking areas and number of spaces (provide the parking calculation). Also, describe all new/relocated utilities. Please NOTE: anything not requested in this application cannot be requested at the time of the hearing.

Board of Zoning Appeals Findings Of Fact – Use Variance

For the BZA to consider your petition for a variance of use you will need to present evidence. The BZA must make a determination on each of the following points in deciding whether or not to grant your petition. Indiana case law has determined that it is not enough to make the required statutory determinations in the words of the ordinance (e.g. stating “the approval will not be injurious to the public health, safety, morals and general welfare of the community”) but that the BZA must make findings that support those determinations. In effect, “because” must be added to each of the criterion, with a corresponding explanation, (e.g., “the approval will not be injurious to the public health, safety, morals, and general welfare of the community because ...”). **Failure to present evidence in support of any of these findings will result in denial of your petition; therefore, please state:**

- A. How will your proposed use not be injurious to the public health, safety, morals and general welfare of the community?

Because

- B. How will the use and value of the area adjacent to the property included in the variance not be affected in a substantially adverse manner?

Because

- C. How does the need for the variance arise from some condition peculiar to the property involved?

Because

- D. How will the strict application of the terms of the Clear Lake zoning regulations constitute an unnecessary hardship if applied to the property for which the variance is sought?

Because

E. How does approval not interfere substantially with the Town of Clear Lake's comprehensive plan?

Because

For Zoning Administrator Use Only:

1. State the applicable Chapter and Subsection of the Town of Clear Lake, Indiana Zoning Regulations that has caused this appeal. _____

2. Have there been previous appeals filed on this property? Explain _____

Affidavit

(I or We) _____, Being duly sworn, depose and say that (I or We) (am or are) the (Owner[s] or contract purchaser[s]) of the property involved in this application; and that the forgoing signatures, statements and answers herein contained, and the information herewith submitted, are in all respects true and correct.

Signed: _____

Signed: _____

STATE OF INDIANA)
) SS:
COUNTY OF)

Subscribed and sworn to before me, a Notary Public, in said County and State, on this ____ day of _____, 20__.

Witness my hand and notarial seal.

(Notary Public)

(Name Printed)
Resident of _____ County, IN

My Commission Expires:

Instructions for Petitioners Before The Clear Lake Board Of Zoning Appeals

Use Variance

A variance involves a deviation or change in the use standard contained in the Clear Lake Zoning Ordinance. The Clear Lake Board of Zoning Appeals shall approve or deny all variance requests.

Procedure For Filing With Board Of Appeals

1. Variance Application Requirements:

- Fully completed Application for Appeal Hearing.
- Drawings to scale of proposed project including all elevations and an exterior materials list. (7 copies)
- Site plan to scale showing property lines, existing improvements and proposed improvements. A certified boundary survey. (7 copies)
- A copy of property's deed (deeds). (7 copies)
- If requesting a new sanitary waste connection, a letter of acceptance from the Clear Lake Town Council to connect to the Clear Lake sewer system.
- On your proposed building site, stakes showing your building locations and your property lines. If applicable.

Application requirements must be completed before your variance hearing will be scheduled.

2. Deadline for Variance Application: 21 days prior to scheduled BZA meeting. **All application requirements must be met by deadline.**

Public Hearing Procedures

You will be scheduled for a Board of Zoning Appeals hearing and notified of the hearing date. Notice of the public hearing must be advertised in the local newspaper and must also be given to any person who owns land that touches your property. For purposes of determining which property touches your property, ignore all roads, streets, highways and alleys, that is, any property that would touch your property but for such road, street, highway or alley is considered to be an adjoining property and must be notified. You are required to obtain and submit with your application the legal residential mailing address of those persons. One source for such information is the Steuben County Treasurer's Office. You may also directly obtain the legal address from the individual property owners. When submitting the owners addresses you are required to certify under oath that the addresses are true and correct.

The Board will prepare the legal notice and will submit it to the newspaper for publication. A notice, prepared by the Board, will also be sent to the adjoining landowners via certified mail return receipt requested to their legal address. These letters must be sent to the adjoining landowners no later than ten (10) days prior to the hearing date.

As a courtesy, the Board will send a copy of the notice to owners of the five nearest additional properties in each direction located within the Clear Lake Town limits. This notice will be sent by first class mail to the owner's address listed in the current edition of the Clear Lake Directory.

Factors To Be Considered By The Board For Their Determination

The Board shall approve or deny variances from developmental standards from the terms of the Clear Lake Ordinance. The Board may impose reasonable conditions as part of its approval.

The following findings of facts **MUST** be made on every variance and **ALL** of these facts must be found in the affirmative for the variance to be granted (As required by Indiana Law). Should one of the facts be found negative, the variance will be denied. It is the applicant's responsibility and the applicant has the burden of proof to submit evidence to the Board to prove that the request for variance meets all criteria and finding of fact. The findings of fact are:

- a. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- b. The use and the value of the area adjacent to the property included in the variance will not to be affected in a substantially adverse matter.
- c. The need for the variance arises from some condition peculiar to the property involved.
- d. 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.
- e. The approval doesn't interfere substantially with Clear Lake's comprehensive plan.

Further Requirements

Any person to whom is issued an improvement location permit for a variance who fails to commence construction within twelve (12) months after such permit is issued, or who fails to carry to completion the total development plan thereof within three (3) years after such construction is begun, which ever is later, or who fails to conform to the provision of the development plan and supporting data finally approved by the Board and upon the basis of which such improvement location permit was issued, may be required by the Board upon its own motion, and shall be required by the Board upon written petition of any person deeming himself aggrieved, to show cause why such approval should not be withdrawn and such improvement permit revoked.

Board Rules

Town of Clear Lake Indiana – Board of Zoning Appeals (BZA)

1. The board shall hear all matters as mandated by Indiana Code 36-7-4-918.1, 36-7-4-918.2 and 36-7-4-918.3.
2. The board shall operate as mandated under Indiana Code 36-7-4-918 and Clear Lake Code 154.100.
3. Deadlines:
 - Developmental Standard Variances, Use Variances, and Special Exceptions: All applications must be submitted to the Clear Lake Zoning Inspector or Clerk/Treasurer no later than 21 days prior to a scheduled BZA meeting. All application requirements must be met by deadline.
 - Issues To Be Heard Not Requiring Public Notice: All applications and agenda requests must be submitted to the President of the BZA 7 days prior to a scheduled BZA meeting.
 - Appeals Of Zoning Inspector's Decisions: Notice of appeal must be submitted to and received by the Clear Lake Clerk/Treasurer no more than 90 days after the Zoning Inspector's decision. The appeal request must state the specific grounds for appeal and must be made in writing. The hearing date for the appeal will be determined by the President of the BZA.
 - Special Exceptions, Developmental Standard Variances, And Use Variances: The granting of any special exception, use variance, or developmental standard variances expires at the end of one year from the date of granting by the Board of Zoning Appeals unless construction is commenced within the one year period.
4. Variance Application Requirements:
 - Fully completed Application for Appeal Hearing.
 - Drawings to scale of proposed project including all elevations and an exterior materials list. (7 Copies)
 - Site plan to scale showing property lines, existing improvements and proposed improvements. A certified boundary survey. (7 Copies)
 - A copy of property's deed (deeds). (7 Copies)
 - If requesting a new sanitary waste connection, a letter of acceptance from the Clear Lake Sewer Board to connect to the Clear Lake sewer system.
 - On your proposed building site, stakes showing your building locations and your property lines.

All application requirements must be completed before a variance hearing will be scheduled.
5. General Variance Conditions:
 - All variances, special exceptions, developmental standard variances, and/or use variances are based upon the plans submitted at the time of the public hearing and the granting of the variance. Any changes may require additional approval by the Board of Zoning Appeals prior to the start of construction.
 - A Certification of Action Taken will be recorded with the Steuben County Recorder to memorialize all variances granted.

Adopted: August 21, 2006