

# VARIANCE OF USE



## ***Guide to Applying for a Variance from the Board of Zoning Appeals***

### **Background**

Zoning regulations are intended to protect and serve the public good. To do so, they should be applied universally and consistently. Sometimes, however, because of atypical conditions unique to a particular property, carrying out the strict letter of a zoning regulation would not allow reasonable use of that property. To avoid unjust and unnecessary imposition of such extreme hardships on property owners, the Auburn Unified Development Ordinance provides a relief from the standards in unique circumstances. The Ordinance authorizes the Board of Zoning Appeals to grant variances from zoning regulations.

### **Definition**

A variance is a waiver from compliance with a specific provision of the Unified Development Ordinance. A Variance of Use is the approval of a use that is not listed as a permitted or special exception use in a district. A property owner can request a variance to allow any use upon the property. The variance is specific to the use requested and cannot be for a general use such as a "commercial use".

### **Conditions**

Submission of an application for a variance does not guarantee approval. The Board of Zoning Appeals must find the zoning regulation in question cases a hardship. A hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user. The applicant must show the need for the variance arises from some condition peculiar to the property involved and that the approval does not interfere with the Auburn Comprehensive Plan. The applicant must also

show the public health safety and welfare are not adversely affected by their request. If these legal tests cannot be met, a variance should not be granted. A variance is not appropriate as a matter of convenience, or if it would grant special privileges to an individual property. Economic considerations alone do not constitute a hardship if a reasonable use for the property exists under the Unified Development Ordinance.

### **Process**

Applications for variances are reviewed by city staff and the Board of Zoning Appeals. Any person considering seeking a zoning variance must first contact the Building, Planning and Development Department staff, who will explain the review process and provide the necessary forms, checklists, and deadlines.

To request a hearing, an application must be submitted to the Building, Planning and Development Department prior to the filing deadline. The case will be scheduled for review at the next Board of Zoning Appeals meeting. Staff will review the application for completeness and consistency with applicable plans and ordinances. Staff will contact the applicant if additions or revisions to the application are necessary. Staff prepares a report containing its findings and a recommendation of approval or denial.

In addition to review by City staff and officials, the application is subject to comment from the general public.

## Public Notices

City staff prepares and publishes a legal notice in The Star newspaper for the public hearing to be held on the application.

City staff prepares and mails a notice to all adjacent property owners for the public hearing.

Costs for the legal notice and neighbor notices are included in the application filing fee.

## Decision

The granting of variances in Auburn is the responsibility of the Board of Zoning Appeals. The Board is comprised of five members: three who are appointed by the Mayor, one who shall be a member of the Plan Commission; one appointed by the Common Council; and one who is appointed by the Plan Commission from its members that represent the Extra-Territorial Jurisdiction. The Board meets on the fourth Tuesday of each month, as needed.

In reviewing zoning variances, the Board of Zoning Appeals acts much like a panel of judges. It holds a hearing to allow the staff, applicant, and other interested parties to present competent, substantial, and material factual evidence relating to the required conclusions. It then makes findings of fact supported by the presented evidence. Based on those findings, the Board decides whether it can reach each of the required conclusions, it may approve a variance request only after it reaches all the required conclusions. The Board may approve an application subject to conditions reasonably necessary to allow it to reach the required conclusions.

The Board's decision is final as far as the City's process is concerned. The Mayor and Common Council cannot overrule or alter the Board's decision. If anyone feels a variance was improperly granted or denied, including the Mayor and Common Council, the Board's decision must be appealed to the Circuit Court of the County within 30 days of the date the Board decision is made.

## Timeline

- Pre-application review with City staff
- Complete application
- **30 days before BZA hearing**
  - Filing deadline
    - Submit a completed application
    - Submit sketch plan for property
    - Complete application checklist
    - Pay filing fee
  - Staff Review
    - Site photographs
    - Prepare Staff Report
- **At least 10 days prior to BZA hearing**
  - *Notices of the public hearing mailed*
  - *Legal notice published in newspaper*
- **BZA hearing**
  - Held on 4<sup>th</sup> Tuesday of month, as necessary

# **VARIANCE OF USE APPLICATION CHECKLIST**



*A completed application must include the following:*

- A completed application form.** The application form is available in the Building, Planning and Development Office located on the 2<sup>nd</sup> floor of City Hall or at [www.ci.auburn.in.us](http://www.ci.auburn.in.us).
- A filing fee of three hundred twenty five dollars (\$325.00)** payable to the City of Auburn.
- Ownership affidavit; copy of deed; or other proof of ownership OR ownership consent form.**
- One copy of a sketch**, drawn to scale, showing the lot(s) included in the application; the existing structure(s); and any proposed structure(s) necessitating the variance requested. All appropriate dimensions and any other information that would be helpful to the Board in consideration of the application should be included.

*Applicant may also submit the following:*

- Any written statement, documents, photographs, plans or supporting information justifying the variance requested.**
- Proposed findings of fact to support the variance request.**



## BOARD OF ZONING APPEALS – USE VARIANCE

Department of Building, Planning, & Development

210 S Cedar St PO Box 506 Auburn IN 46706 | 260.925.6449 | 260.920.3342 fax | bpd@ci.auburn.in.us

### APPLICANT INFORMATION

Provide Contact Name, Company Name (if applicable), Mailing Address, Phone, and Email for each individual.

**Applicant** \_\_\_\_\_

**Applicant Address** \_\_\_\_\_

**Applicant Phone** \_\_\_\_\_ **Email** \_\_\_\_\_

**Property Owner** \_\_\_\_\_

### PROJECT INFORMATION

**Name** \_\_\_\_\_

**Location** \_\_\_\_\_

**Description** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### CERTIFICATION

By signing below, I certify the following:

- I am the owner or legal agent of the subject property;
- The information provided in this application is true and accurate to the best of my knowledge;
- I understand the application will be routed to applicable government and utility agencies;
- I understand fees associated with this application are non-refundable once paid;
- I understand my presence (or my legal counsel's presence) is required at the Board of Zoning Appeals meeting concerning this project;
- I authorize City staff to walk upon the property for purpose of taking photographs for the staff report;
- I authorize City staff to post a Public Notice sign in a conspicuous place upon the property.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Applicant Printed Name

\_\_\_\_\_  
Date

### OFFICE USE ONLY

Received Date: \_\_\_\_\_

LOGOS#: BZA- \_\_\_\_\_

Received By: \_\_\_\_\_

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

Payment Type: \_\_\_\_\_

Receipt Number: \_\_\_\_\_



## BOARD OF ZONING APPEALS – USE VARIANCE

### FINDINGS OF FACT

*The Board of Zoning Appeals must make detailed Findings of Fact based on the application and presentation of the request at the meeting. Failure to present evidence in support of the Findings of Fact may result in a denial of the request. Please complete the following statements with regard to this project.*

FINDING #1: The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community because...

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FINDING #2: The use and value of the area adjacent to the project included in the variance will not be affected in a substantially adverse manner because...

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FINDING #3: The need for the use variance arises from some condition peculiar to the property involved which is...

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FINDING #4: The strict application of the terms of the ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because...

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FINDING #5: The approval does not interfere substantially with the Auburn Comprehensive Plan because...

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### SUBMITTAL REQUIREMENTS CHECKLIST

*A detailed list of submittal requirements can be found in Chapter 150 Unified Development Ordinance, Article 9. Below is a generalized list of submittal requirements for Board of Zoning Appeals applications.*

- Pre-application meeting
- Completed Application
- Owners Affidavit – if application is not signed by owner
- Recorded Property Deed
- Site Plan showing property lines, rights-of-ways, structures, etc.
- Complete description of proposed use with days/hours of operation, number of employees, etc.
- Other items, as required by the Zoning Administrator
- Application Fee



## AFFIDAVIT OF PROPERTY OWNERSHIP

Department of Building, Planning, & Development

210 S Cedar St PO Box 506 Auburn IN 46706 | 260.925.6449 | 260.925.8239 fax | bpd@ci.auburn.in.us

### PROPERTY OWNER INFORMATION

Name					
Mailing Address					
Phone / Email					
<b>PROJECT LOCATION</b>					
Address					
<b>AUTHORIZED AGENT</b>					
Name					
Phone/Email					
Application Type	PC	BZA		Demolition	Other _____

### OWNERS CERTIFICATION AND SIGNATURE

I certify that I am the owner of the property listed above as the project location. The authorized agent listed above is designated to act on my behalf for matters pending before the City of Auburn according to the application types checked above.

By: \_\_\_\_\_

Owner, Signature

\_\_\_\_\_  
Owner, Printed Name

\_\_\_\_\_  
Date

By: \_\_\_\_\_

Owner, Signature

\_\_\_\_\_  
Owner, Printed Name

\_\_\_\_\_  
Date

### OWNER ACKNOWLEDGEMENT

State Of \_\_\_\_\_ )

) SS:

County Of \_\_\_\_\_ )

BEFORE ME, the undersigned Notary Public in and for said County and State, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ personally appeared the within named \_\_\_\_\_ herein "Owner"

WITNESS my Hand and Notarial Seal

By: \_\_\_\_\_

Notary Public, Signature

\_\_\_\_\_  
Notary Public, Printed Name

\_\_\_\_\_  
Number / Expiration Date or Stamp

# AUBURN BOARD OF ZONING APPEALS

## 2026 Meetings and Deadlines

Meeting on 4th Tuesday of Month	Application Filing Deadline (4 Weeks Prior to Meeting)	Public Hearing	
		Legal Notice Sent to Publish	Neighbor Notice Sent
January 27, 2026	December 30, 2025	January 9, 2026	January 15, 2026
February 24, 2026	January 27, 2026	February 6, 2026	February 12, 2026
March 24, 2026	February 24, 2026	March 6, 2026	March 12, 2026
April 28, 2026	March 31, 2026	April 10, 2026	April 16, 2026
May 26, 2026	April 28, 2026	May 8, 2026	May 14, 2026
June 23, 2026	May 26, 2026	June 5, 2026	June 11, 2026
July 28, 2026	June 30, 2026	July 10, 2026	July 16, 2026
August 25, 2026	July 28, 2026	August 7, 2026	August 13, 2026
September 22, 2026	August 25, 2026	September 4, 2026	September 10, 2026
October 27, 2026	September 29, 2026	October 9, 2026	October 15, 2026
November 24, 2026	October 27, 2026	November 6, 2026	November 12, 2026
December 22, 2026	November 24, 2026	December 4, 2026	December 10, 2026
January 26, 2027	December 29, 2026	January 8, 2027	January 14, 2027

\*Filing deadline is 4:00 pm on the date listed

\*All applications must be complete upon submission

\*Incomplete applications will not be accepted or scheduled until such time the application requirements are met

\*Meetings start at 6:00 PM in City Council Chambers, 206 E. 9th Street

\*Board may dismiss an application if the applicant or their representative does not appear to present the request

\*A public hearing is required for all variance and special exception applications

\*An applicant may not withdraw a case after a motion has been made concerning the application

\*Action of the Board is not official unless authorized by a majority of the entire membership of the Board (3 of 5 members)