



Town of Cumberland, Indiana
Department of Planning & Development

APPLICATION FOR VARIANCE OF USE

A *variance from the use* or a "Use Variance" is a modification of or variance from the strict terms of the zoning ordinance relating to the use of property where the modification will not be contrary to the public interest and, where owing to conditions peculiar to the property and not a result of the action of the applicant, a literal enforcement of the zoning ordinance would result in unnecessary and undue hardship.

Application: The application will not be considered complete until all information is received. All applications and supplemental materials must be submitted by close of business on the posted schedule deadline unless stated otherwise and must be completed on the Town's most current application forms. Applications may be picked up at the Cumberland Town Hall, 11501 E. Washington Street, or downloaded at www.town.cumberland.in.us. All applications will be reviewed for completeness and accuracy prior to acceptance. The following information is just a portion of the items that must be submitted with the application. Please refer to the "Application Checklist" in this packet for a complete list of information that must be submitted:

1. A **notarized application** filed at least thirty (30) days prior to the date of the Board of Zoning Appeals' public hearing;
2. A **legal description** of the property;
3. A **sketch plan** drawn to scale showing all existing and proposed improvements on 8 ½ x 11 paper;
4. A **Letter of Intent** which includes proof supporting the Findings-of-Fact;
5. If the applicant is not the owner, a signed and notarized **Letter Granting Authority for an Agent**;
6. A **sample letter** for the written notification requirements;
7. A **list of adjacent property owners** within six hundred sixty (660) feet but no more than two (2) property owners in depth;
8. An **application fee** (payable by check to the **Town of Cumberland**).

Fees: Fees are nonrefundable and are as follows:

- **Application Review Fee** for use variance by check made payable to the **Town of Cumberland**
 - Single and Two-Family Residential - \$300 + \$50 for each developmental standards variance;
 - Commercial or Industrial uses - \$500 + \$100 for each additional variance
 - All others: \$400 + \$100 for each additional variance

Public Notification: The following public notification if required –

1. **Written Notification:** The applicant must mail letters by certified mail to adjacent property owners at least ten (10) days prior to the date of the Board of Zoning Appeals' public hearing. An adjacent property owner is defined as all property owners within 660 feet or two (2) properties deep, whichever is less. The applicant should follow the format of the sample letter included in this packet for mailings. A copy of the draft letter shall accompany the application for staff to review and a copy of the letter mailed and signed affidavit attesting to the mailing of the letters shall be submitted to staff prior to the public hearing. If this information is not received prior to the



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Plan Commission meeting, this will be grounds for an automatic continuance of the case to the next available Agenda.

2. **Newspaper Notification:** The Staff will submit legal notices to the Indianapolis Star East and Greenfield Reporter newspapers for publication at least ten (10) days prior to the date of the Board of Zoning Appeals hearing.

Board of Zoning Appeals Meeting: The Cumberland Board of Zoning Appeals meets on an as needed basis. Please contact the Director of Planning and Development for further information.



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**REQUIREMENTS FILING AN APPLICATION
FOR VARIANCE OF USE**

A complete application shall include the following items to be considered complete:

1. _____ One (1) completed checklist **signed and dated**. (Attach completed copy of this form.) Mark all items N/A (Not Applicable) which don't apply to your project.
2. _____ One (1) completed application form: typewritten, signed by the owner or an authorized agent of the subject property, notarized and filed at least thirty (30) days before the date of the Board of Zoning Appeals meeting. If application is not complete, staff reserves the right to deny the request to be placed on the Agenda. Be sure to include:
 - Project Name
 - Acres
 - Project Address
 - Number of Lots/Parcels
 - Section, Township, Range
 - Nearest intersection
 - Key/Parcel number(s)
 - Current zoning classification
 - Existing land use
 - Previous planning/zoning approvals
 - Applicable provision of ordinance
 - Surrounding land use
3. _____ If the applicant is not the owner, one (1) signed and notarized copy of the Letter Granting Authority for an Agent.
4. _____ One (1) copy of the legal description of property.
5. _____ One (1) copy of the Letter of Intent. This should include a brief description of the project and facts supporting the request.
6. _____ A completed Findings of Fact for a Variance of Use form.
7. _____ Two (2) copies of a property survey, certified by a registered land surveyor, showing existing lot lines and dimensions as well as lot area, all easements, all public and private rights-of-way and all streets across and adjacent to the subject property.
8. _____ A sketch plan, drawn to scale showing all proposed construction of development.
9. _____ One (1) completed Public Notification Letter to be sent to adjacent property owners.
10. _____ A list of adjacent property owner(s) and completed sample notification letter.
11. _____ Completed and notarized Affidavit of Notice to Interested Parties.
12. _____ Nonrefundable application fee. (Check must be made payable to the "TOWN OF CUMBERLAND").

Signature of Person Completing Application Date

Date



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**APPLICATION FOR A
VARIANCE OF USE**

Applicant(s): _____ Telephone: _____

Address: _____ Fax: _____ Email: _____

Owner(s): _____ Telephone: _____

Address: _____ Fax: _____ Email: _____

Property Location: _____

Street Address: _____

Nearest Street Intersection: _____

Section: _____ Township: _____ Range: _____ Parcel Number(s) _____

Existing Zoning Classification

- | | |
|---------------------------------|------------------------------------|
| _____ A-1 Agricultural District | _____ R-6 Residential District |
| _____ C-1 Conservation District | _____ B-1 Business District |
| _____ R-1 Residential District | _____ B-2 Business District |
| _____ R-2 Residential District | _____ I-1 Industrial District |
| _____ R-3 Residential District | _____ I-2 Industrial District |
| _____ R-4 Residential District | _____ PUD Planned Unit Development |
| _____ R-5 Residential District | |

Existing Land Use: _____

Surrounding Land Use: North _____ South _____ East _____ West _____

Previous Planning/Zoning Approvals: _____

Brief Description of variance(s) requested: _____



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Legal Description of the subdivision must be attached to the application.

I (We) do hereby apply for approval of the variance of use in accordance with the provisions of the Comprehensive Plan and Zoning Ordinance of Cumberland, Indiana. I (We) am (are) the owner(s) of the real estate included in the proposed subdivision. The undersigned, having been duly sworn on oath states the above information is true and correct as (s) he is informed and believes.

I (We) also understand that the application fee does not include the fees associated with design review and/or construction management review. Fees for design review and/or construction management review are the direct responsibility of the applicant payable directly to the engineering firm(s) specified by the Town at rates set out by various agreements and/or ordinances of the town, for services, inspections, reports, and the like required by the Town.

Date

Signature of Owner(s) or Agent

Signature of Owner(s) or Agent

STATE OF INDIANA }
 }
COUNTY OF HANCOCK } SS:

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public: Signature

Notary Public: Printed Name

My Commission Expires: _____

Residing in _____ County

FOR OFFICE USE ONLY	
Date Received: _____	Fee Paid: _____
Received By: _____	Application # _____



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CONTACT INFORMATION

The person indicated below will receive all correspondence between the Staff and the applicant. It shall be the responsibility of the contact person to provide copies of information to other interested parties.

Indicate the Contact Person to be notified in the event additional information is required, to schedule meetings, receive Plan Commission Staff Letters and Recommendations, and to received the Plan Commission's Findings of Fact:

Please type or print legibly.

Business Name: _____

Contact Person: _____

Address: _____

Daytime Phone: _____ Fax Number: _____

Email: _____



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**FINDINGS OF FACT
VARIANCE OF USE**

Project Name: _____ **Requested Variance:** _____

The petitioner seeking a variance from the development standards before the Board of Zoning Appeals must answer the following five (5) questions and provide any documentation that may support the findings. (These may serve as the basis for the written Findings of Fact for this petition)

1. **Will the approval of the variance be injurious to the public health, safety, morals, and general welfare of the community?** (Please answer *yes* or *no* and state the reason[s] for your answer on the lines below.)

2. **Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?** (Please answer *yes* or *no* and state the reason[s] for you answer on the lines below.)

3. **Does the need for the variance arise from some condition peculiar to the property?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

4. **Will the strict application of the terms of the Cumberland Zoning Ordinance constitute an unnecessary hardship if applied to the property for which the variance is sought?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

5. **Does the use interfere substantially with the Town's comprehensive plan?** (Please answer *yes* or *no* and state the reasons[s] for your answer on the lines below.)

Person Completing This Form:

Printed Name:

Signature:

Title:

Telephone Number:



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**LETTER GRANTING AUTHORITY FOR AN AGENT
VARIANCE OF USE**

I (we) do hereby grant authority to _____
(Name of Agent)

To seek a variance of use from the Cumberland Board of Zoning Appeals for the property
located at _____
(Property Address or parcel number(s))

I (we) am (are) the owner(s) of the real estate included in the proposed Variance of Use.

Date

Signature of Owner(s) or Agent

Signature of Owner(s) or Agent

STATE OF INDIANA }
 }
COUNTY OF HANCOCK } SS:

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public: Signature

Notary Public: Printed Name

My Commission Expires: _____

Residing in _____ County



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**AFFIDAVIT OF NOTICE TO INTERESTED PARTIES
VARIANCE OF USE
CUMBERLAND BOARD OF ZONING APPEALS**

Affidavit must be submitted prior to the scheduled public hearing.

STATE OF INDIANA)
COUNTY OF HANCOCK) SS:
)

Re: Request for Variance of Use before the Cumberland Board of Zoning Appeals

(Name of Project)

I, _____, do hereby certify that notice to interested parties of the date, time, and place of the public hearing on the above referenced variance of use, Project Number _____, being the application for _____, was certified and
(Project Number) (Name of Project)
mailed to the last known address of each of the following interested persons owning property affected by this petition as defined in the Cumberland Subdivision Control Ordinance and/or Zoning Ordinance (attach additional sheets, if necessary):

	<u>OWNERS</u>	<u>ADDRESS</u>
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

And, that said notices were sent by certified mail on or before the _____ day of _____, 20____, being at least ten (10) days prior to the date of the public hearing.

(Applicant or Agent)

STATE OF INDIANA)
COUNTY OF HANCOCK) SS:
)

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

Notary Public: Signature

Notary Public: Printed Name

My Commission Expires: _____

Residing in _____ County



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**SAMPLE PUBLIC NOTIFICATION LETTER
VARIANCE OF USE
(to be printed on applicants letterhead)**

Date: **(Date Letters Mailed),**

Name

Address

City, State, and Zip Code

(Mailing Address of Adjacent Property Owner)

Dear: **(Name of Adjacent Property Owner):**

Please be advised that the undersigned owner or agent of the property owner of the property below has made application to the Cumberland Board of zoning Appeals requesting a variance from use for:

**(State Requested Variance from Use and Cite the
Appropriate Section(s) of the Zoning Ordinance)**

The property for which the variance is requested is located at: **(Street Address)**, in the Town of Cumberland, Indiana, Section, Township, Range located near **(State the Location of the Property in Relationship to the Nearest Street Intersection.)**

A copy of this application, legal description, and all plans pertaining to the proposed variance are on file and available for examination prior to the public hearing in the Planning and Development Department at the Cumberland Town Hall located at 11501 E. Washington Street, Cumberland, Indiana, 46229 between the hours of 9 a.m. and 4 p.m., Monday through Friday. Written objections to a proposal may be filed with the Board of Zoning Appeals Staff within ten (10) days after the receipt of this letter at the Cumberland Town Hall at the above address and such objections will be considered.

The Cumberland Board of Zoning Appeals will hold a public hearing on this proposed major subdivision in the Cumberland Town Hall located at 11501 E. Washington Street, Cumberland, IN 46229 on **(Date of the Public Hearing)** at **(Time)**

Very Truly Yours,

**(Name and Signature of Applicant
Or Agent for the Applicant)**