

INSTRUCTIONS FOR VARIANCE APPLICATION

- Step 1. Draw a site plan on 8 ½" x 11" or 8 ½" x 14" paper, showing all existing and/or proposed conditions on the property which is the subject of your petition. If the size of your project requires the original (larger) site plan to be "shrunk" to the smaller size to fit in the packets, then you will need to include with your application one copy of the original scaled drawing in addition to the 8 ½" x 11" or 8 ½" x 14" copy which is part of the variance application. See attached sample site plan and instruction sheet to be sure that all the items listed are included on your site plan.
- Step 2. It is suggested that you bring your completed forms into the Area Plan Commission office to be checked before you file your petition to insure that all required information is included in your petition.
- Step 3. Names and addresses of abutting property owners must be obtained by looking up the tax codes and official owner of record at the Assessor's office, and then taking tax codes to the Treasurer's Office for the mailing address. For clarification, abutting property is defined as any property which would touch at any point the property included in whole or in part in the application for variance, including across streets, alleys, and easements, etc. Therefore, owners across streets, alleys, easements, must also be notified. By ordinance, these notices MUST be postmarked no less than 12 days before the Board of Zoning Appeals meeting at which the application will be heard. (Occasionally, the names of the owners of record in the Assessor's office do not correspond with the names on the Treasurer's records; if this situation occurs, send notices to both parties. Please bring any irregularities or problems to the attention of APC staff PRIOR to mailing said notice(s).) Within the limits of the City of Evansville, you must check with the City Clerk's office to determine if the subject property lies within or contiguous to a Registered Neighborhood Association. In the County, you must check with the County Commissioners. (This is noted on the variance application and added to your list of abutting property owners to which you will mail notice of the hearing.)
- Step 4. Bring to the Area Plan Commission office:
- A. Three completed applications, each with an attached site plan as detailed in step 1 above.
 - B. \$200 filing fee.
 - C. A list of all abutting property owners, including official mailing addresses and tax codes.

At this time you will be placed on the agenda for the next Board of Zoning Appeals (BZA) meeting and assigned a docket number. The BZA holds its regular meeting on the third Thursday of each month, at 4:00 p.m. in Room 301, and your petition must be filed by the deadline for that month; see attached meeting and filing schedule.

- Step 5. AFTER FILING, but at least 12 days before the BZA meeting, a notice must be mailed by the petitioner by CERTIFIED MAIL, RETURN RECEIPT REQUESTED (see attached sample letter/instruction) to each of the owners whose property is abutting the owner's property included in whole or in part in the petition for variance. (Refer to Step 3 above for information regarding abutting property owners.)
- Step 6. Submit a notarized affidavit (use the attached form), along with one copy of the notice which you mailed, and the green return receipts (and explanation for any un-returned receipts) to the Area Plan Commission Office by noon the Wednesday before the Board of Zoning Appeals meeting. It is suggested that you have your copy of the certified letter receipt filled out completely and stamped by the Post Office at the time that you mail the notice. In the event that the green copy is not returned to you prior to the meeting, bring your receipt and/or the returned letter itself to the Plan Commission office as proof that the letter was sent by you. **THIS IS IMPORTANT!** If the above requirements are not met, the variance petition will be postponed until the next regularly scheduled meeting, and you must complete (or repeat) the notification process for that meeting, and pay an additional CONTINUANCE and/or AMENDMENT FEE of \$100.00.

Step 7. You, or someone representing you, will be required to attend the Board of Zoning Appeals meeting at which your petition will be heard. If your petition is approved at the BZA meeting, you will receive a letter of verification. After approval, you may go to the Area Plan Commission office for your permit. If the application is denied or withdrawn by the Board of Zoning Appeals, there is a one year waiting period before re-application.

REQUIREMENTS FOR VARIANCE APPROVAL

Legally, a variance can only be granted if there is a non-economic hardship related to the height, setback, lot coverage, and/or other dimensional characteristics of the lot which are unlike any other property in the neighborhood. The Board of Zoning Appeals considers the following factors when determining whether a variance will be approved:

- a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
- b. The use or value of the area adjacent to the property included in the variance will not be adversely affected.
- c. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. However, the zoning ordinance may establish a stricter standard than the "practical difficulties" standard prescribed by this chapter.

DUTY TO DISCLOSE

The Board of Zoning Appeals may rely on the truth of all representations in the application. If any condition exists or arises or if any event occurs after filing the application which makes any representation false, inaccurate, misleading or incomplete, and such fact is known by the applicant, his attorney or other representative, if any (collectively, the "applicant"), it is the responsibility of the applicant to disclose such fact promptly to the Board of Zoning Appeals or its staff at or before beginning the public hearing on the application. Failure to make such disclosure may result in denial of or delay in acting on the application.

NOTE: Sometimes it is necessary for site plans to be reviewed prior to hearings by the Board of Zoning Appeals to determine if the proposed site plan meets access, parking, or other site development standards. Site Review Committee meets every Monday morning at 9:30 a.m. in Room 303 and reviews all site plans submitted by NOON on the previous Wednesday. (When a holiday falls on Monday, Site Review will be on Tuesday morning.) Applicants desiring preliminary review of site plans prior to special use or variance hearings should submit seven copies of a site plan to the Area Plan Commission office and attend the scheduled Site Review meeting to discuss plans with the Committee. (There is an application fee of \$50 for "One Stop Application".)

Docket No: _____

Date Filed: _____

Tax Code: _____

Meeting Date: _____

BOARD OF ZONING APPEALS OF
EVANSVILLE AND VANDERBURGH COUNTY, INDIANA

VERIFIED APPLICATION FOR VARIATION FROM THE
REQUIREMENTS OF THE ZONING ORDINANCE

STATE OF INDIANA, COUNTY OF VANDERBURGH, SS:

APPLICANT STATES:

APPLICANT: _____ PHONE: _____

ADDRESS: _____ ZIP CODE: _____

OWNER: _____ PHONE: _____

ADDRESS: _____ ZIP CODE: _____

THE OWNER OF RECORD SHOWN ABOVE OWNS 50% OR MORE OF THE AREA OF THE HEREIN
DESCRIBED REAL ESTATE.

PREMISES AFFECTED: _____ ON THE _____ SIDE OF THE STREET
(ADDRESS) (N.S.E.W.)
BETWEEN _____ STREET AND _____ STREET.

NAME OF SUBDIVISION, BLOCK # AND LOT # _____

Note: If not in a subdivision, attach one copy of the COMPLETE legal description of the property per
deed, abstract or other document.

REGISTERED NEIGHBORHOOD ASSOCIATION: _____

ZONE: _____ LOT SIZE: _____

SIZE AND USE OF PRINCIPAL STRUCTURE(S) ON LOT _____

SIZE AND USE OF EXISTING ACCESSORY STRUCTURE(S) _____

YEAR OF ERECTION OF EXISTING BUILDING(S) _____ YEAR OF PURCHASE _____

RESIDENTIAL OCCUPANCY: NUMBER OF RESIDENTIAL UNITS _____

COMMERCIAL OCCUPANCY: NUMBER OF PERSONS EMPLOYED: _____

NUMBER OF COMMERCIAL VEHICLES USED IN BUSINESS _____

APPLICATION IS HEREBY MADE FOR VARIATION FOR:

- _____ ERECTION
 - _____ CONSTRUCTION
 - _____ RECONSTRUCTION
 - _____ CHANGE-OF-USE
 - _____ MAINTENANCE
 - _____ ADDITION
 - _____ OTHER (PLEASE EXPLAIN)
- OF _____
- (KIND OF STRUCTURE AND/OR USE,
IN ACCORDANCE WITH THE PLANS
FILED)

STATEMENT OF VARIANCE APPLIED FOR
WITH PRINCIPAL POINTS ON WHICH APPLICATION IS BASED

(IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEET TO THIS APPLICATION.)

ALL ATTACHMENTS ARE ADOPTED BY REFERENCE. I AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

DATE _____
(WHEN SIGNED)

OWNER OR ATTORNEY FOR OWNER (SIGNATURE)

OWNER OR ATTORNEY FOR OWNER (PRINTED NAME)

REPRESENTATIVE FOR PETITIONER (OPTIONAL)

NAME: _____

ADDRESS: _____

CITY/STATE/ZIP _____

PHONE: _____

BOARD OF ZONING APPEALS

**** NOTICE OF PUBLIC HEARING ****

DATE: _____

RE: Application for Variance from Zoning Ordinance
Docket number:

Dear _____

This letter will serve notice to you that

_____ has applied for a Variance with the Area Plan Commission of Evansville and Vanderburgh County to be heard by the Board of Zoning Appeals for the following relaxation(s) of the Zoning Ordinance.

This application is to allow construction of: _____

on the property located at: _____

Evansville-Vanderburgh County Board of Zoning Appeals notice of public hearing to be held in Room 301 (City Council Chambers), City-County Administration Building, Civic Center Complex, Evansville, Indiana. Hearing to be held at 4:00 p.m. on Thursday _____.

Sincerely,

If you have any questions, please contact me at: _____

VARIANCE AFFIDAVIT OF NOTICE

STATE OF INDIANA)
) SS: Date: _____
 COUNTY OF VANDERBURGH)

Docket Number: _____

I, (PRINTED name) _____, hereby affirm under the penalties of perjury that I have mailed letters containing required information about a variance request at _____ (Address) to the following property owners on _____ (Date) _____. I hereby certify that, to the best of my knowledge, the following (or attached) is a complete and accurate list of all abutting property owners whose properties touch at any point the owner's property, included in whole or in part in the petition for variance stated above. I obtained said list by looking up the tax codes and abutting property owners on the records and/or plat maps in the office of the Assessor and receiving a printout of the current owners of record and their most recent mailing addresses as listed on the records in the office of the Treasurer of Vanderburgh County on _____ (Date) _____.

Letters were sent to:

Name	Address	Tax Code

The letters were sent CERTIFIED MAIL, RETURN RECEIPT SERVICE. The green receipts **AND ONE SAMPLE LETTER** are attached.

 Affiant's signature (Petitioner, attorney, or representative)

Subscribed and sworn to before me, a Notary Public in and for said County and State this _____ day of _____, _____.

 (Notary Public)

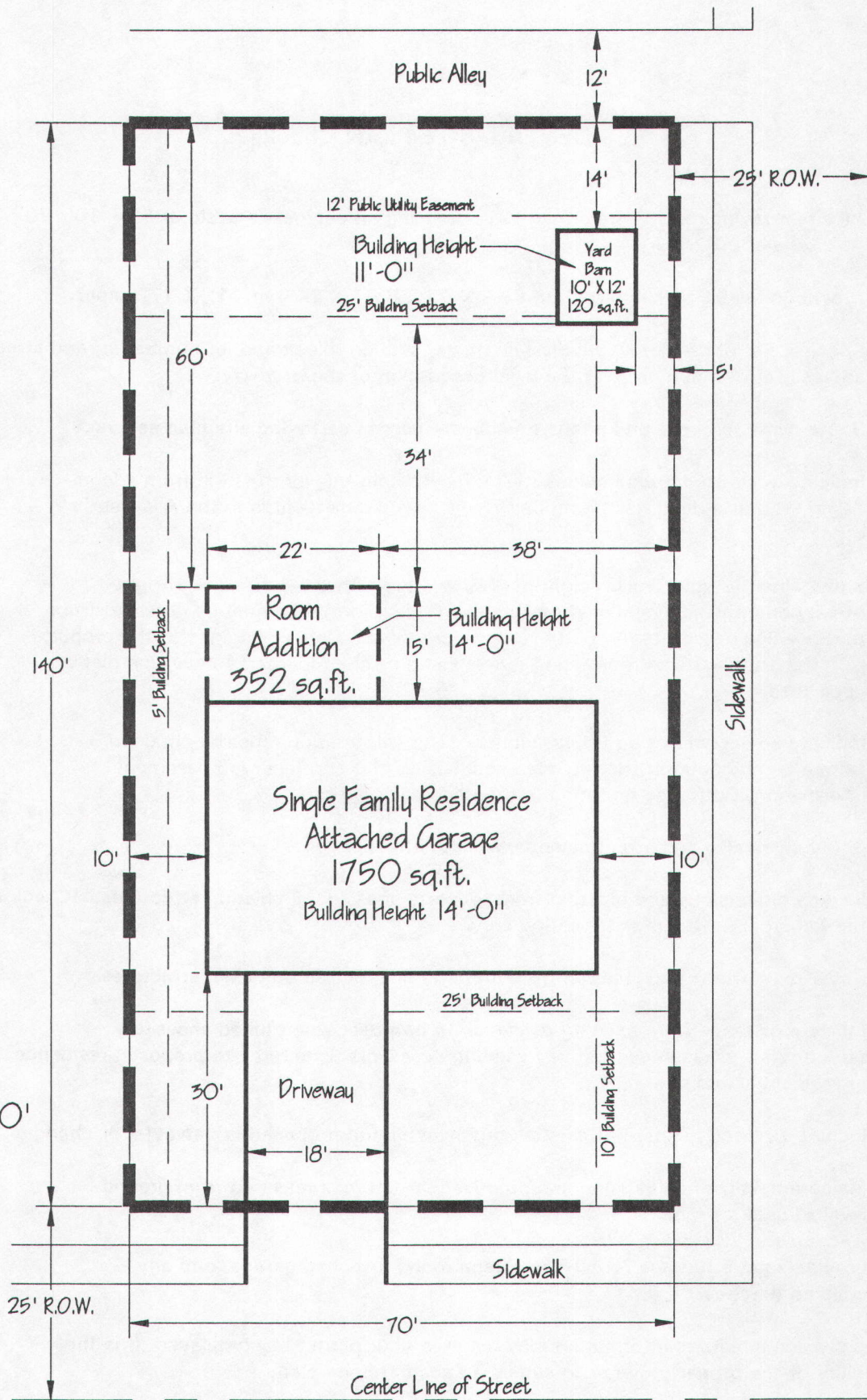
My Commission expires: _____
 Residence of Notary: _____ County, Indiana

NOTE: THIS AFFIDAVIT MUST BE FILED IN THE OFFICE OF THE AREA PLAN COMMISSION BY NOON OF THE DAY BEFORE THE BOARD OF ZONING APPEALS HEARING.

RESIDENTIAL SITE PLAN Checklist

- All site drawings **MUST** be drawn to scale using an engineer's scale of 1" = 10', 20', 30', 40', 50', or 60'.
- Drawings **MUST** be submitted on 8½" X 11", 8½" X 14", or 11" X 17" paper.
- Show scale; north arrow; subdivision name, section, block and lot number(s); and street address, or attach a copy of the legal description of the property.
- Show name, address and phone number for person certifying site plan accuracy.
- Indicate accurate lot dimensions. (You may obtain this information from a legal description or a deed for the property which would be located in the Assessor's office and/or the Recorder's office.)
- Show all street and/or alley right-of-way widths from the centerline of right-of-way and physical center of pavement. (This information may be obtained from the City Engineer if the property is in the city or the County Engineer if the property is in the county. The information may also be on the recorded subdivision plat or your deed.)
- Indicate all easements and their widths. (This information must be obtained from a combination of the recorded subdivision plat and recorded easement information. Both may be found in the Recorder's office.)
- Show sidewalks and street pavement width and location.
- Include dimensions and location from property lines for all existing structures. (Check in the Recorder's office for a location survey.)
- Show dimensions and location from property lines for all proposed structures.
- Indicate distance from existing residence to proposed unattached accessory structure(s), or distances from all existing accessory structures to proposed residence or residential addition.
- Include size and location of existing driveway(s) and proposed driveway(s) or changes.
- Indicate height of all existing and proposed structures measured from ground level to peak of roof.
- Provide square footage for all floors separately, attached garage, and any covered porches.

Failure to provide adequate information may result in your permit being delayed. It is the responsibility of the property owner to supply an accurate site plan.



- = Property Line
- = Easement
- = Setback Line

* Name
Address
Phone

* Person Certifying Site Plan Accuracy

BOARD OF ZONING APPEALS

RULES OF PROCEDURE

The Board of Zoning Appeals of Evansville-Vanderburgh County ("Board") is established by Section 153.162 of the Evansville Zoning Code and the Vanderburgh County Zoning Code (collectively, the "Zoning Code"). The appointment and terms of members shall be in accordance with I.C. 36-7-4-900 et. seq.

The following rules are adopted in accordance with I.C. 36-7-4-916. If anything in these rules conflicts with the Zoning Code, the latter shall prevail.

ARTICLE I. Meetings

1. Regular meetings of the Board shall be held on the 3rd Thursday of each month at 4:00 p.m. in the Civic Center, Room 301 unless another date, time or place is published.
2. Special meetings may be held upon call of the Chairman, written request by two members, or as determined at a regular meeting. All members shall be notified of the time and place of a special meeting.
3. A majority of members of the Board shall constitute a quorum. No action, however, is official unless authorized by a majority of members of the Board at a regular or properly called special meeting.
4. All meetings shall be open to the public.
5. The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if absent or failing to vote, so indicating. The Board shall keep records of all other official action, and records shall be filed in the office of the Board and shall be a public record.

ARTICLE II. Ethics

1. No member of the Board shall participate in the hearing or decision upon any zoning matter in which he is directly or indirectly interested in a financial sense. In the event of such disqualification, such fact shall be entered on the records.
2. A person may not communicate with any member of the Board before the hearing with the intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing, however, the staff of the Evansville-Vanderburgh County Area Plan Commission ("Area Plan Commission") may file with the Board a written statement setting forth any facts or opinions relating to the matter.

ARTICLE III. Officers and Employees

1. The Board shall, at its first regular meeting in each year, elect from its members a Chairman and a Vice Chairman. The Vice Chairman shall serve in the absence or disability of the Chairman. In the absence or disability of the Chairman and Vice Chairman at any duly convened meeting, a majority of the remaining members present shall designate a member to serve as Chairman at that meeting.
2. The Board may appoint and prescribe the duties of a Secretary or such employees as are necessary for the discharge of its duties.

**ARTICLE IV.
Powers and Duties**

The Board shall have the following powers and it shall be its duty to:

1. Hear and determine appeals from and review:
 - A. Any order, requirement, decision or determination made by an administrative official or staff member under the Zoning Code.
 - B. Any order, requirement, decision or determination made by an administrative board or other body except the Area Plan Commission in relation to the Zoning Code.
 - C. Any order, requirement, decision or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement or any ordinance requiring the procurement of an improvement location permit or occupancy permit.
2. Hear and decide all special uses that are filed for public hearing.
3. Hear and decide all variances to the terms of the Zoning Code upon which the Board is required to act.

**ARTICLE V.
Docket**

1. Each case to be publicly heard before the Board shall be filed in proper form with the required data and within the time as prescribed by the instructions furnished to the applicant. The case will then be serially numbered and placed on the docket of the Board. Docket numbers shall include the year and shall begin anew on January 1 of each year.
2. When a case receives a docket number, it shall be placed on the agenda for hearing.

**ARTICLE VI.
Notice of Public Hearing**

1. In accordance with I.C. 36-7-4-919 and 36-7-4-920 and the Zoning Code, public hearings shall be held on all administrative appeals and applications for special uses and variances.
2. A legal notice of public hearing shall be prepared by the Board and advertised in a newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing. The Appellant or Petitioner shall assume the cost of said notice.
3. The Appellant or Petitioner shall also serve notice to owners of property abutting the affected area by certified mail, return receipt requested, not less than twelve (12) days prior to the date of the hearing advising the location and nature of the subject appealed or petitioned, and the date, place and time of the public hearing.
4. The Appellant or Petitioner shall then provide the Board with a complete list of the above mentioned owners, together with their last known address, proof of service and a copy of the letter of notification.

ARTICLE VII. Conduct of Hearings

1. General
 - A. At a public hearing before the Board, the Appellant or Petitioner shall present all necessary relevant information in support of the petition, and the Appellant or Petitioner shall have the burden of proof.
 - B. Comments from the staff of the Area Plan Commission and any governmental organization or agency may then follow.
 - C. Comments from those in opposition to the petition shall then be heard.
 - D. The Appellant or Petitioner shall receive reasonable time for rebuttal.
 - E. To maintain orderly procedure, a person making a presentation shall proceed with the presentation without interruption by another party to the proceeding; however, comments and questions from the Board may be interjected at any time during any presentation for clarification of the subject matter.
 - F. Upon completion of testimony at any hearing provided by these rules, the Board shall either rule on the petition or take the matter under advisement and continue the matter to a subsequent date for ruling.
 - G. Every person appearing before the Board shall abide by the orders and directions of the Chairman. The Chairman shall have the discretion to impose time limits on any presentation.
 - H. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Board directs.
2. Continuance
 - A. The Board may, at its discretion, continue the hearing when, in its judgment, there has not been provided sufficient evidence on which to make a determination.
 - B. The Board also may continue the hearing when the Petitioner proposes a change in the relief requested in the petition, which change, if granted, would constitute or allow a different special use or a greater variance or relaxation of the requirements of the Zoning Code.
 - C. If the hearing is continued or postponed under paragraph B of this subsection, the Petitioner shall readvertise and serve new notices on abutting property owners in the manner provided in Article VI of these Rules.
 - D. Readvertisement cost shall be paid by the Petitioner.

ARTICLE VIII. Variance

1. A person requesting a variance must submit an application to the Board of Zoning Appeals at the Area Plan Commission office. The application must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Variance Application.
2. After a public hearing on the variance, the Board shall act on the petition.

3. No variance may be granted except on a finding of all the following factors:
 - A. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
 - B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - C. The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property.
 - D. The variance is not a variance of the use of the property.
 - E. The Petitioner's property is not located in a Planned Unit Development.
 - F. The need for the variance is not created by the Petitioner and arises from some condition peculiar to the property involved.
4. The Board may not grant a variance from the use district or classification. The granting of a variance is by resolution of the Board.

ARTICLE IX. Appeals

1. An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Filing an Appeal.
2. The administrative official, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.
3. Upon appeal, after a public hearing, the Board may reverse, affirm, or modify the order, requirement, decision or determination appealed. For this purpose, the Board has all the powers of the official, officer, board or body from which the appeal was taken.
4. Within five working days after its decision is made, the Board shall file in the office of the Board a copy of its decision.

ARTICLE X. SPECIAL USES

1. Certain uses are necessary to the life and economic health of the community, but have characteristics of operation that do not readily permit classification in the usual residential, commercial or industrial districts.
 - A. Because of the various types of uses and locations requiring this special consideration, the specific conditions under which each use may be permitted must be considered.
 - B. These uses are specifically listed in Section 153.134 of the Zoning Code.
 - C. Conditions for the approval of a special use are enumerated in Section 153.132 of the Zoning Code.
2. Special uses are secondary classifications.

- A. If a special use is approved by the Board, the special use designation shall be placed on the zoning map in addition to its primary zoning classification.
3. Filing
- A. A person desiring a special use classification must submit an application to the Board at the Area Plan Commission office. The application must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Filing an Application for a Special Use.
4. After a public hearing, the Board shall make its determination for approval, denial or modification of the special use classification based on the following criteria:
- A. Whether the specific site is an appropriate location for the use.
 - B. Whether the use as developed will adversely affect the surrounding area.
 - C. Whether there will be a nuisance or serious hazard to vehicles, pedestrians or residents.
 - D. Whether adequate and appropriate facilities will be provided for proper operation of the use.
 - E. Whether the use is in harmony with the Evansville and Vanderburgh County Comprehensive Plan.
 - F. Whether the use is essential or desirable to the public convenience and welfare.
5. The Board's approval or modification of a special use classification may include whatever reasonable conditions, limitations or temporary uses necessary for the protection of the public interest, including but not limited to the following:
- A. Greater front, side and rear yards than the minimum for the area.
 - B. More off-street parking and screening.
 - C. Modification of exterior design or materials.
 - D. Limitations on the lot coverage and occupancy of the building or structure.
 - E. Limitations on signs and sign coverage.
 - F. Time limitations.
6. To protect the public interest and to ensure compliance with requirements to be included in the site plan, the Board may require whatever evidence and guarantees are necessary to assure compliance with conditions, limitations and temporary uses.

ARTICLE XI.
Time Limitation

1. The denial of a petition for a variance, special use or an appeal by the Board or the withdrawal of such a petition by the Petitioner shall prohibit the Board from hearing a petition for a variance, special use, or an appeal for the subject property or a part thereof for 12 months from the date of denial or withdrawal.

2. An exception may be made to Article XI(1) above upon a unanimous vote of all members of the Board present and voting, and sufficient to constitute a quorum, at the time the matter is brought to be heard.

**ARTICLE XII.
Final Disposition of Cases**

1. All decisions of the Board on matters heard in public hearing shall be made by recorded vote. The vote of each member shall be a matter of permanent record.
2. The Board shall in all cases heard by it, make written findings of fact which, when approved by the Board, shall be filed in the offices of the Board to be made available for public inspection.
3. Every decision of the Board shall be subject to exclusive review by certiorari under I.C. 36-7-4-1002 et seq.

**ARTICLE XIII.
Amendments**

Amendments to these Rules of Procedure may be made by the Board at any regular meeting upon the affirmative vote of a majority of the members. The suspension of any Rule of Procedure may be ordered at any meeting by unanimous vote of those present.

**ARTICLE XIV.
Repeal**

The Rules of Procedure adopted by the Board on September 17, 1981 are repealed.

Rules of Procedure of the Board of Zoning Appeals of Evansville-Vanderburgh County approved by the Affirmative vote of _____ six members of said Board at the regular meeting of the Board held on the ____ day of _____, _____.

Chairman

ATTEST:

Secretary