

VARIANCE # 18-12-01		18974 ^F	
SBC PROJECT #			
PROJECT NAME: Menard's Fire Access Road.			
SIGNATURES <input checked="" type="checkbox"/>		APPROPRIATE CODE/SECTION	
PLANS		LBO NOTIFICATION	
NOTIFICATION OF COMM MEETING		LFO NOTIFICATION	
CONTACT/DATE			
SC: Called about LFO/LBO acknowledgments 11/14 10:15 a.m.			

STAFF COMMENTS

This needs to be 2 variances
 Sections 3206.6 & 3206.6.1
 an additional \$69.00 is required.
 Left message re Mr O'neil voice-mail
 11/19/18



APPLICATION FOR VARIANCE

State Form 44400 (R7 / 10-13)
Approved by State Board of Accounts, 2013

INDIANA DEPARTMENT OF HOMELAND SECURITY CODE SERVICES SECTION

302 West Washington Street, Room W246
Indianapolis, IN 46204-2739

http://www.in.gov/dhs/fire/fp_bs_comm_code/



INSTRUCTIONS: Please refer to the attached four (4) page instructions.
Attach additional pages as needed to complete this application.

Variance number (Assigned by department)

1. APPLICANT INFORMATION (Person who would be in violation if variance is not granted; usually this is the owner)

Name of applicant	Title
Thomas O'Neil	Real Estate Representative
Name of organization	Telephone number
Menard, Inc.	(715) 876-2810
Address (number and street, city, state, and ZIP code)	
5101 Menard Drive, Eau Claire, WI 54703	

2. PERSON SUBMITTING APPLICATION ON BEHALF OF THE APPLICANT (If not submitted by the applicant)

Name of applicant	Title
Name of organization	Telephone number
	()
Address (number and street, city, state, and ZIP code)	

3. DESIGN PROFESSIONAL OF RECORD (If applicable)

Name of design professional	License number
Name of organization	Telephone number
	()
Address (number and street, city, state, and ZIP code)	

4. PROJECT IDENTIFICATION

Name of project	State project number	County
Menards Expansion	IN	Porter
Address of site (number and street, city, state, and ZIP code)		
351 Silhavy Road, Valparaiso, Indiana 46383-4462		
Type of project		
<input type="checkbox"/> New <input checked="" type="checkbox"/> Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Change of occupancy <input type="checkbox"/> Existing		

5. REQUIRED ADDITIONAL INFORMATION

The following required information has been included with this application (check as applicable):

- A check made payable to the Indiana Department of Homeland Security for the appropriate amount. (see instructions)
- One (1) set of plans or drawings and supporting data that describe the area affected by the requested variance and any proposed alternatives.
- Written documentation showing that the local fire official has received a copy of the variance application.
- Written documentation showing that the local building official has received a copy of the variance application.

6. VIOLATION INFORMATION

Has the Plan Review Section of the Division of Fire and Building Safety issued a Correction Order?

Yes (If yes, attach a copy of the Correction Order.) No

Has a violation been issued?

Yes (If yes, attach a copy of the Violation and answer the following.) No

Violation issued by:

Local Building Department
 State Fire and Building Code Enforcement Section
 Local Fire Department

7. DESCRIPTION OF REQUESTED VARIANCE

Name of code or standard and edition involved 2012 International Fire Code	Specific code section 3206.6 Building access & 3206.6.1.1 Number of doors required
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Nature of non-compliance (Include a description of spaces, equipment, etc. involved as necessary.)
 Menard, Inc. is proposing to construct a new warehouse within the lumber yard. After consulting with the City of Valparaiso Fire Chief, we made the determination to submit for a variance to the construction of a fire apparatus access roads in accordance with Section 503 shall be provided within 150 feet (45 720mm) of all portions of the exterior walls of buildings used for high-piled storage. Because of the proposal to not build the fire apparatus access road, we are also requesting a variance from constructing a rear access door that would not be utilized.

8. DEMONSTRATION THAT PUBLIC HEALTH, SAFETY, AND WELFARE WILL BE PROTECTED

Select one of the following statements:

Non-compliance with the rule will not be adverse to the public health, safety or welfare; or

Applicant will undertake alternative actions in lieu of compliance with the rule to ensure that granting of the variance will not be adverse to public health, safety, or welfare. Explain why alternative actions would be adequate (be specific).

Facts demonstrating that the above selected statement is true:
 Menard, Inc. is of the opinion that non-compliance to the rule(s) will not be adverse to the public health, safety or welfare of either the guests shopping at Menards, Menard Team Members, adjacent landowners and/or the City Fire Department in the case of a fire. The fire department indicated that in the unlikely event of a fire, the fire truck would be positioned within the current lumber yard rather than utilizing the fire apparatus road. In lieu of the fire apparatus road, Menard, Inc. is providing additional fire access with a fire gate near the garden center. Because we are requesting a variance from the fire apparatus road, Menard, Inc. is of the opinion that there would be no need for the rear access door that would typically be required by the code. In addition, the property adjacent to the Menard warehouse expansion is both part of a non-disturbance area that disallows the cutting of trees and sits at a significantly higher elevation than Silhavy Road. Both of these facts would hinder the construction of an access road south of the warehouse.

9. DEMONSTRATION OF UNDUE HARDSHIP OR HISTORICALLY SIGNIFICANT STRUCTURE

Select at least one of the following statements:

Imposition of the rule would result in an undue hardship (unusual difficulty) because of physical limitations of the construction site or its utility services.

Imposition of the rule would result in an undue hardship (unusual difficulty) because of major operational problems in the use of the building or structure.

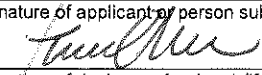
Imposition of the rule would result in an undue hardship (unusual difficulty) because of excessive costs of additional or altered construction elements.

Imposition of the rule would prevent the preservation of an architecturally or a historically significant part of the building or structure.

Facts demonstrating that the above selected statement is true:
 Menard, Inc. is of the opinion that the rule(s) constitute an undue hardship due to the non-disturbance area and the grade challenges in transitioning the grades from behind the warehouse down to Silhavy Road. An access road would require cutting trees the City does not want cut. It would also require figuring out how to construct a driveable access road while make up the grade transition down to Silhavy Road. Excessive costs would result from these efforts. With these considerations in mind, Menard, Inc. is respectfully requesting your approval of the two requested variances.


10. STATEMENT OF ACCURACY

I hereby certify under penalty of perjury that the information contained in this application is accurate.

Signature of applicant or person submitting application 	Please print name Thomas O'Neil	Date of signature (month, day, year) 10/12/2018
Signature of design professional (if applicable)	Please print name	Date of signature (month, day, year)

11. STATEMENT OF AWARENESS (If the application is submitted on the applicant's behalf, the applicant must sign the following statement.)

I hereby certify under penalty of perjury that I am aware of this request for variance and that this application is being submitted on my behalf.

Signature of applicant 	Please print name Thomas O'Neil	Date of signature (month, day, year) 10/12/2018
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October 12, 2018

Via 2 Day Mail

Indiana Department of Homeland Security
Code Services Section
302 West Washington Street, Room W246
Indianapolis, IN 46204-2739

RE: Application for Variance – Menards of Valparaiso

To the Code Services Section:

Menard, Inc. is requesting a variance in accordance with the attached Application for Variance. The specifics are set forth in the Application for Variance. I would appreciate placement of the request on the November 7th agenda.

I am copying the City of Valparaiso Building Commissioner and Fire Chief on the request as well. Either myself or my engineers at McMahon Group will be reaching out to explain the request and the need for the variance.

Thank you. I may be reached at (715) 876-2810.

Very Truly Yours,



Thomas W. O'Neil

Menard, Inc.

Real Estate Representative

Cc: Doug Homeier, McMahon Group
Vicki Thrasher, City of Valparaiso Building Commissioner
Chad Dutz, City of Valparaiso Fire Chief

INSTRUCTIONS FOR APPLICATION FOR VARIANCE

Part of State Form 44400 (R7 / 10-13)

INDIANA DEPARTMENT OF HOMELAND SECURITY
CODE SERVICES SECTION
302 West Washington Street, Room W246
Indianapolis, IN 46204-2739
http://www.in.gov/dhs/fire/fp_bs_comm_code/

INSTRUCTIONS:

A variance application, accompanied by the required fee and all other required documents, shall be submitted to request a variance from a particular section of a fire, building or other code or standard adopted by the Fire Prevention and Building Safety Commission. See Indiana Code 22-13-2-11 and 675 IAC 12-5.

A separate variance application is required for each unrelated code provision* for which a variance is being requested.

A. VARIANCE APPLICATION

The following information is required:

1. **Applicant Information:** The applicant is the person who would be in violation of a rule of the commission if he or she maintained the conditions sought to be legalized by a variance and did not obtain the variance. This person is usually the owner of the premises in question. If the applicant is a corporation, a governmental body, or any other type of legal organization, include the name of this legal organization, as well as the name and telephone number of the organization's contact person.
2. **Person Submitting Application on Behalf of the Applicant:** The name, address and telephone number of the person submitting the application, if the applicant is not the person who is submitting the application. If the person is a corporation, a governmental body, or any other type of legal organization, include the name of this legal organization, as well as the name and telephone number of the organization's contact person.
3. **Design Professional of Record:** The name, license number, address and telephone number of the design professional for the project (if there is one). A design professional is defined as registered architect or professional engineer registered under Indiana Code 25-4 or Indiana Code 25-31, respectively. If applicable, provide the name of the organization for which the design professional works.
4. **Project Identification:**
 - (a) Project Name: A name that will allow the Department to readily identify the project.
 - (b) The State project number, if the variance involves a project for which plans and design specifications have been filed for a construction design release under 675 IAC 12-6.
 - (c) The address of the premises for which the variance is being sought.
 - (d) The county of the premises for which the variance is being sought.
 - (e) The type of the project. Indicate whether the variance is being sought for new construction, an addition or alteration to an existing structure, a change of occupancy of an existing structure, or an existing structure that is none of the above.
5. **Required Additional Information:** To apply for a variance, the following shall be submitted with the application:
 - A. A \$276 check made payable to the **Indiana Department of Homeland Security** for the application filing fee (\$138) and the processing fee (\$138) for a single code provision, together with an additional fee of \$69 for each additional unrelated code provision*, where applicable.
 - B. One (1) set of plans or drawings and supporting data that describe the area affected by the requested variance and any proposed alternatives.
 - C. Written documentation showing that the local fire official has received a copy of the variance.
 - D. Written documentation showing that the local building official has received a copy of the variance.

* An "unrelated code provision" is a provision of an adopted code or standard that covers subject matter that is not contingent upon or directly affecting the requirements of a different code provision for which a variance is being sought by the same applicant at the same time.
6. **Violation Information:**
 - (a) Indicate if the request for a variance is a result of correction order issued by the Plan Review Section of the Division of Fire and Building Safety. **If so, include a copy of this correction order.**
 - (b) Indicate if the request for a variance is a result of a Notice of Violation/Order. If so, indicate the entity that issued the Notice of Violation/Order and **include a copy of this Notice of Violation/Order.**
7. **Description of Requested Variance:**
 - A. Include the name of the Code or Standard, as well as the edition. *(For example, Indiana Building Code, 2003 Edition)*
 - B. Include the specific code section for which the variance is being requested. *(For example, Section 1005.2.3)*
 - C. Describe why the variance is needed *(what conditions exist that constitute a violation).*

- 8. Demonstration that Public Health, Safety, and Welfare Will Be Protected:** The application must include sufficient facts to demonstrate one of the following:
- A. The applicant must submit facts demonstrating that noncompliance with the rule will not be adverse to the public health, safety, or welfare; or
 - B. The applicant must propose one or more alternative actions that the applicant will undertake in lieu of compliance with the rule and submit facts demonstrating that compliance with this alternative action would not be adverse to the public health, safety, or welfare. Explain why alternative actions would be adequate (*be specific*).
- 9. Demonstration of Undue Hardship or Historically Significant Structure:** The applicant must submit sufficient facts to demonstrate that compliance with the rule will either impose an undue hardship (*unusual difficulty*) upon the applicant; or prevent the preservation of an architecturally or historically significant structure.
- A. **Imposition of The Rule Would Cause an Undue Hardship Upon the Applicant:** To show that imposition of the rule would result in an undue hardship, an applicant must submit facts demonstrating that there is an unusual difficulty in meeting the requirements of the rules of the commission because of:
 - (i) Physical limitations of a construction site or its utility services;
 - (ii) Major operational problems in the use of a building or structure; or
 - (iii) Excessive costs of additional or altered construction elements.
 - B. **Imposition of the Rule Would Prevent the Preservation of an Architecturally or Historically Significant Structure:** To show that imposition of the rule would prevent the preservation of an architecturally significant or historically significant part of a building or other structure, an applicant must make two demonstrations. First, the applicant must submit facts demonstrating that the building or structure in question is historically or architecturally significant. Second, the applicant must submit facts demonstrating that imposition of the rule would prevent the preservation of all or a significant part of this building or structure.
 - (i) **Demonstration that the building or structure is historically or architecturally significant:** The applicant must submit facts demonstrating that the building or structure is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of the United States or of Indiana.

A building or structure shall be deemed as architecturally or historically significant if it has been placed on the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.) or if it has been placed on the Register of Indiana Historic Sites and Structures under Indiana Code 14-21.

A determination that a building or structure has been determined eligible for the Register of Indiana Historic Sites and Structures by the Division of Historic Preservation and Archeology of the Indiana Department of Natural Resources creates a presumption that a structure is architecturally or historically significant.
 - (ii) **Demonstration that imposition of the rule for which the variance is being requested would prevent the preservation of all or a significant part of this building or structure:** The applicant must submit facts demonstrating that the imposition of the rule for which the variance is being requested would prevent the preservation of all or a significant part of this architecturally or historically significant building or structure.
- 10. STATEMENT OF ACCURACY:** The applicant, or the person submitting the application on behalf of the applicant, must certify under penalty of perjury that the information contained in the application is accurate. The Design Professional (if there is one) must certify that the information contained in the application is accurate if the requested variance involves a project for which plans and specifications have been, or must be, filed for a design release under 675 IAC 12-6.
- 11. STATEMENT OF AWARENESS:** If the application is submitted on the applicant's behalf, the applicant must certify under penalty of perjury that he or she is aware of the variance request and that it is made on his or her behalf.

B. VARIANCE SUBMITTAL DATES AND COMMISSION MEETING DATES

Respective variance cut-off dates and Commission meeting dates are as follows:

2012, 2013, 2014, and 2015 VARIANCE CALENDAR			
Meeting Date	Variance Cut-Off	Meeting Date	Variance Cut-Off
February 7, 2012	January 11, 2012	January 7, 2014	December 11, 2013
March 6, 2012	February 8, 2012	February 4, 2014	January 7, 2014
April 3, 2012	March 7, 2012	March 4, 2014	February 4, 2014
May 2, 2012	April 5, 2012	April 1, 2014	March 4, 2014
June 5, 2012	May 9, 2012	May 7, 2014	April 8, 2014
July 3, 2012	June 6, 2012	June 3, 2014	May 6, 2014
August 7, 2012	July 11, 2012	July 1, 2014	June 3, 2014
September 5, 2012	August 9, 2012	August 5, 2014	July 8, 2014
October 2, 2012	September 5, 2012	September 4, 2014	August 5, 2014
November 7, 2012	October 11, 2012	October 7, 2014	September 9, 2014
December 4, 2012	November 7, 2012	November 5, 2014	October 7, 2014
		December 2, 2014	November 4, 2014
Meeting Date	Variance Cut-Off	Meeting Date	Variance Cut-Off
January 3, 2013	December 7, 2012	January 6, 2015	December 9, 2014
February 5, 2013	January 9, 2013	February 3, 2015	January 6, 2015
March 5, 2013	February 6, 2013	March 3, 2015	February 3, 2015
April 2, 2013	March 6, 2013	April 7, 2015	March 10, 2015
May 8, 2013	April 10, 2013	May 6, 2015	April 7, 2015
June 4, 2013	May 8, 2013	June 2, 2015	May 5, 2015
July 2, 2013	June 5, 2013	July 7, 2015	June 9, 2015
August 6, 2013	July 10, 2013	August 4, 2015	July 7, 2015
September 4, 2013	August 8, 2013	September 1, 2015	August 4, 2015
October 1, 2013	September 3, 2013	October 6, 2015	September 8, 2015
November 6, 2013	October 9, 2013	November 4, 2015	October 6, 2015
December 3, 2013	November 6, 2013	December 1, 2015	November 3, 2015
		Meeting Date	Variance Cut-Off
		January 5, 2016	December 8, 2015

C. OTHER IMPORTANT INFORMATION

1. An electronic copy of the variance application and these instructions can be found at the following web site:
http://www.in.gov/dhs/fire/fp_bs_comm_code/
2. It is very important that the applicant and/or the responsible design professional participate in the variance evaluation process by appearing before the Commission to answer any questions about alternate design proposals or undue hardship. It is possible that the Commission will table and/or deny the variance request if the applicant and/or the responsible design professional are not present to answer questions.
3. The Code Services staff does not make copies of documents that are larger than 8-1/2" by 11". If the applicant wishes the Commission members to get a copy of the plans, include twenty-five (25) copies of these plans with the variance application package and the copies will be distributed to the Commission members in their mailing packets. The Code Services staff recommends that these extra copies be no larger than 11" x 14".
4. For some variance requests, photographs may also be helpful to the Commission members. If the applicant wishes the Commission members to have color photographs, include twenty-five (25) copies of these photographs in the variance application package and the copies will be distributed to the Commission members in their mailing packets.
5. The Commission's action on a variance is final, subject to the appeal process under Indiana Code 4-21.5-3-7.
6. The applicant will receive official notice of the Commission's decision, including appeal rights.
7. Telephone inquiries about this process can be made to 317-232-1402. The completed variance application, fee and accompanying information should be submitted to: Indiana Department of Homeland Security, Code Services Section, 302 West Washington Street, Room W246, Indianapolis, Indiana 46204-2739.

