



# APPLICATION FOR VARIANCE

State Form 44400 (R6 / 6-12)

Approved by State Board of Accounts, 2012

INDIANA DEPARTMENT OF HOMELAND SECURITY  
CODE SERVICES SECTION  
302 West Washington Street, Room W246  
Indianapolis, IN 46204-2739  
[http://www.in.gov/dhs/fire/ip\\_bs\\_comm\\_code/](http://www.in.gov/dhs/fire/ip_bs_comm_code/)



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

Variance number (Assigned by department)

16-06-09

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

Name of the applicant John K. Dueser	Title Owner / Operator
Name of organization John K. Dueser / DBA Johnny's Market	Telephone number ( 317 ) 845-1941
Address (number and street, city, state, and ZIP code) 9607 Highgate Circle, Indianapolis, IN 46250	

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

Name of person on behalf of the applicant Timothy P. Simpson	Title
Name of organization American Tent & Awning Co., Inc	Telephone number ( 317 ) 632-7226
Address (number and street, city, state, and ZIP code) 205 E. Palmer St., Indianapolis, IN 46225	

### 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 Johnny's Market	State project number	County Marion
Site address (number and street, city, state, and ZIP code) 6379 N. College Ave., Indianapolis, IN 46220		
Type of project: <input checked="" type="checkbox"/> New <input type="checkbox"/> Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Change of occupancy <input checked="" 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 & 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

EXHIBIT     A

**7. DESCRIPTION OF REQUESTED VARIANCE**

Name of code or standard and edition involved: 2014 Indiana Fire Code  
Specific code section: Section 3103.5

Nature of non-compliance (include a description of spaces, equipment, etc. involved as necessary)  
Having a tent up for more than 30 days in the same location.  
The variance is needed so that Johnny's Market has shelter to conduct business.  
His seasonal business runs from mid April to just before Christmas every year.

**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:

Johnny's Market has been operating on the premises for over 25 years. He provides farm-fresh products which, if anything, is good for the public health and welfare.  
We've had the very same setup for the last three years with no problems.  
The tent occupies the same footprint as the permanent structure he used to have.  
The tent itself was manufactured by Anchor Industries, Evansville IN., a leading manufacturer for over 150 years. Originally supplied with 1" dia. 30" long stakes we will be using 42" long stakes. Additionally, the stakes are doubled up on the high stress corner areas. The tent has been certified to be flame retardant (copy attached) by Anchor Industries. The tent will be maintained regularly by American Tent & Awning Co. Inc

**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:

Johnny had a permanent pole barn type structure on the site that was destroyed by a runaway IPL bucket truck and had to be torn down the rest of the way. He had plans to build a similar structure but found out that the area was in a flood plane. No available pole barn plans would meet the code requirements for that situation, ultimately driving costs way up.  
In light of the current changes going on in the area, a permanent structure doesn't make sense anyway. Johnny is not sure how long he'll be able to continue doing business at this location. He would like to continue to offer the area's only truly farm fresh products for as long as possible. Therefore, we ask that this variance be for all future years

**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: Timothy P. Simpson  
Please print name: Timothy P. Simpson  
Date of signature (month, day, year): 5/5/16

**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: John K. Deuser  
Please print name: John K. Deuser  
Date of signature (month, day, year): MAY 5th 2016