



## INSTRUCTIONS FOR APPLICATION FOR A VARIANCE

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.

### 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, email, 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 (if filing a paper application) 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. If filing online, you may pay by credit card.
- (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.

#### **OTHER IMPORTANT INFORMATION**

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.

If you are filing online and the web application times you out, you will have to re-type all information, so keep all relevant information on hand. Additionally, when filing online, you will be charged a credit card processing fee outside of the required fees mentioned above. If you experience any technical difficulties while filing, please contact [DfbsDatabase@dhs.in.gov](mailto:DfbsDatabase@dhs.in.gov) for assistance.

For all other questions or concerns regarding this process, please email [variances@dhs.in.gov](mailto:variances@dhs.in.gov) or call (317) 232-1402.