Town of Burns Harbor
Board of Zoning Appeals
Use Variance Checklist

Petitioning the BZA is a three step two meeting process:

Step 1: Submit completed Application Packet for a Use Variance to the Secretary

Step 2: (First Meeting): Preliminary Hearing*

Step 3: (Second Meeting): Public Hearing*

*BZA meetings occur on the fourth Tuesday of the month

Application Packet Requirements

The items listed below must be submitted to the Secretary at least **ten (10) days prior to the Preliminary Hearing**. Group all of the originals in one envelope marked "Originals" and make ten (10) copies of the entire "Originals" packet. An electronic copy (pdf) of the application and required attachments should also be submitted to the Secretary.

A completed and notarized Variance Application

A notary is provided at the Town Hall, which is preferred. Once notarized, the clerk can accept the packet.

i. Incomplete applications will not be processed or presented to the Board.

ii. It is the responsibility of the Petitioner to ensure the application is complete at time of submittal.

iii. The Secretary may only provide assistance in helping the Petitioner understand the required documentation, neither the Secretary nor any staff will be available to provide missing information.

Completed Proposed Findings of Fact and Decision

i. The Petitioner should check **WILL** or **WILL NOT** where applicable and MUST provide supporting reasons for each and every finding.

ii. The Proposed Findings of Fact and Decision is essentially the Petitioner's explanation of why the Variance should be granted.

iii. In completing the Proposed Findings of Fact and Decision, the Petitioner should consider the following questions as a guide:

a. How will enforcement of the Zoning Ordinance unreasonably inhibit the proposed use?

b. What are the unique characteristics of the property with respect to lot size, shape, topography, etc., that make literal enforcement of the Zoning Ordinance impractical?

c. What other options are available? Why were these options not chosen?

d. How will approval of the variance impact public resources and/or adjacent properties?

e. How is granting the variance consistent with the spirit and intent of the Town's Comprehensive Plan?

- **Site Plan**
  i. The Site Plan must be drawn to scale, adhere to Section 15-3-5(E) of the Town Code and should accurately and completely describe the proposed project, including but not limited to:
     a. All existing and proposed structure(s)
     b. Lot dimensions
     c. Property Lines
     d. Adjacent street(s)
     e. Distances from structure(s) to property lines
     f. All existing and proposed easements
     g. All existing and proposed landscaping, fencing, and/or walls
- **Rejected Building Permit**
  i. This is obtained from the Office of the Building Commissioner
- **Proof of Ownership**
  i. If the Petitioner is the owner, a copy of the Deed to the property
  ii. If the Petitioner is NOT the owner, a properly executed Power of Attorney
- **Landscaping Plan (where applicable)**
- **Drainage Calculations (where applicable)**
- **Any other relevant information (pictures, exhibits, etc.)**
- **Names and Addresses of all property owners within 300 feet of the property**
  i. The names and address of adjacent property owners can be found by:
     a. Presenting the legal description of the Petitioner's property to the Porter County Assessor's office located at the County Administrative Building in Valparaiso, Indiana;
     b. By visiting Porter County, IN - Official Website - GIS: View the Porter County Portico GIS Map and entering 300 feet; or
     c. By contacting a local Title Company.
- **Filing Fee of $150.00**
  i. The filing fee should be paid to the Clerk-Treasurer located at the Town Hall. Upon payment, the Clerk-Treasurer will issue a receipt to the Petitioner, a copy of which shall be provided, by the Petitioner, to the Secretary.

Town of Burns Harbor
Board of Zoning Appeals

Meeting Reminder

The Petitioner or certified agent must be present at both the Board of Zoning Appeals Preliminary and Public Hearings to explain the proposed variance and address and discuss comments and concerns posed by the Board and/or the public.

Failure to appear at either meeting may result in the dismissal of the Application for the Variance.

The Board of Zoning Appeals will assess the USE VARIANCE application based upon its adherence to the following Findings of Fact:

i. The approval of the variance will not be injurious to the public health, safety, morals, and general welfare of the community.
ii. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
iii. The need for the variance arises from some condition peculiar to the property involved.
iv. The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.
v. The approval does not interfere substantially with the *Town's Comprehensive Plan*.

In assessing whether a variance request adheres to the above Findings of Fact, Applicants may consider the following questions in relation to the property:

How will enforcement of the Zoning Ordinance unreasonably inhibit the proposed use? How does the hardship that would be created relate to the property itself? What are the applicable standards in the Zoning Ordinance and why should they not apply to the property?

What are the unique characteristics of the property with respect to lot size, shape, topography, and any other physical limitations that make literal enforcement of the Zoning Ordinance impractical? Were any of these limitations created by the current or past property owner?

What other options are available? Why were these not chosen?

How will approval of this variance impact sensitive public resources (such as sewer, water, garbage, etc.) and/or adjacent properties?

How would the granting of this variance be consistent with the spirit and intent of the Town's Comprehensive Plan? What is the purpose/character of the involved zoning district(s)? How will the variance meet with that purpose/character? Has the character of the area where the property is located changed in recent times?

Preliminary Hearing

1. The Petitioner or certified agent must be present at the Board of Zoning Appeals Preliminary Hearing to formally submit the Application Packet and describe the proposed use to the Board.

2. Failure to appear at this first meeting will result in the Application not being set for a public hearing and may result in the dismissal of the Application all together.

3. At this meeting, the Board will address any deficiencies detected in the Application Packet and may make requests that some or all of the Application Packet be revised or amended for the Public Hearing.

4. After preliminary review and acceptance of the Application, the Board will set a date to hold a Public Hearing, the Preliminary Hearing will be closed, and the Petitioner will be excused until the next meeting.

Board of Zoning Appeals

1240 North Boo Road • Burns Harbor, IN 46304
www.burnsharbor-in.gov

Application for a USE VARIANCE

Petition: 20__ -

Applicant _____ Phone _____ Email _____

Property Address _____

Owner Address _____

Name of Owner of premises involved: _____

General location of premises; street or road on _____ between road _____ and road _____

Zoning Class: _____ Zoning Chapter: _____

Explain the **USE VARIANCE** applied for: _____

Explain in detail why applicable zoning requirements CANNOT reasonably be complied with: _____

Explain in detail the exact nature of the use(s) you plan to conduct and any use(s) you would like to conduct in the future: _____

Applicant hereby agrees to pay the cost of the published legal notice of public hearing required by law – to have said notice published and to notify all owners within 300 feet distance from the applicant's property lines. The above information, to my knowledge and belief, is true and correct, subject to penalty of perjury.

Applicant Signature: _____ Date: _____

(STATE OF INDIANA, COUNTY OF PORTER SS:
Subscribed and sworn before me this _____ day of _____, 20____ .

Notary Public Signature: _____

My Commission expires: _____

TOWN OF BURNS HARBOR INDIANA

Board of Zoning Appeals
1240 North Boo Road • Burns Harbor, IN 46304
www.burnsharbor-in.gov

Application for a USE VARIANCE

PROPOSED FINDINGS OF FACT AND DECISION

Petition 2023 -

The Petition of:_____

Public Hearing held the_____day of _____, 20___.

Public Hearing closed the___day of _____, 20___.

We, the members of the Burns Harbor Board of Zoning Appeals FIND:

1. That the Use Variance as requested **WILL** ☐ **WILLNOT** ☐ be injurious to public health, safety, morals, and general welfare of the community BECAUSE: _____

   _____

   _____

2. That the Use Variance requested **WILL** ☐ **WILL NOT** ☐ cause substantial adverse effect on neighboring properties BECAUSE: _____

   _____

   _____

3. That the need for the Use Variance arises from some condition peculiar to the property involved, BECAUSE:

   _____

   _____

4. That the strict application of the Zoning Ordinance **WILL** ☐ **WILL NOT** ☐ constitute an unnecessary hardship if applied to the property for which the Use Variance is sought BECAUSE_____

   _____

   _____

5. That approval of the Use Variance **WILL** ☐ **WILL NOT** ☐ interfere substantially with the Town's Comprehensive Plan BECAUSE: _____

   _____

   _____

Application for a USE VARIANCE

THE BOARD NOW DECIDES:

That said request **BE AND IS GRANTED** ☐ and further decides that these condition(s) shall be imposed:

_____

_____

_____

That said request **BE AND IS HEREBY DENIED** ☐.

DATED: _____, 20___.

BURNS HARBOR BOARD OF ZONING APPEALS

_____ YES ☐ NO ☐

_____ YES ☐ NO ☐

_____ YES ☐ NO ☐

_____ YES ☐ NO ☐

_____ YES ☐ NO ☐

Application for a USE VARIANCE

** This form is to be used in the event a person who will be appearing in front of the BZA or Plan Commission does not have legal title, or is not an equitable owner of the property in question. The owner of the real estate must sign the Power of Attorney authorizing the person appearing before the Board to act with proper authority on the owner's behalf in presenting the petition.

STATE OF INDIANA)
SS:
COUNTY OF PORTER)

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, _____ (insert name of property owner), a resident of _____County, State of _____, have made, constituted and appointed, and by these presents do make, constitute and appoint _____(insert name of appointee) of _____County, State of _____, my true and lawful attorney, for me and in my name, to do the following:

1. Act for me and in my behalf in connection with a petition before the _____ Town of Burns Harbor Board of Zoning Appeals or Town of Burns Harbor Advisory Plan Commission) concerning property located at _____ (insert address), Burns Harbor, Porter County, Indiana, legally described as follows:

(Insert legal description)

2. Accept conditions on any variance(s) sought by the petition and make written commitments concerning the use of the real estate in the event that a variance (or variances) is granted.

IN WITNESS WHEREOF, I have hereunto set my hand this _____day of _____, 20____.

_____
Property Owner Signature

Application for a USE VARIANCE

NAMES AND ADDRESSES

List the Names and Addresses of all owners of property within 300 Feet distance from the property.

Name: Indiana Department of Transportation: Northwest

Address: P.O. Box 429, LaPorte, IN 46352

Name: CSX Railroad Transportation

Address: 500 Water Street, Jacksonville, FL 32202

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Public Hearing

1. The Petitioner or certified agent must be present at the Board of Zoning Appeals Public Hearing to explain the proposed use and address and discuss comments and concerns posed by the Board and/or the public.

2. Failure to appear at this second meeting will result in the Public Hearing being continued and may result in the dismissal of the Application all together.

3. The items listed below must be completed and submitted to the Secretary **at least ten (10) days prior to the Public Hearing date**:

   ☐ **Revised Application** (if applicable)

   ☐ **Revised Findings of Fact and Decision** (if applicable)

   ☐ **Revised plans or any other additional documents requested at the Preliminary Hearing** (if applicable)

   ☐ **Notice of Public Hearing**
      i. To be published in the Northwest Indiana Times at least **10 days prior to the Public Hearing**.*

         **Notice must be sent to the newspaper no later than the Wednesday prior to the 10-day requirement for the Public Hearing. As a practical matter, this means the Notice should get to the newspaper no later than 13 days before the Public Hearing is set to take place.*

      ii. Notice must also be posted at the Town Hall at least **10 days prior to the Public Hearing**.

   ☐ **Proof of Posting at Town Hall**
      i. The proof of posting should be notarized by the Clerk-Treasurer or Police Department Administrative Assistant

   ☐ **Copy of the paid receipt for the Hearing Notice from NWI Times**

   ☐ **Notification of Public Hearing by Certified Mail to neighbors within 300 feet**
      i. All white and green cards from the Certified Mailings must be submitted to the secretary

Application for a USE VARIANCE

NOTICE OF PUBLIC HEARING
BEFORE THE BURNS HARBOR BOARD OF ZONING APPEALS

Notice is hereby given that the Board of Zoning Appeals will hold a public hearing at the Town Hall, 1240 North Boo Road, Burns Harbor, Indiana 46304 on (insert date) and will hear the Petition of (insert petitioner name) seeking (insert nature of petition) in a (insert zoning) zoning for the following described real estate in Burns Harbor, Indiana, to-wit:

(Insert Legal Description)

which property is commonly known as (insert address of location of property).

A copy of the Petition is on file at the Office of the Burns Harbor Clerk-Treasurer, 1240 North Boo Road, Burns Harbor, Indiana, for examination by the public before the public hearing. Written objections to the Petition that are filed with the Board of Zoning Appeals Secretary prior to the hearing will be considered. Oral comments concerning the Petition will be heard at the public hearing. The hearing may be continued from time to time as may be found necessary. The hearing will begin at 6:00 p.m. or as soon thereafter as the agenda for the Board of Zoning Appeals will permit.

BURNS HARBOR BOARD OF ZONING APPEALS

PUBLICATION DATE: At least 10 days prior to meeting date. Publication is required one time only

Proof of publication can be sent to the Town of Burns Harbor, 1240 North Boo Road, Burns Harbor, Indiana 46304 and (Petitioner's home address).

Note to Petitioner: The Notice must be placed in a newspaper of general circulation within the Town at least ten (10) days prior to the meeting date. Petitioner is responsible for the cost of publication and is expected to bring a receipt for payment to the Public Hearing.

Board of Zoning Appeals

1240 North Boo Road • Burns Harbor, IN 46304
www.burnsharbor-in.gov

Application for a USE VARIANCE

STATE OF INDIANA)
SS:
COUNTY OF PORTER)

PROOF OF POSTING

_____, being first duly sworn, deposes and says:

1. That as a representative of Petitioner_____ that affiant caused the Posting of a copy of the Notice of Public Hearing on the Petitioner's Petition requesting a Special Exception, Use Variance, Development Standard Variance or Finding, a copy of which is labeled exhibit "A" and attached hereto and made a part hereof, in the following public places in the Town of Burns Harbor, Indiana, to-wit:

   The Town Hall building located at 1240 North Boo Road

2. That said copies of said Legal Notice were duly posted on the _____day of _____, 20____, and that to the best of my knowledge and information of the affiant, said Notices remained posted until the Public Hearing described therein was held on this _____day of _____, 20____.

FURTHER AFFIANT SAYETH NOT.

_____
Signature

_____
Printed Signature

BEFORE ME, a Notary Public in and for said County and State, personally appeared _____and acknowledges the execution of the foregoing Proof of Posting on this _____day of _____, 20____.

_____
Notary Public Signature

_____
Printed Signature

My Commission Expires: _____ Resident of _____County

Application for a USE VARIANCE

FORM OF NOTICE TO PROPERTY OWNERS WITHIN 300 FEET

Date: _____

Name: _____

Address: _____

Town, State, Zip _____

Dear _____,

We are the owners of the following described real estate in the Town of Burns Harbor, Indiana, to-wit:

(insert legal description)

Commonly known as (insert address or general location of property)

We have submitted a Petition to the Board of Zoning Appeals for: (insert variance applied for)

The Board of Zoning Appeals has set our Petition for public hearing on (insert date) at 6 o'clock p.m. at the Burns Harbor Town Hall, 1240 North Boo Road, Burns Harbor, Indiana.

You are invited to be present for said hearing and to direct your comments to the Board of Zoning Appeals concerning this application or to submit your comments to the Board of Zoning Appeals in writing prior to the hearing.

Very truly yours,

_____
Petitioner Signature