

## INSTRUCTIONS FOR USE VARIANCE APPLICATION

*Before you apply, carefully review the requirements for approval of zoning text amendments under Section 123-284 of the City of Gary Zoning Ordinance ("Zoning Ordinance"): <https://library.municode.com/in/gary/>*

### THE APPLICATION PROCESS:

- DO YOUR HOMEWORK.
  - Use this document as a guide, and find more information on the Zoning FAQ page of our website: <https://garyin.us/redevelopment/zoning-faqs>
  - Prepare a narrative on the nature of your proposed use variance and why the permit is necessary
- Complete the required application forms provided in this packet. Please either type or print legibly.
- Sign the application form and complete the address, city, state, ZIP code and phone number information.

### WHENEVER APPLICABLE, THE FOLLOWING DISCLOSURES MUST BE MADE:

- When the applicant is a corporation, the applicant shall include the correct names, addresses and percent interest of all stockholders or shareholders owning interest in excess of 20% of all outstanding stock of such corporation. If the corporation has no shareholders, a statement to that effect shall be submitted.
- When the applicant is a business entity doing business under an assumed name, the application shall include the names and addresses of all true and actual owners of such business or entity.
- When the applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, the application shall include the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.



## THE USE VARIANCE PROCESS

Upon receipt of an application, the City shall process the application. If the application is complete, the City will prepare public notice materials for the required public hearings on behalf of the applicant, and provide the applicant with instructions on how to properly distribute the notices.

The use variance process involves, typically, two public hearings:

1) BOARD OF ZONING APPEALS (PUBLIC HEARING)

Once the application is filed with the City, a public hearing will be scheduled with the Board of Zoning Appeals (BZA). The BZA will convene a public hearing at which citizens are afforded the opportunity to speak in favor of, in opposition to, or simply comment on the application. Within 60 days after the close of the public hearing, the BZA makes findings of facts and a recommendation to the Council. Its decision is advisory only and does not constitute a final, binding decision.

2) COMMON COUNCIL (FINAL DECISION)

After its receipt of the BZA's recommendation, the Council will hold a second public hearing on the text amendment. The Council will make a final decision within ninety (90) days, by ordinance duly adopted or denied, on the application. The Council may require additional information from the applicant.

You are encouraged to bring people who support your application to the public hearings and may be represented by legal counsel or other consultants at these public hearings.

Public notice must be published one time in two local newspapers at least 10 days prior to the BZA's public hearing. The City will prepare the notice and provide instructions; the applicant is responsible for ensuring the notice is properly published, and for all associated publishing costs. A copy of the newspaper notices must be delivered to the Department of Planning and Zoning.

Public notice must be mailed to every property owner within 400 feet of the location of the proposed use variance at least two weeks prior to the BZA's public hearing. The City will prepare the notice and provide instructions; the applicant is responsible for ensuring the notice is properly delivered, and for all associated mailing costs. A copy of the mailing certification and receipt must be delivered to the Department of Planning and Zoning.

Note: It is solely the responsibility of the applicant to make sure that all information submitted is accurate as the information will be used for publication of the legal notice required by statute and ordinance. The City of Gary disclaims all responsibility if any of the information submitted by the applicants is inaccurate or in error.



City of Gary Department of Planning and Zoning  
**PETITION FOR USE VARIANCE**

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*Updated September 2019*





PETITION FOR USE VARIANCE

APPLICATION FOR USE VARIANCE

Please type or print. You may use and attach additional sheets of paper as necessary, but please make sure to reference what information is provided on any additional sheets.

REQUESTED ACTION

DESCRIBE THE REQUESTED USE VARIANCE \_\_\_\_\_

APPLICANT INFORMATION

APPLICANT NAME \_\_\_\_\_

COMPANY OR ORGANIZATION \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

EMAIL \_\_\_\_\_ PHONE \_\_\_\_\_

OWNER OF RECORD (IF DIFFERENT FROM APPLICANT) \_\_\_\_\_

*If the applicant is not the recorded property owner, proof of ownership and a notarized statement of consent from the owner of record permitting the applicant to file this petition must be provided.*

SUBJECT PROPERTY ADDRESS \_\_\_\_\_

PARCEL IDENTIFICATION NUMBER(S) \_\_\_\_\_

LEGAL DESCRIPTION BLOCK \_\_\_\_\_ LOT \_\_\_\_\_ SUBDIVISON \_\_\_\_\_

PRIMARY CONTACT PERSON (IF DIFFERENT FROM ABOVE)

NAME/TITLE \_\_\_\_\_

EMAIL \_\_\_\_\_ PHONE \_\_\_\_\_

USE VARIANCE PETITION FEE: \$400

The City cannot schedule a public hearing for a use variance petition unless and until a complete application has been filed.

BZA #: \_\_\_\_\_



PETITION FOR USE VARIANCE

Date Filed: \_\_\_\_\_

STATEMENT OF JUSTIFICATION Every application filed pursuant to Section 123-284 of the Zoning Ordinance must, in addition to the information required above, provide a statement of how the use variance petition satisfies the standards set forth under the municipal code. The staff, Board of Zoning Appeals, and Council will use these standards in making a determination whether or not the proposed text amendment is appropriate.

According to the municipal code, no use variance shall be granted unless the following qualifications are met:

- (1) The granting will not be injurious to the public health, safety, morals and general welfare of the community.
- (2) The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- (3) The need for the variance arises from some condition peculiar to the property involved.
- (4) The strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought.
- (5) The granting does not interfere substantially with the city of Gary comprehensive plan.

NOTICE: This application must be filed with the Department of Planning and Zoning accompanied by necessary data called for above and the required filing fee of \$400.

I, the undersigned, do hereby certify that I am the owner, or contract purchaser (Evidence of title or other interest you have in the subject property, date of acquisition of such interest, and the specific nature of such interest must be submitted with application.) and do hereby certify that the above statements are true and correct to the best of my knowledge.

SIGNATURE OF OWNER OR CONTRACT PURCHASER \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY/STATE/ZIP \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Notary Public)

(Seal)



PETITION FOR USE VARIANCE

USE VARIANCE APPLICATION CHECKLIST:

- Use Variance Application, completed and executed.
- Narrative Statement containing addressing the standards for use variance.
- Filing fee in the amount of \$400  
*The City of Gary accepts cash, check, credit, or money order. Contact the Finance Office at 219-881-1363 for further instructions.*

COMPLETE APPLICATIONS MAY BE SUBMITTED TO:

City of Gary Department of Planning and Zoning  
401 Broadway, Room 304  
Gary, IN 46402

(FOR CITY USE ONLY)

1. Filed with City on: \_\_\_\_\_, 20\_\_\_\_\_.
2. Transmitted to Board of Zoning Appeals at their meeting held: \_\_\_\_\_
3. Continuation (if any): \_\_\_\_\_ 4.  
Notice of hearing published in: \_\_\_\_\_ on: \_\_\_\_\_  
\_\_\_\_\_ on: \_\_\_\_\_
5. Findings and Recommendation of BZA certified to the Council on: \_\_\_\_\_
6. Final Action of the Council for adoption of amending ordinances or denial of applicant's request at meeting held: \_\_\_\_\_

Conditions Imposed: