

# CITY OF SHELBYVILLE

Scott Furgeson, Mayor



## DEVELOPMENT STANDARD VARIANCE

### APPLICATION PACKAGE

#### BOARD OF ZONING APPEALS

Shelbyville Plan Commission  
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(Last Revised 23 Feb. 2011)

Quick Check List

- Completed Application (notarized) - 6 copies
- Finding of Facts sheet completed - 6 Copies
- Site plans and other supporting materials - 6 copies
- Letter of Intent - 6 Copies
- Affidavit & Consent of Property Owner (if the petitioner doesn't own the property) (notarized)
- Property Deed with Legal Description of land for the file
- Notice of Public Hearing completed with legal description taken to the Shelbyville Newspaper
- Affidavit of Notice to interested parties (notarized) -Each party shall receive a letter of "Notice of Public Hearing"
- Filing Fee Paid - check may payable to the City of Shelbyville
- Attend Meeting

DEADLINE DATE: \_\_\_\_\_ MEETING DATE: \_\_\_\_\_

## What is a Development Standard Variance and why do you need to apply for one?

A Development Standard Variance is a deviation from the development standards outlined in the Shelbyville Zoning Ordinance. These are standards typically found in Article 2 and 6. If you cannot meet these standards for your development/project, you must apply for a variance and receive approval from the Board of Zoning Appeals before you can move on with your project. This would apply to things such as (but not limited to) new buildings/structures, additions, accessory structures, parking lots, and driveways.

If you need a special exception, use variance, or sign variance for the same project or property, those must be filed as a separate petition from the development standard variance.

## PROCEDURE

### 1. Complete the forms included in this packet:

#### *Variance Application*

This is a general application filled out by the applicant or his representative. Please complete the entire application. If you are the owner and/or do not have a representative this information may be omitted. If you are unsure how to answer some of the areas of the application, please contact our office. Do not fabricate an answer as it may make your application incorrect.

➔ This form will need to be notarized

#### *Affidavit & Consent of property owner*

If the applicant is not the property owner, this form will need to be completed by the property owner. This provides proof that the owner approves your request. If you or the assumed owner are buying the property on contract, the original owner will need to sign this form as well. **YOU DO NOT NEED TO FILL THIS FORM OUT IF YOU ARE THE OWNER.**

➔ This form will need to be notarized.

#### *Findings of Facts*

The Board may only approve a variance from development standards upon a determination in writing that (1) the approval will not be injurious to the public health, safety, and general welfare of the community; (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and (3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property (meaning the zoning standards can not be met because of some hardships from the property).

**If you are filing for more than one Development Standard Variance, You MUST submit a Findings of Facts for each one. Typically, each variance is looked at separately and voted on individually.**

On the Finding of Facts form, you must answer questions in regards to those three criteria. Please use proper English and grammar when answering the questions. Do not use personal matters as reasons for findings. The findings must relate to the property, not to a person.

The most important question for a development standard variance is the practical difficulty. A hardship must be proven and that hardship claimed is suffered by the property directly, and not merely by other properties. Also the hardship claimed cannot be the result of the applicant's own actions.

Hardship examples: (please do not copy for your own answers)

1. A small lot or a lot so oddly shaped that the owner would have great difficulty in meeting setback requirements and yet erect a suitable building.
2. Severe lot contours or the location of natural features which cause hardship in complying with setback requirements.

3. Since the building set far from the road, a larger sign is needed for visibility.

What hardship is not:

1. That the owner could sell his property for more if the Board would permit its development for commercial purposes.
2. A venture, which is financially advantageous to the applicant or a financial loss if a variance was denied.
3. The absence of a use in the neighborhood and the implication that the public would suffer inconvenience by it.
4. An applicant who knowingly or not violated the Zoning Ordinance and then cites his expenditures as a loss, which he will suffer if not permitted to continue the violation.
5. Purchase of property with the knowledge of the zoning restrictions and then complain that said restrictions have disturbed construction plans.

## 2. Write a Statement of intent

There is no form to fill out but please submit a letter of statement of intent. This is a simple letter explaining the variance request in more detail than that which is on the application page. This can be informal and addressed directly to the Board. For example: You are filing for a development standard variance from side setback requirements. The letter would describe what you want to build, how far the setback you are proposing will be and why you cannot meet the requirement.

## 3. Include Supporting Materials

You will need to include supporting materials that will demonstrate the need for the variance. This can include such things as site plans, drawings, and/or pictures. The more information the Board has, the better.

## 4. Legal Description

You will need a legal description of the property. Please bring a copy of the Deed to the Property when you file for a variance. If you do not have the Deed you can copy at the Recorder's Office at the Courthouse Annex.

## 5. File with the Plan Commission Staff on or before the deadline date.

You must submit all of the information in steps 1,2 and 3.

You will need to make 6 copies of following:

- *Variance Application*
- *Findings of Fact*
- Statement of Intent
- Any Supporting Materials

Please submit these forms in assembled and sorted individual packets.

You do not need to make copies of the *Affidavit & Consent of property owner* or *The Deed of the property*. The staff only needs the original documents for the file.

When you file you must pay the associated filing fee(s). Fees for Development Standards are as followed:

Residential	\$25
Commercial	\$100
Industrial	\$100
Each additional Variance on one petition -	\$50 each
* Please make check payable to the City of the Shelbyville.	

## 6. Public Notice

When you submit the above mentioned paperwork to the Plan Commission Office, the staff will give you additional forms for the Public Notice. A public notice must be placed in the local newspaper, The Shelbyville News, and must be mailed to surrounding property owners. The staff will supply the Public Notice, Property Owners list, and Post Office Form, PS Form 3877. You are responsible for two things:

- A. Taking the Public Notice to the newspaper and paying the associated fees, and
- B. Postal Mailing: Supplying envelopes and postage, Completing Form 3877, and having the post office stamp the form. The form will need to be returned to the office by the Friday following the deadline date.

## 7. Attend the meeting

You or your representative listed on the application must attend the meeting. If no one shows up, your petition will be dismissed and you will have to re-file your petition. At any time before your hearing comes up, you may ask the Board for a continuance, usually until the next meeting. We will grant you no more than two continuances. After that, your petition will be heard or dismissed unless you have already withdrawn it. You must file your continuance or withdrawal request in writing with the Staff prior to the meeting.

The staff will generate a staff report and will make a recommendation on your petition to the Board. The staff report will be distributed to the Board members 5 days before the meeting. If you would like a copy of the staff report, please request it. It will also be on the City's website at [www.cityofshelbyvillein.com](http://www.cityofshelbyvillein.com).

At the meeting: When your turn comes, the Staff will read your application to the Board. You will be asked to present your petition to the Board. The Board can then ask questions in regards to the petition. Others who either support or oppose your request will be given an opportunity to speak to the Board. At the Conclusion of the hearing, the Board will vote. They can vote to approve or deny your request. They can also vote to continue or table the petition to another meeting.

If you present any additional material to the Board during your presentation, you must supply a copy to the Staff so it can remain with the file.

**Please do not contact any of the Board Members before the meeting. Members are not allowed to talk to petitioners outside the public hearing. You should only talk to the Plan Commission Staff.**

## 8. After the meeting

If your variance is approved, you can continue with your development/project to the next steps required. The finding of facts will be approved at the next month's meeting. If you need a letter of approval, you must request it from the staff.

If your variance was denied, you can either alter your project to meet the standard or read Article 11.7 of the Zoning Ordinance for other options.

## Expiration

A Variance ceases to be authorized and is expired if the obtaining of an Improvement Location Permit or Sign permit or the execution of the approval has not been completed within 1 year of the date the Variance is granted. The Variance shall also expire if the approved construction or sign erection has not been completed and approved by the Plan Commission Director as being consistent with all written commitments or conditions, the requirements of the Zoning Ordinance, the variance granted, and all applicable permits within 2 years of the date the approval is granted.





**DEVELOPMENT STANDARDS VARIANCE  
FINDINGS OF FACT**

Applicant: \_\_\_\_\_

Case #: \_\_\_\_\_

Location: \_\_\_\_\_

The Board of Zoning Appeals of the City of Shelbyville must determine that the following criteria have been met in order to approve an application for a Development Standards Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** The approval will not be injurious to the public health, safety, and general welfare of the community.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. **Adjacent Property:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Practical Difficulty:** The strict application of the terms of the Shelbyville Zoning Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain).

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