

Board of Zoning Appeals  
Town of Ogden Dunes  
115 Hillcrest Road  
Ogden Dunes, Indiana 46368

RULES AND INSTRUCTIONS  
FOR PREPARING AN APPLICATION  
FOR ZONING VARIANCE  
OR ADMINISTRATIVE APPEAL

**Filing Fee.** The board shall require a party filing an appeal, petition or application which requires a public hearing, to pay a **filing fee of \$300.00** due at time of submitting application per appeal, petition or application. This filing fee is to be payable to the Town of Ogden Dunes and is refundable if the hearing is not held.

**MAKE CHECK PAYABLE TO:**

**TOWN OF OGDEN DUNES**

**RULES AND INSTRUCTIONS  
FOR PREPARING AN APPLICATION  
FOR ZONING VARIANCE  
OR ADMINISTRATIVE APPEAL**

**Adopted by the Ogden Dunes**

**Board of Zoning Appeals**

**on January 21, 1999;  
Amended April 14, 2001;  
Amended January 9, 2003;  
Amended October 9, 2003; and,  
Amended April 8, 2004.**

**RULES FOR PREPARING AN APPLICATION FOR  
ZONING VARIANCE OR ADMINISTRATIVE APPEAL**

A. The following rules apply:

1. The applicant shall file an application for zoning variance or administrative appeal using BZA Form 1, Application for Variance or Appeal From The Requirements of the Zoning Code Or Building Code.
2. A preliminary hearing may be held on all petitions except those involving an administrative appeal. The petitioner shall present his/her case. The Board and staff may then make inquiries and request additional information. The Chair may also ask for public comment.
3. All plans and specifications are to be submitted as described in Article 3, Chapter 4 of Ordinance 643, ORDINANCE FOR ZONING, BUILDING AND SUBDIVISION CONTROL. If the Board at the preliminary hearing finds a petition is in good order with sufficient information, it will set a time and place for holding a public hearing and announce same publicly. Any additional information requested of the petitioner must be submitted to the Secretary at least five (5) days prior to the public hearing.
4. All public hearings are subject to the public notice provisions of Indiana Code 5-3-1, and these Rules and Regulations.
5. In all petitions, property owners within 250 feet of the boundary of the property in question shall be given written notice by certified mail, return receipt requested, at least ten (10) days in advance of the public hearing. The return receipts must be presented to the Secretary at least forty-eight (48) hours before the hearing. "Property owners" for the purpose of the written notice required by this section shall include but are not limited to the Town of Ogden Dunes, Ogden Dunes Homeowners' Association, Ogden Dunes Park Board, any affected railroad, the State of Indiana or the National Park Service.
6. The petitioner shall publish the notice of the hearing which contains the time and place of the hearing. Such notice shall be published in one (1) newspaper of general circulation in Porter County at least ten (10) days prior to the hearing. The petitioner shall, before the public hearing, assume all costs of the publication of public notices. Proof of Publication is to be filed with the Secretary at least forty-eight (48) hours before the hearing. The notice shall also be posted at the Police Station in Ogden Dunes at least forty-eight (48) hours prior to the meeting.

7. All documents pertinent to the application, such as plot plan, sketches, plans, plot of area within 600 feet, list of owners within 250 feet, Proof of Publication, petitioner's Proposed Findings of Fact, are to be delivered to the Secretary of the Board of Zoning appeals at least five (5) days before the hearing. These documents are for the Board and public to review before the hearing.
- B. The plat filed with the Board shall be drawn by a registered Indiana surveyor, engineer or architect showing:
1. The area included in this application.
  2. The area within 600 feet of the boundaries of the area included in this application and those structures found within that area. For purposes of definition, a structure will be anything constructed or erected which requires location on the ground or which is attached to something having location on the ground. A structure shall include signs of all kind.
  3. Lot or parcel line.
  4. Location of all present and proposed structures including eaves and other overhangs.
  5. Right-of-way lines of streets and alleys and other pertinent rights-of-way.
- C. The plans shall include the proposed structures including floor plans and elevations drawn to scale by a registered Indiana surveyor, engineer or architect.
- D. If the applicant is not the owner of the affected property, the owner's notarized written permission must be submitted to the Board of Zoning Appeals.
- E. The applicant shall file six (6) copies of Proposed Findings of Fact:
1. For a Developmental Standards variance, by using BZA Form 2, Proposed Findings of Fact for Developmental Standards.
  2. For a Use variance, by using BZA Form 3, Proposed Findings of Fact for Use Variance.
- F. Any additional information shall be filed which may be required by the Board.
- G. For ADMINISTRATIVE APPEALS, please see the Rules and Regulations of Ogden Dunes Board of Zoning Appeals:
1. The Board shall hear and determine appeals and review:



**INSTRUCTIONS FOR PREPARING AN APPLICATION FOR A VARIANCE OF  
THE REQUIREMENTS OF THE ZONING CODE OR BUILDING CODE**

The following information must be filed with the application:

1. See the Rules and Regulations of the Ogden Dunes Board of Zoning Appeals;
2. A plat showing the area included in this application and the area within 600 feet of the boundaries showing location of structures on parcels and the zoning of all parcels;
3. A plot plan drawn to scale by a registered Indiana surveyor, engineer or architect and submitted in duplicate showing lot or parcel lines, existing structures, proposed location of other structures, right-of-way lines of streets and alleys and other pertinent rights-of-way, and indicating thereon the variance applied for in the application;
4. Plans for proposed structures, including floor plans and elevations;
5. If the applicant is not the owner of the affected property, the owner's notarized written permission must be submitted to the Board of Zoning Appeals;
6. Six (6) copies of Proposed Findings of Fact; and,
7. Additional information as may be required by the Board.

- a. Any order, requirement, decision or determination made by an administrative official, hearing officer or staff member, under Ordinance 643, ORDINANCE FOR ZONING, BUILDING AND SUBDIVISION CONTROL, or any other ordinances related thereto;
  - b. Any order, requirement, decision or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of Article 2 of Ordinance 643, the Zoning Code; and,
  - c. Any order, requirement, decision, or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of an ordinance adopted under I.C. § 36-7-4 requiring the procurement of an improvement location or occupancy permit.
2. An appeal filed by an aggrieved party with the Board must specify the grounds of the appeal, and must be filed within thirty (30) days after determination, in letter form, and be notarized.
3. The administrative official, building advisory review board, or other board from whom the appeal is taken, shall upon request, provide all documents, plans or papers constituting the record of the action from which the appeal is taken.
4. Prior to the public hearing, the petitioner shall arrange and pay for a legal notice to be published in one (1) Porter County newspaper of general circulation. Said notice must appear at least ten (10) days prior to the date of the public hearing, and notice by certified mail, return receipt requested, shall be given to the owners of property within 250 feet of boundary of the property at least ten (10) days prior to the hearing. The notice shall also be posted at the Police Station in Ogden Dunes at least forty-eight (48) hours prior to the hearing.
5. The Board shall not accept a petition unless the petition is accompanied by or included with all information, data, statistics and plats which the Board may, in its discretion, deem necessary or advisable for a determination.
6. Proposed findings of fact for Administrative Appeals.
7. The Board shall render a decision at the meeting/hearing at which the matter is presented unless the meeting/hearing is continued.

**AMENDED** this 8<sup>th</sup> day of April, 2004

/s/ Allen B. Johnson  
Secretary

/s/ James M. Homme  
President

19835.4

**APPLICATION FOR VARIANCE OR APPEAL FROM THE REQUIREMENTS  
OF THE ZONING CODE OR BUILDING CODE**

**Ogden Dunes Board of Zoning Appeals**  
(See Instructions For BZA Application)

Applicant: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Owner: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Address of Owner: \_\_\_\_\_

Premises Affected: Lot No. \_\_\_\_\_ in Subdivision \_\_\_\_\_

Street No. \_\_\_\_\_

Zoning Classification \_\_\_\_\_

Type of Variance(s) Applied for:

\_\_\_\_\_ Special Use                      \_\_\_\_\_ Use Variance

\_\_\_\_\_ Special Exception                      \_\_\_\_\_ Developmental Standards Variance

\_\_\_\_\_ Conditional Use                      \_\_\_\_\_ Appeal of Administrative Board or Official  
(attach copy of decision being appealed)

Description                      of                      variance(s)                      being                      requested:

Date \_\_\_\_\_

\_\_\_\_\_  
Applicant or Agent

I, \_\_\_\_\_, affirm under the penalties for perjury that the facts and matters contained in the above are true in substance and in fact to the best of my knowledge and belief.

19835.4

\_\_\_\_\_  
Applicant or Agent's Signature



**PROPOSED FINDINGS OF FACT FOR DEVELOPMENTAL STANDARDS**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the \_\_\_\_\_ community \_\_\_\_\_ because \_\_\_\_\_

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 \_\_\_\_\_ because \_\_\_\_\_

3. The strict application of the terms of the Zoning Code will result in an unnecessary hardship in \_\_\_\_\_ the \_\_\_\_\_ use \_\_\_\_\_ of \_\_\_\_\_ the \_\_\_\_\_ property \_\_\_\_\_ because \_\_\_\_\_

Adopted by the Ogden Dunes Board of Zoning Appeals this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

**PROPOSED FINDINGS OF FACT FOR USE VARIANCE**

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the \_\_\_\_\_ community \_\_\_\_\_ because \_\_\_\_\_.

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 because \_\_\_\_\_.

3. The need for the variance arises from some condition peculiar to the property involved because \_\_\_\_\_.

4. The strict application of the terms of the Zoning Code will constitute an unnecessary hardship if applied to the property for which the variance is sought because \_\_\_\_\_.

5. The approval is not substantially inconsistent with the Master Plan of the Town of Ogden Dunes \_\_\_\_\_ because \_\_\_\_\_.

Adopted by the Ogden Dunes Board of Zoning Appeals this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

19835.4

## FINDINGS OF FACT FOR ADMINISTRATIVE APPEAL

1. The petitioner did/did not establish that there was a valid basis for the issuance of a "Stop Work" order because  
\_\_\_\_\_.
2. The petitioner did/did not establish that the garage replacement was "in-kind" because  
\_\_\_\_\_.
3. The petitioner did/did not establish that the plan commission and/or the Building Commissioner misinterpreted the "in-kind" garage replacement specification on the building permit application because  
\_\_\_\_\_.
4. The petitioner did/did not establish that the Plan Commission misapplied the town's ordinances in issuing decision because  
\_\_\_\_\_.
5. The petition did/did not establish that the Plan Commission made its decision without justification because  
\_\_\_\_\_.
6. The petitioner did/did not establish that the Plan Commission made its decision in violation of proper legal procedure because  
\_\_\_\_\_.
7. It would/would not be injurious to the public health, safety, morals and general welfare of the legal procedure because  
\_\_\_\_\_.
8. Granting this appeal would/would not have an adverse effect on the use and the value of the adjacent property because  
\_\_\_\_\_.
9. Granting this appeal would/would not constitute a strict application of the terms of the zoning ordinance and thereby work an unnecessary hardship upon the petitioner if applied in this case because  
\_\_\_\_\_.

10. Granting this appeal would/would not interfere with the comprehensive plan because

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## DECISION

IT IS THEREFORE the decision of the body that the Appeal is Granted/Denied

## ORDERS

IT IS FURTHER ORDERED:

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

OGDEN DUNES BOARD OF ZONING APPEALS:

## AGREEMENT FOR CREATION OF COMMITMENTS

This AGREEMENT FOR CREATION OF COMMITMENTS ("Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the BOARD OF ZONING APPEALS OF THE TOWN OF OGDEN DUNES, INDIANA ("Board") and \_\_\_\_\_, ("Petitioner") who, as a condition of the use and/or development of that parcel in the case of a Petition for a variance from the terms of the Ordinance for Zoning, Building and Subdivision Control of the Town of Ogden Dunes, covenant and agree as follows:

1. Petitioner is the owner and holds title to the following real estate which bears the following \_\_\_\_\_ legal \_\_\_\_\_ description:

Said real estate is commonly known by the following street address, description or designation:

And the commitments which are created by this Agreement shall be imposed upon the real estate by the Board and shall restrict the use of the real estate and the improvements thereon not only by the Petitioner but also by the subsequent owners of the real estate until and unless modified, amended or terminated in the manner provided by the Board.

2. The Board requests and requires Petitioner to make the following written commitments concerning the use and/or development of the real estate:
3. Petitioner shall provide the Secretary of the Board a copy of this recorded, notarized Agreement for Creation of Commitments within sixty (60) days of approval of such commitments by the Board. If Petitioner fails to deliver such copies in a timely manner, the above commitments and any variance granted by reliance upon timely filing of these commitments shall not be binding upon the BZA. Petitioner shall record this document in the Office of the Recorder, Porter County, Indiana.

(Additional commitments may be attached to this form.)



4. These commitments may be modified or terminated only by a decision of the Board as prescribed by the Rules of the Board.

\_\_\_\_\_  
Petitioner

STATE OF INDIANA     )  
                                  )SS:  
COUNTY OF PORTER    )

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing Agreement for Creation of Commitments.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

\_\_\_\_\_, Notary Public  
A Resident of \_\_\_\_\_ County

ALL OF WHICH THE BOARD OF ZONING APPEALS recommended and approved on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

STATE OF INDIANA     )  
                                  )SS:  
COUNTY OF PORTER    )

Before me, the undersigned, a Notary Public in and for said County and State, this \_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_, personally appeared \_\_\_\_\_ and acknowledged the execution of the foregoing Agreement for Creation of Commitments.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

My Commission Expires:

\_\_\_\_\_, Notary Public  
A Resident of \_\_\_\_\_ County

Prepared by: \_\_\_\_\_

**SAMPLE LETTER  
TO RESIDENTS WITHIN 250' OF PROPERTY**

To: OGDEN DUNES RESIDENT

From: (APPLICANT)

RE: REQUEST FOR VARIANCE FOR PROPERTY AT (STREET ADDRESS)

Date: (DATE OF MAILING)

NOTICE OF OGDEN DUNES BZA PUBLIC HEARING

The Town of Ogden Dunes Board of Zoning Appeals will conduct a public hearing at (time) at the Ogden Dunes (location) in Ogden Dunes, Indiana, on (date of hearing). The hearing is for the application of (name of applicant) for (a type of variance: developmental standards or use) from the (type of concern: lot coverage, height, front set back, etc.) requirements for the Town of Ogden Dunes building code, respective lot (lot number), plot or block number, Ogden Dunes (Subdivision number) of the Town of Ogden dunes (additional information such as: Record number, page number, plat file number etc. that may apply) in the office of the recorder of Porter County, Indiana. (Any additional appropriate data)

(Applicant)