

**BOARD OF ZONING APPEALS
EVANSVILLE | VANDERBURGH COUNTY, INDIANA**

VARIANCE

INFORMATION PACKET AND FORMS

VARIANCE FEE SCHEDULE:

Variance filing fee (Residential)	\$200.00 + \$25 for each additional variance
(Commercial/Multi-Family)	\$300.00 + \$50 for each additional variance
Amendments and/or continuances	Half of (original) filing fee for each amendment and/or continuance

FORMS

- | | |
|------------------------------------------------------------------|------------------|
| 1. Petition for Variance of the Zoning Ordinance | APC Form 1101VAR |
| 2. Affidavit of Notice for a Variance | APC Form 1201VAR |
| 3. Notice of Public Hearing for Variance of the Zoning Ordinance | APC Form 1301VAR |

PROCEDURE FOR FILING VARIANCE PETITION

1. Draw a site plan to scale (i.e. 1"=10', 20', 30', 40', 50', 60') on 8 1/2" x 11" or 8 1/2" x 14" paper, showing all existing and/or proposed conditions on the property which is the subject of your petition. If the size of your project requires the original (larger) site plan to be reduced to the smaller size to fit in the packets, then you will need to include with your petition one copy of the original scaled drawing in addition to the 8 1/2" x 11" or 8 1/2" x 14" copy which is part of the variance petition. See attached sample site plan and instruction sheet to be sure that all the items listed are included on your site plan.

2. Complete the Petition for Variance of the Zoning Ordinance (variance petition). The variance petition asks for basic information about the property that is the subject of the variance request. All questions must be answered on the variance petition; if you are unsure of any part of the forms, staff will be happy to assist. On page 2 of the variance petition, you need to state the variance(s) you are requesting, and state a brief reason for the need for the variance. A variance may be approved only upon a determination in writing that the variance request complies with all of the criteria in the ordinance (18.165.010 City/17.36.100 County). On page 3, you will need to affirm compliance with all of the conditions for approval, stating for each and every criterion how your request satisfies each of the six criteria detailed in the zoning ordinance. If you need additional space to explain or make a statement about your variance request, please attach a separate sheet for your comments. The official OWNER OF RECORD or the attorney for the official owner of record is responsible for signing the variance petition. By signing the variance petition, you are affirming that all of the information is accurate. If you feel that the owner of record is incorrect as listed in the Treasurer's office and/or the Assessor's office databases, you must provide evidence of current ownership. (This occasionally happens with newly transferred deeds.) It is suggested that you bring your completed forms into the Area Plan Commission office to be checked before you file your variance petition to insure that all required information is included in your variance petition.

3. Bring to the Area Plan Commission office:
 - A. Three completed variance petitions, each with an attached site plan as detailed in step 1 above.
 - B. The required filing fee.
 - C. A list of all abutting property owners, including official mailing addresses and tax codes.

4. Upon receipt of a Petition for Variance of the Zoning Ordinance, the Area Plan Commission Staff shall:
 - A. Assign a docket number for the project which shall be referenced by both the petitioner and staff on all subsequent documents/communications for the project;
 - B. Review the sufficiency/completeness of the submittals, and within 3 working days from the filing date, inform the petitioner of the sufficiency status of the variance petition based on the evaluation of the information provided.
 - C. If the variance petition is determined to be sufficient, assign a meeting date for the variance petition to be considered by the Board of Zoning Appeals.
 - D. If the variance petition is determined to be insufficient, the petitioner shall be notified of the required information that is lacking, and the variance petition must be resubmitted and pass a sufficiency review, before a hearing date is assigned.

5. After Filing, and you have been notified that a hearing date has been assigned by the Area Plan Commission staff after the sufficiency/completeness review, on or before the deadline shown on the Application Deadlines and Meeting Schedule attached, a notice (Notice of Public Hearing for Variance of the Zoning Ordinance) must be mailed by CERTIFIED MAIL, RETURN RECEIPT REQUESTED to each of the owners whose property is abutting the owner's property including in whole or in part in the petition for variance of the zoning ordinance.

You must send a certified letter (notice) (with a green return receipt) to the owners of all abutting properties. This is a requirement for variance petitions. A sample letter of notice is included in the variance packet. DO NOT SEND THE LETTER OF NOTICE UNTIL AFTER YOUR VARIANCE PETITION HAS BEEN OFFICIALLY ACCEPTED FOR FILING AND ASSIGNED A DOCKET NUMBER AND YOU HAVE OBTAINED THE DATE ON WHICH THE VARIANCE PETITION WILL BE HEARD BY THE BOARD OF ZONING APPEALS!! The certified letters (notice) must be postmarked on or before the deadline shown on the Application Deadlines and Meeting Schedule attached. For clarification, abutting property is defined as any property, which would touch at any point the owner's property included in whole or in part in the variance petition, including across streets, alleys, and easements, etc. Therefore, owners across streets, alleys, easements, must also be notified. You are also required to send a certified letter of notice to any registered neighborhood association that includes or is adjacent to the site requesting variance approval. You must check with the City Clerk's office or the County Commissioner's office for this information. (The neighborhood association(s) are noted on the variance petition and added to your list of abutting property owners to which you will mail notice of the hearing.) Names and addresses of abutting property owners may be obtained by several means:

- It is now possible to obtain up-to-date information about a property on-line by identifying the property on the GIS map and clicking the link titled "Property Page", which will take you to the Assessor's web page for that property. Each Property Page contains tabs below the Owner's Address; when you click on the "taxes" tab, it will provide a link called "Current Tax Information", and clicking that link will take you directly to the Treasurer's website where you can obtain the official and most recent OWNER AND MAILING ADDRESS OF RECORD.
- In person, you may obtain the tax codes and official owner of record at the Assessor's office, and then take the tax codes to the Treasurer's Office for the owner's official mailing address of record. When doing your list in this manner, you will find that occasionally the names of the owners of record in the Assessor's office do not correspond with the names on the Treasurer's records; if this situation occurs, obtain information on both parties. (Please bring any irregularities or problems to the attention of APC staff.)

6. Submit the notarized Affidavit of Notice for a Variance along with one copy of the notice and the green return receipts (explain any un-returned receipts) to the Area Plan Commission Office **by 12:00 noon the Monday before the Board of Zoning Appeals meeting**. It is suggested that the copy of the certified letter receipt be filled out completely and stamped by the Post Office at the time the notice is mailed. In the event that the green card is not returned to you prior to the meeting, bring your white receipt and/or the returned letter itself to the Area Plan Commission office as proof that the letter was sent by you. **THIS IS IMPORTANT!** If these requirements are not met, the variance petition will be postponed until the next regularly scheduled meeting, and the notification process must be repeated for that meeting. The petitioner shall also pay a continuance fee to get back on the Board of Zoning Appeals agenda.
7. You, or someone representing you, will be required to attend the Board of Zoning Appeals meeting at which your variance petition will be heard. If no representative is present for the petitioner at the scheduled meeting date, the variance petition will be continued until the next month's meeting, and a continuance fee will be required. If your variance petition is approved at the BZA meeting, you will receive a letter of verification. After approval, you may go to the Area Plan Commission office for your permit. If the variance petition is denied or withdrawn by the Board of Zoning Appeals, there is a one year waiting period before re-filing.

REQUIREMENTS FOR VARIANCE APPROVAL

A variance may be granted if there is a non-economic hardship related to the height, setback, lot coverage, and/or other dimensional characteristics of the lot that are unlike any other property in the neighborhood. Legally, a variance may be approved only upon a determination in writing that the petition for variance complies with all of the criteria in the ordinance (18.165.010 City/17.36.100 County). The petitioner must affirm that the request for variance meets all of the criteria in the ordinance, as follows:

- A. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
- C. The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property.
- D. The variance is not a variance of the use of the property.
- E. The Petitioner's property is not located in a Planned Unit Development.
- F. The need for the variance is not created by the Petitioner and arises from some condition peculiar to the property involved.

DUTY TO DISCLOSE

The Board of Zoning Appeals may rely on the truth of all representations in the variance petition. If any condition exists or arises or if any event occurs after filing the variance petition which makes any representation false, inaccurate, misleading or incomplete, and such fact is known by the petitioner, his attorney or other representative, if any (collectively, the "petitioner"), it is the responsibility of the petitioner to disclose such fact promptly to the Board of Zoning Appeals or its staff at or before beginning the public hearing on the variance petition. Failure to make such disclosure shall result in denial of or delay in acting on the variance petition.

NOTE: Sometimes it is necessary for site plans to be reviewed prior to hearings by the Board of Zoning Appeals to determine if the proposed site plan meets access, parking, or other site development standards. Site Review Committee meets every Monday morning at 10:00 a.m. in Room 318 and reviews all site plans submitted by the end of the day on the previous Monday. (When a holiday falls on Monday, Site Review will be on Tuesday morning.) Petitioners desiring preliminary review of site plans prior to special use or variance hearings should submit eight copies of a site plan to the Area Plan Commission office and attend the scheduled Site Review meeting to discuss plans with the Committee. (There is an application fee for the "Improvement Location Permit Application".)

BOARD OF ZONING APPEALS RULES OF PROCEDURE

All matters coming before the Board of Zoning Appeals will be handled in accordance with the Rules of Procedure, which you may view online at [BZA RULES OF PROCEDURE.pdf](#) or at the Area Plan Commission office.

PETITION FOR VARIANCE OF THE ZONING ORDINANCE

APC FORM 1101VAR

STATE OF INDIANA)
) SS:
COUNTY OF VANDERBURGH)

Date: _____
Variance Docket No.: _____
BZA Meeting Date: _____

OWNER'S CERTIFICATE:

I, THE UNDERSIGNED OWNER, HEREBY CERTIFY that I own 50% or more of the real estate described hereon, and do hereby make application for a variance.

I HEREBY AFFIRM, under penalty of perjury, that the information and representations within this application are true and correct. All attachments are adopted by reference as part of the petition for variance of the zoning code.

(Printed Name Of The Owner Of Record) (Phone Number) (E-mail Address)
(Mailing Address Of The Owner) (City) (State) (Zip)
(Signature Of Owner) (Date Signed)

OWNER'S ACKNOWLEDGEMENT OF AUTHORIZED AGENT OR PETITIONER: (optional)

I DO HEREBY FURTHER ACKNOWLEDGE that by signing this affidavit below, that the following named person will be my legal council or professional representative and has been authorized to act and engage with this petition on my behalf.

(Signature Of Owner)
(Printed Name Of Authorized Agent Or Petitioner) (Phone) (E-mail Address)
(Mailing Address Of Authorized Agent Or Petitioner) (City) (State) (Zip)

PETITION FOR VARIANCE OF THE ZONING ORDINANCE
(Continued Page 2 of 3)

APC FORM 1101VAR

INFORMATION REGARDING THE AFFECTED PREMISES:

Address of property for the variance: _____

Parcel Identification Number: _____

Subdivision: _____ Block No.: _____ Lot No.: _____

Legal Description: _____

_____, situated in Vanderburgh County, Indiana.

Current Zoning: _____ Lot Size: _____
(Specify Acreage)

A site plan, drawn to scale, has been submitted with this application: Yes No

REGISTERED NEIGHBORHOOD ASSOCIATIONS: _____

APPLICATION IS HEREBY MADE FOR VARIATION OF:

(Attach Additional Sheets To This Application If More Space Is Required)

Zoning Ordinance Number: _____

Description of variance request: _____

Zoning Ordinance Number: _____

Description of variance request: _____

Zoning Ordinance Number: _____

Description of variance request: _____

PETITION FOR VARIANCE OF THE ZONING ORDINANCE

APC FORM 1101VAR

(Continued Page 3 of 3)

A variance may be approved only upon a determination in writing that the petition for variance complies with ALL of the criteria in the Ordinance (18.165.010 City; 17.36.100 County).

FURTHERMORE, I HEREBY AFFIRM, under penalty of perjury, that each of the following statements are true:

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

Describe how the variance will have a positive or a neutral effect on the surrounding community's health, safety, morals and welfare:

(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.

Describe how the variance will have a positive or a neutral effect on the use and value of the area adjacent to the property included in the variance:

(3) The strict application of the terms of this title will result in practical difficulties in the use of the property.

Describe how compliance with the existing zoning laws inhibits the use of the property:

(4) The variance is not a variance of the use of the property. _____ True _____ False

(5) The petitioner's property is not located in a planned unit development. _____ True _____ False

(6) The need for the variance is not created by the applicant.

Describe how the need arose by circumstances beyond the owners control or through the actions or inactions of persons other than the owner:

NOTARY CERTIFICATE:

Subscribed and sworn to before me, a Notary Public in and for said County and State this _____ day of _____, _____.

(Signature Of Notary)

(Printed Name Of Notary)

My Commission Expires _____ Notary Resides in _____ County, State of _____.

(Notary Seal)

DUTY TO DISCLOSE: the Area Plan Commission may rely on the truth of all representations in the petition. If any condition exists or arises or if any event occurs after filing the petition which makes any representation false, inaccurate, misleading or incomplete, and such fact is known by the owner, petitioner, his attorney or other representative, if any (collectively, the "petitioner"), it is the responsibility of the petitioner to disclose such fact promptly to the Area Plan Commission or its staff at or before beginning the public hearing on the petition. Failure to make such disclosure shall result in denial of or delay in acting on the petition in addition to other consequences, and shall subject the petitioner to legal (including civil and criminal) remedies, penalties, and fines which the Area Plan Commission or other governmental agencies may pursue against the petitioner as provided by law.

**NOTICE OF PUBLIC HEARING
FOR VARIANCE OF THE ZONING ORDINANCE**

APC FORM 1301VAR

TO: ADJOINING PROPERTY OWNER

FROM: _____
(Printed Name Of Owner, Authorized Agent, Petitioner)

DATE: _____
(Date Of This Letter)

SUBJECT: PETITION FOR VARIANCE OF THE ZONING ORDINANCE

BZA DOCKET NO.: _____

This letter will serve notice to you of scheduled hearing of a petition for a variance of the Comprehensive Zoning Ordinance which has been filed with the Area Plan Commission of Evansville and Vanderburgh County to be heard by the Board of Zoning Appeals.

Address of property for the variance: _____

Description of variance request: _____
(Attach Additional Sheets If More Space Is Required)

Notice is hereby given that the **Board of Zoning Appeals**, on Thursday, the _____ day of _____, 20____ at 3:00 p.m. in the City Council Chambers, Room 301 of the Civic Center Complex, Evansville Indiana, will hold a public hearing to consider the proposed variance, at the location identified above.

If you have any questions regarding this petition please contact the following:

Petitioner:

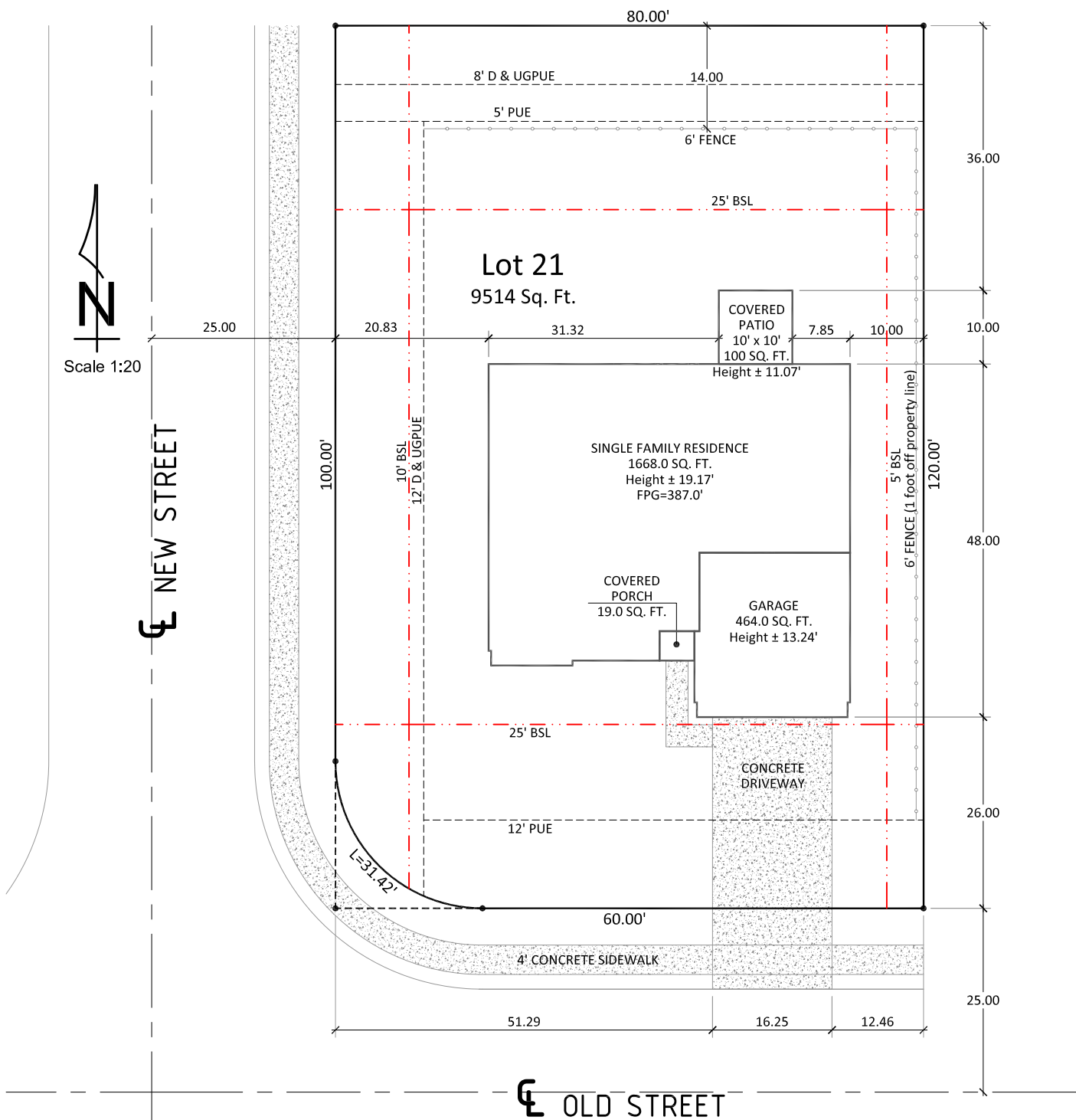
(Signature Of Owner, Authorized Agent, Petitioner) (Phone Number) (E-mail Address)

NOTE: If you have comments or concerns regarding this petition and are unable to attend the meeting, you may send an email to the Area Plan Commission at contactus@evansvilleapc.com, or send a letter to the Area Plan Commission at 1 N.W. Martin Luther King Jr. Blvd, Room 312, Evansville, Indiana 47708 stating your concerns or comments and it will be made part of the record.

RESIDENTIAL SITE PLAN CHECKLIST

- All site drawings must be drawn to engineer's scale. (i.e. 1:10, 20, 30, 40, 50, 60)
- All site drawings must be submitted on 8½" x 11" or 8½" x 14" paper.
- Name, address, phone number and company name (if applicable) of person certifying site plan accuracy.
- Show scale; north arrow; subdivision name, section, block and lot number(s) or attach a legal description; and address as assigned by the Area Plan Comm.
- Indicate accurate lot dimensions and overall size of lot.
- Show all street and/or alley right-of-way widths from centerline and physical center of pavement.
- Indicate all required setbacks for front, rear, and side yards including thoroughfare, if applicable.
- Indicate existing and proposed easements and their widths located within or adjacent to lot.
- Include dimensions and location from property lines on all existing structures.
- Include dimensions and location from property lines on all proposed additions or structures.
- Indicate distances between all structures including existing/proposed unattached accessory structure(s).
- Show sidewalk and street pavement width and location.
- Include size and location of existing/proposed curb cuts or driveways.
- Show location, type, and height of existing and proposed fences including dimensions to lot lines from the edge of fence.
- Indicate height of all existing/proposed structures measured from ground level to peak of roof.
- Indicate square footage for all floors separately, attached garage, and any covered porches.
- Show the flood protection grade (FPG) if the property is located within a floodplain.

EXAMPLE "A"
RESIDENTIAL SINGLE FAMILY SITE PLAN
ON CORNER LOT
FOR PRIMARY STRUCTURES



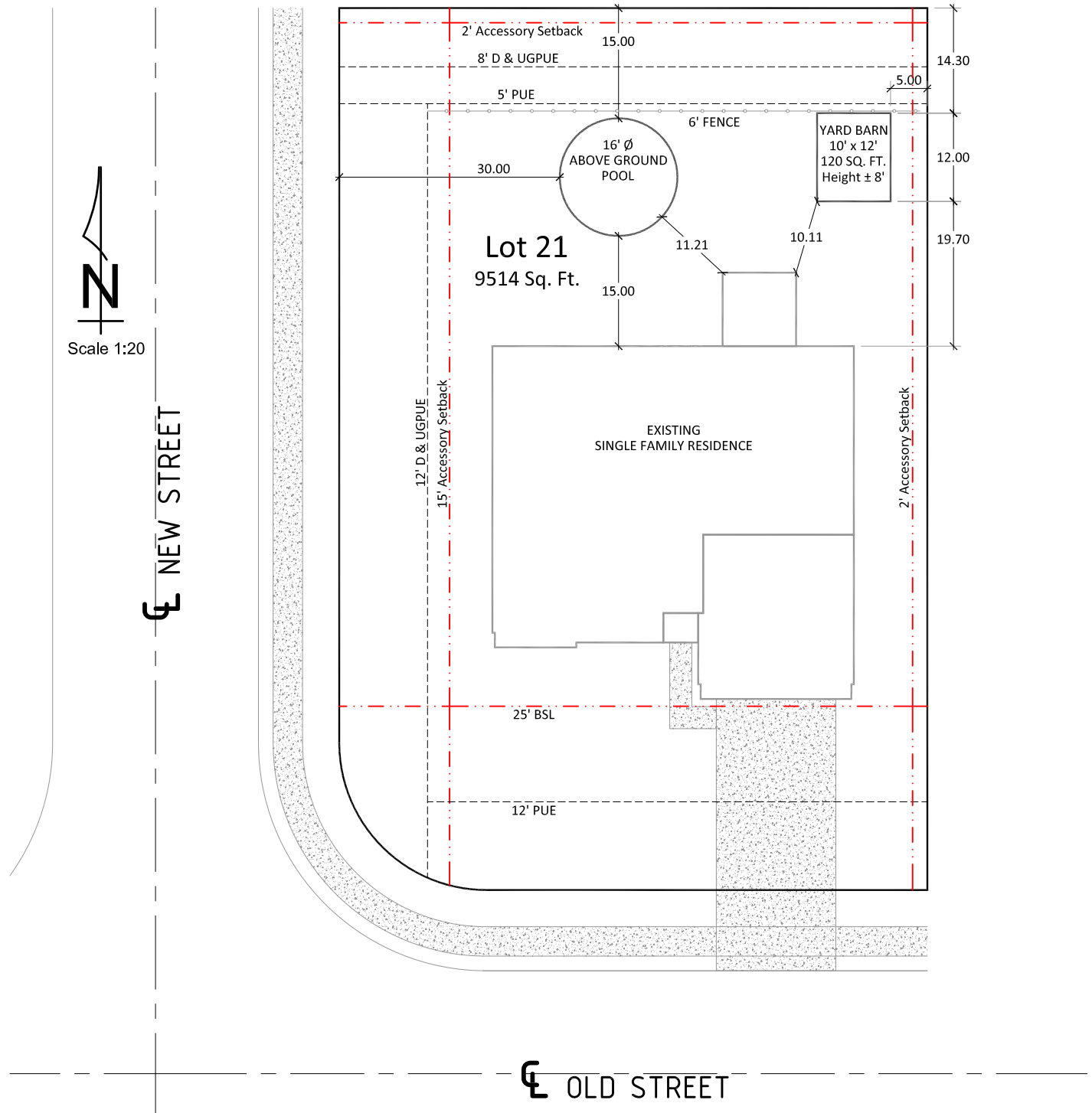
SITE PLAN DETAILS:
 2550 Old Street
 Evansville, IN 47708
 Lot 21
 Key Largo Subdivision

OWNER / BUILDER / CONTRACTOR
 Prepared By: John Q. Builder
 450 Easley Street
 Evansville, IN 47708
 812.435.1234

1st Floor Area Footage (Single Story)
 3 Bedrooms, 2 Baths, 2 Car Garage with
 Covered Porch and Patio
 Total Footprint Coverage = 2551 Sq. Ft.

Date: April 1, 2014

EXAMPLE "B"
RESIDENTIAL SINGLE FAMILY SITE PLAN
ON CORNER LOT
FOR ACCESSORY STRUCTURES



SITE PLAN DETAILS:
 2550 Old Street
 Evansville, IN 47708
 Lot 21
 Key Largo Subdivision

OWNER / BUILDER / CONTRACTOR
 Prepared By: John Q. Builder
 450 Easley Street
 Evansville, IN 47708
 812.435.1234

Accessory Structures
 16' Diameter Above Ground Pool
 10' x 12' Yard Barn

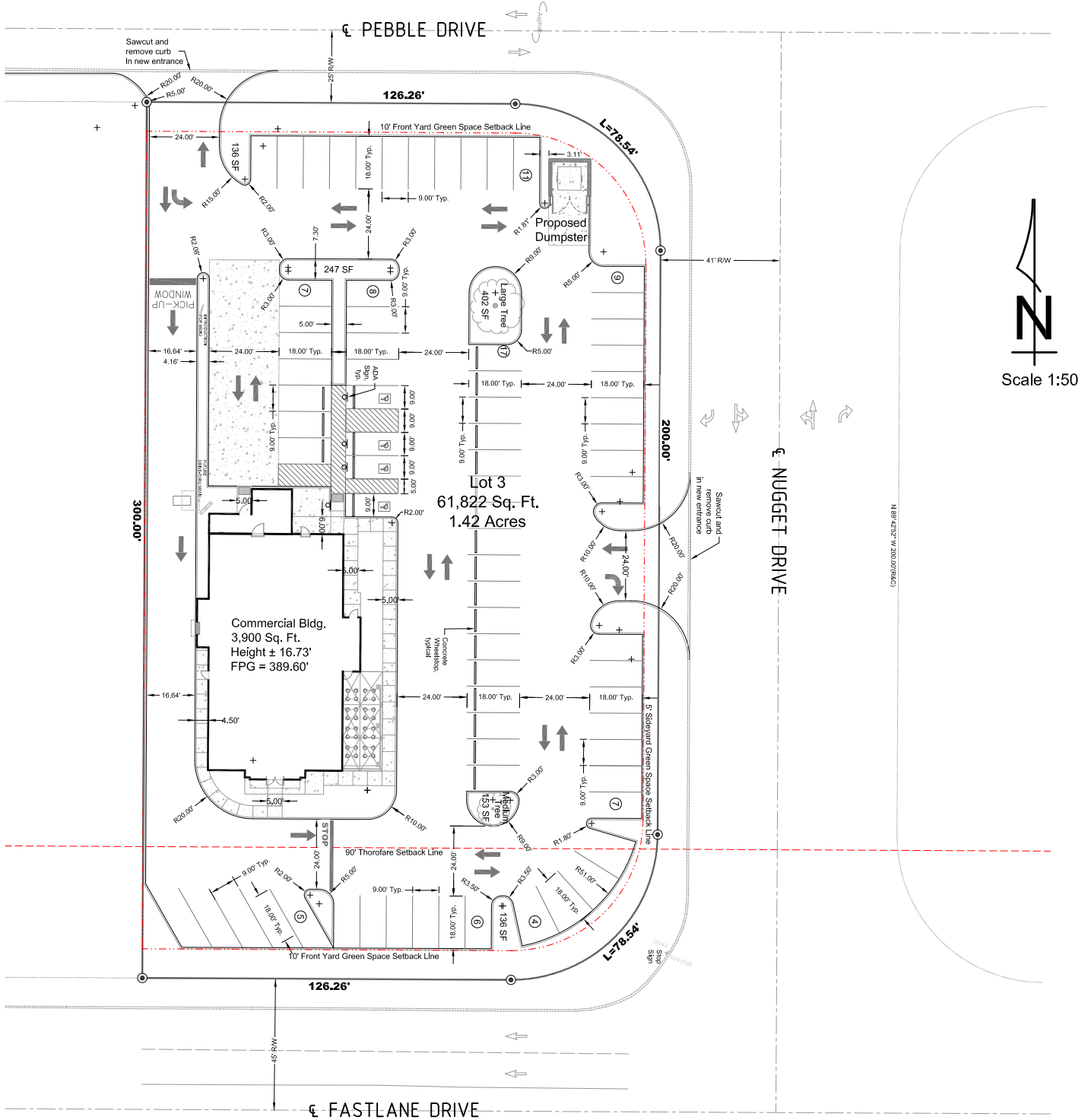
Date: April 1, 2014

COMMERCIAL SITE PLAN CHECKLIST

- All site drawings must be drawn to engineer's scale. (i.e. 1:10, 20, 30, 40, 50, 60)
- All site drawings must be submitted on 8½" x 11" or 8½" x 14" paper.
- Name, address, phone number and company name (if applicable) of person certifying site plan accuracy.
- Show scale; north arrow; subdivision name, section, block and lot number(s) or attach a legal description; and address as assigned by the Area Plan Comm.
- Indicate accurate lot dimensions and overall size of lot.
- Show all street and/or alley right-of-way widths from centerline and physical center of pavement.
- Indicate all required setbacks for front, rear, and side yards including thoroughfare, if applicable.
- Indicate existing and proposed easements and their widths located within or adjacent to lot including legal drains, if applicable.
- Include dimensions and location from property lines on all existing structures.
- Include dimensions and location from property lines on all proposed additions or structures.
- Indicate distances between all structures including existing/proposed unattached accessory structure(s).
- Show sidewalk and street pavement width and location.
- Include size and location of existing/proposed curb cuts or driveways.
- Show size and location of existing drives within 50 feet of the property (same or opposite side of street) and nearest intersecting street(s).
- Show parking and location of dumpster.
- Include aisle widths, typical parking stall dimensions, angle of parking proposed, bumper blocks, if required, and landscaped island dimensions including sq.ft. of each.
- Show location and identify common name of trees to be planted in landscaped islands-include tree size, i.e. small, medium, large.
- Indicate proposed and existing areas of pavement, curb, gravel and/or green space with corresponding square footages indicated; Include table showing existing impervious, proposed impervious, and net impervious on the site plan.
- Show loading areas. Include location of overhead doors and loading patterns for size of loading vehicles expected.
- Show location, type, and size of existing and proposed signs including dimensions to lot lines from the edge of sign.
- Show location, type, and height of existing and proposed fences including dimensions to lot lines from the edge of fence.
- Indicate height of all existing/proposed structures measured from ground level to peak of roof.
- For apartments, indicate number of bedrooms per unit and number of units per building.
- Indicate square footage per floor and number of stories in the proposed structure.
- Show size and location of existing or proposed sanitary sewers, storm sewers, water mains, septic systems, and/or wells.
- Show the flood protection grade (FPG) if the property is located within a floodplain.

EXAMPLE "C"

COMMERCIAL SITE PLAN



SITE PLAN DETAILS:
2550 Fastlane Drive
Evansville, IN 47708
Lot 3
Big Commercial Subdivision

1st Floor Area Footage (Single Story)
Total Footprint Coverage = 3900 Sq. Ft.

OWNER / BUILDER / CONTRACTOR
Prepared By: John Q. Builder
450 Easley Street
Evansville, IN 47708
812.435.1234

Date: May 16, 2014

BOARD OF ZONING APPEALS RULES OF PROCEDURE

The Board of Zoning Appeals of Evansville-Vanderburgh County ("Board") is established by the Evansville Zoning Code and the Vanderburgh County Zoning Code (collectively, the "Zoning Code"). The appointment and terms of members shall be in accordance with I.C. 36-7-4-900 et. seq.

The following rules are adopted in accordance with I.C. 36-7-4-916. If anything in these rules conflicts with the Zoning Code, the latter shall prevail.

ARTICLE I.

Meetings

1. Regular meetings of the Board shall be held on the 3rd Thursday of each month at 3:00 p.m. in the Civic Center, Room 301 unless another date, time or place is published.
2. Special meetings may be held upon call of the Chairman, written request by two members, or as determined at a regular meeting. All members shall be notified of the time and place of a special meeting.
3. A majority of members of the Board shall constitute a quorum. No action, however, is official unless authorized by a majority of members of the Board at a regular or properly called special meeting.
4. All meetings shall be open to the public.
5. The Board shall keep minutes of its proceedings showing the vote of each member on every question, or if absent or failing to vote, so indicating. The Board shall keep records of all other official action, and records shall be filed in the office of the Board and shall be a public record.

ARTICLE II.

Ethics

1. No member of the Board shall participate in the hearing or decision upon any zoning matter in which he is directly or indirectly interested in a financial sense. In the event of such disqualification, such fact shall be entered on the records.
2. A person may not communicate with any member of the Board before the hearing with the intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing, however, the staff of the Evansville-Vanderburgh County Area Plan Commission ("Area Plan Commission") may file with the Board a written statement setting forth any facts or opinions relating to the **matter**.

ARTICLE III.

Officers and Employees

1. The Board shall, at its first regular meeting in each year, elect from its members a Chairman and a Vice Chairman. The Vice Chairman shall serve in the absence or disability of the Chairman. In the absence or disability of the Chairman and Vice Chairman at any duly convened meeting, a majority of the remaining members present shall designate a member to serve as Chairman at that meeting.
2. The Board may appoint and prescribe the duties of a Secretary or such employees as are necessary for the discharge of its duties.

ARTICLE IV.

Powers and Duties

The Board shall have the following powers and it shall be its duty to:

1. Hear and determine appeals from and review:
 - A. Any order, requirement, decision or determination made by an administrative official or staff member under the Zoning Code.
 - B. Any order, requirement, decision or determination made by an administrative board or other body except the Area Plan Commission in relation to the Zoning Code.
 - C. Any order, requirement, decision or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement or any ordinance requiring the procurement of an improvement location permit or occupancy permit.
2. Hear and decide all special uses that are filed for public hearing.
3. Hear and decide all variances to the terms of the Zoning Code upon which the Board is required to act.

ARTICLE V.

Docket

1. Each case to be publicly heard before the Board shall be filed in proper form with the required data and within the time as prescribed by the instructions furnished to the applicant. The case will then be serially numbered and placed on the docket of the Board. Docket numbers shall include the year and shall begin anew on January 1 of each year.
2. When a case receives a docket number, it shall be placed on the agenda for hearing.

ARTICLE VI.

Notice of Public Hearing

1. In accordance with I.C. 36-7-4-919 and 36-7-4-920 and the Zoning Code, public hearings shall be held on all administrative appeals and applications for special uses and variances.
2. A legal notice of public hearing shall be prepared by the Board and advertised in a newspaper of general circulation in the County not less than ten (10) days prior to the date of the hearing. The Appellant or Petitioner shall assume the cost of said notice.
3. The Appellant or Petitioner shall also serve notice to owners of property abutting the affected area by certified mail, return receipt requested, not less than twelve (12) days prior to the date of the hearing advising the location and nature of the subject appealed or petitioned, and the date, place and time of the public hearing.
4. The Appellant or Petitioner shall then provide the Board with a complete list of the above mentioned owners, together with their last known address, proof of service and a copy of the letter of notification.

ARTICLE VII.

Conduct of Hearings

1. General

- A. At a public hearing before the Board, the Appellant or Petitioner shall present all necessary relevant information in support of the petition, and the Appellant or Petitioner shall have the burden of proof.
- B. Comments from the staff of the Area Plan Commission and any governmental organization or agency may then follow.
- C. Comments from those in opposition to the petition shall then be heard.
- D. The Appellant or Petitioner shall receive reasonable time for rebuttal.
- E. To maintain orderly procedure, a person making a presentation shall proceed with the presentation without interruption by another party to the proceeding; however, comments and questions from the Board may be interjected at any time during any presentation for clarification of the subject matter.
- F. Upon completion of testimony at any hearing provided by these rules, the Board shall either rule on the petition or take the matter under advisement and continue the matter to a subsequent date for ruling.
- G. Every person appearing before the Board shall abide by the orders and directions of the Chairman. The Chairman shall have the discretion to impose time limits on any presentation.
- H. Discourtesy, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Board directs.

2. Continuance

- A. The Board may, at its discretion, continue the hearing when, in its judgment, there has not been provided sufficient evidence on which to make a determination.
- B. The Board also may continue the hearing when the Petitioner proposes a change in the relief requested in the petition, which change, if granted, would constitute or allow a different special use or a greater variance or relaxation of the requirements of the Zoning Code.
- C. If the hearing is continued or postponed under paragraph B of this subsection, the Petitioner shall readvertise and serve new notices on abutting property owners in the manner provided in Article VI of these Rules.
- D. Readvertisement cost shall be paid by the Petitioner.

ARTICLE VIII.

Variance

1. A person requesting a variance must submit an application to the Board of Zoning Appeals at the Area Plan Commission office. The application must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Variance Application.
2. After a public hearing on the variance, the Board shall act on the petition.
3. No variance may be granted except on a finding of all the following factors:
 - A. The approval will not be injurious to the public health, safety, morals and general welfare of the community.
 - B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
 - C. The strict application of the terms of the Zoning Code will result in practical difficulties in the use of the property.
 - D. The variance is not a variance of the use of the property.
 - E. The Petitioner's property is not located in a Planned Unit Development.
 - F. The need for the variance is not created by the Petitioner and arises from some condition peculiar to the property involved.
4. The Board may not grant a variance from the use district or classification. The granting of a variance is by resolution of the Board.

ARTICLE IX.

Appeals

1. An appeal filed with the Board must specify the grounds of the appeal and must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Filing an Appeal.
2. The administrative official, administrative board, or other body from whom the appeal is taken shall, on the request of the Board, transmit to it all documents, plans, and papers constituting the record of the action from which an appeal was taken.
3. Upon appeal, after a public hearing, the Board may reverse, affirm, or modify the order, requirement, decision or determination appealed. For this purpose, the Board has all the powers of the official, officer, board or body from which the appeal was taken.
4. Within five working days after its decision is made, the Board shall file in the office of the Board a copy of its decision.

ARTICLE X.

SPECIAL USES

1. Certain uses are necessary to the life and economic health of the community, but have characteristics of operation that do not readily permit classification in the usual residential, commercial or industrial districts.
 - A. Because of the various types of uses and locations requiring this special consideration, the specific conditions under which each use may be permitted must be considered.
 - B. These uses are specifically listed in Section 153.134 of the Zoning Code.
 - C. Conditions for the approval of a special use are enumerated in Section 153.132 of the Zoning Code.
2. Special uses are secondary classifications.
 - A. If a special use is approved by the Board, the special use designation shall be placed on the zoning map in addition to its primary zoning classification.
3. Filing
 - A. A person desiring a special use classification must submit an application to the Board at the Area Plan Commission office. The application must be filed within such time and in such form as prescribed by the office of the Area Plan Commission in the document Instructions for Filing an Application for a Special Use.
4. After a public hearing, the Board shall make its determination for approval, denial or modification of the special use classification based on the following criteria:
 - A. Whether the specific site is an appropriate location for the use.
 - B. Whether the use as developed will adversely affect the surrounding area.
 - C. Whether there will be a nuisance or serious hazard to vehicles, pedestrians or residents.
 - D. Whether adequate and appropriate facilities will be provided for proper operation of the use.
 - E. Whether the use is in harmony with the Evansville and Vanderburgh County Comprehensive Plan.
 - F. Whether the use is essential or desirable to the public convenience and welfare.
5. The Board's approval or modification of a special use classification may include whatever reasonable conditions, limitations or temporary uses necessary for the protection of the public interest, including but not limited to the following:
 - A. Greater front, side and rear yards than the minimum for the area.
 - B. More off-street parking and screening.
 - C. Modification of exterior design or materials.
 - D. Limitations on the lot coverage and occupancy of the building or structure.
 - E. Limitations on signs and sign coverage.
 - F. Time limitations.

6. To protect the public interest and to ensure compliance with requirements to be included in the site plan, the Board may require whatever evidence and guarantees are necessary to assure compliance with conditions, limitations and temporary uses.

ARTICLE XI.

Time Limitation

1. The denial of a petition for a variance, special use or an appeal by the Board or the withdrawal of such a petition by the Petitioner shall prohibit the Board from hearing a petition for a variance, special use, or an appeal for the subject property or a part thereof for 12 months from the date of denial or withdrawal.
2. An exception may be made to Article XI(1) above upon a unanimous vote of all members of the Board present and voting, and sufficient to constitute a quorum, at the time the matter is brought to be heard.

ARTICLE XII.

Final Disposition of Cases

1. All decisions of the Board on matters heard in public hearing shall be made by recorded vote. The vote of each member shall be a matter of permanent record.
2. The Board shall in all cases heard by it, make written findings of fact which, when approved by the Board, shall be filed in the offices of the Board to be made available for public inspection.
3. Every decision of the Board shall be subject to exclusive review by certiorari under I.C. 36-7-4-1002 et seq.

ARTICLE XIII.

Amendments

Amendments to these Rules of Procedure may be made by the Board at any regular meeting upon the affirmative vote of a majority of the members. The suspension of any Rule of Procedure may be ordered at any meeting by unanimous vote of those present.