



# Zoning Variation Information

## Zoning Board of Appeals

### Lake County Planning, Building and Development Department

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Website: <http://lakecountyil.gov/185/planning-building-development>

## **Introduction**

The information contained in this package is provided to help you become familiar with the various requirements that must be met before your variation application can be accepted. This information will also prepare you to provide testimony and address any questions that might be raised at the Zoning Board of Appeals (ZBA) public hearing.

Illinois Compiled Statutes, Chapter 55, Section 5/5-12001 et. seq. contains statutory provisions relating to zoning. Chapter 151: Unified Development Ordinance of the Lake County Code (UDO) has been adopted pursuant to these provisions.

Once your application is deemed full and complete and accepted by staff, the entire variation process takes approximately six to eight weeks. Careful and proper preparation of your application is essential to obtaining a variation and, in the long run, you will save considerable time and expense for both yourself and the County.

If you should have any questions, please feel free to call the Lake County Department of Planning, Building and Development at (847) 377-2600. If you wish to visit the office to discuss your application, please call ahead for an appointment.

## **Before Filing the Application**

You are required to meet with the staff of the Planning, Building and Development Department for an Early Assistance (EA) meeting before preparing your variation application. EA meetings are an opportunity for you and any other concerned parties to meet with Lake County Staff to discuss details of your project, identify any potential issues or limitations, and assist you with understanding the Lake County Code requirements that will need to be met specific to the proposal. The meeting will be coordinated by a project manager who will ensure all applicable Lake County departments are present to evaluate your proposal, as it relates to county regulations.

Prior to scheduling the EA meeting, you will need to submit a written narrative outlining the details of your proposed use, a concept sketch or diagram that shows the layout of the site and operation, and an EA meeting fee which will be credited towards future permit application fees. Meeting notes will be provided to you. Request an EA Meeting by contacting a project manager at 847-377-2600.

Also, before filing your application, you should discuss the proposal with all adjacent property owners. The staff of the Planning, Building and Development Department will notify all these neighbors of the public hearing.

## Filing the Application

**The following documents, information, and the correct filing fee must be submitted in proper form before your application will be accepted for processing. Ten (10) copies of the complete application and supporting documents must be submitted.**

- **The Application:** The application must be prepared in essentially the same format as the attached sample application. The application must address how each requested variation meets the applicable standards contained in the Lake County Code.
- **The Applicants:** All the fee owners of the subject property must be the applicants. If the property is subject to a contract to purchase, the contract purchaser shall also join as an applicant. Likewise, if the property is owned or to be purchased by a land trust, the trustee shall be an applicant. See the "Ownership Disclosure" section of the Lake County Code (151.045(B)) for further information.
- **Disclosure:** Whenever applicable, the following disclosures must be made:

When the applicant is a land trust or trustee of a land trust, the application shall identify each beneficiary of such land trust by name and address and define each beneficiary's interest therein. All applications shall be verified by the applicant in his or her capacity as trustee.

When the applicant is a corporation, the applicant shall include the correct names, addresses and percent interest of all officers, directors and shareholders owning more than 20 percent 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.

- **Deed and Purchase Contract:** A copy of the deed to the subject property (available from the Lake County Recorder of Deeds located in the Lake County Administration Building) is required in all cases. If the property is subject to a purchase contract, a copy of the contract must also be submitted (however, the purchase price may be redacted or deleted).
- **Authorized Representative:** If the applicant(s) cannot attend the hearing, an authorized representative must be designated to act on behalf of the applicant(s).

- **Maps/Plans:** Certain information must be graphically shown on maps which accompany your application. The applicant is responsible for submitting an accurate maps/site plan for the hearing. If the variance is granted, the final design and construction of the structure on-site must not deviate further than what is granted at the hearing, even if there are errors on the site plan. The following information should be shown on these maps:
  - ✓ The parcel for which the variation is requested (a plat of survey is preferred, if one is available).
  - ✓ The dimensions and acreage (or square footage) of the subject parcel.
  - ✓ The location of all improvements, if any, on the subject property and the distances from these improvements to all property lines.
  - ✓ All existing uses (e.g. “house”, “pastureland”, “gas station”, etc.; not to be confused with zoning districts) on all adjacent properties.
  - ✓ Note approximate locations of the natural resources such as steep slopes, woodlands, floodplain, etc. (as defined by the UDO) present on the property.
  
- **Court Reporter Agreement:** The services of a court reporter are required to transcribe the proceedings of the hearing for all major variations. You will be responsible for all expenses associated with the court reporter which includes providing a transcript to the ZBA. You will be billed separately and directly by the court reporter service provider.
  
- **Application Fee:** The application fee is to be paid at the time of filing the application. Checks must be payable to the “Treasurer of Lake County”. See the attached Zoning [Fee Schedule](#) for the proper amount. No portion of this fee may be refunded once a public meeting or hearing has been held. In addition to the application fee, you will be billed separately for the actual cost of publishing a legal notice of the hearing in a newspaper and the cost of a court reporter to transcribe the hearing.

**THE FOLLOWING DOCUMENTS MUST BE SUBMITTED WITH THE PETITION. TEN (10) COPIES OF THE COMPLETE PETITION AND SUPPORTING DOCUMENTS MUST BE SUBMITTED.**

- ✓ COPY OF DEED
- ✓ COURT REPORTER AGREEMENT
- ✓ COPY OF PURCHASE CONTRACT (if applicable)
- ✓ DISCLOSURE STATEMENT (if applicable)
- ✓ PROPERTY SURVEY AND/OR SITE PLAN
- ✓ FILING FEE
  - ✓ Cost of publishing a legal notice will be paid by applicant in addition to fee.
  - ✓ The cost of a Court Reporter shall be paid by Applicant and one copy of transcript provided to the County ZBA.

## **The Legal Notice**

Notice of the hearing shall be published in a newspaper of general circulation in the township in which the subject property is located at least fifteen days prior to the date of the hearing. The Lake County, Illinois, Code of Ordinances requires the newspaper notice contain, at a minimum, the following information:

- 1) The date, time, and place of the public hearing or date of action that is the subject of the notice;
- 2) A description of the property involved in the application by street address and, if required, by legal description or Property Index Number (PIN);
- 3) A description of the nature, scope, and purpose of the application; and
- 4) Contact information on where additional information on the matter can be obtained.

Additionally, Illinois state statute requires the following information also be included in the legal notice:

- 1) whether or not the petitioner/applicant is acting for himself or in the capacity of agent, alter ego, or representative of a principal, and stating the name and address of the actual and true principal;
- 2) whether the petitioner/applicant is a corporation, and if a corporation, the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of 20% of all outstanding stock of such corporation;
- 3) whether the petitioner/applicant, or his principal if other than applicant, is a business or entity doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity; and/or
- 4) whether the petitioner or applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, and if so, the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association.

## **The Public Hearing**

The public hearing is generally held approximately six to eight weeks after an application is filed. The time and place of the hearing is scheduled by the ZBA. The public hearing is generally held on the second or fourth Thursday of the month at 9:00 a.m. at the Lake County Central Permit Facility, 500 W. Winchester Road, Libertyville, IL. Up to three variation cases may be held on the same morning.

The monthly hearing calendar is finalized no later than the 25<sup>th</sup> of each month. Applications must be received on or before this date in order to be scheduled for the following month.

It is the sole responsibility of the applicant to prepare and present the case to the ZBA and to answer any questions that may be asked by the Board or other attendees at the hearing. The hearing is conducted in an adversarial format and the "Procedure of Public Hearing" document below outlines the procedure followed by the ZBA.

The following information is often presented by the applicants at public hearings. This list is advisory only and certain items may not be applicable in every given case. However, if the ZBA feels that certain information is essential, it may require that such information be submitted prior to arriving at a decision on the case. These recommended items are:

- ✓ Copies of any and all contracts, leases, deeds, trust agreements, title reports, etc., which in any way affect the ownership or use of the subject property.
- ✓ Copies of any and all covenants, deed restrictions, easements, etc. which in any way affect the subject property.
- ✓ A plat of survey of the subject property if one is available.
- ✓ A copy of any proposed plat of subdivision and/or topographic maps which have been prepared for the subject property.
- ✓ A map of the parcel showing the location of all significant mature vegetation, drainage patterns, floodplain boundaries and other significant natural features.
- ✓ Photos or an architectural drawing of a typical or a proposed building(s) to be constructed on the parcel.

The variation application may be dismissed or denied if the applicant (or his designee) fails to appear within 30 minutes of the scheduled hearing time.

### **Minor Variations**

In the case of a request for a Minor Variation, the Chair of the ZBA, alone, may conduct the public hearing and make a final decision. The services of a court reporter are not required.

A Minor Variation is any variation that modifies by 20% or less any numeric standard of the Ordinance, except those of Lake County Code Subchapter: Site Capacity, Site Plan Review, and Natural Resource Protection (151.070 et seq), and Lake County Code Subchapter: Site Development Regulations (151.145 et seq.) (Any request to modify a numeric standard by 10% or less may qualify as an Administrative Variation. A separate information package is available for Administrative Variations.)

**LAKE COUNTY ZONING BOARD OF APPEALS  
PROCEDURE OF PUBLIC HEARING**

1. **CALL MEETING TO ORDER.**
2. **ROLL CALL AND DETERMINATION OF QUORUM.**
3. **PLEDGE OF ALLEGIANCE** (if flag is present).
4. **PRELIMINARIES BY CHAIRMAN:** State purpose of hearing, acknowledge publication and posting of the property, oath to those who are to testify; explain procedure to be followed for the remainder of the hearing.
5. **COMMENTS RECEIVED FROM THE COUNTY DEPARTMENTS ARE ACKNOWLEDGED.**
6. **PRESENTATION OF EVIDENCE BY THE PETITIONER OR DESIGNATED REPRESENTATIVES.**
  - Opening statement.
  - Testimony by the petitioner's witnesses.
  - Questioning of each witness by the Members of the Zoning Board of Appeals.
  - Questioning of each witness by any person attending this hearing.

**(NOTE: This is an opportunity only to question the witnesses, not to make statements or offer personal testimony)**

  - Close of petitioner's evidence.
7. **PRESENTATION OF EVIDENCE BY THE OBJECTORS OR THEIR REPRESENTATIVES.**
  - Opening statement.
  - Testimony by the objector's witnesses.
  - Questioning of each witness by the Members of the Zoning Board.
  - Questioning of each witness by any person attending this hearing.

**(NOTE: This is an opportunity only to question the witnesses, not to make statements or offer personal testimony)**

  - Close of objector's evidence.
8. **PRESENTATION OF STATEMENTS BY ANY PERSON ATTENDING THE HEARING.**
9. **CLOSING STATEMENT BY THE PETITIONER OR DESIGNATED REPRESENTATIVE, IF DESIRED.**
10. **CLOSING OF TESTIMONY.**
11. **STATEMENT BY THE CHAIRMAN AS TO THE RIGHTS OF OBJECTORS AND INSTRUCTIONS FOR FILING OBJECTIONS (if applicable).**
12. **ZONING BOARD OF APPEALS RECOMMENDATION.**
13. **ADJOURNMENT**

## Variation Approval Standards

The “Written Interpretations” section of the Lake County Code (151.057) contains three variation approval criteria which must be met to obtain a variation. Review these criteria and individually address them in your application. Also, be prepared to address these criteria in providing testimony at the public hearing. These criteria are:

### **1. Exceptional conditions peculiar to the applicant’s property.**

(Describe any unusual or unique physical limitation of the property such as steep slopes or wetlands that are not generally shared by other properties and which prevent compliance with ordinance requirements. The personal circumstances of an applicant (growing family, desire for a larger garage, etc.) are not a factor in deciding variations. Likewise, nearby ordinance violations, prior variations or lack of neighbor objections do not provide a basis for granting a variation).

### **2. Practical difficulties or particular hardships in carrying out the strict letter of the regulation.**

(An applicant may not claim a hardship because of conditions which are self-created or created by a prior owner (for example, excavating a pond on a vacant lot and then claiming there is no suitable location for a house). Also, economic or financial hardship does not justify a variation; the difficulty or hardship must result from the application of ordinance requirements to the property and it must be suffered directly by the owner of the property).

### **3. Harmony with the general purpose and intent of the zoning regulations.**

(No variation may be approved that is not consistent with the general purpose and intent of the zoning regulations or which results in any harm to public interests. In applying this test, the Zoning Board must consider the potential impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public.)

### **Additional Criteria related to Development in the Floodplain:**

If the requested variation(s) affects floodplain lands or any floodplain regulation of the Lake County Code, the following standards must also be met:

1. A finding that the granting of a variance would not result in increased flood heights, additional threats to public safety or extraordinary public expense, nor create nuisances, cause fraud or victimization of the public, nor conflict with existing local laws or ordinances and that all buildings will be protected by methods that minimize flood damage during the base flood event;
2. A finding that the development activity cannot be located outside the floodplain; and
3. A finding that the development activity is not in a regulatory floodway.

In these cases, Federal law requires that the applicant has been notified of the following and assumes all risks and liabilities therefore:

1. The issuance of a variance to construct a structure below the flood base elevation will result in increased premium rates for flood insurance; and
2. Such construction below the flood base elevation increases risks to life and property.

In providing testimony at the public hearing, you and/or your witnesses should be prepared to address all the above standards.

### **After the Public Hearing**

Once the public hearing is concluded, the ZBA may make its decision on the day of the hearing after the closing of the testimony or the ZBA may take your application under advisement and then make a decision at its monthly review meeting which is held on the first Thursday of each month. The review meetings are open to the public, however if the testimony has been closed, no additional evidence or testimony is accepted unless such was specifically requested at the public hearing and is filed with the ZBA before the review meeting. A fee will be assessed for any continuance beyond the first Review Meeting which is caused by the failure of the applicant to produce information previously requested by the Board, or any additional continuance requested by the applicant. Any continuation that requires re-notification of the public will be assessed a fee.

A concurring vote of four of the seven members of the ZBA is required in order to approve a variation. A minor variation may be decided solely by the Chair of the ZBA. In either case this decision is final.

**Again, the entire process generally takes from six weeks to eight weeks to complete from the date the application is filed.**

LAKE COUNTY ZONING BOARD OF APPEALS

VARIATION APPLICATION

Owner(s): \_\_\_\_\_

Applicant(s): \_\_\_\_\_  
(if other than owner)

Subject Property: Present Zoning: \_\_\_\_\_  
 Present Use: \_\_\_\_\_  
 Proposed Use: \_\_\_\_\_  
 PIN(s): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Legal description: \_\_\_\_\_  
 (\_\_\_ see deed)

The following variation(s) are requested:

- 1. \_\_\_\_\_  
\_\_\_\_\_
- 2. \_\_\_\_\_  
\_\_\_\_\_
- 3. \_\_\_\_\_  
\_\_\_\_\_
- 4. \_\_\_\_\_

Explain why this variation(s) is necessary:

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

## Approval Criteria

The Lake County Zoning Board of Appeals is required to make findings of fact on your request. You should “make your case” by explaining specifically how your proposed request relates to each of the three criteria below. (Please refer to pages 8-9 of this packet for more information on how to address these criteria).

1. Exceptional conditions peculiar to the applicant’s property:

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2. Practical difficulties or particular hardship in carrying out the strict letter of the regulation:

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3. Harmony with the general purpose and intent of the zoning regulations:

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**COURT REPORTER AGREEMENT**

**CHECK ONE OF THE FOLLOWING:**

- I authorize the County to act on my behalf to retain a Certified Shorthand Reporter to transcribe the public hearing and provide a transcript to the Zoning Board of Appeals. I further agree to pay the Reporter reasonable fees for his/her services. If I do not pay the Reporter and the County is invoiced and pays the Reporter, I agree to reimburse the County. If the County sues to obtain reimbursement, I agree to pay the County its reasonable attorney's fees in bringing suit and obtaining a judgment.
  
- I will furnish a Certified Shorthand Reporter to transcribe the public hearing and provide a transcript to the Zoning Board of Appeals. I realize that the failure to do so may result in the continuation of the public hearing in which case I agree to reimburse the County for all additional expenses caused by such continuation.

\_\_\_\_\_  
Signature

**Billing Contact Information:**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Email

\_\_\_\_\_  
Phone Number

**THIS SIGNED AGREEMENT MUST ACCOMPANY YOUR APPLICATION**