



Board of Zoning Appeals, City of Dayton, Ohio Use Variance Application

Complete this form online by typing within the highlighted fields or print and fill out manually. Make sure to add the required signature(s) in blue or black ink and have the application notarized. If you have questions regarding the application or would like to schedule an application interview please call (937) 333-3670. Return the application with the required fee and attachments.

City of Dayton
Department of Planning & Community Development
c/o Board of Zoning Appeals (6th Floor)
101 West Third Street
Dayton, Ohio 45402

An application for a **Use Variance** from the provisions of the City of Dayton Zoning Ordinance for premises or structure(s) located at:

_____ (Street Address)

_____ (City Lot Number(s)) in a _____ (Zoning District)

Proposed Use:

1. Variance sought is:

2. Variance is needed before I can: (Describe activity that requires variance)

Dayton Board of Zoning Appeals

Application Instructions

Use Variances by the Board of Zoning Appeals, Section 150.120.10(D)(2)(a)(i-v), R.C.G.O.

(D)(2) Use Variances. In order to grant use variances, the BZA shall determine that strict compliance with the terms of the Code will result in an unnecessary hardship to the applicant. The applicant must demonstrate such a hardship by clear and convincing evidence that all of the criteria in Sub-section (a) are satisfied. The applicant may further demonstrate hardship by the use of the criteria in Sub-section (b).

(a) The applicant shall demonstrate hardship with the following:

- (i) The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;

- (ii) The granting of the variance will not have any material adverse affect on the rights of adjacent property owners or residents;

- (iii) The granting of the variance will not have any material adverse affect on the public health, safety or general welfare;

- (iv) The variance will be consistent with the general spirit and intent of the Zoning Code; and

- (v) The variance sought is the minimum that will afford relief to the applicant.

(b) The applicant may submit evidence and the BZA may also consider:

- (i) Whether the property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located; and

- (ii) Whether, and the extent to which (if applicable), the hardship condition is not created by the actions of the applicant.

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Applicant

Name _____

Address _____

City _____ State _____ Zipcode _____

Phone _____ E-Mail _____

Signature _____

Print Name _____

Owner

Name _____

Address _____

City _____ State _____ Zipcode _____

Phone _____ E-Mail _____

Signature _____

Print Name _____

The applicant is _____ of the property which is subject to this application.
(Interest of Applicant)

I hereby depose and say that the above statements and the statements contained in all exhibits transmitted herewith are true.

Print Name

Applicant's Signature

Subscribed and sworn before me this ____ day of _____, 20 _____

My commission expires on _____, 20 _____

Notary Public _____

Required Attachment(s):

Site Plan/ Floor Plan(s)/ Exhibits (8.5" x 11" or digital JPEG/ PDF)

Zoning Refusal, Notice of Violation, or Landmark Denial

Vicinity Map

Property Owner's List

Mailing Labels (Avery 5160)

(Revised 10/2013 A. Free)

Dayton Board of Zoning Appeals

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When properly completed, this form and required attachments meet most of the variance requirements for the City of Dayton Zoning Ordinance. This application should only be completed after receiving a written Zoning Administration Refusal, Legal Notice of Violation, or City Landmarks Commission denial, and information contained within these is necessary to complete the application correctly.

Filing Procedure

An application for a variance must be filed with the Department of Planning & Community Development, c/o Dayton Board of Zoning Appeals (6th Floor), Dayton City Hall, 101 W. Third Street, Dayton, OH 45402, (937) 333-3670. Applications are scheduled for hearings based on application deadlines. See the BZA hearing schedule and application deadlines at <http://cityofdayton.org/departments/pcd/Documents/Applications/BZAApplicationDeadlines.pdf>

The application shall be typewritten, printed legibly in blue or black ink, or filled out online using Adobe Reader software. Applications which are not complete or legible will be returned to the applicant, and will not be scheduled for public hearing until complete. Incomplete applications shall be a basis for denial.

Required Contents of Application

All materials submitted as part of this application and presented at the public hearing must be retained as part of the public record and cannot be returned. Applicants are encouraged to keep a copy of all items for their own records.

At a minimum the application must contain the following:

1. One (1) notarized copy of the appropriate completed BZA Application.
2. One (1) copy of the site plan, floor plan(s), and other exhibits at 8.5" x 11" size. A digital copy in JPEG or PDF format may also be submitted in lieu of paper copies.
3. One (1) copy of the vicinity map showing all properties within 250 feet of the subject property at 8.5" x 11" size. See next page for instructions.
4. One (1) copy of the Property Owner's List containing the names and addresses of the property owners within 250 feet of the subject property. See next page for instructions.
5. One (1) set of mailing labels (Avery 5160 or equivalent) with the names and addresses of the property owners within 250 feet of the subject property. See next page for instructions.
6. One (1) copy of the Zoning Administration Refusal, Legal Notice of Violation, or City Landmarks Commission denial.
7. Filing Fee (per Ordinance 30712-08, Revised February 7, 2008):

Conditional Use	\$250.00
Bulk/ Area Variance	\$200.00
Use Variance	\$200.00
Appeal	\$100.00

Dayton Board of Zoning Appeals

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1. Application Form

The Applicant's notarized signature is required on BZA Applications. The Department of Planning & Community Development can notarize the signature at not cost, if needed. All of the blanks (unless marked optional) must be completed. Explanations may be continued on additional sheets of paper if the space provided is insufficient.

2. Site Plan, Floor Plan(s), and Other Exhibits

Site and Floor Plan(s) must include the location and dimensions of existing and proposed buildings, structures, vehicular access, off-street parking lots (including spaces), signs, property lines, and other exhibits required per Section 150.115.6. Attach to application in 8.5" x 11" size or include a digital copy in JPEG or PDF format. All plans and exhibits submitted with the application must be the same information as reviewed by the Zoning Administrator. If any changes are made, it must first be reviewed by the Zoning Administrator again before filing an application.

3. Vicinity Map

A Vicinity Map can be obtained by visiting the Montgomery County, Ohio Auditor's website at www.mcrealestate.org. Conduct a **Property Search** using the subject property address. **View the Property Details** then select the **Maps** option. When the map is fully loaded, use the **Binoculars** tool and select **Buffer 250 Foot** from the list. Place a point on the map as a reference for the 250 foot buffer; Choose the subject property from the map (parcel should already be highlighted). Once the buffer is complete, all properties within 250 feet will be highlighted (rights-of-way may also be highlighted).

Print Results using the Printer icon within the Results window; **Save As or Open** as an Excel file containing the property owner information. Minimize the Excel file to use later for the Property Owner's List/ Mailing Labels. **Zoom to Results** with the **Magnifying Glass** icon in the Results window, the **Collapse** the Results window. Using your web browser, **Print** the Vicinity Map with **Landscape** orientation and attach to the application.

4. Property Owner's List & Mailing Labels

Cut and paste the property owner information from the original Excel file to a new file using the column fields **MName1, Address1, & Address3**. If information is missing, consult additional columns in the original Excel file. Select the column headings (Mname1, Address1, & Address 3) and **Filter** (in top menu bar) **MName1** and **Sort A to Z**, then scroll through the list and delete duplicate entries. **Save** the new Excel file for use later.

A Property Owner's List & Mailing Labels can be created in Microsoft Word using the new Excel file you created. Under the **Mailings** tab in Microsoft Word choose **Start Mail Merge** and select **Step by Step Mail Merge Wizard** from the drop-down menu. Refer to the Mail Merge menu (right side of screen) to complete the steps.

Step 1: Choose **Labels** as Document Type and click Next at the bottom of the menu.

Step 2: Select **Label Options**; Choose Avery US Letter as the Label Vendor and 5160 as the Product Number.

Step 3: Select **Recipients (Browse)** and choose the new Excel file you created.

Step 4: Arrange **Recipients (Address Block)** and **Match Fields** (First Name - MName1, Address 1 - Address1, City - Address3) to assure labels populate correctly; **Update Labels**.

Step 5: **Preview Labels** to make sure addresses field are correct. **Complete the Merge**.

Step 6: **Edit Individual Labels** to check for accuracy. **Save and Print** as the Property Owner's List using plain paper. **Print** as Mailing Labels on an Avery 5160 label sheet. Attach Property Owner's List and Mailing Labels to the application.

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150.120.9 Use Variances by the Board of Zoning Appeals

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- (ii) Whether, and the extent to which (if applicable), the hardship condition is not created by the actions of the applicant.

Public Hearing Procedure

An application for an appeal, variance, or conditional use shall be filed on the proper form and the application fee paid, and shall be scheduled for the Board of Zoning Appeals public hearing within sixty (60) days, unless the applicant agrees to a later date. Appeals shall be filed by written notice to the Secretary of the Board of Zoning Appeals within thirty (30) days and shall specify the grounds for such appeal. Written notice for hearings of the Board of Zoning Appeals shall be sent at least fourteen (14) days prior to the hearing by first class mail to the owners of property within 250 feet of the applicant's property and shall state the time, place, date, and subject of the hearing. Applicants, or their representatives, are expected to be present at the hearing. If a public hearing is recessed and is announced at the time of adjournment, the continued hearing shall not require further notice.

The order of the public hearing is generally as follows:

- | | |
|--|---|
| 1. Planning staff report presentation | 4. Comments from public in opposition to variance |
| 2. Applicant's presentation | 5. Rebuttal and summaries |
| 3. Comments from public in favor of variance | 6. Closure of public hearing |

The Board may propose a decision on the application following the hearing. However, any action taken at this time is unofficial until the minutes of the hearing are approved, and written decision order is signed and issued by the Secretary of the Board. The applicant will receive the original copy of the final decision order within fourteen (14) days.

The Zoning Administrator is not able to issue any permits until the decision order is issued. A decision of the City of Dayton Board of Zoning Appeals is final. Decisions cannot be appealed to the Dayton City Commission.

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Example: Vicinity Map

Example: Property Owners List/
Mailing Labels (Avery 5160)