Part 2: Board of Zoning Appeals Basics
by KK Gerhart-Fritz, AICP

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www.indianaplanning.org/citizen.htm

This booklet is one in a series of publications of the Indiana Planning Association to be used as training
materials for citizen planners: plan commission members, board of zoning appeals members,
neighborhood organizations, and citizen committees. These materials are intended to supplement
publications such as Planning Made Easy and The Citizen’s Guide to Planning. IPA’s materials contain
information specific to Indiana. Users of these guides are strongly encouraged to read other, more
general books on planning and zoning.

The information contained in this booklet is intended for informational purposes only
and is not to be considered legal advice.
In this Part . . .

- What is the Board of Zoning Appeals?
- What are the duties of the Board of Zoning Appeals?
  - Variances of Use and Developmental Standards Variances
  - Special Exceptions/Conditional Uses
  - Appeals from Administrative Decisions
- The Decision-Making Process
- Preparing Findings of Fact
- Taking Action
- Appeals
- Reducing the BZA’s Workload

Test your Knowledge of the BZA:

The Board of Zoning Appeals is a quasi-judicial body, meaning:

a) they have to wear long black robes at the meetings
b) the board’s actions are similar to those conducted by courts
c) every new member gets a gavel, and they can fix traffic tickets

The answer is “b”, because quasi-judicial refers to the actions of an agency, board or other government entity in which there are hearings, orders, judgments or other activities similar to those conducted by courts.

What is the Board of Zoning Appeals (also referred to as the board or BZA)?

Structure

According to IC 36-7-4-901, the board of zoning appeals is composed of one (1) division, unless the zoning ordinance is amended to establish an additional one (1), two (2), or three (3) divisions. The board of zoning appeals shall be either an advisory board of zoning appeals (under the advisory planning law), an area board of zoning appeals (under the area planning law), or a metropolitan board of zoning appeals (under the metropolitan development law).
A board of zoning appeals has territorial jurisdiction over all the land subject to the zoning ordinance. If the board has more than one (1) division, all divisions have concurrent jurisdiction within that territory, except that a division of an advisory or area board of zoning appeals, may have only limited territorial jurisdiction (such as a historic district). The zoning ordinance must describe the limits of that division’s territorial jurisdiction and specify whether that division has exclusive or concurrent jurisdiction within that territory. Refer to the above section of Indiana Code for more information regarding communities with metropolitan plan commissions.

**Membership**

Area, advisory and metro BZAs are to have five members, except that an area BZA established under the area planning law as a seven- (7) member board continues until otherwise provided by the zoning ordinance. See IC 36-7-4-902 for appointment and membership details. Note that any BZA divisions established after January 1, 1984 are to have five (5) members. IC 36-7-4-905 states that none of the members of a board of zoning appeals may hold other elective or appointive office, except as permitted by IC-36-7-4-902, in municipal, county, or state government. A member must also be a resident (not just a property owner) of the jurisdictional area of the board.

When an initial term of office expires, each new Advisory or Area BZA appointment is for a term of four (4) years, thereafter expiring on the first Monday of January, except membership of metro board of zoning appeals division is for a term of one (1) year. A member of a board of zoning appeals serves until his successor is appointed and qualified. BZA members are eligible for reappointment.

The appointing authority of a metro BZA may remove a member for any reason, without appeal. The appointing authority of an advisory or area BZA may remove a member from the board of zoning appeals only for “cause”, citing written reasons for the removal (such as poor attendance). An advisory or area BZA member who is removed may appeal the removal to the county’s circuit or superior court within 30 days.

If a vacancy occurs, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has a conflict of interest or is unavailable to participate in the hearing or decision. Alternate members have all of the powers and duties of a regular member while participating in the hearing or decision.
Powers and Duties

The BZA’s duties fall into three categories:
(1) Granting of variances
   (a) Developmental standards variances
   (b) Variances of use (not available to area plan commissions)
(2) Granting of special exceptions/conditional uses
(3) Appeals from administrative decisions

Variances

BZA members often fall into two extreme camps: those that believe that variances should never be granted because everyone should play by the same rules and those who have listened to attorneys for the petitioner tell them that it is the BZA’s job to grant variances! In this case a happy medium is the best attitude: variances should be granted, but only when warranted.

Yes, most of the BZA’s efforts are devoted to hearing variance requests, but the BZA is under no obligation to grant those variance requests. The board is under an obligation to hear the request and then make a decision based on their findings.

Variances can sometimes significantly change the character of an area, and should be carefully considered. Variances can potentially derail implementation of parts of the comprehensive plan!

See IC 36-7-4-918.4 for Use Variances and IC 36-7-4-918.5 for Variances from Development Standards. Both sections state that the BZA shall approve or deny variances and may impose reasonable conditions as a part of its approval.

These two sections also say that both variances of developmental standards and use variances may be approved only upon a determination in writing (findings of fact) that the petition meets all of the required legal criteria.

So what are the required legal criteria for approval of a variance?

Developmental Standards Variance Criteria per IC 36-7-4-918.5
(1) the approval will not be injurious to the public health, safety, morals, 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
(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property

Rule #1 — A variance is not automatically a bad thing! It is a way a community can solve problems created by applying the generalities of the zoning ordinance to specific situations — it introduces some needed flexibility to zoning regulations.

Rule #2 — Caution: Variances are meant to be a safety valve, but may become a “back-door” way of thwarting the zoning ordinance. Examples of this are asking for a variance to allow more density in a residential zoning district, instead of asking for the property to be rezoned to a district with a higher density.

Rule #3 — It is the applicant’s responsibility to prove the request satisfies all the variance criteria; it is not the responsibility of the board of zoning appeals to make the case for them! You should require that the applicant submit written evidence that they meet the criteria.
What are “practical difficulties”? Several years ago, Monroe County, Indiana’s Board of Zoning Appeals decided to define practical difficulties with the help of their attorney. Monroe County still uses this definition, although there have been attempts to make the criterion a bit more stringent, so that it relies less on economic considerations. According to Monroe County’s BZA, practical difficulties are:

Significant economic injury that:
(A) Arises from the strict application of the Zoning Ordinance to the conditions of a particular, existing parcel of property;
(B) Is not as significant as the injury associated with hardship, that is, it does not deprive the parcel owner of all reasonable economic use of the parcel; and
(C) Is clearly more significant than compliance cost.

Use Variance Criteria per IC 36-7-4-918.4

(1) the approval will not be injurious to the public health, safety, morals, 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
(3) the need for the variance arises from some condition peculiar to the property involved
(4) the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought
(5) the approval doesn’t interfere substantially with the adopted comprehensive plan.

What is an “unnecessary hardship”? Monroe County’s Board of Zoning Appeals also decided to define unnecessary hardship with the help of their attorney. Monroe County still uses this definition, although there have also been attempts to make the criterion a bit more stringent, so that it relies less on economic considerations. According to Monroe County’s BZA, hardship or unnecessary hardship is a:

Significant economic injury that:
(A) Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property;
(B) Effectively deprived the parcel owner of all reasonable economic use of the parcel; and
(C) Is clearly more significant than compliance cost or practical difficulties.

Example: Look up the variance criteria in the state law, then look at the criteria that your board uses — are they the same? Is anything missing from the state law list of criteria? If there are any missing criterion, then you have a problem that needs to be fixed! Do you have extra criteria that aren’t listed in state law?
• Use Variances: If there are extra criterion for use variances, you have a problem that needs to be fixed!
• Variances from Developmental Standards: If there is an extra criterion (or two) for developmental standards, it is all right! Indiana Code says that for developmental standards variances: ... your local ordinance may establish a stricter standard than the “practical difficulties” standard prescribed by state law.

Examples of extra developmental standards criterion:
• The variance granted is the minimum necessary.
• The variance granted does not correct a hardship caused by an owner, previous or present, of the property.

Discussion: Should your community follow a stricter standard for developmental standards variances than the state’s “practical difficulties”?

Test your Knowledge of the BZA:
When can you approve a variance?
(a) when the board determines it meets the “no harm-no foul” test
(b) when it meets all of the variance criteria
(c) when no one shows up to speak against it

When can you deny a variance?
(a) when you don’t have a quorum
(b) if the applicant is a jerk
(c) if all variance criteria haven’t been met

Test your Knowledge of the BZA:
Can a variance be conditionally approved?
(a) Yes
(b) No
(c) Waiting for Miss Cleo to call me with the answer

The board of zoning appeals may stipulate any number of conditions as part of their approval. They may also require the property owner to enter into written commitments, which are recorded in the County Recorder’s Office and are binding on future owners of the subject property. Written commitments formalize the conditions attached to a variance.
Sample Variance Request Worksheet — Developmental Standards

(1) the approval will not be injurious to the public health, safety, morals, and general welfare of the community (Consider whether granting the variance will hurt or potentially cause harm to the city or county — why or why not, and what harm can befall them?)

__________________________________________________________________________

Criterion #1 met?  No  Yes  If yes, any conditions?
__________________________________________________________________________

(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 (Consider whether neighboring property will suffer any major negative impacts — what impacts can the neighbors realistically expect?)

__________________________________________________________________________

Criterion #2 met?  No  Yes  If yes, any conditions?
__________________________________________________________________________

(3) the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property (Consider what difficulties the owner would have developing the property according to the zoning ordinance standards — remember, higher cost is not an adequate justification for a variance)

__________________________________________________________________________

Criterion #3 met?  No  Yes  If yes, any conditions?
__________________________________________________________________________
Developmental Standards Variance Worksheet

(4) Add additional criterion here

__________________________________________________________________________
__________________________________________________________________________

Criterion #4 met?  No  Yes  If yes, any conditions?

__________________________________________________________________________

If any of the four criteria have been checked as “no”, the developmental standards variance request may not be approved.

If all four criteria have been checked as “yes”, then a variance from developmental standards is justified.

Proposed Motion: __________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

Conditions or Commitments: ________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
## Sample Variance Request Worksheet — Use

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community (Consider whether granting the variance will hurt or potentially cause harm to the city or county — why or why not, and what harm can befall them?)

<table>
<thead>
<tr>
<th>Criterion #1 met?</th>
<th>No</th>
<th>Yes</th>
<th>If yes, any conditions?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
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</tr>
</tbody>
</table>

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 (Consider whether neighboring property will suffer any major negative impacts — what impacts can the neighbors realistically expect?)

<table>
<thead>
<tr>
<th>Criterion #2 met?</th>
<th>No</th>
<th>Yes</th>
<th>If yes, any conditions?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

3. The need for the variance arises from some condition peculiar to the property involved (Consider whether there is some unique problem with the site that makes it unable to meet ordinance standards — what is it?)

<table>
<thead>
<tr>
<th>Criterion #3 met?</th>
<th>No</th>
<th>Yes</th>
<th>If yes, any conditions?</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
Use Variance Worksheet

(4) the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought (Consider what it would be like if the site were developed under the terms of the zoning ordinance — what would the difficulties be?)

Criterion #4 met?  No  Yes  If yes, any conditions?

(5) the approval doesn’t interfere substantially with the comprehensive plan (Consider whether there are any major conflicts with the comprehensive plan — what are they?)

Criterion #5 met?  No  Yes  If yes, any conditions?

If any of the five criteria have been checked as “no”, the use variance request may not be approved.

If all five criteria have been checked as “yes”, then a use variance is justified.

Proposed Motion: ____________________________________________________________

________________________________________________________________________

Conditions or Commitments: _________________________________________________

________________________________________________________________________
**Special Exceptions**

After variances, the second most common BZA activity is to hear special exception requests. Special exceptions may also be referred to as special uses, contingent uses and conditional uses. IC 36-7-4-918.2 states that a board of zoning appeals shall approve or deny special exceptions, “from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance. The board may impose reasonable conditions as a part of its approval.” Note that the BZA may also require written commitments.

**What exactly is a special exception?** Indiana Code does not define the term, but it is generally understood to be a use of property that is allowed under a zoning ordinance under specified conditions — something that needs to be considered on a site specific basis. Indiana Code leaves it up to local government to define what uses in what zoning districts should be special exceptions, but examples might include institutional uses (i.e., schools), drive-through businesses, etc.

Indiana Code does not specify a set of criteria for use in considering special exceptions, again leaving it to the discretion of local government. Some communities use a general set of criteria for most, if not all, special exceptions, while others establish a separate set of criteria for each special exception use.

**Special Exception Criteria Example:** The City of Columbus, Indiana requires that before any conditional use (special exception) is issued, the BZA shall make written findings certifying compliance with any specific regulations governing the proposed use, and with satisfactory arrangements for a general set of criteria (where applicable):

1. Safe vehicular and pedestrian access to this property and proper access for emergency vehicles will be provided.
2. Adequate off street parking will be provided.
3. Refuse and service areas will be provided for this use.
4. All utilities necessary for this use are available.
5. Screening and buffering will be provided.
6. All proposed signs and exterior lighting must be described, together with an explanation of any glare, effect on traffic safety, and the compatibility of signs and lighting with other properties in this zoning district.
7. The proposed use will comply with minimum setback distances, yards, and other open space requirements.
8. This use will be in harmony with the neighborhood, will not cause undue noise, traffic, odors, safety, or environmental hazards, and will not have an adverse effect on neighboring property.

**Exercise:** Look up special exceptions (or special uses, conditional uses or contingent uses) in your zoning ordinance. Are there any criteria that your board must consider in making their decision?
Discussion: Are existing special exception criteria adequate? What changes should be made? If your community does not have criteria for special exceptions, draft a list of possible criteria for further discussion.

Appeals From Administrative Decisions
According to IC 36-7-4-918.1, the BZA shall review appeals from any order, requirement, decision or determination made by
- an administrative official, hearing officer, or staff member under the zoning ordinance;
- an administrative board or other body (except a plan commission) in relation to the enforcement of the zoning ordinance; or
- an administrative board or other body (except a plan commission) in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or occupancy permit.

An example of an appeal from an administrative decision would be if someone disagrees with how the planning staff interprets a provision of the zoning ordinance, and then appeals that interpretation to the board.

IC 36-7-4-919 says that if an appeal is filed with the board of zoning appeals, it must specify the grounds of the appeal and must be filed within the time limit and in the format prescribed by the board of zoning appeals’ rules. The body being appealed (administrative official, hearing officer, administrative board, or other body) shall transmit all documents, plans, and papers constituting the record of the action in question to the BZA.

The board may reverse, affirm, or modify the order, requirement, decision, or determination that is being appealed. For this purpose, Indiana Code gives the board all the powers of the official, officer, board, or body from which the appeal is taken. The BZA shall make a decision either at the meeting at which that matter is first presented or at the conclusion of the hearing, if it is continued.

The Decision Making Process

Public Hearing
All actions of the BZA (Variances, Special Exceptions and Appeals from Administrative Decisions) require public hearing. IC 36-7-4-920 requires the BZA to make public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and give due notice to interested parties at least ten (10) days before the date set for a hearing. The party making the appeal may be required to assume the cost of notice.

At the hearing, each party may appear in person, by agent, or by attorney. The planning staff and any other persons may appear before the board at the hearing and present evidence in support of or in opposition to the request.
**BZA Contact**
Planning staff may file with the board a written statement setting forth any facts or opinions relating to the BZA case. Other persons may not communicate with any BZA member before the hearing with intent to influence the member’s action — this is often referred to as ex parte contact. See *Citizen Planner’s Guide, Part 6, Ethics* for more information on ex parte contact.

**Rules of Procedure**
IC 36-7-4-916 requires the board of zoning appeals to adopt rules, which may not conflict with the zoning ordinance.

These rules shall address:
1. the filing of appeals;
2. the application for variances, special exceptions, special uses, contingent uses, and conditional uses;
3. the giving of notice;
4. the conduct of hearings; and
5. the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).

The BZA’s rules may also address:
1. the allocation of cases filed among divisions of the board of zoning appeals; and
2. the fixing of dates for hearings by the divisions.

Once the rules adopted by the board of zoning appeals, they are to be made available to all applicants and other interested persons (and they should also be available and used by the staff and BZA).

**Exercise:** Review the adopted Rules of Procedure for your BZA. Are all the items listed in IC 36-7-4-916 addressed? Does your BZA follow these rules? Mark up the rules to indicate areas of possible changes, and discuss these with fellow board members and staff.

If staff or BZA members are unable to produce a copy of the rules, it is important that a set of rules be written and adopted by the board as soon as possible!

**Preparing Findings of Fact**
In addition to keeping minutes of its proceedings and a record of the vote, all BZA actions require the preparation of findings of fact to support that decision (IC 36-7-4-915). Indiana case law has established that it is not enough to make the required statutory determinations in the words of the ordinance (e.g., stating, “the approval will not be injurious to the public
health, safety, morals, and general welfare of the community”), but that the BZA must make findings that support those determinations (Carlton v. BZA of City of Indianapolis, 1969, 245 NE2d 337, 252 Ind. 56).

In effect, the board must add a “because” to each of the criterion, with a corresponding explanation, (e.g., “the approval will not be injurious to the public health, safety, morals, and general welfare of the community because...”). Case law has further established that trial courts are to remand appeals of BZA decisions back to the BZA to make findings of fact if the BZA has not previously done so (Habig v. Harker, App. 1 Dist.1983, 447 NE2d 1114).

Indiana case law has also held that it was acceptable for the BZA to take over three months to adopt findings of fact after the hearing and decision (McBride v. BZA of Evansville-Vanderburgh Area Plan Commission, App. 1 Dist.1991, 579 NE2d 1312). While this delay may have been acceptable to the court, the best action is for the board to stay current. This can be done by either:

- adopting findings as part of the motion on the case (either prepared by staff in advance to support the staff recommendation or proposed by a BZA member with the motion, using a self-prepared worksheet or petitioner's written application to cite the findings), or
- adopting findings at the next BZA meeting, which have been prepared in the interim by planning staff, the BZA's legal counsel or a board member.

Discussion: Does your BZA adopt findings of fact for each action? If so, what process is used? How well does that process work? How could it be improved? If your BZA does not currently adopt findings, immediately put a plan in place to remedy this.

Taking Action

The BZA must have a quorum, which is a majority of its membership (not a majority of those in attendance), in order to authorize any action as official (IC 36-7-4-910 and IC 36-7-4-911).

In the case where a BZA member has a direct or indirect financial interest, that member may not participate in the hearing or decision of the board. Indiana code allows an alternate member to participate in the hearing or decision in place of the regular member. See IC 36-7-4-909 for more information. If the BZA wishes to use alternate members, it is advisable to make appointments in advance and outline the process for using alternates in the BZA’s rules.
Additional Regulations for Some Counties
IC 36-7-4-918.6 requires that in counties with populations of 400,001 - 699,999 or 200,001 - 299,999, the BZA shall submit special exceptions, special uses and use variances to the legislative body for approval or disapproval, along with the BZA’s recommendation (favorable, unfavorable or none). See Indiana Code for further details on timelines and action. Note that if the legislative body approves a petition, it must make the determination in writing.

Additional Regulations for Metropolitan Development Commissions
Metropolitan Development Commissions have additional regulations related to the BZA. IC 36-7-4-918.8 outlines how the Metropolitan Development Commission may act as the BZA to approve or deny developmental standards variances or special exceptions. See Indiana Code for more information.

Appeals of BZA Decision
IC 36-7-4-1003 states that each decision of the board of zoning appeals is subject to review by certiorari, basically a higher court. Anyone who is unhappy with a board of zoning appeals decision, may file with the circuit or superior court, in the county where the site in question is located, within 30 days of the decision, a petition setting forth that the decision is illegal in whole or in part and specifying exactly what makes it illegal. See subsection (d) for information related to communities having metropolitan plan commissions.

The BZA gets 20 days to after the petition is filed, to show cause why a writ of certiorari should not issue. If the BZA fails to satisfy the court, then the court may direct a writ of certiorari to the board. The board of zoning appeals shall then set forth the pertinent facts and data to show the grounds of their decision, which may include a transcript of the hearing before the board. The court make its determination and render its judgment with reference to the legality of the decision of the board of zoning appeals, on the facts set out in the return to the writ of certiorari, without further testimony. If the court determines that testimony is necessary, it may take evidence to supplement the facts disclosed by the BZA, but the review may not be by trial de novo (as if no prior BZA action had been held). In passing on the legality of the decision of the board, the court may reverse, affirm, or modify the decision of the board brought up for review. An appeal may be taken to the court of appeals from the final judgment of the court reversing, affirming, or modifying the decision of the BZA. This appeal must be taken in the same manner and on the same terms as appeals in other civil actions.
Reality Check — Are you working too much?

- Is there a waiting list to get on a BZA agenda?
- Do your BZA meetings last until the wee hours of the next morning?
- Are you scheduling special BZA meetings just to accommodate petitions

If you answered “YES!” to any of the above questions, your BZA could probably benefit from one or both of the following actions:

1. Amending the Zoning Ordinance for Frequently Granted Requests

If it seems you are granting the same type of variance request frequently, ask the plan commission to consider whether an amendment to the ordinance is appropriate. This not only would save you time, but would also make the citizens of your community very happy.

Example: Ordinance regulations are typically written to fit new development, not older neighborhoods. When it is time to replace the old, structurally challenged garage with a nice new one, the property owner is told that they can’t put it back in the same place, because the side and rear setbacks are now larger than when the first garage was built. Wouldn’t a better solution be to amend the zoning ordinance to address standards for older development, instead of requiring everyone in the neighborhood to get variances?

2. Appointing a Hearing Officer to Hear Cases

What is a hearing officer? An appointed staff member, board member, or attorney who can conduct hearings on certain variances or conditional uses/special exceptions and approve or deny them. The hearing officer acts in place of the Board of Zoning Appeals. This works best on “routine” cases where there is little public opposition or no need to burden the petitioner or BZA with the full process.

How does the hearing officer process work?

- Petitioner files case, just like any other case for the BZA. Filing fees and public notice are still required.
- Staff prepares a case report, complete with recommendations and any appropriate conditions of approval. Approval must meet criteria that any variance or conditional use/special exception petition would have to meet at the BZA level.
- Hearing Officer conducts a formal public hearing, subject to all of the public notice rules of the BZA. Staff, Petitioner, Public, and Hearing Officer all have opportunity to comment on the case.
- Hearing Officer has three options: Approve petition, as submitted or with conditions; Deny petition, which can be appealed to the BZA; or Forward petition to the next hearing of the BZA for more public scrutiny
Hearing Officer benefits:
• Reduce the regular caseload of the BZA by removing minor, non-controversial cases
• Frees up time to concentrate on more significant cases
• Shortens the length of the full BZA hearings
• Minor cases can be processed through the system much more quickly than if they went to the BZA
• Greatly reduced timeline for process
• Non-controversial cases
• Cases with staff support
• Informal setting is more comfortable and user-friendly for petitioners
• One decision-maker rather than five-member BZA
• More convenient times for meeting than the once monthly BZA hearings in the evening

Implementing the Hearing Officer Process:
• Subject to Indiana Statutes: IC 36-7-4-923 and 924
• Adopt an amendment to the zoning ordinance which enables the Hearing Officer process
• Adopt an amendment to the Plan Commission/BZA rules and procedures to enable the process
• Hears cases in place of BZA, but subject to the rules & procedures of the Plan Commission

Personal Reflection: Are you tough enough?
It is tough to be a board of zoning appeals member, because you have to check your empathy and sympathy at the door. The BZA can not legally decide their requests based on compassion, only on whether the variance criteria are met. This will be easier for you (and the applicant) to bear if the applicant understands what you must legally base your decision on. This does not mean that a BZA member should be cold, mean or rude with an applicant, just that your compassion should not guide your decision. It is difficult not to be moved by tears and tragedy — if you are susceptible, it may be best to leave the BZA membership to someone else.