City of Elkhart

INSTRUCTIONS AND FILING PROCEDURE FOR USE VARIANCES

Use Variances are seeking relief from the list of permitted uses in a particular zoning district. When granting a use variance, the Board may impose such conditions on the approval of the variance as the Board may deem advisable.

A complete Use Variance Petition (see page 2) must be filed with the Planning & Zoning Department located at the Permit Center at 229 S. Second Street, Elkhart, Indiana. **Petitions must be filed no later than the filing deadline dates as shown below** on the Board of Zoning Appeals (BZA) calendar, and with all required signatures in permanent ink.

2026 CITY OF ELKHART BOARD OF ZONING APPEALS CALENDAR

File by Date	Meeting Date
Friday, December 5, 2025	Thursday, January 8, 2026
Friday, January 2, 2026	Thursday, February 12, 2026
Friday, February 6, 2026	Thursday, March 12, 2026
Friday, March 6, 2026	Thursday, April 9, 2026
Thursday, April 2, 2026	Thursday, May 14, 2026
Friday, May 1, 2026	Thursday, June 11, 2026
Friday, June 5, 2026	Thursday, July 9, 2026
Thursday, July 2, 2026	Thursday, August 13, 2026
Friday, August 7, 2026	Thursday, September 10, 2026
Friday, September 4, 2026	Thursday, October 8, 2026
Friday, October 2, 2026	Thursday, November 12, 2026
Friday, November 6, 2026	Thursday, December 10, 2026
Friday, December 4, 2026	Thursday, January 14, 2027

All meetings are held at 6:00 p.m. in the Council Chambers, 2nd floor, City Municipal Building on the 2nd Thursday of each month unless indicated in **bold**.

APPLICANT CHECKLIST – USE VARIANCE PETITION

A complete Use Variance Petition must contain the following information:

1. _____ **A Use Variance appeal letter patterned after the sample form on page 4** and including such data and/or information necessary for a clear understanding of the situation by the Board of Zoning Appeals. The appeal must address and discuss each of the **applicable standards (see page 3)** that the Board must use to make a judgment. Please include any other pertinent data that will assist the Board in determining whether or not the literal enforcement of the provisions of the Zoning Ordinance will result in unnecessary hardship. Financial considerations do not constitute a hardship.

2. _____ A completed **Petition form (see pages 5 & 6)** signed by the legal owner of record of the property that is the subject of the Petition. **The owner(s) of record at the time the petition is filed shall be considered the applicant and must sign the petition.** If the appeal is filed by any person other than the legal owner or the owner's attorney, written authorization of the legal owner authorizing the person to act as the owner's agent for petition purposes must be filed with the petition. If the applicant is not an individual, the name(s) and title(s) of the person(s) who are authorized to execute legal documents for the applicant shall be supplied. Land Contract Purchasers or Renters cannot bring petitions without authorization from the owner of record.

3. _____ A full and accurate legal description of the property for which the variance is being requested. **The abbreviated version shown on a tax form is NOT an acceptable legal description.** A full legal description may be found on the recorded deed or possibly on a certified survey. If the legal description is in a Word or PDF format, please email it to Raen.Levendoski@cityofelkhartin.gov.

4. _____ One (1) to scale drawing of the property, measuring 11" x 17" or smaller showing the dimensions of the property, buildings, yard setbacks, parking layouts, distances to adjoining buildings, and any other information that is pertinent to your petition. If drawing is larger than 11" x 17", 12 copies of the site plan must be provided.

5. _____ *When changes to a building are involved*, the plans for the proposed variance must be provided and scaled to proportion.

6. _____ Any supplemental information you wish to provide to the Board of Zoning Appeals.

7. _____ A filing fee in the amount listed in Section 29.12 of the Zoning Ordinance. The Permit Center accepts Visa, MC, and Discover credit cards, cash or a check made payable to the City of Elkhart.

$200.00	Residential (One & Two Family)
$300.00	Multi-Family, Business & Manufacturing

Failure to meet any of the above requirements will result in your application not being accepted by the Planning Department staff until such time as said requirements are met.

USE VARIANCE PROCEDURE

Petitions for Use Variances are reviewed by the Planning Department staff prior to the public hearing and decision of the Board of Zoning Appeals.

You or your designated representative must be present at the Board of Zoning Appeals meeting to make a presentation and answer any questions that may arise. The presentation must include sufficient evidence relating to the **standards listed below** (as well as any other information you feel is pertinent to your petition) to persuade the Board to grant your request.

After you have completed your presentation, public comments are heard for or against your petition.

You may be allowed to respond to any comments or answer any questions which may arise concerning your petition; this is at the discretion of the Board Chairman.

Standards that must be considered for a Use Variance: Section 29.9 B. of the City of Elkhart Zoning Ordinance states: "**No** variance shall be granted by the Board unless the Board specifically finds that:

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 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 this Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. (Financial considerations do not qualify).
5. The approval does not interfere substantially with the Comprehensive Plan."

The Planning Department staff will consider the above standards when making a recommendation to the Board of Zoning Appeals. You **must** address the above standards within the body of your appeal letter (see page 4).

Notice of the public hearing is prepared by the Planning Department staff and published in the newspaper 10 days prior to the meeting. Please refer to the BZA calendar (see page 1) for filing deadlines and the meeting location, time and dates.

Note: Any Use Variance that is granted must be implemented within 12 months or the Variance shall be null and void.

THIS IS NOT A FILL-IN FORM.
It is a sample form to be used as a guide when preparing your appeal letter to the Board of Zoning Appeals

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DATE:

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *(insert property owner(s) name(s),* am the owner of the following described real estate located within the City of Elkhart, _____ Township, Elkhart County, State of Indiana, to-wit:

   Attach the accurate legal description and common address - a tax key number is not a legal description.

2. The above described real estate presently has a zoning classification of _____ _____ District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently occupies (or proposes to occupy) the above described property in the following manner: *(Explain existing use)*.
4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance)*.
5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance)*.
6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. *(Please note that the Board cannot consider financial hardship. The Light Co., Inc. v. Houghton et. al. 226 N.E. 2nd 341 (Ind. Ct. App. 1967).*
7. Using the **standards from page 3**, address each standard. You cannot answer simply "Yes" or "No"; you must state **why** this is true (the reasons for your answer).

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested use variance.

Signature of Property Owner: _____

Printed Name: _____

Second Property Owner: _____

Printed Name: _____

Contact Person: _____

Name: _____

Address: _____

Phone Number where you can be reached: _____

Email: _____

EXAMPLE

PETITION #: _____ **FILING FEE: $**_____

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): _____

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: _____

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: _____

Zoning: _____

Present Use: _____ Proposed Use: _____

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): _____

SIGNATURE(S): _____ DATE: _____

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

_____ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.

_____ A completed Petition form signed by the legal owner of record (or approved representative).

_____ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.

_____ A full and accurate legal description of the property.

_____ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.

_____ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

I, _____, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at _____ Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the _____ day of _____, 20_____.

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

_____

Printed: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared _____, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this _____ day of _____, 20_____.

_____

Printed: _____

My Commission Expires:

_____

Notary Public in and for the State of Indiana
Resident of _____ County, Indiana