

City of Elkhart

INSTRUCTIONS AND FILING PROCEDURE FOR SPECIAL EXCEPTIONS

The Board of Zoning Appeals shall consider petitions only for such special exceptions as are specifically enumerated in the Zoning Ordinance and, as to each special exception that is granted, may impose such conditions on the approval exercise of such special exception as the Board may deem advisable. Special Exceptions must be heard first by the Plan Commission who then makes a recommendation to the Board of Zoning Appeals. The BZA makes its own independent final decision.

Petitions must be filed with the Office of Planning and Development, Planning Services Division, 229 S. Second Street, Elkhart, Indiana. Petitions must be filed no later than the filing deadline dates shown on the Plan Commission calendar with all required signatures in permanent ink.

Special Exception petitions must contain the following information:

1. A Special Exception Request patterned after the SAMPLE SPECIAL EXCEPTION REQUEST included with these instructions and including such data and or information necessary for a clear understanding of the situation by the Board of Zoning Appeals. The petition must address and discuss each of the applicable standards that the Board must use to make a decision. Please include any other pertinent data that will assist the Board in determining whether or not the approval of the Special Exception request will be in the best interest of the City of Elkhart.
2. A completed Petition form 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 request 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 special exception is being requested. (Not the abbreviated version shown on a tax form)
4. One (1) copy of an 11" x 17" or smaller scale drawing 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 special exception 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. Checks must be made payable to the City of Elkhart.

Petitions for Special Exceptions are first reviewed and given a recommendation by the Plan Commission prior to the public hearing and final decision of the Board of Zoning Appeals. You or your designated representative **must** be present at both meetings to make a presentation and answer any questions which may arise. In making your presentations to the Plan Commission and BZA, you will have the burden of presenting sufficient evidence to persuade the Board to grant your request. The evidence should relate to the three standards listed above, as well as any other information you feel is pertinent to your petition. After you have completed your presentation, any proponents or opponents to your petition will be asked to speak. You will then be allowed to respond to any comments or answer any questions which may arise concerning your petition. This will be at the discretion of the Board Chairman.

Standards that must be considered for a Special Exception: Section 29.7 of the City of Elkhart Zoning Ordinance mandates that **"No** special exception shall be granted by the Board of Zoning Appeals unless the Board specifically finds that:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The special exception will not reduce the values of other properties in its immediate vicinity;
3. The special exception shall conform to the regulations of the zoning district in which it is to be located;

The Planning Services staff will consider these standards when making a recommendation to the Plan Commission and Board of Zoning Appeals. You **must** address these three standards within the body of your Petition.

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

The Plan Commission meets on the first Monday of each month at 1:45 p.m. in the Council Chambers on the second floor of the Municipal Building to hold public hearings and make recommendations. The Board of Zoning Appeals meets on the second Thursday of every month, also in the Council Chambers on the second floor of the Municipal Building, 229 S. Second Street, Elkhart Indiana. Notice of the public hearing before the BZA shall be published in the newspaper 10 days prior to the meeting. The Plan Commission recommendation will be sent to the BZA for hearing and final action. Please check the current year's calendar for filing deadlines and meeting dates.

Please note that any Special Exception that is granted must be implemented within twelve (12) months or the Special Exception 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 letter
to the Plan Commission and Board of Zoning Appeals

DATE: _____

TO: Plan Commission & Board of Zoning Appeals
City of Elkhart, Indiana

RE: Special Exception Request

The undersigned appellant respectfully shows the Plan Commission and 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. This may be submitted electronically to Kathy.kalman@coei.org.

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)*.
4. Petitioner desires to *(Explain the proposed special exception use in detail)*.
5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance)*.
6. Explain why this property is suited to the special exception use being requested.
7. Using the standards from the previous page, 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 variance.

Signature of Property Owner: _____

Printed Name: _____

Second Property Owner: _____

Printed Name: _____

Contact Person: _____

Name: _____

Address: _____

Phone Number where you can be reached: _____

Fax Number: _____

PETITION NUMBER: _____

Date Filed: _____

**PETITION for APPEAL
to the BOARD of ZONING APPEALS**

PETITION TYPE:

_____ Developmental Variance
_____ Use Variance

_____ Special Exception
_____ Conditional Use

_____ Appeal from
Staff Decision

Property Owner(s): _____

Mailing Address: _____

Phone: _____ email: _____

Contact Person: _____

Address: _____

Phone: _____ email: _____

Subject Property Address: _____

Zoning: _____ Present Use: _____

Proposed Use: _____

Checklist (✓) for submittal of the Variance to the Board of Appeals docket: you must include:

- One copy of the Appeal Letter signed in ink by the owner of the property.
- A completed Petition form signed by the legal owner of record.
- If any other person other than the legal owner or the legal owner's attorney files the appeal, written authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, smaller than 11" x 17". If larger than 11" x 17", 12 copies must be submitted.
- Cash or check made payable to the City of Elkhart.

Optional: any supplementary information you wish to include.

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) (PRINT) _____

SIGNATURES _____

RECEIVED BY: _____ DATE: _____

Remit To:
CITY OF ELKHART -OFFICE OF PLANNING AND DEVELOPMENT - Planning Services Division
Municipal Building, 229 South Second Street, Elkhart, IN 46516

(staff to complete)

Ordinance Requirement: Section(s): _____

MAP #: _____

AREA: _____

2021 ELKHART CITY PLAN COMMISSION CALENDAR

File by Date

Meeting Date

Friday, December 11, 2020

Monday, January 4, 2021

Friday, January 8, 2021

Monday, February 1, 2021

Friday, February 5, 2021

Monday, March 1, 2021

Friday, March 5, 2021

Monday, April 5, 2021

Friday, April 9, 2021

Monday, May 3, 2021

Friday, May 7, 2021

Monday, June 7, 2021

Friday, June 11, 2021

Tuesday, July 6, 2021

Friday, July 9, 2021

Monday, August 2, 2021

Friday, August 6, 2021

Tuesday, September 7, 2021

Friday, September 10, 2021

Monday, October 4, 2021

Friday, October 8, 2021

Monday, November 1, 2021

Friday, November 5, 2021

Monday, December 6, 2021

Friday, December 10, 2022

Monday, January 4, 2022

Note: All meetings are held in the Council Chambers, 2nd floor, City Municipal Building at 1:45 p.m., the 1st Monday of each month, unless indicated.

Reviewed and adopted by the Elkhart City Plan Commission at its regular meeting on December 7, 2020.

Jeffrey Shaffer, President

Dave Osborne, Vice President

2021 ELKHART CITY BOARD OF ZONING APPEALS CALENDAR

| <u>File by Date</u> | <u>Meeting Date</u> |
|----------------------------|-------------------------------------|
| Friday, December 11, 2020 | Thursday, January 14, 2021 |
| Friday, January 15, 2021 | Thursday, February 11, 2021 |
| Friday, February 12, 2021 | Thursday, March 11, 2021 |
| Friday, March 12, 2021 | Thursday, April 8, 2021 |
| Friday, April 9, 2021 | Thursday, May 13, 2021 |
| Friday, May 14, 2021 | Thursday, June 10, 2021 |
| Friday, June 11, 2021 | Thursday, July 8, 2021 |
| Friday, July 9, 2021 | Thursday, August 12, 2021 |
| Friday, August 13, 2021 | Thursday, September 9, 2021 |
| Friday, September 10, 2021 | Thursday, October 14, 2021 |
| Friday, October 15, 2021 | Wednesday, November 10, 2021 |
| Friday, November 12, 2021 | Thursday, December 9, 2021 |
| Friday, December 10, 2021 | Thursday, January 13, 2022 |

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

Reviewed and adopted by the City of Elkhart Board of Zoning Appeals at its regular meeting December 10, 2020.

Doug Mulvaney, Chair

Ron Davis, Vice-Chair