

Zoning Board of Appeals

Town of Edinburgh

Application Packet for Variance/Special Exception

Summary of Policy

The Zoning Board of Appeals has the power to authorize variances, pursuant to I.C. 36-7-4-900 series, and from the requirements of the Town of Edinburgh's Zoning Ordinance, ("Ordinance") and to attach such conditions to these variances that it deems necessary to assure compliance with the purpose of the Ordinance. A complete explanation of the variance process can be found in the Rules and Procedures for the Zoning Board of Appeals and Section 156.252 of the Ordinance.

Decision Requirements

When the Zoning Board of Appeals ("Board") considers a use variance, variance from developmental standards, or special exception, the decision is based on the requirements as set forth in the State law. When presenting a petition to the Board, the applicant must prepare and present testimony that will support each of the stated requirements. The requirements to be considered are as follows:

Use Variance (\$350.00 Filing Fee) The Board may grant a variance from the use requirements and limitations of the Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

1. *General Welfare*: The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. *Adjacent Property*: 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. *Practical Difficulty*: The strict application of the terms of the Ordinance will result in a practical difficulty in the use of the property (this situation shall not be self-imposed, nor based on perceived reduction of, or restriction on economic gain);
4. *Unnecessary Hardship*: The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

5. *Comprehensive Plan*: The approval does not interfere substantially with the Edinburgh Comprehensive Plan.

Variance from Developmental Standards (\$75.00 Filing Fee: Residential/\$200.00 Filing Fee: Other) The Board may grant a variance from the development standards of the Ordinance (such as height, location, bulk, area) if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5), that:

1. *General Welfare*: The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. *Adjacent Property*: The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. *Practical Difficulty*: The strict application of the terms of the Ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on perceived reduction of, or restriction on economic gain.



Special Exception (\$75.00 Filing Fee: Residential/\$200.00 Filing Fee: Other) The Board may grant a special exception for a use listed as such in the appropriate zoning district in Division 2 of the Ordinance if, after a public hearing, it makes findings of facts in writing, that:

1. *General Welfare*: The proposal will not be injurious to the public health, safety, morals, and general welfare of the community;
2. *Development Standards*: The requirements and developments standards for the requested use as prescribed by the Ordinance will be met;
3. *Ordinance Intent*: Granting the special exception will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and
4. *Comprehensive Plan*: The proposed use will be consistent with the character of the zoning district in which it is located and the Edinburgh Comprehensive Plan.

Filing Procedure and Checklist

All applications must be reviewed in a meeting with the Building Commissioner of the Building and Zoning Department prior to the filing of the petition.

1. *Step 1: Application*

- a. The Application, Affidavit and Consent of Property Owner (if the applicant is not the property owner), recorded deed, filing fee, and any exhibits must be provided to the Building and Zoning Department prior to the appropriate filing deadline (calendar enclosed).
- b. All documents must be completed in their entirety either in ink or typed.
- c. The Application and Consent of Property Owner must be notarized – a notary is available in the Town Hall.
- d. The Building and Zoning Department will mail exhibits to the Board members – ten (10) copies of each exhibit must be provided at the time the application is filed.
- e. Site Plan Requirement – at the discretion of the Building Commissioner, ten (10) copies of a site plan of the property may be required to be submitted at the time of filing. The site plan must show the entire layout of the property with all items related to the petition clearly shown.



2. *Step 2: Notification*

- a. A legal notice must appear in the Daily Journal and The Republic newspapers for all cases. An additional legal notice must appear in the Shelbyville News newspaper if the subject property is located in Shelby County. All three newspapers require advance notice on items to be placed in the public notice section. The notice must include the time, date, place, a case number and reason for the petition along with the legal description of the property (sample enclosed). The notice must appear once, a minimum of ten (10) days prior to the meeting date.
- b. The owners of (a) all adjoining parcels in the case of variances from developmental standards or (b) all of the adjoining parcels within 500 feet of the perimeter of the subject property or two property owners whichever is a lesser distance in the case of all other types of petitions, must be notified of the public hearing at least ten (10) days prior to the meeting (county lines, city limits, highways, streets, creeks, rivers, or other natural or man-made elements are not boundaries for notification). The names and addresses of those adjoining property owners must be obtained from the Johnson County Mapping Department (Johnson County Courthouse Annex West, 86 West Court Street, Franklin,

Indiana 46131) for Johnson County Residence; Bartholomew County Auditor's Office (440 Third Street, Suite 102, Columbus, Indiana 47201) for Bartholomew County residence; and Shelby County Auditor's Office (25 West Polk Street, Shelbyville, Indiana 46176) for Shelby County residence.



- c. The notification may take the form of either (a) a Certificate of Mailing to the affected property owners or (b) a hand carried notice. Notification must include the time, date, place, case number, and reason for the petition along with the legal description of the property and common address (sample enclosed).
- d. The two-page flyer enclosed in this packet must either be mailed with the notification letters or provided to property owners notified in person. The flyer is intended to be copied double-sided and tri-folded.
- e. The applicant shall place a sign of public notice on the subject property at least ten (10) days prior to the meeting. The sign must be placed in a visible unobstructed area of the subject property; contain the information provided on the example below; and shall (a) be 24 inches wide and 18 inches high (b) have text in Times New Roman Font 100 point (c) have a background in the color of neon yellow with the font being in black text (d) made out of durable material with a flat surface for ease of readability. The applicant must allow the sign to remain on the subject property until the final disposition of the petition. The applicant can remove the sign the day following the final disposition of the petition.

3. *Step 3: Proof of Notification*

- a. The following items must be supplied to the Planning Department by 4:00p.m. on the Friday before the meeting: (1) completed Affidavit of Notice, (2) receipts from the Certificates of Mailing, (3) a copy of the information sent to adjoining property owners, (4) the Mapping Office list of adjoining property owners, and (5) a copy of the aerial photo used to identify adjoining property owners (supplied by the Mapping Office); **or** (1) completed Affidavit of Hand Carried Notice, (2) completed signature sheet, (3) the Mapping Office list of adjoining property owners, (4) a copy of any information distributed, and (5) a copy of the aerial photo used to identify adjoining property owners (supplied by the Mapping Office).
- b. A copy of the legal advertisement from the newspaper (Publisher's Affidavit) must also be provided. (The Petitioner will receive a copy from the corresponding newspaper or newspapers).

4. *Step 4: Public Hearing*

- a. Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition. *Failure to appear may result in the petition being dismissed by the Board.*
- b. The Board will keep all information presented for a period of at least 30 days - information will then be returned upon request.
- c. Written confirmation of the Board’s decision will be provided to the petitioner within fourteen (14) days of the hearing.

Meeting Dates

The Town of Edinburgh Board of Zoning Appeals meets at 6:00 p.m. on the first Wednesday of each month in the Edinburgh Town Hall, 107 S Holland Street, Edinburgh, IN 46124.

All petitions must be filed with the Building and Zoning Department by no later than 4:00 PM on the appropriate date listed on the attached calendar. The office hours of the Town of Edinburgh Building and Zoning Department are from 8 a.m. to 5 p.m., Monday through Friday.

Meeting Date	Application Deadline	Public Notice Deadline	Proof of Notice Deadline
January 3, 2018	December 11, 2017	December 23, 2017	December 29, 2017
February 7, 2018	January 17, 2018	January 27, 2018	February 2, 2018
March 7, 2018	February 14, 2018	February 24, 2018	March 2, 2018
April 4, 2018	March 14, 2018	March 24, 2018	March 30, 2018
May 2, 2018	April 11, 2018	April 21, 2018	April 27, 2018
June 6, 2018	May 16, 2018	May 26, 2018	June 1, 2018
July 11, 2018	June 20, 2018	June 30, 2018	July 6, 2018
August 1, 2018	July 11, 2018	July 21, 2018	July 27, 2018
September 5, 2018	August 15, 2018	August 25, 2018	August 31, 2018
October 3, 2018	September 12, 2018	September 22, 2018	September 28, 2018
November 7, 2018	October 17, 2018	October 27, 2018	November 2, 2018
December 5, 2018	November 14, 2018	November 24, 2018	November 30, 2018
January 2, 2019	December 10, 2018	December 22, 2018	December 28, 2018
February 6, 2019	January 16, 2019	January 26, 2019	February 1, 2019

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

Reviewed By: _____ Date: _____

Case No.: _____

Receipt No.: _____

Application for Variance/Special Exception

Applicant's Name: _____ **Phone No.:** _____

Applicant's Address: _____

Agent's Name: _____ **Phone No.:** _____

Agent's Address: _____

Owner's Name: _____ **Phone No.:** _____

Owner's Address: _____

Premises Affected (common address – attach recorded legal description):

Township: _____ **Zoning Classification:** _____

Detailed Statement of Reason(s) for Applying for Variance/Special Exception:

As Petitioner, I am requesting a _____ from the requirements of Article _____,
Chapter _____ of the Town of Edinburgh Zoning Ordinance to allow _____

The above information and attached exhibits, to my knowledge and belief, are true and correct.

Applicant's Signature

State of _____

SS:

County of _____

Subscribed and sworn to me this _____ day of _____, 20____.

My Commission expires: _____

Notary Public

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

Affidavit & Consent of Property Owner

I (we) _____ after being duly sworn, depose and say:

1. That I (we) are the owners(s) of real estate located at _____;
2. That I (we) have read and examined the Application of Variance/Special Exception of the Town of Edinburgh Zoning Ordinance, and are familiar with its contents;
3. That I (we) have no objections to, and consent to such request as set forth in the application.
4. That such being made by the Applicant is (is not) a condition to the sale or lease of the above referenced property.

Owner's Name (Please Print)

Owner's Signature

State of _____
County of _____

SS:

Subscribed and sworn to me this _____ day of _____, 20_____.

My Commission expires: _____

Notary Public

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

Notice of Public Hearing

To be Published in the Newspaper and Sent to Adjoining Property Owners

The Town of Edinburgh Zoning Board of Appeals will hold a public hearing on the _____ day of _____, 20____, at 6:00p.m. in the Town Hall at 107 S. Holland Street, Edinburgh, Indiana, to consider a petition by _____, case number _____, for consideration of a request to allow:

(Insert Detailed Description from the Application)

On premises located at:

(Insert Legal Description and Common Address of the Premises Affected)

Written suggestions or objections to provisions of said request may be filed with the Secretary of the Board, at or before such meetings and will be heard by the Board at the time and place specified. Hearings may be continued from time to time as may be necessary.

Interested persons desiring to present their views upon the said request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place. Copies of the petition may be examined at the Town of Edinburgh Planning Department, 107 S Holland Street, Edinburgh, Indiana.

Signature of Applicant

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

Affidavit of Notice of Public Hearing

For Certificate of Mailing

I (we) _____ do hereby certify that a notice of public hearing for the Town of Edinburgh Board of Zoning Appeals to consider case number _____, and a copy of the public hearing informational flyer was mailed to the following persons:

(Attach a List of Property Owners and Neighborhood Groups Notified by Certificate of Mailing)

and that said notices were mailed on or before the _____ day of _____ 20____, being at least ten (10) days prior to the date of the public hearing which is to be held at 6:00p.m. on _____, 20_____.

Signature of Applicant

State of _____

SS:

County of _____

Subscribed and sworn to me this _____ day of _____, 20_____.

My Commission expires: _____

Notary Public

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

Affidavit of Hand Carried Notice of Public Hearing

Applicant's Name: _____ Phone No.: _____

Owner's Name: _____ Phone No.: _____

Premises Affected (common address-attach recorded legal description):

Detailed Statement of Reason(s) for Applying for Variance/Special Exception:

As Petitioner, I am requesting a _____ from the requirements of Article _____, Chapter _____ of the Town of Edinburgh Zoning Ordinance to allow:

As an Affected Property Owner: I have signed this Public Hearing Notice with full knowledge of the following information:

1. A public hearing is to be held by the Town of Edinburgh Board of Zoning Appeals on the _____ day of _____, 20____, at 6:00 p.m. in the Edinburgh Town Hall, 107 S. Holland Street, Edinburgh, Indiana;
2. A legal advertisement will also appear in the Johnson County Daily Journal at least ten (10) days prior to the scheduled hearing;
3. All persons who may be affected by this petition will be given the opportunity to be heard at the said public hearing; and
4. My signature on the attached list is not to be construed as either a waiver of my rights to be heard or my consent to the petition, but simply verification that I have been made aware of the petition and received notice of the public hearing.

I hereby Swear and Affirm: under penalties and perjury that I witnessed each of the signatures shown on the attached list and that the said signatures are true and accurate. I have also provided each of these property owners with a copy of the public hearing informational flyer.

Signature of Applicant

State of _____

SS:

County of _____

Subscribed and sworn to me this _____ day of _____, 20_____.

My Commission expires: _____

Notary Public

TOWN OF EDINBURGH – ZONING BOARD OF APPEALS

SIGN EXAMPLE:

NOTICE OF PUBLIC HEARING

**EDINBURGH ZONING BOARD OF
APPEALS**

INSERT CASE NUMBER

FOR INFORMATION PLEASE

CALL:

812-526-3513

A public hearing is required by Indiana State Law for...

Re-Zoning...

An amendment of the Official Zoning Map which has the effect of removing property from one zoning district and placing it in a different zoning district.

New Ordinances...

A rule established by authority; a permanent rule of action; a statute, law, regulation, rescript, or accepted usage; an edict or decree; esp., a local law enacted by a municipal government; as, a municipal ordinance.

Preliminary Plats...

The preliminary plat, pursuant to I.C. 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision is based.

Amendments to Plats Zoning, or Ordinances...

Any repeal, modification, or addition to a regulation; or any new regulation.

Special Exceptions...

A use that would not be appropriate generally or without restrictions throughout the zoning district, but if controlled as to number, area, location, or relation to the neighborhood, would promote public health, safety, and general welfare.

Zoning Variance...

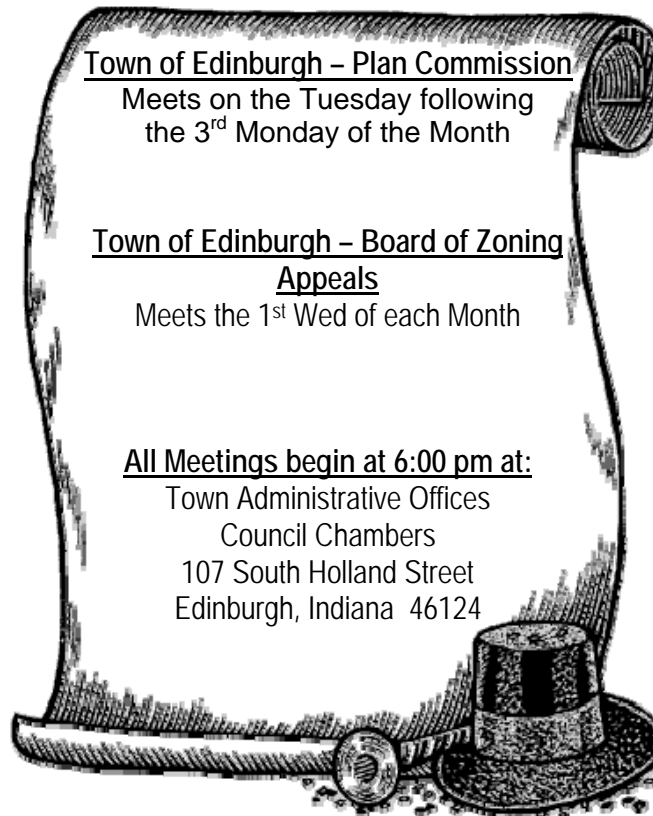
A specific approval granted by a Board of Zoning Appeals in the manner prescribed by Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes. Or the approval of a use by the Board of Zoning Appeals which is not listed as a permitted or special exception use by Ordinance and is not an accessory or temporary use associated with any primary use permitted by Ordinance.

For More Information Contact...

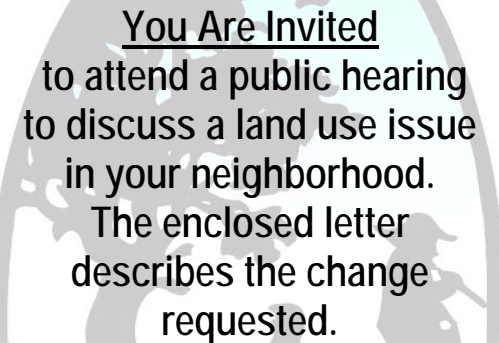
Town of Edinburgh
Building and Zoning
107 S Holland Street
Edinburgh, Indiana 46124

Phone: (812) 526-3513
Fax: (812) 526-3542

Office Hours:
8:00 am – 5:00 pm
Monday – Friday



Town Of Edinburgh



You Are Invited
to attend a public hearing
to discuss a land use issue
in your neighborhood.
The enclosed letter
describes the change
requested.

What are Your Rights as a Neighbor?

You may submit written comments prior to the public hearing to the Department of Planning.

These written comments are generally included in the petition's file and become a part of the public record.

You may speak at the public hearing; either in favor of, or against the proposal.

You have the right to appeal any decisions by the Edinburgh Town Plan Commission or Board of Zoning Appeals to the Courts. Most appeals must be filed within thirty (30) days after a decision has been made by a Commission, Board, or other legislative body.



What are the Procedures for a Public Hearing?

All public hearings are directed by the President or Chairman of the Commission/Board that is hearing the proposal.

Usually, a public hearing will open with the President/Chairman outlining the Rules of Procedure. The rules include an opening presentation by the property owner or their representative describing the proposal in detail and how it complies with the current Edinburgh Town standards.

The President/Chairman will then open the floor to anyone in the audience wishing to speak in favor, or against, the proposal. If a large number of persons are present that wish to speak for or against the proposal, a time limit for public comment may be set by the President/Chairman. The petitioner is then allowed time to respond to the questions and concerns voiced by the public.



If the petitioner has not answered all of the public's concerns, the President/Chairman can request that the public repeat the questions/concerns. Once all issues have been discussed, the President/Chairman then closes the public comment portion of the hearing and allows the omission or Board members to ask questions.

What Happens After the Public Hearing has been Closed?

If a decision has been made by the Plan Commission on any proposal other than the subdivision of land, that decision represents a recommendation to the Edinburgh Town Council; who will make the final decision on the proposal. If a decision has been made by the Board of Zoning Appeals, it is final, unless an appeal is filed with the Board or in the Courts. If a decision has been continued, or tabled, the proposal is placed on the agenda for the next regular meeting. The adjoining property owners will not receive additional notification of the meeting. The Commission or Board can continue a proposal and request that additional information be submitted before a decision is made.

