

## EXHIBIT B – USE VARIANCE APPLICATION REQUIREMENTS

### A. FILING PROCEDURE

1. The application shall be filed in the office of the Department of Public Services, 4230 Elkhart Road, Goshen, IN 46526 prior to 3:00 p.m. **ON** or **BEFORE** \_\_\_\_\_ to assure placement on the Board of Zoning Appeals agenda for the \_\_\_\_\_ Meeting Date.
2. The application shall be accompanied by a non-refundable fee of \$\_\_\_\_\_.
3. The owner(s) of property included in any petition before the Board of Zoning Appeals must consent to the filing of the application. Such consent shall be evidenced by the owner's signature on said application or by signature of a duly authorized agent. In the case of property which is being purchased under a land contract or an option to buy, the signatures of both the purchasers and sellers or the duly authorized agents shall be required. Staff shall be entitled to rely upon the representations made and the documents submitted by the person filing the application as to ownership.
4. Within a week after the submittal deadline, an Elkhart County staff member will visit your property to take pictures.

### B. INFORMATION ON THE APPLICATION

1. All information requested on the attached application, questionnaire, and site plan must be complete and shall be as accurate as reasonably possible. If the application, questionnaire, and site plan are not complete and accurate as reasonably possible, the staff may return the application to the petitioner and shall not set a date for the application's hearing.
2. A copy of the recorded deed(s) for the current property owner must be submitted. The deed(s) may be obtained from the county Recorder's Office. The deed(s) must show a complete and accurate legal description for the subject property.
3. It will also be necessary to include a drawing of the property ("site plan"), including the items listed on the Site Plan sample page.
4. For your information, the Staff will obtain a list of the names and addresses of property owners within 300 feet of the property in question from the County Auditor's Office. Persons on that list will then be notified of the Public Hearing by the staff.

### C. PRESENTATION TO THE BOARD OF ZONING APPEALS

1. Each application shall be presented to the Board. The petitioner or a representative must attend the hearing and presentations may be made by the petitioner or petitioner's representative.
2. Prior to the public hearing, the Elkhart County Zoning Administrator will make a written staff report and recommendation on your application to the Board of Zoning Appeals. A copy of this report will be mailed to you along with notice of the Public Hearing date and time.
3. The Board of Zoning Appeals is here to carefully consider your request. Before granting any application the Board must, by Law, find that the Use Variance:
  - a. Will not be injurious to the public health, safety, morals and general welfare of the community;
  - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
  - c. The need for the variance arises from some condition peculiar to the property involved;
  - d. The strict application of the terms of the Zoning Ordinance would constitute an unnecessary hardship if applied to the property for which the variance is sought; and
  - e. The approval does not interfere substantially with the County Comprehensive Plan.

The Board of Zoning Appeals must find in your favor on all five criteria and you should cover all **five** points in your presentation.

4. The Public Hearing Procedure is generally as follows:
  - a. Staff report and analysis presented.
  - b. Petitioner's presentation.
  - c. Questions from the Board.
  - d. Public comments (in support of and in opposition to).
  - e. Questions from the Board.
  - f. Petitioner's rebuttal.
  - g. Public hearing is closed.
  - h. Decision by the Board of Zoning Appeals.

5. The possible actions the Board can take on any application are as follows:
  - a. Approval;
  - b. Approval with conditions or commitments deemed necessary by the Board;
  - c. Tabling;
  - d. Denial; or
  - e. Dismissal (with or without prejudice)
6. The Recording Secretary will mail a copy of the results of the hearing to you.
7. The Board of Zoning Appeals may require or allow the owner of real property subject to a Special Use Permit or Variance petition to make a written commitment concerning the use or development of the real estate. The completed commitment form shall be signed by the owner in front of a notary public, recorded by the owner in the Office of the Elkhart County Recorder and then returned to the BZA staff for placement in the petition file. The commitment shall be effective immediately upon execution by the owner but the BZA approval ***shall not*** be effective until the recorded commitment form has been returned to the BZA staff.
8. If you have any questions concerning the presentation of your application or filing procedure, please ask for assistance from the staff as they are here to assist you in any reasonable way possible.