



# VARIANCE

## User's Guide

NOTE: FOR DETAILED PROCEDURES,  
REFER TO CHAPTER 7 OF THE  
UNIFIED DEVELOPMENT CODE

**Town of Erie**  
**Planning & Development – Planning Division**  
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This document is available on our web site. Go to <https://erieco.gov/111/Planning-Division>  
Click on Development User Guide & Fees> Scroll down and click on Preliminary Plat

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## Purpose and Scope

The Variance process is intended to provide limited relief from the requirements of this UDC in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this UDC. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of this UDC may impose on property owners in general.

## Process Summary

The following is a brief summary of the typical Variance process. Detailed step by step instructions may be found in Chapter 7, *Review and Approval Procedures* of the UDC.

## Comments/Review-

### Development Review Team Meeting (DRT):

The Project Planner will schedule a Development Review Team Meeting (DRT) after the referral agency review period is over. At the DRT meeting the Project Planner discusses the review comments from all review agencies and discusses the neighborhood meeting comments with the DRT attendees. The DRT meeting typically includes Planning & Development, Public Works staff, Parks & Recreation Administrative staff, the Building Official, Town consultants, and the Fire Marshall. The DRT Meeting does not include the Applicant. If the applicant would like to explain the application to the Project Planner before the DRT meeting they should contact the Project Planner to set up a separate meeting before the DRT meeting is held. After the DRT meeting, the Project Planner will compile all of the staff and referral comments for distribution to the applicant.

### Applicant Receives DRT/Referral Comments:

The Project Planner will provide the Applicant with a copy of all the staff and referral comments from the review of the application submittal packet. A meeting between staff and the applicant may be held to review the staff and referral comments. The applicant may also meet directly with the agency(ies) that have expressed concerns with the application. The Project Planner should be included in meeting or correspondence with referral agencies.

### Applicant Revisions Submitted/Resolution of Issues Complete:

The Applicant shall address, in writing, all issues and deficiencies identified in the staff and referral comments. To continue the process in a timely fashion, the applicant must complete the requested revisions and resubmit the revised application submittal packet for a second review by the Project Manager and any applicable referral agencies as quickly as possible. If an Applicant fails to submit required information for a period of more than six months from the initial request, the applicant shall become void and the resubmittal of a new application and fees will be required.

The revised application submittal packet will be reviewed by Project Planner at a DRT meeting after any further referral agency comments are received on the revised application submittal packet. The Project Planner shall provide the Applicant with a copy of the staff and referral comments from the second review and will indicate whether or not the application has resolved all of the issues raised in the comments. If the issues have not been resolved, then the application goes back to the **Applicant Submits Referral Packets** portion of the process for another round of reviews. Additional fees may be charged for resubmittals that do not address comments. If the issues have been resolved, then the application goes forward to the **Schedule/Notice Public Hearing for BOA** portion of the process.

### Schedule/Notice Public Hearing for BOA:

The Project Planner shall notify the Applicant when the application is ready for public hearing with the Board of Adjustment. The Project Planner will schedule the first available Board of Adjustment hearing date based on public hearing notification requirements and room on the BOA agenda.

The Board of Adjustment public hearing requires public hearing notification in the form of notice published in the newspaper, notice mailed, and notice posted on the property by sign. Full detail of the notice process can be found in Municipal Code Title 10 Unified Development Code Section 7.2.G.

Planning & Development shall have the public notice published in the newspaper at least 15 days before the public hearing. The Applicant is responsible for providing the correct legal description of the property to the Town before the notice is sent to the newspaper for publication.

The Applicant shall provide Planning & Development with a current (prepared within 30 days of the scheduled public hearing) list of property owners within 500 feet of the application property area and any associated homeowners associations. Additionally, the Applicant shall provide a stamped and addressed envelopes for each entity identified on the list for each public hearing. Planning & Development shall mail the public notice at least 15 days prior to the public hearing.

Planning & Development shall provide the Applicant with signs to be posted on the property for public hearing notice. The applicant is responsible for posting the signs at least 15 days before the public hearing, checking on the signs to make sure they remain in place, and to remove the signs within two days after the meeting. Before the public hearing the applicant shall submit to Planning & Development a notarized affidavit, on the Town form, stating that the notice was posted and maintained.

**Board of Adjustment (BOA) Public Hearing:**

The Board of Adjustment shall hold a public hearing on the proposed Variance.

In considering the application, the Board of Adjustment shall review the application materials, the applicable approval criteria below, and all testimony and evidence received at the public hearing.

After conducting the public hearing, the Board of Adjustment may: deny; approve or approve with conditions the requested Variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact. A concurring vote of a majority of those present shall be required to grant a Variance.

**End of Process:**

The applicant is at the end of the process when the Variance is denied.

**Record Documents:**

The Town shall be responsible for sending the Certificate of Variance to the County Clerk for recordation. The Applicant shall be billed for the cost to record the document.

**Approval Criteria**

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See Unified Development Code, Section 10.7.9.B.2 of the Erie Municipal Code

**Expiration of Approval**

If granted, any Variance shall become null and void, if:

1. The Variance is not exercised within 180 days of the date it is granted, or
2. Any building, structure, or characteristic of use permitted by the Variance is moved or altered so as to enlarge the Variance or discontinue it.

**Submittal Requirements**

All submittals shall be sent to the Planning Division electronically. To request an upload link, please submit your request to [planningapplication@erieco.gov](mailto:planningapplication@erieco.gov). Please contact the Planning Technician at 303-926-2770 if you have any questions. **Applications will not be accepted for review unless all information is submitted.**

1. **Completed Land Use Application (signed and notarized).** [Land Use Application](#)
2. **Application fee.** See Land Use Application for fees.
3. **Proof of ownership** that includes an updated or current title insurance policy or title commitment issued no more than thirty days prior to the date of application.
4. **A notarized letter of authorization** from the landowners permitting a representative to process the application, when the landowner is not the applicant.
5. **Letter of Request**, addressed to the Town Board of Adjustment, detailing:
  - a. The nature of the request; and
  - b. How the request complies with **all** of the approval criteria listed above.
6. **A survey, Improvement Location Certificate (ILC),** or site plan drawn to scale showing:
  - a. All existing and proposed structures;
  - b. All existing property lines and easements; and
  - c. Setbacks measured to property line(s) for proposed or existing encroachments.
7. If applicable, a recommendation letter from the Homeowners Association (HOA).
8. Additional information such as photos, graphic renderings or drawings to assist the Board of Adjustment in making a determination.
9. Any additional information or referral documents as required by the Planning & Development Director, in order to thoroughly review the impacts of the proposed development.

## **File Naming Conventions**

Submittal materials shall be submitted electronically with file names consistent with the Town's User Guides. Each PDF should be submitted as an individual document and not as one combined PDF.

See naming convention example:

- 1 - Completed Land Use Application (Signed/Notarized)
- 2 - Application Fee
- 3 - Written Narrative
- 4 - Proof of Ownership
- 5 - Notarized Letter of Authorization
- 6 - Special Agreements
- 7 - ALTA
- 8 - Minor Plat Amendment
- 9 - Phase III Drainage Report
- 10 - Development Agreement

## Links to Online Resources

1. Unified Development Code  
[Unified Development Code](#)
2. Land Use Application  
[Land Use Application](#)
3. Development Agreement Templates, Exhibit B Templates, Letter of Credit Template, Street Naming and Addressing Policy  
[Standard Forms & Templates](#)
4. Town of Erie Standards of Specifications  
[Town of Erie Standards and Specifications](#)
5. Town of Erie Parks and Trails Master Plan  
[Parks, Recreation, Open Space, and Trails Master Plan](#)
6. Public Improvement Permit Application  
[Public Improvement Permit Application](#)