

ELKHART COUNTY DRAINAGE BOARD VARIANCE PROCEDURE

Persons seeking a variance from the otherwise existing seventy-five (75) feet right-of-way (from the top of the ditch bank) on all regulated drains in Elkhart County must observe the following procedure as adopted by the Elkhart County Drainage Board at its meeting on April 18, 2006.

1. Petitioning party must file Petition Request form with County Surveyor's office. Said form will require, at a minimum the following:
 - [a] Narrative statement as to the proposal or request of the petitioner.
 - [b] Line drawing showing the dimensions of the parcel in question, the improvement proposed and the variance sought.
 - [c] Legal description of the parcel for which the variance is sought.
 - [d] A legible copy of the deed to the parcel in question, confirming current ownership.
 - [e] If Petitioner is not a current owner, Petitioner shall provide a release and/or approval letter from current owner (s).
2. Upon receipt of a properly completed petition, the County Surveyor's office will advise the petitioner of the time, place and date of the Drainage Board Meeting at which the petition will be considered.
3. Petitioner or representative shall attend the appointed or agreed upon Drainage Board meeting to present the petition and answer questions of the Board relative to the same.
4. The Drainage Board will then act upon the petition by either granting the same, in whole or part modifying the same, denying the same, or tabling the same to a later meeting, to allow for field inspection, further study, etc.
5. Upon granting of a variance, the petitioning party and the Drainage Board (through its authorized representative) must enter into an Agreement. RE: Variance from Regulated Ditch Right-of Way, in the form and substance of that attached here to and made a part hereof. The variance requested shall not be officially granted until the Agreement has been properly signed, notarized and duly placed of record in the Records of Elkhart County, Indiana. The Petitioner shall be responsible for the cost of recording the Agreement, the amount of such recording being established by the Recorder's office at the time of submission by the petitioner of the appropriate executed Agreement for recording purposes. Proof of submission of the Agreement for recording to the Surveyor's office shall be required (under standards of the Elkhart County Building Department) before the Agreement may be used by petitioner to secure a building permit for which the variance was needed.
6. The County Building Department will be advised of the procedures adopted by the Drainage Board, and of the fact that no variance will be official or binding upon the Drainage Board until fully signed and recorded.
7. The tentative action of the Drainage Board approving the variance, subject to the execution of the requisite Agreement, shall be valid for only sixty (60) days; thus should the petitioner fail to execute the appropriate Agreement, and present such to the Surveyor's office for signature by the Drainage Board representative, and then submit a proper recorded copy of the Agreement, within thirty (60) days of initial action of the Drainage Board, such action shall be null and void and no further force or effect. A party seeking a variance would be forced to refile a petition and start the process over.