



**APPLICATION INSTRUCTIONS
Variance Requests**

This instruction sheet explains application requirements for a variance request. More information and a fee schedule for permits can be found on the "Building Permits, Land Use, and Zoning Procedures" handout available on the township website or from the town clerk. If you are unsure whether a structure or project requires a permit, contact the Eureka Town Clerk at 952-469-3736 or eurekatn@frontiernet.net.

Criteria for Granting Variances

Variances are regulated under Eureka Township Ordinance 3, Chapter 4, Section 14. You can get a copy of the Eureka Zoning Ordinance from the town clerk or from the Eureka Township website at <http://eurekatownship-mn.us/permits.html>.

The following criteria shall be used when considering the issuance of a variance:

1. The proposed use is not prohibited in the zoning district in which the subject property is located.
2. The variance must be in harmony with the general purpose and intent of this Ordinance.
3. The terms of the variance must be consistent with the comprehensive plan.
4. The landowner must show that the variance is necessary to alleviate practical difficulties or particular hardship resulting from strict application of the ordinance. "Hardship" as used in connection with the granting of a variance means:
 - a. The property in question cannot be put to a reasonable use if used under the conditions allowed by this ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property, not created by the landowner or a previous landowner;
 - c. The variance, if granted, will not alter the essential character of the locality.

If the variance request meets all of the conditions cited above, the variance may be granted. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the Ordinances of the Township of Eureka.

Procedure for Variance Requests

The following procedure is required for all variance requests:

1. The person applying for a variance shall fill out and submit to the Zoning Administrator a variance application which shall include a statement of the difficulties or particular hardships claimed, along with the filing fee.
2. The Zoning Administrator shall provide landowners within one thousand (1,000) feet of the applicant's property with notification of the application for a variance via first class mail.



3. The Zoning Administrator shall refer the application along with all related information to the Planning Commission acting in an advisory role to the Board of Appeals.
4. The Planning Commission shall hold a public hearing on the proposal. Notice of the time, place and purpose of the public hearing shall be according to Minnesota Statutes 462.354 Subd. 2.
5. The applicant or a representative shall appear before the Planning Commission at the public hearing in order to present evidence concerning the proposed variance.
6. The Planning Commission may recommend the imposing of conditions on the granting of variances to insure compliance and to protect adjacent properties and the public interest. The Board of Adjustment may place additional conditions upon the issuance of a variance.
7. The Planning Commission shall make a finding of facts and recommend to the Town Board of Adjustment such actions or conditions relating to the request. Such findings shall be entered in and made a part of the written record of the Board of Adjustment and Appeals' meeting.
8. Upon receiving the report and recommendation of the Planning Commission, the Town Board, acting as the Board of Adjustment, shall place the report on the agenda for the next regular meeting.
9. Upon receiving the report and recommendation of the Planning Commission, the Town Board acting as the Board of Adjustment shall either:
 - a. Approve or disapprove the request as recommended by the Planning Commission; or
 - b. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations or differing conditions. Such modifications or differing conditions shall be in writing and made part of the Town Board's records; or
 - c. Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time for each variance request. If the request is referred back to the Planning Commission, the applicant shall be notified of the extension of time line for action on the request.
10. Approval of variances or appeals shall require passage by a minimum of three (3) members of the Town Board. The Zoning Administrator or Town Clerk shall notify the applicant of the Town Board's action.
11. Decisions of the Planning Commission shall be advisory to the Town Board. The decisions of the Town Board acting as the Board of Adjustment shall be subject to judicial review.
12. No resubmission of a variance application will be allowed for six (6) months without new evidence related to the variance.
13. Granted variances become void if the applicant does not proceed substantially on the work within six (6) months. To proceed substantially means to make visible improvement to the property. One or more extensions of not more than six (6) months each may be granted by the Board of Adjustment for good cause.



14. Applications for variances will not be accepted from anyone who is not an owner of land for which the application is made.
15. All variances that are granted by the Town Board must be recorded at the office of the Dakota County Recorder.

Documents Required for a Complete Application

To be considered complete, an application for a variance request requires all of the following, unless waived by the Zoning Administrator:

1. Completed "Land Use and Zoning Request Application" form, signed by the landowner(s). (If the individual signing the form has power of attorney for the landowner or is acting on behalf of a trust, attach proof that the individual is authorized to act in this capacity).
2. A written statement of the difficulties or particular hardships claimed, as required by item #4 under "Criteria for Granting Variances" on this instruction sheet.
3. Proof of ownership of all involved parcels. Parcel IDs will be used for verification of ownership; conflicts must be resolved with a proper deed.
4. Application fee and escrow, as set forth in Eureka Township Ordinance 7.

In addition, other permits may be required as follows:

- For new structures, building permits are required by Eureka Township.
- For new driveways that front on a county road, a permit is required from the Dakota County Highway Department.
- If the land parcel is located in the Dakota County Shoreland Zoning area, a Shoreland permit is required from the Dakota County Planning Department.
- If the land parcel is located in the North Cannon River Watershed District, a storm water permit may be required by Eureka Township.