

Kenai Peninsula Borough Variance Application Permit Packet (KPB 21.05)



This Packet Contains:

- Kenai Peninsula Borough Code, 21.05, Procedures for Variance from Title 21
- Variance Application
- Site Plan Instructions & Checklist

Directions:

▶ **Submit this application only when your project does not meet the current code requirements and you wish to request a variance. Contact the River Center for assistance.**

▶ **Please answer all questions completely. An incomplete application will be returned.**

▶ **Project drawings and descriptions are an important part of your application. Please be specific and include all items required on the site plan instructions. Photographs of the project site are also helpful.**

▶ **A variance requires approval by the Kenai Peninsula Borough Planning Commission. This process will take 45 days or longer. Please plan your projects accordingly.**

▶ **As part of the variance process, property owners within a 300-foot radius of the activity or project are notified by mail. A public hearing will be held at a regularly scheduled KPB Planning Commission meeting.**

RETURN COMPLETED PERMIT APPLICATIONS TO:

KENAI PENINSULA BOROUGH, RIVER CENTER DEPARTMENT
514 FUNNY RIVER ROAD
SOLDOTNA, AK 99669
FOR MORE INFORMATION, PHONE (907) 714-2461 OR
FAX (907) 260-5992
www.kenairivercenter.org

Variance Application From KPB Title 21



Applicant Information:

Name:

Mailing Address:

Physical Address:

Phone (Home/Work): _____

Cell Phone: _____

Fax & E-Mail: _____

Agent Information:

Name:

Mailing Address:

Physical Address:

Phone (Home/Work): _____

Cell Phone: _____

Fax & E-Mail: _____

Project Location:

River/Stream Name: _____

River Mile: _____ Right or Left bank (looking downstream)

Subdivision: _____ Lot: _____ Block: _____

Township: _____ Range: _____ Section: _____

KPB Parcel Number: _____

Project Description:

1) This activity is a new project modification or addition to an existing project

2) Type of project: private non-commercial; or commercial.

3) State the exact portion of KPB Code of Ordinance that you are requesting a variance from:

4) Describe the reason for the variance and the special conditions or circumstances justifying the variance. Attach additional pages if needed.

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5) Provide a thorough project description for the entire scope of your project. Attach additional pages if needed.

6) Describe the current use of this property.

7) Describe the current use of land adjacent to this property.

8) Attach documentation of all applicable municipal zoning codes and recorded subdivision covenants to demonstrate conformity of the proposed activity. This may require a letter of authorization from your home owners association.

Variance Standards:

The planning commission may only grant a variance request when it finds that all of the standards of KPB 21.05.040 are satisfied. The situations justifying variances are rare, and the burden of proof that an application meets the standards of the ordinance is on the applicant. **Please respond to the following questions on the Borough's variance standards. Use additional paper as necessary.**

1. What are the special conditions or circumstances that require you to apply for a variance? Did you cause those conditions?

2. Will the variance that you are requesting result in a land use that is prohibited in the district?

3. Is the sole reason for the variance to relieve an inconvenience or financial hardship?

BEFORE YOU SIGN:

- Complete the attached site plan forms. An as-built or certificate from a licensed land surveyor or professional engineer may also be required.
- To the best of your knowledge, attach a listing of all required state, federal, and municipal permits and approvals including issuance and expiration dates.
- Submit adequate information to demonstrate that the proposed activity will not result in significant erosion, destruction of wetlands or riparian habitat, or result in or increase ground or water pollution as required under KPB 21.18.

Certification Statement:

The information contained on this form and the attachments are true and complete to the best of my knowledge. I grant permission for borough staff to enter onto the property for the purpose of processing the permit application and site inspections. I did not cause the conditions requiring this variance. The variance will not permit a land use in a district where the use is prohibited. This variance is not sought solely to relieve financial hardship or inconvenience.

X _____
Signature of Applicant

Date

STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act on my behalf as my agent in the processing of this application and to furnish, upon request, information in support of this permit application. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein.

SIGNATURE OF APPLICANT

DATE

STATEMENT OF AUTHORIZATION

Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF AGENT

DATE

Site Plan Instructions & Checklist

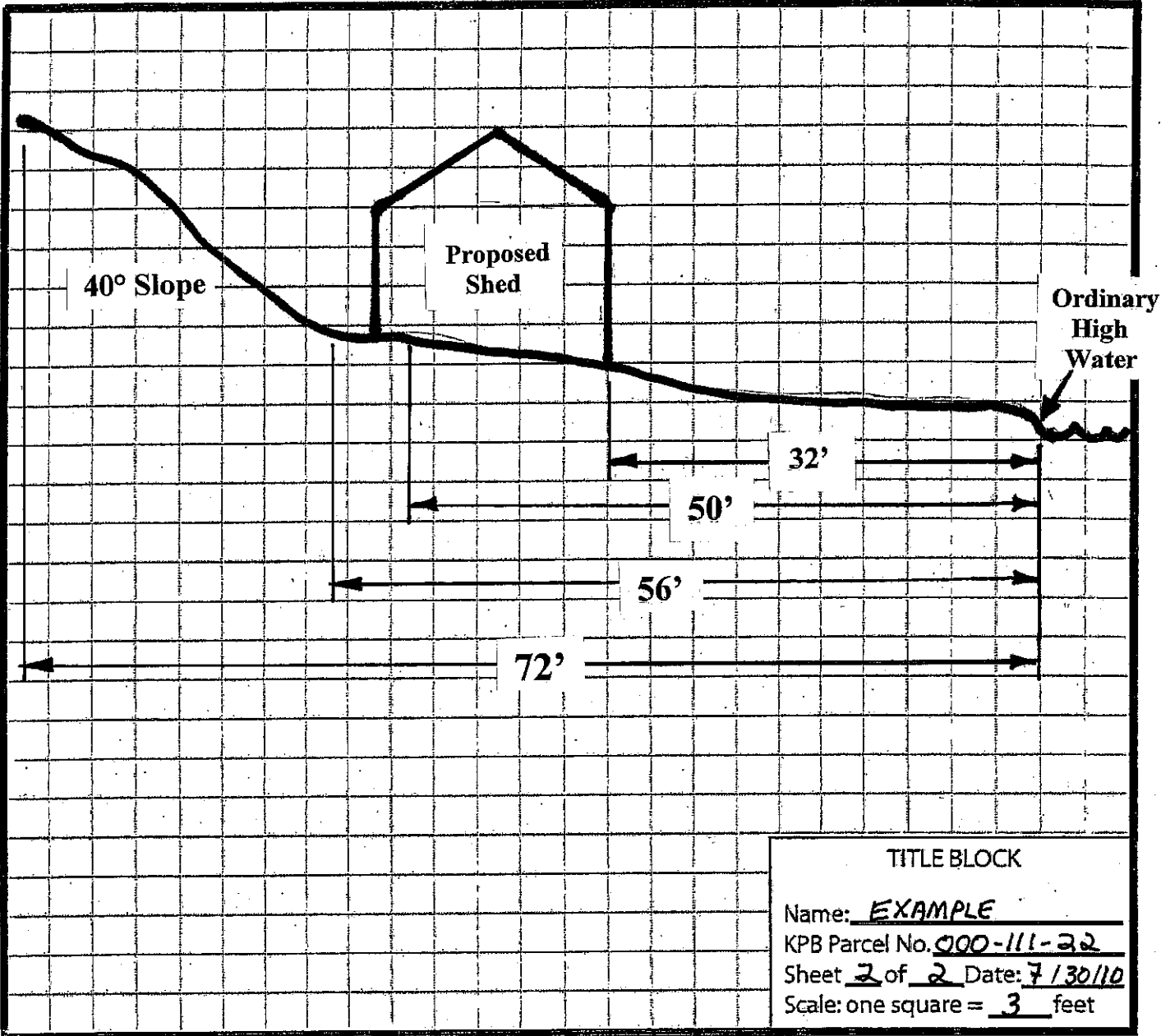


Directions:

- **Print your name, date of drawing, the number of the sheet and total number of sheets in the set (e.g. Sheet 1 of 2).**
- **Indicate the scale of your drawing and show a North arrow. The scale need not be the same for every drawing.**
- **Submit one original set of drawings on 8 ½ x 11 paper. Provide as much detail as you can; however, please submit the fewest number of sheets necessary to adequately show the proposed activity (photos of project site are helpful).**
- **The TOP VIEW drawing should show your project in relation to:**
 - **the distance from ordinary (or mean) high water of the stream;**
 - **property lines and any adjacent streets by name;**
 - **any nearby structures, such as houses, outbuildings, fences, etc.;**
 - **any easements and/or location of any nearby utilities;**
- **The ELEVATION OR SIDE VIEW drawing should show your project in relation to:**
 - **the distance from ordinary (or mean) high water of the stream;**
 - **elevations above ground level.**
- **Be sure to include all dimensions and types of materials used on the project.**
- **Because the drawings will be photocopied, color shading may not be used. Instead, use dot shading, cross-hatching, or similar graphic symbols.**

NOTE: It is not necessary to have your drawings professionally drafted. However, please be as accurate as possible with your measurements. Take your time, and make sure your drawings are clear and easily understood. Drawing sheets are provided for your convenience, or you may use your own paper.

SITE PLAN: ELEVATION OR SIDE VIEW

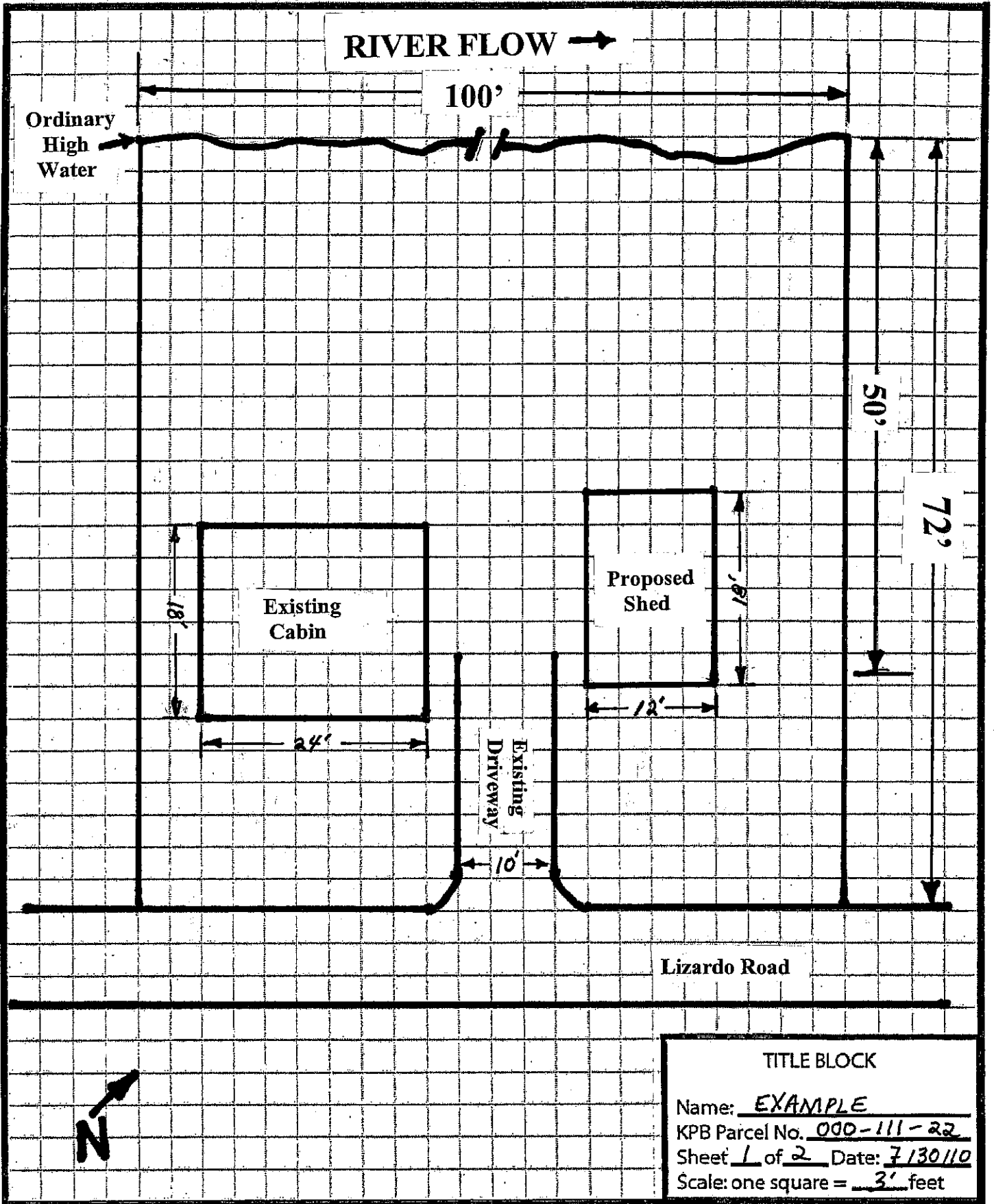


Additional Comments or Descriptions: _____

THE TOE OF THE 40° SLOPE IS 56' FROM ORDINARY HIGH WATER. THE MAJORITY OF THE PROPOSED SHED LIES WITHIN THE 50-FOOT HABITAT PROTECTION DISTRICT. THE EXISTING HOUSE IS NOT SHOWN IN THIS VIEW.

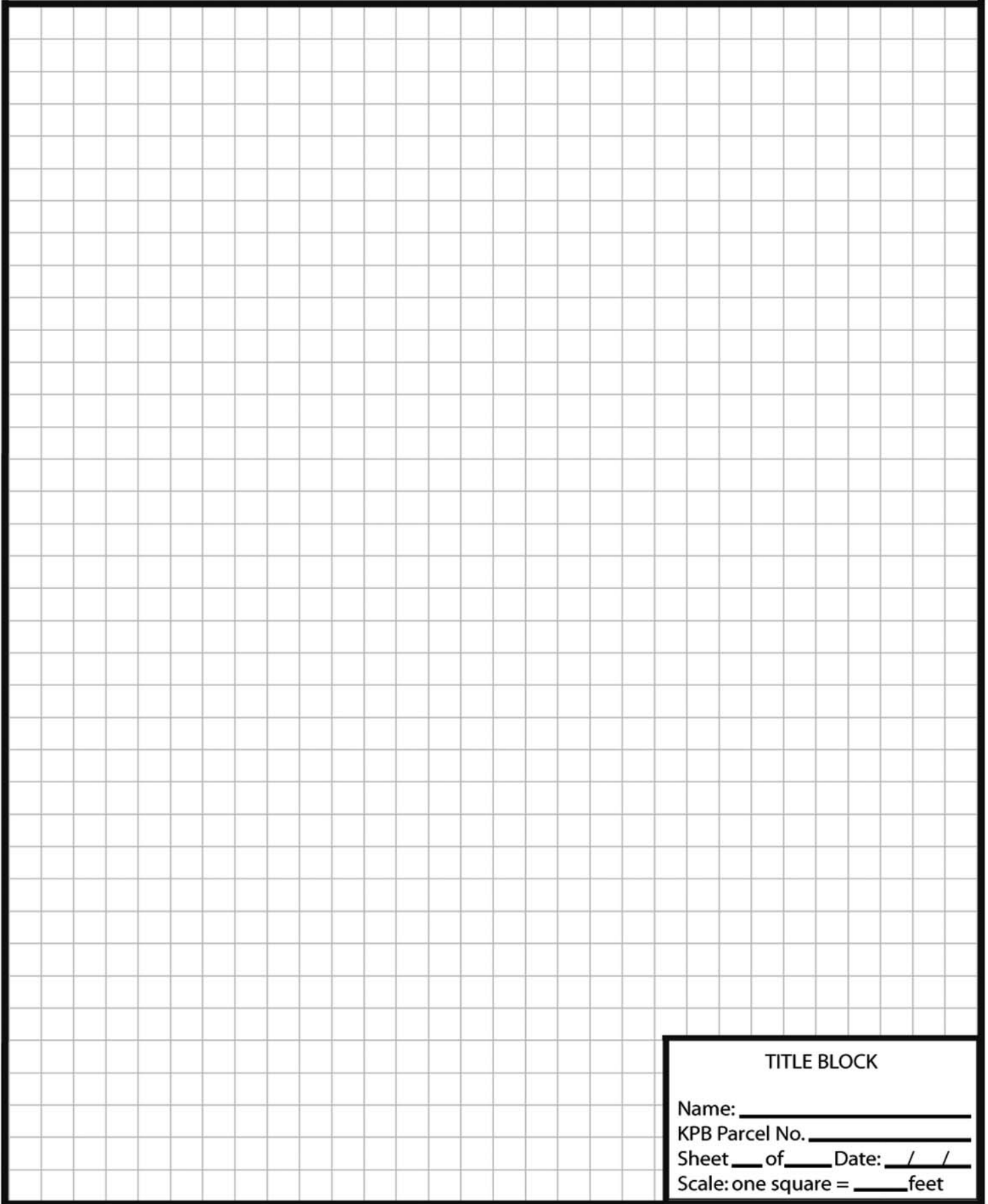
Please note all dimensions and the location of Ordinary High Water in relation to your project

SITE PLAN: TOP VIEW



Please note all dimensions and the location of Ordinary High Water in relation to your project

SITE PLAN: TOP VIEW



SITE PLAN: ELEVATION OR SIDE VIEW

A large grid area for drawing a site plan elevation or side view. The grid is composed of small squares, suitable for technical drawing.

TITLE BLOCK	
Name:	_____
KPB Parcel No.	_____
Sheet ___ of ___	Date: ___ / ___ / ___
Scale: one square =	_____ feet

Additional Comments or Descriptions: _____

Please note all dimensions and the location of Ordinary High Water in relation to your project

CHAPTER 21.05. PROCEDURES FOR VARIANCE FROM TITLE 21

21.05.010. Purpose.

The purpose of this chapter is to grant relief from the literal application of this title where unusual individualized situations result in more stringent burdens being placed on some parcels of land than others and to prevent special hardships to individual landowners or deprivation of rights commonly enjoyed by other properties in a district.

(Ord. No. 2001-32, § 1, 10-23-01; Ord. No. 97-52, § 1(part), 1997)

21.05.020. Burden of proof.

The situations justifying variances are rare and the burden of proof that an application meets the standards of this ordinance is on the applicant.

(Ord. No. 97-52, § 1(part), 1997)

21.05.030. Application--Public hearing.

A. An application for a variance shall be made on a form provided by the planning department and shall contain:

1. The legal description of the parcel for which the variance is requested;
2. A statement of the facts justifying the variance; and
3. The applicant's certification that:
 - a. The variance is not being sought by the person causing the conditions requiring the variance,
 - b. That the variance will not permit a land use in a district where the use is prohibited, and
 - c. That the variance is not sought solely to relieve pecuniary hardship or inconvenience.

B. The planning department may require additional information from the applicant helpful to the variance determination, including but not limited to, an as-built or certificate from a licensed land surveyor or professional engineer when necessary to the determination.

C. The planning department shall process the variance application within 45 days of receipt, place it on the planning commission agenda, and make recommendations to the planning commission regarding approval, denial, and conditions, if any, to be placed on the variance.

D. A public hearing shall be held before the planning commission regarding all variance applications. The public hearing notice requirements set forth in KPB 21.11 shall be followed. Variances within local option zoning districts require notice to all property owners within the district.

(Ord. No. 97-52, § 1(part), 1997)

21.05.040. Standards.

A. Pursuant to AS 29.40.040(b) a variance from a land use regulation adopted under KPB Title 21 may not be granted if:

1. Special conditions that require the variance are caused by the person seeking the variance;
2. The variance will permit a land use in a district in which that use is prohibited; or
3. The variance is solely to relieve pecuniary hardship or inconvenience.

B. The planning commission shall also consider the following standards:

1. Whether a lesser variance than that applied for would do substantial justice to the applicant as well as surrounding property owners;
2. Whether a lesser variance than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to the surrounding property owners;
3. Whether relief can be granted in such a fashion that the spirit of the ordinance will be observed and public health, safety, and welfare secured; and
4. Whether the authorization of a variance will not be materially detrimental to the public welfare or injurious to nearby property;

C. Consistent with the public health, safety, and welfare, the planning commission may attach conditions to an authorized variance regarding location, character, and other features of the proposed structures or uses as it finds necessary to carry out the spirit and purposes of this ordinance and the ordinance from which the variance is requested.

(Ord. No. 97-52, § 1(part), 1997)

21.05.050. Variances--Expiration--Extension.

If the variance allowed requires further action of the property owner to be effective, and such action is not taken within two years of granting the variance, the variance shall expire. The planning department may prepare and record an expiration document; however, failure to prepare or record an expiration document does not extend the length of variance authorization. The planning commission may extend the period of variance authorization without a public hearing upon a finding that there has been no basic change in pertinent conditions surrounding the property at the time of original approval as long as the request for extension is submitted before the two-year period of authorization expires. If the period of authorization expires without an extension application being filed with the planning department the applicant must again file an original application for variance.

(Ord. No. 97-52, § 1(part), 1997)

21.05.060. Findings of fact.

A written decision in resolution form shall be rendered by the planning commission granting, denying, or modifying the variance application with findings of fact based on the substantial evidence in the record.

(Ord. No. 97-52, § 1(part), 1997)

21.05.070. Recordation.

Variances, extensions, and expirations may be recorded in the state of Alaska recording district in which the affected parcel is located. A recording fee not to exceed the administrative costs of preparing and recording the variance document may be charged as a condition of a variance or variance extension. If the recording fee is charged the borough shall be responsible for the recording. Failure to record a variance, expiration, or extension will not affect its validity.

(Ord. No. 97-52, § 1(part), 1997)

21.05.080. Appeal.

Pursuant to AS 29.40.050 an appeal may be taken from the grant or denial of a variance pursuant to the provisions of KPB 21.20 by the applicant, a government entity, or an aggrieved party. An "aggrieved party" means a party adversely impacted by the decision and who has participated in a particular variance determination at the planning commission level either by filing written comments or in person.

(Ord. No. 97-52, § 1(part), 1997)

21.05.090. Exemptions.

Chapters within Title 21 which set forth variance provisions, unless otherwise provided in such chapters, are exempt from the provisions of this chapter.

(Ord. No. 98-50, § 2, 10-13-98; Ord. No. 97-52, § 1(part), 1997)