



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Meeting Agenda Board of Adjustment

Thursday, February 27, 2025

6:00 PM

Council Chambers

In Person Meeting

Link to Watch or Comment Virtually: <https://bit.ly/27Feb25BOAMtg>

To Sign Up for Public Comment: www.erieco.gov/PublicComment

I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE TO THE FLAG

6:00pm

II. ROLL CALL

III. APPROVAL OF THE AGENDA

IV. APPROVAL OF THE MINUTES

[25-084](#) Approval of the May 11, 2022 Board of Adjustment Meeting Minutes

Attachments: [May 11, 2022 Board of Adjustment Meeting Minutes](#)

V. PUBLIC COMMENT

6:35pm - 6:45pm

VI. BOARD REPORTS AND DISCUSSION ITEMS

6:45pm - 7:30pm

[25-085](#) Discussion: Board of Adjustment Expansion of Duties to include Board of Appeals

Attachments: [2021 International Building Code Section 113 Means of Appeal](#)
[2021 International Building Code Appendix B Board of Appeals](#)

VII. STAFF REPORTS

7:30pm - 7:40pm

VIII. BOARD REPORTS AND DISCUSSION ITEMS

7:40pm - 7:55pm

IX. ADJOURNMENT

7:55pm



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Board of Adjustment

Board Meeting Date: 2/27/2025

File #: 25-084, **Version:** 1

SUBJECT:

Approval of May 11, 2022, Board of Adjustment Meeting Minutes

DEPARTMENT: Planning & Development

PRESENTER: Melinda Helmer, Secretary

STAFF RECOMMENDATION:

Approval of the May 11, 2022, Board of Adjustment Meeting Minutes

SUMMARY AND BACKGROUND OF SUBJECT MATTER: N/A

ATTACHMENTS:

- May 11, 2022, Board of Adjustment Meeting Minutes

TOWN OF ERIE

*645 Holbrook Street
Erie, CO 80516*



Meeting Minutes

Wednesday, May 11, 2022

7:00 PM

To view the meeting or make public comment:

**<https://bit.ly/11May2022BOAMtg>
Council Chambers**

Board of Adjustment

I. CALL MEETING TO ORDER & PLEDGE OF ALLEGIANCE TO THE FLAG

Chair Farr called the May 11, 2022 Board of Adjustment Meeting to order at 7:02pm.

II. ROLL CALL

Roll Call:

Board Member Bergh - absent
Board Member Horovitz - present
Board Member Bowker - present
Board Member VanAucken - present
Board Member Percell - present
Secretary Benore - present
Chair Farr - present

A quorum was present for the meeting.

III. APPROVAL OF THE AGENDA

Board Member Percell moved to approve the agenda of the May 11, 2022 Board of Adjustment Meeting. The motion, seconded by Secretary Benore, carried with the all voting in favor thereof.

IV. APPROVAL OF THE MINUTES

[22-175](#) Approval of the April 12, 2021 Board of Adjustment Meeting Minutes

Attachments: [April 12, 2021 BOA Meeting Minutes](#)

Board Member Horovitz moved to approve the meeting minutes of the April 12, 2021 Board of Adjustment Meeting. The motion, seconded by Board Member Bowker, carried with all voting in favor thereof.

V. PUBLIC COMMENT

No public comment was taken.

VI. GENERAL BUSINESS

[22-176](#) A Discussion and Recommendation to the Board of Trustees Regarding the Applications of Potential Board of Adjustment Members

Attachments: [2022 BOA Application Packets](#)

Chair Farr introduced Agenda Item 22-176, a Discussion and Recommendation to the Board of Trustees Regarding the Applications of Potential Board of Adjustment Members.

Chair Farr noted the incorrect information with regards to Board Member VanAucken's term expiration (Alternate 2022) and asked the Board if there was a motion regarding Board Member VanAucken's involvement in continuing with the Board past April of 2022.

The reason for the motion is that Board Member VanAucken was not included in the original names of those who's terms were expiring (along with Chair Farr and Board Member Bowker), who had expressed their intent of remaining on the Board. Because of the confusion, Board Member VanAucken had not been able to express his intent to remain on the Board.

Board Member VanAucken moved to express his continued support and intent to remain on the Board of Adjustment past the term of April 2022. The motion, seconded by Secretary Benore, carried with the following roll call vote:

Board Member Horovitz - aye
Board Member Bowker - aye
Board Member VanAucken - aye
Board Member Percell - aye
Secretary Benore - aye
Chair Farr - aye

The motion passes unanimously.

Chair Farr noted that himself, Board Member VanAucken, and Board Member Bowker are all wishing to continue their service on the Board. Board Member Bergh has elected not to continue for another term.

The following applications would need to be considered by the Board, with the exception of Brie Paul, who submitted an application after the April 15th deadline.

- Brittany B. Jones
- James Davis
- Joe Cygan
- Hans Bowker
- Michael Farr
- Joshua VanAucken

Chair Farr asked each Board Member to give their top picks in order of their application recommendation.

Board Member Percell noted that the Board of Trustees requested a ranked list from the Board of Adjustment as some of the applicants have submitted their intent to other Boards/Commissions that may take precedence over the Board of Adjustment.

Board Member Percell asked if the Board could recommend or motion to vote on the existing Board Members and request that they retain their current seats as the top three choices and rank the next three applicants.

Board Member Horovitz asked for clarification on the number of vacant seats as well as his status as an Alternate Board Member.

Secretary Benore moved to allow Michael Farr, Hans Bowker, and Joshua VanAucken to retain their seats on the Board of Adjustment all equally rated as a number 1 rank. The motion, seconded by Board Member Horovitz, carried with all voting in favor thereof.

Motion passes. The first 3 ranked recommendations are as follows:

1. Michael Farr

- 1. Hans Bowker
- 1. Joshua VanAucken

Discussion among the Board Members began with their recommendations in order.

Board Member Horovitz recommended as follows: 1. James Davis 2. Brittany B. Jones 3. Joe Cygan

Board Member Bowker recommended as follows: 1. James Davis 2. Brittany B. Jones 3. Joe Cygan

Board Member VanAucken recommended as follows: 1. James Davis 2. Brittany B. Jones 3. Joe Cygan

Board Member Percell recommended as follows: 1. Joe Cygan 2. Brittany B. Jones 3. James Davis 4. Brie Paul (if we need an additional applicant)

Secretary Benore recommended as follows: 1. Brittany B. Jones 2. Joe Cygan 3. James Davis

Chair Farr recommended as follows: 1. Joe Cygan 2. Brittany B. Jones 3. James Davis

Through discussion, all Board Members feel that every applicant was qualified for various reasons and qualifications. All applicants would be welcome on the Board.

It is the consensus of the Board with recommendations as follows:

- 1. Michael Farr
- 1. Hans Bowker
- 1. Joshua VanAucken
- 2. James Davis

Board Member Bowker asked if the Board could set up their ranking as the 3 incumbents fill the first 3 vacant spots, with the next pick be equally divided among 3 qualified candidates. The Board would like to ask the Board of Trustees to fill the 4th vacant seat with one of the 3 remaining qualified candidates.

Board Member VanAucken moves to recommend the 3 current Board Members as a number one rank, with the 3 remaining candidates as a second rank as each of the candidates were equally qualified, to the Board of Trustees for final decision. The motion, seconded by Board Member Bowker, carried with the following roll call vote:

- Board Member Horovitz - aye
- Board Member Bowker - aye
- Board Member VanAucken - aye
- Board Member Percell - aye
- Secretary Benore - aye
- Chair Farr - aye

Motion passes.

The final recommendation to the Board of Trustees is as follows:

- 1. Michael Farr
- 1. Hans Bowker
- 1. Joshua VanAucken
- 2. James Davis
- 2. Brittany B. Jones

2. Joe Cygan

As Brie Paul did not submit an application by the April 15, 2022 deadline, she was not considered in recommendations.

VII. STAFF REPORTS

Melinda Helmer had nothing to report to the Board.

VIII. BOARD REPORTS AND DISCUSSION ITEMS

There were no Board reports.

Town Attorney, Katie Vera had nothing to report.

IX. ADJOURNMENT

Secretary Benore moved to adjourn the May 11, 2022 Board of Adjustment Meeting at 7:28pm. The motion, seconded by Board Member Percell, carried with all voting in favor thereof.

The meeting was adjourned at 7:28pm.



TOWN OF ERIE

645 Holbrook Street
Erie, CO 80516

Board of Adjustment

Board Meeting Date: 2/27/2025

File #: 25-085, **Version:** 1

SUBJECT:

Discussion: Board of Adjustment Expansion of Duties to include Board of Appeals

DEPARTMENT: Planning & Development

PRESENTER: Ed Kotlinski, Chief Building Official
Joel Champagne, Deputy Building Official

STAFF RECOMMENDATION:

Discussion Item Only

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Town of Erie desires to establish a Board of Appeals in accordance with the provisions of adopted 2021 International Building Code (IBC) Section 113 - Means of Appeal for the purpose of hearing and considering applications for modification of the requirements of the IBC based on a claim that the true intent of the code or rules legally adopted have been incorrectly interpreted or the provisions of the code do not fully apply or an equivalent or better form of construction is proposed.

At the advice of legal counsel Town staff drafted a proposal of expanding the duties of the Board of Adjustment to include the duties of a Board of Appeals similar to other municipalities, such as the City of Boulder and Town of Superior. It is the intent that members be an architect, engineer, master electrician, building contractor, or otherwise qualified by experience and training to decide on matters pertaining to building construction and the suitability of alternative materials and methods. It is also the intent to meet current Board of Adjustment members, become acquainted, answer questions regarding the proposed expansion of duties, and encourage all to remain on the Board.

ATTACHMENTS:

1. 2021 International Building Code Section 113 - Means of Appeal
2. 2021 International Building Code Appendix B - Board of Appeals

SECTION 112 SERVICE UTILITIES

[A] **112.1 Connection of service utilities.** A person shall not make connections from a utility, a source of energy, fuel, or power, or a water system or sewer system to any building or system that is regulated by this code for which a *permit* is required, until approved by the *building official*.

[A] **112.2 Temporary connection.** The *building official* shall have the authority to authorize the temporary connection of the building or system to the utility, the source of energy, fuel, or power, or the water system or sewer system for the purpose of testing systems or for use under a temporary approval.

[A] **112.3 Authority to disconnect service utilities.** The *building official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without the approval required by Section 112.1 or 112.2. The *building official* shall notify the serving utility, and wherever possible the *owner* or the *owner's* authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the *owner* or the *owner's* authorized agent or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

SECTION 113 MEANS OF APPEALS

[A] **113.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the *building official* relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the applicable governing authority and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the *building official*.

[A] **113.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent or better form of construction is proposed. The board shall not have authority to waive requirements of this code or interpret the administration of this code.

[A] **113.3 Qualifications.** The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

[A] **113.4 Administration.** The *building official* shall take immediate action in accordance with the decision of the board.

SECTION 114 VIOLATIONS

[A] **114.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, *repair*, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

[A] **114.2 Notice of violation.** The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, *repair*, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

[A] **114.3 Prosecution of violation.** If the notice of violation is not complied with promptly, the *building official* is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

[A] **114.4 Violation penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the *approved construction documents* or directive of the *building official*, or of a *permit* or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law.

SECTION 115 STOP WORK ORDER

[A] **115.1 Authority.** Where the *building official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a *dangerous* or unsafe manner, the *building official* is authorized to issue a stop work order.

[A] **115.2 Issuance.** The stop work order shall be in writing and shall be given to the *owner* of the property, the *owner's* authorized agent or the person performing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

[A] **115.3 Emergencies.** Where an emergency exists, the *building official* shall not be required to give a written notice prior to stopping the work.

[A] **115.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to fines established by the authority having *jurisdiction*.

APPENDIX B

BOARD OF APPEALS

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

User notes:

About this appendix: Appendix B provides criteria for Board of Appeals members. Also provided are procedures by which the Board of Appeals should conduct its business.

Code development reminder: Code change proposals to this appendix will be considered by the Administrative Code Development Committee during the 2022 (Group B) Code Development Cycle.

SECTION B101 GENERAL

[A] B101.1 Scope. A board of appeals shall be established within the jurisdiction for the purpose of hearing applications for modification of the requirements of this code pursuant to the provisions of Section 113. The board shall be established and operated in accordance with this section, and shall be authorized to hear evidence from appellants and the building official pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.

[A] B101.2 Application for appeal. Any person shall have the right to appeal a decision of the building official to the board. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the building official within 20 days after the notice was served.

[A] B101.2.1 Limitation of authority. The board shall not have authority to waive requirements of this code or interpret the administration of this code.

[A] B101.2.2 Stays of enforcement. Appeals of notice and orders, other than Imminent Danger notices, shall stay the enforcement of the notice and order until the appeal is heard by the board.

[A] B101.3 Membership of board. The board shall consist of five voting members appointed by the chief appointing authority of the jurisdiction. Each member shall serve for [INSERT NUMBER OF YEARS] years or until a successor has been appointed. The board members' terms shall be staggered at intervals, so as to provide continuity. The building official shall be an ex officio member of said board but shall not vote on any matter before the board.

[A] B101.3.1 Qualifications. The board shall consist of five individuals, who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

[A] B101.3.2 Alternate members. The chief appointing authority is authorized to appoint two alternate members who shall be called by the board chairperson to hear

appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership, and shall be appointed for the same term or until a successor has been appointed.

[A] B101.3.3 Vacancies. Vacancies shall be filled for an unexpired term in the same manner in which original appointments are required to be made.

[A] B101.3.4 Chairperson. The board shall annually select one of its members to serve as chairperson.

[A] B101.3.5 Secretary. The chief appointing authority shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings, which shall set forth the reasons for the board's decision, the vote of each member, the absence of a member and any failure of a member to vote.

[A] B101.3.6 Conflict of interest. A member with any personal, professional or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.

[A] B101.3.7 Compensation of members. Compensation of members shall be determined by law.

[A] B101.3.8 Removal from the board. A member shall be removed from the board prior to the end of their term only for cause. Any member with continued absence from regular meeting of the board may be removed at the discretion of the chief appointing authority.

[A] B101.4 Rules and procedures. The board shall establish policies and procedures necessary to carry out its duties consistent with the provisions of this code and applicable state law. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be presented.

[A] B101.5 Notice of meeting. The board shall meet upon notice from the chairperson, within 10 days of the filing of an appeal or at stated periodic intervals.

[A] B101.5.1 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the building official and any person whose interests are affected shall be given an opportunity to be heard.

B101.5.2 Quorum. Three members of the board shall constitute a quorum.

[A] B101.5.3 Postponed hearing. When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

[A] B101.6 Legal counsel. The jurisdiction shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the jurisdiction's expense in all matters arising from service within the scope of their duties.

[A] B101.7 Board decision. The board shall only modify or reverse the decision of the building official by a concurring vote of three or more members.

[A] B101.7.1 Resolution. The decision of the board shall be by resolution. Every decision shall be promptly filed in writing in the office of the *building official* within three days and shall be open to the public for inspection. A certified copy shall be furnished to the appellant or the appellant's representative and to the *building official*.

[A] B101.7.2 Administration. The *building official* shall take immediate action in accordance with the decision of the board.

[A] B101.8 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.