

Zoning Board of Adjustment
Application for
VARIANCE
Town of Highlands, North Carolina

Application # V-_____

Applicant_____ Date_____

Address_____ Phone_____

Location of Property_____

Parcel #_____ Zoning District_____ Size of Property_____

Watershed Overlay District_____

Please attach to this application the following documents:

(1) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; the identity of neighboring properties; any adjacent streets, designated as public or private; any existing or proposed structures, showing setbacks to rights-of-way and property lines; parking areas showing the number and arrangement of parking spaces and driveway entrances; utilities and surface water drainage; and significant natural features, such as wooded areas, streams, ponds, or marshes. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

NOTE: If the applicant is requesting a variance from a provision of a Watershed Overlay District, the site plan may also be required to indicate the dimensions and total area of all of the "built-upon" areas on the parcel, or the distance between any structures or "built-upon" areas and certain streams and lakes identified on the Watershed Map, as may be applicable.

(2) Elevations and a floorplan, indicating dimensions of the building, gross floor space, number of seats, or any other applicable information.

(3) A complete and detailed description of the use proposed, together with any other pertinent information which the applicant feels would be helpful to the Zoning Board in considering the application.

Some of these requirements may be waived as may be applicable, such as for changes of use in existing buildings involving no expansions in building or parking areas, etc.

The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. The Board's authority is defined by the State enabling act, which requires it to reach three general conclusions before granting a variance. Section 602.3(C) of the Zoning Ordinance defines these same three general findings, as well as five additional findings by which the Board determines if the first finding ("practical difficulties or unnecessary hardships") can be made.

In the spaces provided below, or on a separate sheet of paper, indicate the facts that you intend to show and the arguments you intend to make to convince the Board that it can properly grant the variance.

(1) "There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance." In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the following five conditions exist:

(a) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(b) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(c) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(d) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(e) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(2) "The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit."

That is, the applicant is not seeking to establish, to expand, or to extend in area a non-conforming use. Moreover, the existence of a non-conforming use in the same or in any other zoning district shall not constitute a reason for granting the requested variance.

(3) "In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done." The Board shall not grant a variance if it finds that doing so would alter the essential character of the neighborhood, materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or general welfare.

APPLICATION FOR MAJOR VARIANCE

Effective October 1, 1993, the Town has amended its Zoning Ordinance to implement requirements of the Watershed Protection Act of 1989. Variances from the requirements enumerated in Watershed Overlay Districts are classified either as major or minor variances. A major variance is "the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard." In the case of a major variance, if the Zoning Board decides in favor of granting a variance, it only becomes effective if also approved by the Environmental Management Commission, according to the procedures outlined in the Zoning Ordinance. The applicant should be aware that major variances will require a longer period of time to be decided, and possibly additional application fees required by the Environmental Management Commission.

*Application for a minor variance

*Application for a major variance

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief; and I hereby request that a duly advertised public hearing be held at the Town Hall, Highlands, NC, by the Zoning Board of Adjustment, on the following date and time, for the purpose of presenting evidence and arguments in support of this application.

DATE OF HEARING _____ TIME _____

SIGNATURE OF APPLICANT

APPLICATION DEADLINE IS POSTED IN THE LOBBY OF THE TOWN HALL.

PLEASE ATTACH APPLICATION FEE OF \$100.00

11.28.07

