

APPLICATION ACCEPTANCE POLICY

BOARD OF ADJUSTMENT REQUEST FOR VARIANCE

City of Wilmington
Planning, Development and Transportation
Zoning Division

PO Box 1810 | 929 N Front St.
Wilmington, NC 28402
Telephone 910.254.0900 | Fax 910.341.3264

The City of Wilmington understands that clear expectations make the application and review processes easier for both applicants and staff. The policies outlined below will enable staff to move the process along in a way that ensures that each application receives the attention it deserves. Staff desires to complete review of projects in an accurate and timely manner. Due to the volume of applications and quasi-judicial hearing schedules, working with incomplete materials detracts from the timely review of applications.

1. Applications are to be reviewed for completeness by staff prior to being officially accepted by the City for review. Applications that are dropped off or mailed in cannot be accepted without prior approval from the Zoning Administrator.
2. Checklists for each type of request are provided with each application package. If the application does not contain all required items on the checklist, it will be considered incomplete and shall not be accepted.
3. Upon determination by staff that an application for a variance is complete, it will be officially accepted by the Zoning Division. Staff will complete an acceptance form and both staff and the applicant must sign the form. The application is not considered officially accepted until this form is signed by both the planner and the applicant. A copy of the signed form will be given to the applicant and a copy will be placed in the project file at the time of acceptance. Staff will not hold materials for incomplete applications.
4. Application fees must be paid at the time an application is submitted for acceptance.
5. In order to allow time to process fees, applications will not be accepted after 4:00 PM each day. On the deadline day for submittals for Board of Adjustment quasi-judicial hearings, applications will not be accepted after 1:00 PM.
6. For your convenience, applicants may schedule an appointment with staff or may “walk-in” without an appointment. Please allow sufficient time to review the application package with staff.
7. If you plan to have legal representation at the quasi-judicial hearing, please notify city staff within one week prior to the hearing to ensure that the city can arrange representation as well. Failure to do so may result in the city requesting a continuance to another hearing.

The Planning Division staff looks forward to working with you during the application process. If you have questions or need further assistance, please call 254-0900.

**CITY OF WILMINGTON
STATE OF NORTH CAROLINA**

APPLICATION FOR A VARIANCE

PURPOSE OF VARIANCE – A Variance is the official allowance of a variation from the dimensional requirements of the City Land Development Code or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature but must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

BOARD OF ADJUSTMENT - The Board of Adjustment, or BOA, is the official City Board that considers requests for variances. The BOA receives sworn testimony at its quasi-judicial hearings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a Variance to attend the BOA meeting and present sworn testimony in support of the request.

REASON FOR VARIANCE REQUEST – Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

The BOARD OF ADJUSTMENT is required to make the following four (4) findings before granting a Variance. Write a thorough response to each of these items.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Application No. _____

ATTACH PLOT PLAN DESCRIBING VARIANCE REQUEST

PROPERTY LOCATION INFORMATION

Street address of subject property _____

Tax Parcel Number of subject property _____

ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES

APPLICANT INFORMATION

Name/Address/Telephone/Email

Name: _____

Address: _____

Phone #: _____

Email: _____

OWNER INFORMATION

Name/Address/Telephone/Email

ATTACH AGENT FORM IF THE APPLICANT IS NOT THE OWNER

DATE _____ APPLICANT'S SIGNATURE _____

INFORMATION TO APPLICANTS APPEARING BEFORE THE CITY OF WILMINGTON BOARD OF ADJUSTMENT FOR A VARIANCE

The Board of Adjustment regularly meets on the third Thursday of each month at 1:00 p.m. in City Council Chambers, 102 North 3rd Street, Wilmington, NC.

An application to the Board of Adjustment for a variance must be submitted to the City of Wilmington Zoning Division, located at 929 N Front Street, 1st Floor, **thirty (30) working days** prior to the meeting at which the application is to be considered. **Should the applicant or his agent fail to appear for a duly scheduled quasi-judicial hearing before the Board of Adjustment without first requesting a continuance, such application for a variance may be dismissed by the Board.**

An application must be accompanied by the following items - otherwise, it will not be accepted.

- 1) Completed application form (including plot plan showing the nature of the variance request) and completed agent form, if needed. NOTE: The plot plan shall be drawn to scale and its size shall not exceed 11" x 17".
- 2) A check made payable to the City of Wilmington in the amount of \$500.00 for a variance request and for all other appeals.
- 3) A New Hanover County tax map delineating the property in question.
- 4) Within 5 business days of submitting an application, applicants shall be responsible for providing payment for adjacent property owner notification in the amount of \$0.85 per required notice. Adjacent properties are all properties abutting the site and properties immediately across the street from it. Planning staff will provide the applicant with a list of adjacent property owners and confirmation that notices were mailed.

Please contact the Zoning Division at 254-0900 if you have any questions.

**CITY OF WILMINGTON
STATE OF NORTH CAROLINA**

**APPLICANT'S RESPONSE TO REQUIRED ITEMS
FOR CONSIDERATION FOR A VARIANCE**

Applicant/Representative: Please write a thorough response to the following four items which are required by State law to exist in order for a variance to be granted. Please submit these responses as part of your application package.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood or the general public may not be the basis for granting a variance;
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

APPLICANT INFORMATION:

The date, time, location and other pertinent information concerning the Board of Adjustment meeting is enclosed. It is highly recommended that you or your representative attend the meeting. In the event that you do not attend, the item may be continued or approved in a manner other than your original request. If you plan to have legal representation at the quasi-judicial hearing, please notify city staff within one week prior to the quasi-judicial hearing to ensure that the city can arrange representation as well. Failure to do so may result in the city requesting a continuance to another quasi-judicial hearing. Absence at a meeting is implied consent for the actions that may be taken by the Board.

Should you have questions regarding the Board of Adjustment procedures or the specifics of the meeting, please contact the Planning Division at 254-0900, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m.